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Committee**

**129th General Assembly
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Representative Amstutz

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subsequently amended, and Section 153 of Am. Sub. 321
H.B. 117 of the 121st General Assembly, as 322
subsequently amended; to repeal Section 5 of Sub. 323
H.B. 2 of the 127th General Assembly; and to amend 324
the version of section 5111.913 of the Revised 325
Code that results from Section 101.01 of this act 326
on July 1, 2012; and to terminate certain 327
provisions of this act on June 30, 2013, by 328
repealing sections 126.60, 126.601, 126.602, 329
126.603, 126.604, and 126.605 on that date; to 330
make operating appropriations for the biennium 331
beginning July 1, 2011, and ending June 30, 2013; 332
and to provide authorization and conditions for 333
the operation of programs, including reforms for 334
the efficient and effective operation of state and 335
local government. 336

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

Section 101.01. That sections 7.10, 7.11, 7.12, 9.03, 9.06, 337
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(5101.273), 5111.14 (5111.141), 5111.261 (5111.263), 5111.892 522
(5111.893), 5119.612 (5119.613), 5119.613 (5119.614), and 5123.60 523
(5123.601) be amended for the purpose of adopting new section 524
numbers as indicated in parentheses; that new sections 2151.56, 525
2151.57, 2151.58, 2151.59, 3314.016, 3319.112, 5101.271, 5111.14, 526
5111.261, 5111.861, 5111.892, 5119.612, 5123.60, and 5126.18, and 527
sections 7.16, 9.031, 9.05, 9.334, 9.335, 9.482, 111.181, 111.28, 528
111.29, 118.025, 118.31, 124.394, 125.024, 125.182, 125.213, 529
126.141, 126.60, 126.601, 126.602, 126.603, 126.604, 126.605, 530
149.308, 153.501, 153.502, 153.53, 153.55, 153.692, 153.693, 531
153.694, 153.72, 153.73, 154.24, 154.25, 164.30, 173.41, 183.151, 532
305.23, 306.322, 306.55, 306.551, 349.17, 523.01, 523.02, 523.03, 533
523.04, 523.05, 523.06, 523.07, 523.08, 717.08, 1327.501, 534
1505.011, 1505.05, 1509.022, 1541.25, 1541.26, 1571.012, 1571.013, 535
1571.014, 2151.429, 2335.061, 3123.591, 3302.042, 3302.06, 536
3302.061, 3302.062, 3302.063, 3302.064, 3302.065, 3302.066, 537
3302.067, 3302.068, 3302.12, 3302.20, 3302.21, 3302.22, 3302.23, 538
3302.24, 3302.25, 3302.30, 3311.0510, 3313.411, 3313.617, 539
3313.846, 3313.88, 3314.029, 3314.38, 3314.50, 3316.21, 3317.141, 540
3318.054, 3318.371, 3318.48, 3318.60, 3319.113, 3319.227, 3319.58, 541
3323.25, 3324.08, 3328.01, 3328.02, 3328.03, 3328.04, 3328.11, 542

3328.12, 3328.13, 3328.14, 3328.15, 3328.17, 3328.18, 3328.19, 543
3328.191, 3328.192, 3328.193, 3328.20, 3328.21, 3328.22, 3328.23, 544
3328.24, 3328.25, 3328.26, 3328.41, 3328.45, 3328.50, 3328.99, 545
3333.43, 3345.023, 3345.81, 3353.15, 3521.04, 3701.0211, 3701.032, 546
3701.94, 3701.941, 3709.341, 3727.60, 3745.016, 3770.031, 547
3793.061, 3903.301, 4303.209, 4313.01, 4313.02, 4729.021, 548
4781.121, 4781.54, 4911.021, 5111.0122, 5111.0123, 5111.0124, 549
5111.0125, 5111.0212, 5111.0213, 5111.0214, 5111.0215, 5111.035, 550
5111.051, 5111.052, 5111.063, 5111.085, 5111.161, 5111.179, 551
5111.224, 5111.225, 5111.259, 5111.83, 5111.862, 5111.863, 552
5111.944, 5111.945, 5111.981, 5112.991, 5119.012, 5119.013, 553
5119.222, 5119.622, 5119.623, 5120.092, 5122.341, 5123.0418, 554
5123.0419, 5123.0420, 5501.84, 5703.059, 5725.34, and 5729.17 of 555
the Revised Code be enacted to read as follows: 556

Sec. 7.10. For the publication of advertisements, notices, 557
and proclamations, except those relating to proposed amendments to 558
the Ohio ~~constitution~~ Constitution, required to be published by a 559
public officer of the state, ~~county, municipal corporation,~~ 560
~~township, school,~~ a benevolent or other public institution, or by 561
a trustee, assignee, executor, or administrator, or by or in any 562
court of record, except when the rate is otherwise fixed by law, 563
publishers of newspapers may charge and receive for such 564
advertisements, notices, and proclamations rates charged on annual 565
contracts by them for a like amount of space to other advertisers 566
who advertise in its general display advertising columns. ~~Legal~~ 567

For the publication of advertisements, notices, or 568
proclamations required to be published by a public officer of a 569
county, municipal corporation, township, school, or other 570
political subdivision, publishers of newspapers shall establish a 571
government rate, which shall include free publication of 572
advertisements, notices, or proclamations on the newspaper's 573

internet web site, if the newspaper has one. The government rate 574
shall not exceed the lowest classified advertising rate and lowest 575
insert rate paid by other advertisers. 576

Legal advertising, except that relating to proposed 577
amendments to the Ohio ~~constitution~~ Constitution, shall be set up 578
in a compact form, without unnecessary spaces, blanks, or 579
headlines, and printed in not smaller than six-point type. The 580
type used must be of such proportions that the body of the capital 581
letter M is no wider than it is high and all other letters and 582
characters are in proportion. 583

Except as provided in section 2701.09 of the Revised Code, 584
all legal advertisements or notices shall be printed in newspapers 585
published in the English language only of general circulation and 586
also shall be posted on a newspaper's internet web site, if the 587
newspaper has one. 588

Sec. 7.11. A proclamation for an election, an order fixing 589
the time of holding court, notice of the rates of taxation, bridge 590
and pike notices, notice to contractors, and such other 591
advertisements of general interest to the taxpayers as the county 592
auditor, county treasurer, probate judge, or board of county 593
commissioners deems proper shall be published in ~~two newspapers a~~ 594
newspaper of ~~opposite politics of~~ general circulation, as defined 595
in section ~~5721.01~~ 7.12 of the Revised Code at the county seat ~~if~~ 596
~~there are such newspapers published thereat. If there are not two~~ 597
~~newspapers of opposite politics and of general circulation~~ 598
~~published in said county seat, such publication shall be made in~~ 599
~~one newspaper published in said county seat and in any other~~ 600
~~newspaper of general circulation in said county as defined in~~ 601
~~section 5721.01 of the Revised Code, wherever published, without~~ 602
~~regard to the politics of such other newspaper.~~ In counties having 603
cities of eight thousand inhabitants or more, not the county seat 604

of such counties, additional publication of such notice shall be 605
made in ~~two newspapers~~ a newspaper of opposite politics and of 606
general circulation ~~in such city,~~ as defined in such section, in 607
such city. ~~For purposes of this section, a newspaper independent~~ 608
~~in politics is a newspaper of opposite politics to a newspaper of~~ 609
~~designated political affiliation. Sections 7.10 to 7.13,~~ 610
~~inclusive, of the Revised Code, do not apply to the publication of~~ 611
~~notices of delinquent and forfeited land sales.~~ 612

The cost of any publication authorized by this section, which 613
~~is~~ shall be printed in display form, shall be the ~~commercial~~ 614
government rate ~~charged~~ established by such newspaper under 615
section 7.10 of the Revised Code. 616

Sec. 7.12. (A) ~~Whenever any legal publication a state agency~~ 617
~~or a political subdivision of the state is required by law to be~~ 618
~~made~~ make any legal publication in a newspaper ~~published in a~~ 619
~~municipal corporation, county, or other political subdivision, the~~ 620
newspaper shall also be a newspaper of general circulation ~~in the~~ 621
~~municipal corporation, county, or other political subdivision,~~ 622
~~without further restriction or limitation upon a selection of the~~ 623
~~newspaper to be used. If no newspaper is published in such~~ 624
~~municipal corporation, county, or other political subdivision,~~ 625
such legal publication shall be made in any newspaper of general 626
circulation therein. If there are less than two newspapers 627
published in any municipal corporation, county, or other political 628
subdivision in the manner defined by this section, then any legal 629
publication required by law to be made in a newspaper published in 630
a municipal corporation, county, or other political subdivision 631
may be made in any newspaper regularly issued at stated intervals 632
from a known office of publication located within the municipal 633
corporation, county, or other political subdivision. As used in 634
this section, a known office of publication is a public office 635
where the business of the newspaper is transacted during the usual 636

~~business hours, and such office shall be shown by the publication
itself. As used in the Revised Code,~~ 637
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~~In addition to all other requirements, a "newspaper" or
"newspaper of general circulation," except ~~those publications~~
daily law journals in existence on or before July 1, 2011, and
performing the functions described in section 2701.09 of the
Revised Code for a period of ~~one year~~ three years immediately
preceding any such legal publication required to be made, ~~shall be~~
is a publication bearing a title or name, that is regularly issued
~~as frequently as at least~~ once a week ~~for a definite price or~~
~~consideration paid for by not less than fifty per cent of those to~~
~~whom distribution is made, having a second class mailing~~
~~privilege, being not less than four pages, published continuously~~
~~during the immediately preceding one year period, and circulated~~
~~generally in the political subdivision in which it is published.~~
Such publication must be of a type to which the general public
resorts for passing events of a political, religious, commercial,
and social nature, current happenings, announcements,
miscellaneous reading matter, advertisements, and other notices,
and that meets all of the following requirements:~~ 639
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(1) It is printed in the English language using standard
printing methods, being not less than eight pages in the
broadsheet format or sixteen pages in the tabloid format. 657
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(2) It contains at least twenty-five per cent editorial
content, which includes, but is not limited to, local news,
political information, and local sports. 660
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(3) It has been published continuously for at least three
years immediately preceding legal publication by the state agency
or political subdivision. 663
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(4) The publication has the ability to add subscribers to its
distribution list. 666
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(5) The publication is circulated generally by United States mail or carrier delivery in the political subdivision responsible for legal publication or in the state, if legal publication is made by a state agency, by proof of the filing of a United States postal service "Statement of Ownership, Management, and Circulation" (PS form 3526) with the local postmaster, or by proof of an independent audit of the publication performed, within the twelve months immediately preceding legal publication. 668
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(B) A person who disagrees that a publication is a "newspaper of general circulation" in which legal publication may be made under this section may deliver a written request for mediation to the publisher of the publication and to the court of common pleas of the county in which is located the political subdivision in which the publication is circulated, or in the Franklin county court of common pleas if legal publication is to be made by a state agency. The court of common pleas shall appoint a mediator, and the parties shall follow the procedures of the mediation program operated by the court. 676
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Sec. 7.16. (A) If a section of the Revised Code requires a state agency or a political subdivision of the state to publish a notice or advertisement two or more times in a newspaper of general circulation and the section refers to this section, the first publication of the notice or advertisement shall be made in its entirety in a newspaper of general circulation and may be made in a preprinted insert in the newspaper, but the second publication otherwise required by that section may be made in abbreviated form in a newspaper of general circulation in the state or in the political subdivision, as designated in that section, and on the newspaper's internet web site, if the newspaper has one. The state agency or political subdivision may eliminate any further newspaper publications required by that section, provided that the second, abbreviated notice or 686
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advertisement meets all of the following requirements: 700

(1) It is published in the newspaper of general circulation 701
in which the first publication of the notice or advertisement was 702
made and is published on that newspaper's internet web site, if 703
the newspaper has one. 704

(2) It includes a statement that the notice or advertisement 705
is posted in its entirety on the state agency's or political 706
subdivision's internet web site, or on the state public notice web 707
site established under section 125.182 of the Revised Code. 708

(3) It includes the internet addresses on the world wide web 709
of the state agency, political subdivision, or state public notice 710
web site and of the newspaper. 711

(4) It includes instructions for accessing the notice or 712
advertisement on the internet web sites specified in division 713
(A)(3) of this section. 714

(5) It is of sufficient size that it is at least one-fourth 715
of the size of the first publication in the newspaper. 716

(B) A notice or advertisement published under this section on 717
an internet web site shall be published in its entirety in 718
accordance with the section of the Revised Code that requires the 719
publication. 720

(C) If a state agency or political subdivision does not 721
operate and maintain, or ceases to operate and maintain, an 722
internet web site, and if the state public notice web site 723
established under section 125.182 of the Revised Code is not 724
operational, the state agency or political subdivision shall not 725
publish a notice or advertisement under this section, but instead 726
shall comply with the publication requirements of the section of 727
the Revised Code that refers to this section. 728

Sec. 9.03. (A) As used in this section, "political" 729

subdivision" means any body corporate and politic, except a 730
municipal corporation that has adopted a charter under Section 7 731
of Article XVIII, Ohio Constitution, and except a county that has 732
adopted a charter under Sections 3 and 4 of Article X, Ohio 733
Constitution, to which both of the following apply: 734

(1) It is responsible for governmental activities only in a 735
geographic area smaller than the state. 736

(2) It is subject to the sovereign immunity of the state. 737

(B) Except as otherwise provided in division (C) of this 738
section, the governing body of a political subdivision may use 739
public funds to publish and distribute newsletters, or to use any 740
other means, to communicate information about the plans, policies, 741
and operations of the political subdivision to members of the 742
public within the political subdivision and to other persons who 743
may be affected by the political subdivision. 744

(C) Except as otherwise provided in division (A)(7) of 745
section 340.03 or division (A)(12) of section 340.033 of the 746
Revised Code, no governing body of a political subdivision shall 747
use public funds to do any of the following: 748

(1) Publish, distribute, or otherwise communicate information 749
that does any of the following: 750

(a) Contains defamatory, libelous, or obscene matter; 751

(b) Promotes alcoholic beverages, cigarettes or other tobacco 752
products, or any illegal product, service, or activity; 753

(c) Promotes illegal discrimination on the basis of race, 754
color, religion, national origin, handicap, age, or ancestry; 755

(d) Supports or opposes any labor organization or any action 756
by, on behalf of, or against any labor organization; 757

(e) Supports or opposes the nomination or election of a 758
candidate for public office, the investigation, prosecution, or 759

recall of a public official, or the passage of a levy or bond 760
issue. 761

(2) Compensate any employee of the political subdivision for 762
time spent on any activity to influence the outcome of an election 763
for any of the purposes described in division (C)(1)(e) of this 764
section. Division (C)(2) of this section does not prohibit the use 765
of public funds to compensate an employee of a political 766
subdivision for attending a public meeting to present information 767
about the political subdivision's finances, activities, and 768
governmental actions in a manner that is not designed to influence 769
the outcome of an election or the passage of a levy or bond issue, 770
even though the election, levy, or bond issue is discussed or 771
debated at the meeting. 772

(D) Nothing in this section prohibits or restricts any 773
political subdivision from sponsoring, participating in, or doing 774
any of the following: 775

(1) Charitable or public service advertising that is not 776
commercial in nature unless the commercial advertising complies 777
with section 9.031 of the Revised Code; 778

(2) Advertising of exhibitions, performances, programs, 779
products, or services that are provided by employees of a 780
political subdivision or are provided at or through premises owned 781
or operated by a political subdivision; 782

(3) Licensing an interest in a name or mark that is owned or 783
controlled by the political subdivision. 784

(E) As used in this section, "cigarettes" and "tobacco 785
product" have the same meanings as in section 5743.01 of the 786
Revised Code. 787

Sec. 9.031. (A) As used in this section: 788

(1) "Advertising" means internet advertising, including 789

banners and icons that may contain links to commercial internet 790
web sites. "Advertising" does not include spyware, malware, or any 791
viruses or programs considered to be malicious. 792

(2) "Political subdivision" has the meaning defined in 793
section 9.03 of the Revised Code. 794

(3) "State agency" has the meaning defined in section 1.60 of 795
the Revised Code and includes state institutions of higher 796
education as defined in section 3345.011 of the Revised Code. 797

(4) "State agency web site" means a web site, internet page, 798
or web page of a state agency office, with respective internet 799
addresses or subdomains, that are intended to provide the public 800
with information about services offered by the state agency 801
office, including relevant forms of searchable data. 802

(5) "Political subdivision web site" means a web site, 803
internet page, or web page of a political subdivision office, with 804
respective internet addresses or subdomains, that are intended to 805
provide the public with information about services offered by the 806
political subdivision office, including relevant forms of 807
searchable data. 808

(B) A state agency or political subdivision may authorize 809
commercial advertising on a state agency web site or political 810
subdivision web site. A state agency shall adopt rules under 811
section 111.15 of the Revised Code and a political subdivision 812
shall adopt a resolution to authorize placing commercial 813
advertising on the state agency or political subdivision web site. 814
The rules or resolution shall include all of the following: 815

(1) A specification of the state agency or political 816
subdivision office, and of the officials or employees therein, who 817
are authorized to place commercial advertisements on the state 818
agency or political subdivision web site; 819

(2) Criteria for choosing the advertisers and types of 820

advertisements that may be placed on the state agency or political 821
subdivision web site; 822

(3) Requirements and procedures for making requests for 823
proposals for placing commercial advertising on the state agency 824
or political subdivision web site; 825

(4) Any other requirements or limitations necessary to 826
authorize commercial advertising on the state agency or political 827
subdivision web site. 828

(C) A state agency or political subdivision web site on which 829
commercial advertising is placed shall be used exclusively to 830
provide information from the state agency or political subdivision 831
office to the public, and shall not be used as a public forum. 832

Sec. 9.05. Notwithstanding any provision of section 109.02 of 833
the Revised Code to the contrary, the members of the apportionment 834
board, by majority vote, may choose to be represented by either 835
the attorney general or by private legal counsel in regard to any 836
lawsuit challenging the constitutionality or legality of general 837
assembly districts established under Article XI of the Ohio 838
Constitution. 839

As used in this section, "apportionment board" means the 840
persons designated in Section 1 of Article XI, Ohio Constitution, 841
as being responsible for the apportionment of this state for 842
members of the general assembly. 843

Sec. 9.06. (A)(1) The department of rehabilitation and 844
correction may contract for the private operation and management 845
pursuant to this section of the initial intensive program prison 846
established pursuant to section 5120.033 of the Revised Code, if 847
one or more intensive program prisons are established under that 848
section, and may contract for the private operation and management 849
of any other facility under this section. Counties and municipal 850

corporations to the extent authorized in sections 307.93, 341.35, 851
753.03, and 753.15 of the Revised Code may contract for the 852
private operation and management of a facility under this section. 853
A contract entered into under this section shall be for an initial 854
term ~~of not more than two years~~ specified in the contract with an 855
option to renew for additional periods of two years. 856

(2) The department of rehabilitation and correction, by rule, 857
shall adopt minimum criteria and specifications that a person or 858
entity, other than a person or entity that satisfies the criteria 859
set forth in division (A)(3)(a) of this section and subject to 860
division (I) of this section, must satisfy in order to apply to 861
operate and manage as a contractor pursuant to this section the 862
initial intensive program prison established pursuant to section 863
5120.033 of the Revised Code, if one or more intensive program 864
prisons are established under that section. 865

(3) Subject to division (I) of this section, any person or 866
entity that applies to operate and manage a facility as a 867
contractor pursuant to this section shall satisfy one or more of 868
the following criteria: 869

(a) The person or entity ~~is accredited by the American~~ 870
~~correctional association and~~, at the time of the application, 871
operates and manages one or more facilities accredited by the 872
American correctional association. 873

(b) The person or entity satisfies all of the minimum 874
criteria and specifications adopted by the department of 875
rehabilitation and correction pursuant to division (A)(2) of this 876
section, provided that this alternative shall be available only in 877
relation to the initial intensive program prison established 878
pursuant to section 5120.033 of the Revised Code, if one or more 879
intensive program prisons are established under that section. 880

(4) Subject to division (I) of this section, before a public 881

entity may enter into a contract under this section, the 882
contractor shall convincingly demonstrate to the public entity 883
that it can operate the facility with the inmate capacity required 884
by the public entity and provide the services required in this 885
section and realize at least a five per cent savings over the 886
projected cost to the public entity of providing these same 887
services to operate the facility that is the subject of the 888
contract. No out-of-state prisoners may be housed in any facility 889
that is the subject of a contract entered into under this section. 890

(B) Subject to division (I) of this section, any contract 891
entered into under this section shall include all of the 892
following: 893

(1) A requirement that ~~the contractor retain the contractor's~~ 894
~~accreditation from the American correctional association~~ 895
~~throughout the contract term or~~, if the contractor applied 896
pursuant to division (A)(3)(b) of this section, the contractor 897
continue complying with the applicable criteria and specifications 898
adopted by the department of rehabilitation and correction 899
pursuant to division (A)(2) of this section; 900

(2) A requirement that all of the following conditions be 901
met: 902

(a) The contractor begins the process of accrediting the 903
facility with the American correctional association no later than 904
sixty days after the facility receives its first inmate. 905

(b) The contractor receives accreditation of the facility 906
within twelve months after the date the contractor applies to the 907
American correctional association for accreditation. 908

(c) Once the accreditation is received, the contractor 909
maintains it for the duration of the contract term. 910

(d) If the contractor does not comply with divisions 911
(B)(2)(a) to (c) of this section, the contractor is in violation 912

of the contract, and the public entity may revoke the contract at 913
its discretion. 914

(3) A requirement that the contractor comply with all rules 915
promulgated by the department of rehabilitation and correction 916
that apply to the operation and management of correctional 917
facilities, including the minimum standards for jails in Ohio and 918
policies regarding the use of force and the use of deadly force, 919
although the public entity may require more stringent standards, 920
and comply with any applicable laws, rules, or regulations of the 921
federal, state, and local governments, including, but not limited 922
to, sanitation, food service, safety, and health regulations. The 923
contractor shall be required to send copies of reports of 924
inspections completed by the appropriate authorities regarding 925
compliance with rules and regulations to the director of 926
rehabilitation and correction or the director's designee and, if 927
contracting with a local public entity, to the governing authority 928
of that entity. 929

(4) A requirement that the contractor report for 930
investigation all crimes in connection with the facility to the 931
public entity, to all local law enforcement agencies with 932
jurisdiction over the place at which the facility is located, and, 933
for a crime committed at a state correctional institution, to the 934
state highway patrol; 935

(5) A requirement that the contractor immediately report all 936
escapes from the facility, and the apprehension of all escapees, 937
by telephone and in writing to all local law enforcement agencies 938
with jurisdiction over the place at which the facility is located, 939
to the prosecuting attorney of the county in which the facility is 940
located, to the state highway patrol, to a daily newspaper having 941
general circulation in the county in which the facility is 942
located, and, if the facility is a state correctional institution, 943
to the department of rehabilitation and correction. The written 944

notice may be by either facsimile transmission or mail. A failure 945
to comply with this requirement regarding an escape is a violation 946
of section 2921.22 of the Revised Code. 947

(6) A requirement that, if the facility is a state 948
correctional institution, the contractor provide a written report 949
within specified time limits to the director of rehabilitation and 950
correction or the director's designee of all unusual incidents at 951
the facility as defined in rules promulgated by the department of 952
rehabilitation and correction or, if the facility is a local 953
correctional institution, that the contractor provide a written 954
report of all unusual incidents at the facility to the governing 955
authority of the local public entity; 956

(7) A requirement that the contractor maintain proper control 957
of inmates' personal funds pursuant to rules promulgated by the 958
department of rehabilitation and correction for state correctional 959
institutions or pursuant to the minimum standards for jails along 960
with any additional standards established by the local public 961
entity for local correctional institutions and that records 962
pertaining to these funds be made available to representatives of 963
the public entity for review or audit; 964

(8) A requirement that the contractor prepare and distribute 965
to the director of rehabilitation and correction or, if 966
contracting with a local public entity, to the governing authority 967
of the local entity annual budget income and expenditure 968
statements and funding source financial reports; 969

(9) A requirement that the public entity appoint and 970
supervise a full-time contract monitor, that the contractor 971
provide suitable office space for the contract monitor at the 972
facility, and that the contractor allow the contract monitor 973
unrestricted access to all parts of the facility and all records 974
of the facility except the contractor's financial records; 975

(10) A requirement that if the facility is a state	976
correctional institution designated department of rehabilitation	977
and correction staff members be allowed access to the facility in	978
accordance with rules promulgated by the department;	979
(11) A requirement that the contractor provide internal and	980
perimeter security as agreed upon in the contract;	981
(12) If the facility is a state correctional institution, a	982
requirement that the contractor impose discipline on inmates	983
housed in a state correctional institution <u>the facility</u> only in	984
accordance with rules promulgated by the department of	985
rehabilitation and correction;	986
(13) A requirement that the facility be staffed at all times	987
with a staffing pattern approved by the public entity and adequate	988
both to ensure supervision of inmates and maintenance of security	989
within the facility and to provide for programs, transportation,	990
security, and other operational needs. In determining security	991
needs, the contractor shall be required to consider, among other	992
things, the proximity of the facility to neighborhoods and	993
schools.	994
(14) If the contract is with a local public entity, a	995
requirement that the contractor provide services and programs,	996
consistent with the minimum standards for jails promulgated by the	997
department of rehabilitation and correction under section 5120.10	998
of the Revised Code;	999
(15) A clear statement that no immunity from liability	1000
granted to the state, and no immunity from liability granted to	1001
political subdivisions under Chapter 2744. of the Revised Code,	1002
shall extend to the contractor or any of the contractor's	1003
employees;	1004
(16) A statement that all documents and records relevant to	1005
the facility shall be maintained in the same manner required for,	1006

and subject to the same laws, rules, and regulations as apply to, 1007
the records of the public entity; 1008

(17) Authorization for the public entity to impose a fine on 1009
the contractor from a schedule of fines included in the contract 1010
for the contractor's failure to perform its contractual duties or 1011
to cancel the contract, as the public entity considers 1012
appropriate. If a fine is imposed, the public entity may reduce 1013
the payment owed to the contractor pursuant to any invoice in the 1014
amount of the imposed fine. 1015

(18) A statement that all services provided or goods produced 1016
at the facility shall be subject to the same regulations, and the 1017
same distribution limitations, as apply to goods and services 1018
produced at other correctional institutions; 1019

(19) ~~Authorization~~ If the facility is a state correctional 1020
institution, authorization for the department to establish one or 1021
more prison industries at a the facility ~~operated and managed by a~~ 1022
~~contractor for the department;~~ 1023

(20) A requirement that, if the facility is an intensive 1024
program prison established pursuant to section 5120.033 of the 1025
Revised Code, the facility shall comply with all criteria for 1026
intensive program prisons of that type that are set forth in that 1027
section; 1028

(21) If the ~~institution~~ facility is a state correctional 1029
institution, a requirement that the contractor provide clothing 1030
for all inmates housed in the facility that is conspicuous in its 1031
color, style, or color and style, that conspicuously identifies 1032
its wearer as an inmate, and that is readily distinguishable from 1033
clothing of a nature that normally is worn outside the facility by 1034
non-inmates, that the contractor require all inmates housed in the 1035
facility to wear the clothing so provided, and that the contractor 1036
not permit any inmate, while inside or on the premises of the 1037

facility or while being transported to or from the facility, to 1038
wear any clothing of a nature that does not conspicuously identify 1039
its wearer as an inmate and that normally is worn outside the 1040
facility by non-inmates. 1041

(C) No contract entered into under this section may require, 1042
authorize, or imply a delegation of the authority or 1043
responsibility of the public entity to a contractor for any of the 1044
following: 1045

(1) Developing or implementing procedures for calculating 1046
inmate release and parole eligibility dates and recommending the 1047
granting or denying of parole, although the contractor may submit 1048
written reports that have been prepared in the ordinary course of 1049
business; 1050

(2) Developing or implementing procedures for calculating and 1051
awarding earned credits, approving the type of work inmates may 1052
perform and the wage or earned credits, if any, that may be 1053
awarded to inmates engaging in that work, and granting, denying, 1054
or revoking earned credits; 1055

(3) For inmates serving a term imposed for a felony offense 1056
committed prior to July 1, 1996, or for a misdemeanor offense, 1057
developing or implementing procedures for calculating and awarding 1058
good time, approving the goodtime, if any, that may be awarded to 1059
inmates engaging in work, and granting, denying, or revoking good 1060
time; 1061

(4) Classifying an inmate or placing an inmate in a more or a 1062
less restrictive custody than the custody ordered by the public 1063
entity; 1064

(5) Approving inmates for work release; 1065

(6) Contracting for local or long distance telephone services 1066
for inmates or receiving commissions from those services at a 1067
facility that is owned by or operated under a contract with the 1068

department. 1069

(D) A contractor that has been approved to operate a facility 1070
under this section, and a person or entity that enters into a 1071
contract for specialized services, as described in division (I) of 1072
this section, relative to an intensive program prison established 1073
pursuant to section 5120.033 of the Revised Code to be operated by 1074
a contractor that has been approved to operate the prison under 1075
this section, shall provide an adequate policy of insurance 1076
specifically including, but not limited to, insurance for civil 1077
rights claims as determined by a risk management or actuarial firm 1078
with demonstrated experience in public liability for state 1079
governments. The insurance policy shall provide that the state, 1080
including all state agencies, and all political subdivisions of 1081
the state with jurisdiction over the facility or in which a 1082
facility is located are named as insured, and that the state and 1083
its political subdivisions shall be sent any notice of 1084
cancellation. The contractor may not self-insure. 1085

A contractor that has been approved to operate a facility 1086
under this section, and a person or entity that enters into a 1087
contract for specialized services, as described in division (I) of 1088
this section, relative to an intensive program prison established 1089
pursuant to section 5120.033 of the Revised Code to be operated by 1090
a contractor that has been approved to operate the prison under 1091
this section, shall indemnify and hold harmless the state, its 1092
officers, agents, and employees, and any local government entity 1093
in the state having jurisdiction over the facility or ownership of 1094
the facility, shall reimburse the state for its costs in defending 1095
the state or any of its officers, agents, or employees, and shall 1096
reimburse any local government entity of that nature for its costs 1097
in defending the local government entity, from all of the 1098
following: 1099

(1) Any claims or losses for services rendered by the 1100

contractor, person, or entity performing or supplying services in 1101
connection with the performance of the contract; 1102

(2) Any failure of the contractor, person, or entity or its 1103
officers or employees to adhere to the laws, rules, regulations, 1104
or terms agreed to in the contract; 1105

(3) Any constitutional, federal, state, or civil rights claim 1106
brought against the state related to the facility operated and 1107
managed by the contractor; 1108

(4) Any claims, losses, demands, or causes of action arising 1109
out of the contractor's, person's, or entity's activities in this 1110
state; 1111

(5) Any attorney's fees or court costs arising from any 1112
habeas corpus actions or other inmate suits that may arise from 1113
any event that occurred at the facility or was a result of such an 1114
event, or arise over the conditions, management, or operation of 1115
the facility, which fees and costs shall include, but not be 1116
limited to, attorney's fees for the state's representation and for 1117
any court-appointed representation of any inmate, and the costs of 1118
any special judge who may be appointed to hear those actions or 1119
suits. 1120

(E) Private correctional officers of a contractor operating 1121
and managing a facility pursuant to a contract entered into under 1122
this section may carry and use firearms in the course of their 1123
employment only after being certified as satisfactorily completing 1124
an approved training program as described in division (A) of 1125
section 109.78 of the Revised Code. 1126

(F) Upon notification by the contractor of an escape from, or 1127
of a disturbance at, the facility that is the subject of a 1128
contract entered into under this section, the department of 1129
rehabilitation and correction and state and local law enforcement 1130
agencies shall use all reasonable means to recapture escapees or 1131

quell any disturbance. Any cost incurred by the state or its political subdivisions relating to the apprehension of an escapee or the quelling of a disturbance at the facility shall be chargeable to and borne by the contractor. The contractor shall also reimburse the state or its political subdivisions for all reasonable costs incurred relating to the temporary detention of the escapee following recapture.

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

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

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

(1) The contract for the general operation and management 1164
shall comply with all requirements and criteria set forth in this 1165
section, and all provisions of this section apply in relation to 1166
the prison operated and managed pursuant to the contract. 1167

(2) Divisions (A)(2), (B), and (C) of this section do not 1168
apply in relation to any specialized services contract, except to 1169
the extent that the provisions of those divisions clearly are 1170
relevant to the specialized services to be provided under the 1171
specialized services contract. Division (D) of this section 1172
applies in relation to each specialized services contract. 1173

(J) If, on or after the effective date of this amendment, a 1174
contractor enters into a contract with the department of 1175
rehabilitation and correction under this section for the operation 1176
and management of any facility described in Section 753.10 of the 1177
act in which this amendment was adopted or with the department of 1178
youth services and department of administrative services under 1179
Section 753.30 of the act in which this amendment was adopted for 1180
the operation and management as an adult correctional facility of 1181
any facility described in that section, if the contract provides 1182
for the sale of the facility to the contractor, if the facility is 1183
sold to the contractor subsequent to the execution of the 1184
contract, and if the contractor is privately operating and 1185
managing the facility, notwithstanding the contractor's private 1186
operation and management of the facility, all of the following 1187
apply: 1188

(1) Except as expressly provided to the contrary in this 1189
section, the facility being privately operated and managed by the 1190
contractor shall be considered for purposes of the Revised Code as 1191
being under the control of, or under the jurisdiction of, the 1192
department of rehabilitation and correction. 1193

(2) Any reference in this section to "state correctional 1194
institution," any reference in Chapter 2967. of the Revised Code 1195

to "state correctional institution," other than the definition of 1196
that term set forth in section 2967.01 of the Revised Code, or to 1197
"prison," and any reference in Chapter 2929., 5120., 5145., 5147., 1198
or 5149. or any other provision of the Revised Code to "state 1199
correctional institution" or "prison" shall be considered to 1200
include a reference to the facility being privately operated and 1201
managed by the contractor, unless the context makes the inclusion 1202
of that facility clearly inapplicable. 1203

(3) Upon the sale and conveyance of the facility, the 1204
facility shall be returned to the tax list and duplicate 1205
maintained by the county auditor, and the facility shall be 1206
subject to all real property taxes and assessments. No exemption 1207
from real property taxation pursuant to Chapter 5709. of the 1208
Revised Code shall apply to the facility conveyed. The gross 1209
receipts and income of the contractor to whom the facility is 1210
conveyed that are derived from operating and managing the facility 1211
under this section shall be exempt from gross receipts and income 1212
taxes levied by the state and its subdivisions, including the 1213
taxes levied pursuant to Chapters 718., 5747., 5748., and 5751. of 1214
the Revised Code. 1215

(K) As used in this section: 1216

(1) "Public entity" means the department of rehabilitation 1217
and correction, or a county or municipal corporation or a 1218
combination of counties and municipal corporations, that has 1219
jurisdiction over a facility that is the subject of a contract 1220
entered into under this section. 1221

(2) "Local public entity" means a county or municipal 1222
corporation, or a combination of counties and municipal 1223
corporations, that has jurisdiction over a jail, workhouse, or 1224
other correctional facility used only for misdemeanants that is 1225
the subject of a contract entered into under this section. 1226

(3) "Governing authority of a local public entity" means, for 1227
a county, the board of county commissioners; for a municipal 1228
corporation, the legislative authority; for a combination of 1229
counties and municipal corporations, all the boards of county 1230
commissioners and municipal legislative authorities that joined to 1231
create the facility. 1232

(4) "Contractor" means a person or entity that enters into a 1233
contract under this section to operate and manage a jail, 1234
workhouse, or other correctional facility. 1235

(5) "Facility" means ~~the~~ any of the following: 1236

(a) The specific county, multicounty, municipal, 1237
municipal-county, or multicounty-municipal jail, workhouse, 1238
prison, or other type of correctional institution or facility used 1239
only for misdemeanants, ~~or a~~ that is the subject of a contract 1240
entered into under this section; 1241

(b) Any state correctional institution, ~~that is the subject~~ 1242
of a contract entered into under this section, including any 1243
facility described in Section 753.10 of the act in which this 1244
amendment was adopted or under Section 753.30 of the act in which 1245
this section was adopted and used as an adult correctional 1246
facility at any time prior to or after any sale to a contractor of 1247
the state's right, title, and interest in the facility, the land 1248
situated thereon, and specified surrounding land. 1249

(6) "Person or entity" in the case of a contract for the 1250
private operation and management of a state correctional 1251
institution, includes an employee organization, as defined in 1252
section 4117.01 of the Revised Code, that represents employees at 1253
state correctional institutions. 1254

Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of 1255
this section, a governmental entity shall not disburse money 1256

totaling twenty-five thousand dollars or more to any person for 1257
the provision of services for the primary benefit of individuals 1258
or the public and not for the primary benefit of a governmental 1259
entity or the employees of a governmental entity, unless the 1260
contracting authority of the governmental entity first enters into 1261
a written contract with the person that is signed by the person or 1262
by an officer or agent of the person authorized to legally bind 1263
the person and that embodies all of the requirements and 1264
conditions set forth in sections 9.23 to 9.236 of the Revised 1265
Code. If the disbursement of money occurs over the course of a 1266
governmental entity's fiscal year, rather than in a lump sum, the 1267
contracting authority of the governmental entity shall enter into 1268
the written contract with the person at the point during the 1269
governmental entity's fiscal year that at least seventy-five 1270
thousand dollars has been disbursed by the governmental entity to 1271
the person. Thereafter, the contracting authority of the 1272
governmental entity shall enter into the written contract with the 1273
person at the beginning of the governmental entity's fiscal year, 1274
if, during the immediately preceding fiscal year, the governmental 1275
entity disbursed to that person an aggregate amount totaling at 1276
least seventy-five thousand dollars. 1277

(2) If the money referred to in division (A)(1) of this 1278
section is disbursed by or through more than one state agency to 1279
the person for the provision of services to the same population, 1280
the contracting authorities of those agencies shall determine 1281
which one of them will enter into the written contract with the 1282
person. 1283

(3) The requirements and conditions set forth in divisions 1284
(A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) 1285
and (B) of section 9.234, divisions (A)(2) and (B) of section 1286
9.235, and sections 9.233 and 9.236 of the Revised Code do not 1287
apply with respect to the following: 1288

(a) Contracts to which all of the following apply:	1289
(i) The amount received for the services is a set fee for each time the services are provided, is determined in accordance with a fixed rate per unit of time or per service, or is a capitated rate, and the fee or rate is established by competitive bidding or by a market rate survey of similar services provided in a defined market area. The market rate survey may be one conducted by or on behalf of the governmental entity or an independent survey accepted by the governmental entity as statistically valid and reliable.	1290 1291 1292 1293 1294 1295 1296 1297 1298
(ii) The services are provided in accordance with standards established by state or federal law, or by rules or regulations adopted thereunder, for their delivery, which standards are enforced by the federal government, a governmental entity, or an accrediting organization recognized by the federal government or a governmental entity.	1299 1300 1301 1302 1303 1304
(iii) Payment for the services is made after the services are delivered and upon submission to the governmental entity of an invoice or other claim for payment as required by any applicable local, state, or federal law or, if no such law applies, by the terms of the contract.	1305 1306 1307 1308 1309
(b) Contracts under which the services are reimbursed through or in a manner consistent with a federal program that meets all of the following requirements:	1310 1311 1312
(i) The program calculates the reimbursement rate on the basis of the previous year's experience or in accordance with an alternative method set forth in rules adopted by the Ohio department of job and family services.	1313 1314 1315 1316
(ii) The reimbursement rate is derived from a breakdown of direct and indirect costs.	1317 1318
(iii) The program's guidelines describe types of expenditures	1319

that are allowable and not allowable under the program and 1320
delineate which costs are acceptable as direct costs for purposes 1321
of calculating the reimbursement rate. 1322

(iv) The program includes a uniform cost reporting system 1323
with specific audit requirements. 1324

(c) Contracts under which the services are reimbursed through 1325
or in a manner consistent with a federal program that calculates 1326
the reimbursement rate on a fee for service basis in compliance 1327
with United States office of management and budget Circular A-87, 1328
as revised May 10, 2004. 1329

(d) Contracts for services that are paid pursuant to the 1330
earmarking of an appropriation made by the general assembly for 1331
that purpose. 1332

(B) Division (A) of this section does not apply if the money 1333
is disbursed to a person pursuant to a contract with the United 1334
States or a governmental entity under any of the following 1335
circumstances: 1336

(1) The person receives the money directly or indirectly from 1337
the United States, and no governmental entity exercises any 1338
oversight or control over the use of the money. 1339

(2) The person receives the money solely in return for the 1340
performance of one or more of the following types of services: 1341

(a) Medical, therapeutic, or other health-related services 1342
provided by a person if the amount received is a set fee for each 1343
time the person provides the services, is determined in accordance 1344
with a fixed rate per unit of time, or is a capitated rate, and 1345
the fee or rate is reasonable and customary in the person's trade 1346
or profession; 1347

(b) Medicaid-funded services, including administrative and 1348
management services, provided pursuant to a contract or medicaid 1349

provider agreement that meets the requirements of the medicaid 1350
program established under Chapter 5111. of the Revised Code. 1351

(c) Services, other than administrative or management 1352
services or any of the services described in division (B)(2)(a) or 1353
(b) of this section, that are commonly purchased by the public at 1354
an hourly rate or at a set fee for each time the services are 1355
provided, unless the services are performed for the benefit of 1356
children, persons who are eligible for the services by reason of 1357
advanced age, medical condition, or financial need, or persons who 1358
are confined in a detention facility as defined in section 2921.01 1359
of the Revised Code, and the services are intended to help promote 1360
the health, safety, or welfare of those children or persons; 1361

(d) Educational services provided by a school to children 1362
eligible to attend that school. For purposes of division (B)(2)(d) 1363
of this section, "school" means any school operated by a school 1364
district board of education, any community school established 1365
under Chapter 3314. of the Revised Code, or any nonpublic school 1366
for which the state board of education prescribes minimum 1367
education standards under section 3301.07 of the Revised Code. 1368

(e) Services provided by a foster home as defined in section 1369
5103.02 of the Revised Code; 1370

(f) "Routine business services other than administrative or 1371
management services," as that term is defined by the attorney 1372
general by rule adopted in accordance with Chapter 119. of the 1373
Revised Code; 1374

(g) Services to protect the environment or promote 1375
environmental education that are provided by a nonprofit entity or 1376
services to protect the environment that are funded with federal 1377
grants or revolving loan funds and administered in accordance with 1378
federal law; 1379

~~(h) Services, including administrative and management 1380~~

~~services, provided under the children's buy in program established 1381
under sections 5101.5211 to 5101.5216 of the Revised Code. 1382~~

(3) The person receives the money solely in return for the 1383
performance of services intended to help preserve public health or 1384
safety under circumstances requiring immediate action as a result 1385
of a natural or man-made emergency. 1386

(C) With respect to a nonprofit association, corporation, or 1387
organization established for the purpose of providing educational, 1388
technical, consulting, training, financial, or other services to 1389
its members in exchange for membership dues and other fees, any of 1390
the services provided to a member that is a governmental entity 1391
shall, for purposes of this section, be considered services "for 1392
the primary benefit of a governmental entity or the employees of a 1393
governmental entity. 1394

Sec. 9.24. (A) Except as may be allowed under division (F) of 1395
this section, no state agency and no political subdivision shall 1396
award a contract as described in division (G)(1) of this section 1397
for goods, services, or construction, paid for in whole or in part 1398
with state funds, to a person against whom a finding for recovery 1399
has been issued by the auditor of state on and after January 1, 1400
2001, if the finding for recovery is unresolved. 1401

A contract is considered to be awarded when it is entered 1402
into or executed, irrespective of whether the parties to the 1403
contract have exchanged any money. 1404

(B) For purposes of this section, a finding for recovery is 1405
unresolved unless one of the following criteria applies: 1406

(1) The money identified in the finding for recovery is paid 1407
in full to the state agency or political subdivision to whom the 1408
money was owed; 1409

(2) The debtor has entered into a repayment plan that is 1410

approved by the attorney general and the state agency or political 1411
subdivision to whom the money identified in the finding for 1412
recovery is owed. A repayment plan may include a provision 1413
permitting a state agency or political subdivision to withhold 1414
payment to a debtor for goods, services, or construction provided 1415
to or for the state agency or political subdivision pursuant to a 1416
contract that is entered into with the debtor after the date the 1417
finding for recovery was issued. 1418

(3) The attorney general waives a repayment plan described in 1419
division (B)(2) of this section for good cause; 1420

(4) The debtor and state agency or political subdivision to 1421
whom the money identified in the finding for recovery is owed have 1422
agreed to a payment plan established through an enforceable 1423
settlement agreement. 1424

(5) The state agency or political subdivision desiring to 1425
enter into a contract with a debtor certifies, and the attorney 1426
general concurs, that all of the following are true: 1427

(a) Essential services the state agency or political 1428
subdivision is seeking to obtain from the debtor cannot be 1429
provided by any other person besides the debtor; 1430

(b) Awarding a contract to the debtor for the essential 1431
services described in division (B)(5)(a) of this section is in the 1432
best interest of the state; 1433

(c) Good faith efforts have been made to collect the money 1434
identified in the finding of recovery. 1435

(6) The debtor has commenced an action to contest the finding 1436
for recovery and a final determination on the action has not yet 1437
been reached. 1438

(C) The attorney general shall submit an initial report to 1439
the auditor of state, not later than December 1, 2003, indicating 1440

the status of collection for all findings for recovery issued by 1441
the auditor of state for calendar years 2001, 2002, and 2003. 1442
Beginning on January 1, 2004, the attorney general shall submit to 1443
the auditor of state, on the first day of every January, April, 1444
July, and October, a list of all findings for recovery that have 1445
been resolved in accordance with division (B) of this section 1446
during the calendar quarter preceding the submission of the list 1447
and a description of the means of resolution. The attorney general 1448
shall notify the auditor of state when a judgment is issued 1449
against an entity described in division (F)(1) of this section. 1450

(D) The auditor of state shall maintain a database, 1451
accessible to the public, listing persons against whom an 1452
unresolved finding for recovery has been issued, and the amount of 1453
the money identified in the unresolved finding for recovery. The 1454
auditor of state shall have this database operational on or before 1455
January 1, 2004. The initial database shall contain the 1456
information required under this division for calendar years 2001, 1457
2002, and 2003. 1458

Beginning January 15, 2004, the auditor of state shall update 1459
the database by the fifteenth day of every January, April, July, 1460
and October to reflect resolved findings for recovery that are 1461
reported to the auditor of state by the attorney general on the 1462
first day of the same month pursuant to division (C) of this 1463
section. 1464

(E) Before awarding a contract as described in division 1465
(G)(1) of this section for goods, services, or construction, paid 1466
for in whole or in part with state funds, a state agency or 1467
political subdivision shall verify that the person to whom the 1468
state agency or political subdivision plans to award the contract 1469
has no unresolved finding for recovery issued against the person. 1470
A state agency or political subdivision shall verify that the 1471
person does not appear in the database described in division (D) 1472

of this section or shall obtain other proof that the person has no 1473
unresolved finding for recovery issued against the person. 1474

(F) The prohibition of division (A) of this section and the 1475
requirement of division (E) of this section do not apply with 1476
respect to the companies, payments, or agreements described in 1477
divisions (F)(1) and (2) of this section, or in the circumstance 1478
described in division (F)(3) of this section. 1479

(1) A bonding company or a company authorized to transact the 1480
business of insurance in this state, a self-insurance pool, joint 1481
self-insurance pool, risk management program, or joint risk 1482
management program, unless a court has entered a final judgment 1483
against the company and the company has not yet satisfied the 1484
final judgment. 1485

(2) To medicaid provider agreements under Chapter 5111. of 1486
the Revised Code ~~or payments or provider agreements under the~~ 1487
~~children's buy in program established under sections 5101.5211 to~~ 1488
~~5101.5216 of the Revised Code.~~ 1489

(3) When federal law dictates that a specified entity provide 1490
the goods, services, or construction for which a contract is being 1491
awarded, regardless of whether that entity would otherwise be 1492
prohibited from entering into the contract pursuant to this 1493
section. 1494

(G)(1) This section applies only to contracts for goods, 1495
services, or construction that satisfy the criteria in either 1496
division (G)(1)(a) or (b) of this section. This section may apply 1497
to contracts for goods, services, or construction that satisfy the 1498
criteria in division (G)(1)(c) of this section, provided that the 1499
contracts also satisfy the criteria in either division (G)(1)(a) 1500
or (b) of this section. 1501

(a) The cost for the goods, services, or construction 1502
provided under the contract is estimated to exceed twenty-five 1503

thousand dollars. 1504

(b) The aggregate cost for the goods, services, or 1505
construction provided under multiple contracts entered into by the 1506
particular state agency and a single person or the particular 1507
political subdivision and a single person within the fiscal year 1508
preceding the fiscal year within which a contract is being entered 1509
into by that same state agency and the same single person or the 1510
same political subdivision and the same single person, exceeded 1511
fifty thousand dollars. 1512

(c) The contract is a renewal of a contract previously 1513
entered into and renewed pursuant to that preceding contract. 1514

(2) This section does not apply to employment contracts. 1515

(H) As used in this section: 1516

(1) "State agency" has the same meaning as in section 9.66 of 1517
the Revised Code. 1518

(2) "Political subdivision" means a political subdivision as 1519
defined in section 9.82 of the Revised Code that has received more 1520
than fifty thousand dollars of state money in the current fiscal 1521
year or the preceding fiscal year. 1522

(3) "Finding for recovery" means a determination issued by 1523
the auditor of state, contained in a report the auditor of state 1524
gives to the attorney general pursuant to section 117.28 of the 1525
Revised Code, that public money has been illegally expended, 1526
public money has been collected but not been accounted for, public 1527
money is due but has not been collected, or public property has 1528
been converted or misappropriated. 1529

(4) "Debtor" means a person against whom a finding for 1530
recovery has been issued. 1531

(5) "Person" means the person named in the finding for 1532
recovery. 1533

(6) "State money" does not include funds the state receives 1534
from another source and passes through to a political subdivision. 1535

Sec. 9.33. As used in sections 9.33 to ~~9.333~~ 9.335 of the 1536
Revised Code: 1537

(A) "Construction manager" means a person with substantial 1538
discretion and authority to plan, coordinate, manage, and direct 1539
all phases of a project for the construction, demolition, 1540
alteration, repair, or reconstruction of any public building, 1541
structure, or other improvement, but does not mean the person who 1542
provides the professional design services or who actually performs 1543
the construction, demolition, alteration, repair, or 1544
reconstruction work on the project. 1545

(B)(1) "Construction manager at risk" means a person with 1546
substantial discretion and authority to plan, coordinate, manage, 1547
direct, and construct all phases of a project for the 1548
construction, demolition, alteration, repair, or reconstruction of 1549
any public building, structure, or other improvement and who 1550
provides the public authority a guaranteed maximum price as 1551
determined in section 9.334 of the Revised Code. 1552

(2) As used in division (B)(1) of this section: 1553

(a) "Construct" includes performing, or subcontracting for 1554
performing, construction, demolition, alteration, repair, or 1555
reconstruction. 1556

(b) "Manage" includes approving bidders and awarding 1557
subcontracts for furnishing materials regarding, or for 1558
performing, construction, demolition, alteration, repair, or 1559
reconstruction. 1560

(C) "Construction management contract" means a contract 1561
between a public authority and another person obligating the 1562
person to provide construction management services. 1563

(D) "Construction management services" or "management services" means the range of services that either a construction manager or a construction manager at risk may provide. 1564
1565
1566

(E) "Qualified" means having the following qualifications: 1567

(1) Competence to perform the required management services as 1568
indicated by the technical training, education, and experience of 1569
the construction manager's or construction manager at risk's 1570
personnel, especially the technical training, education, and 1571
experience of the construction manager's or construction manager 1572
at risk's employees who would be assigned to perform the services; 1573

(2) Ability in terms of workload and the availability of 1574
qualified personnel, equipment, and facilities to perform the 1575
required management services competently and expeditiously; 1576

(3) Past performance as reflected by the evaluations of 1577
previous clients with respect to factors such as control of costs, 1578
quality of work, and meeting of deadlines; 1579

(4) Financial responsibility as evidenced by the capability 1580
to provide a letter of credit pursuant to Chapter 1305. of the 1581
Revised Code, a surety bond, certified check, or cashier's check 1582
in an amount equal to the value of the construction management 1583
contract, or by other means acceptable to the public ~~owner~~ 1584
authority; 1585

(5) Other similar factors. 1586

~~(C)~~(F)(1) "Public ~~owner~~ authority" means the state, ~~or any~~ 1587
state institution of higher education as defined in section 1588
3345.011 of the Revised Code, any county, township, municipal 1589
corporation, school district, or other political subdivision, or 1590
any public agency, authority, board, commission, instrumentality, 1591
or special purpose district of the state or of a political 1592
subdivision. 1593

(2) "Public authority" does not include the Ohio turnpike commission. 1594
1595

(G) "Open book pricing method" means a method in which a construction manager at risk provides the public authority, at the public authority's request, all books, records, documents, and other data in its possession pertaining to the bidding, pricing, or performance of a construction management contract awarded to the construction manager at risk. 1596
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Sec. 9.331. (A) Before entering into a contract to employ a construction manager or construction manager at risk, a public ~~owner~~ authority shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, and may advertise by electronic means pursuant to rules adopted by the director of administrative services, notice of its intent to employ a construction manager or construction manager at risk. The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting the proposals. The public ~~owner~~ authority also may advertise the information contained in the notice in appropriate trade journals and otherwise notify persons believed to be interested in employment as a construction manager or construction manager at risk. 1602
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(B) The advertisement shall include a general description of the project, a statement of the specific management services required, and a description of the qualifications required for the project. 1616
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Sec. 9.332. ~~For every construction management contract, the~~ Every public ~~owner~~ authority planning to contract for construction management services with a construction manager shall evaluate the proposals submitted and may hold discussions with individual 1620
1621
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1623

construction managers to explore further their proposals, the 1624
scope and nature of the services they would provide, and the 1625
various technical approaches they may take regarding the project. 1626
Following this evaluation, the public ~~owner~~ authority shall: 1627

(A) Select and rank no fewer than three construction managers 1628
that it considers to be the most qualified to provide the required 1629
construction management services, except when the public ~~owner~~ 1630
authority determines in writing that fewer than three qualified 1631
construction managers are available in which case it shall select 1632
and rank them; 1633

(B) Negotiate a contract with the construction manager ranked 1634
most qualified to perform the required services at a compensation 1635
determined in writing to be fair and reasonable. Contract 1636
negotiations shall be directed toward: 1637

(1) Ensuring that the construction manager and the public 1638
~~owner~~ authority have a mutual understanding of the essential 1639
requirements involved in providing the required services; 1640

(2) Determining that the construction manager will make 1641
available the necessary personnel, equipment, and facilities to 1642
perform the services within the required time. 1643

(C) Upon failure to negotiate a contract with the 1644
construction manager ranked most qualified, the public ~~owner~~ 1645
authority shall inform the construction manager in writing of the 1646
termination of negotiations and enter into negotiations with the 1647
construction manager ranked next most qualified. If negotiations 1648
again fail, the same procedure ~~shall~~ may be followed with each 1649
next most qualified construction manager selected and ranked 1650
pursuant to division (A) of this section, in order of ranking, 1651
until a contract is negotiated. 1652

(D) If the public ~~owner~~ authority fails to negotiate a 1653
contract with any of the construction managers selected pursuant 1654

to division (A) of this section, the public ~~owner shall~~ authority 1655
may select and rank additional construction managers, based on 1656
their qualifications, and negotiations ~~shall~~ may continue as with 1657
the construction managers selected and ranked initially until a 1658
contract is negotiated. 1659

(E) Nothing in this section affects a public authority's 1660
right to accept or reject any or all proposals in whole or in 1661
part. 1662

Sec. 9.333. (A) No public ~~owner~~ authority shall enter into a 1663
construction management contract with a construction manager 1664
unless the construction manager provides a letter of credit 1665
pursuant to Chapter 1305. of the Revised Code, a surety bond 1666
pursuant to sections 153.54 and 153.57 of the Revised Code, a 1667
certified check or cashier's check in an amount equal to the value 1668
of the construction management contract for the project, or 1669
provides other reasonable financial assurance of a nature and in 1670
an amount satisfactory to the ~~owner~~ public authority. The public 1671
~~owner~~ authority may waive this requirement for good cause. 1672

(B) Before construction begins pursuant to a construction 1673
management contract with a construction manager at risk, the 1674
construction manager at risk shall provide a surety bond to the 1675
public authority in accordance with section 153.57 of the Revised 1676
Code in an amount not less than the combined contract values of 1677
any work under contract to be constructed pursuant to the 1678
construction management contract prior to the establishment of the 1679
guaranteed maximum price or in the amount of the guaranteed 1680
maximum price as agreed to by the public authority, as the case 1681
may be. 1682

Sec. 9.334. (A) Every public authority planning to contract 1683
for construction management services with a construction manager 1684

at risk shall evaluate the proposals submitted and select not 1685
fewer than three construction managers at risk the public 1686
authority considers to be the most qualified to provide the 1687
required construction management services, except that the public 1688
authority shall select and rank fewer than three when the public 1689
authority determines in writing that fewer than three qualified 1690
construction managers at risk are available. 1691

(B) The public authority shall provide each construction 1692
manager at risk selected under division (A) of this section with a 1693
description of the project, including a statement of available 1694
design detail, a description of how the guaranteed maximum price 1695
for the project shall be determined, including the estimated level 1696
of design detail upon which the guaranteed maximum price shall be 1697
based, the form of the construction management contract, and a 1698
request for a pricing proposal. 1699

(C) The pricing proposal of each construction manager at risk 1700
shall include at least the following regarding the construction 1701
manager at risk: 1702

(1) A list of key personnel for the project; 1703

(2) A statement of the general conditions and contingency 1704
requirements; 1705

(3) A fee proposal divided into a preconstruction fee, a 1706
construction fee, and the portion of the construction fee to be at 1707
risk in a guaranteed maximum price. 1708

(D) The public authority shall evaluate the submitted pricing 1709
proposals and may hold discussions with individual construction 1710
managers at risk to explore their proposals further, including the 1711
scope and nature of the proposed services and potential technical 1712
approaches. 1713

(E) After evaluating the pricing proposals, the public 1714

authority shall rank the selected construction managers at risk 1715
based on its evaluation of the value of each pricing proposal, 1716
with such evaluation considering the proposed cost and 1717
qualifications. 1718

(F) The public authority shall enter into negotiations for a 1719
construction management contract with the construction manager at 1720
risk whose pricing proposal the public authority determines to be 1721
the best value under division (E) of this section. Contract 1722
negotiations shall be directed toward: 1723

(1) Ensuring that the construction manager at risk and the 1724
public authority mutually understand the essential requirements 1725
involved in providing the required construction management 1726
services, including the provisions for the use of contingency 1727
funds and the possible distribution of savings in the final costs 1728
of the project; 1729

(2) Ensuring that the construction manager at risk will be 1730
able to provide the necessary personnel, equipment, and facilities 1731
to perform the construction management services within the time 1732
required by the construction management contract; 1733

(3) Agreeing upon a procedure and schedule for determining a 1734
guaranteed maximum price using an open book pricing method that 1735
shall represent the total maximum amount to be paid by the public 1736
authority to the construction manager at risk for the project and 1737
that shall include the costs of all the work, the cost of its 1738
general conditions, the contingency, and the fee payable to the 1739
construction manager at risk. 1740

(G)(1) If the public authority fails to negotiate a 1741
construction management contract with the construction manager at 1742
risk whose pricing proposal the public authority determines to be 1743
the best value under division (E) of this section, the public 1744
authority shall inform the construction manager at risk, in 1745

writing, of the termination of negotiations. 1746

(2) Upon terminating negotiations, the public authority may 1747
enter into negotiations as provided in this section with the 1748
construction manager at risk that the public authority ranked next 1749
highest under division (E) of this section. If negotiations fail, 1750
the public authority may enter into negotiations as provided in 1751
this section with the construction manager at risk the public 1752
authority ranked next highest under division (E) of this section. 1753

(3) If a public authority fails to negotiate a construction 1754
management contract with a construction manager at risk whose 1755
pricing proposal the public authority determines to be the best 1756
value under division (E) of this section, the public authority may 1757
select additional construction managers at risk to provide pricing 1758
proposals to the public authority pursuant to this section or may 1759
select an alternative delivery method for the project. 1760

(H) If the public authority and construction manager at risk 1761
fail to agree on a guaranteed maximum price, nothing in this 1762
section shall prohibit the public authority from allowing the 1763
construction manager at risk to provide the management services 1764
that a construction manager is authorized to provide. 1765

(I) Nothing in this section affects a public authority's 1766
right to accept or reject any or all proposals in whole or in 1767
part. 1768

Sec. 9.335. The requirements set forth in sections 9.33 to 1769
9.334 of the Revised Code for the bidding, selection, and award of 1770
a construction management contract by a public authority prevail 1771
in the event of any conflict with a provision of Chapter 153. of 1772
the Revised Code. 1773

Sec. 9.482. (A) As used in this section, "political 1774
subdivision" has the meaning defined in section 2744.01 of the 1775

Revised Code. 1776

(B) When authorized by their respective legislative 1777
authorities, a political subdivision may enter into an agreement 1778
with another political subdivision whereby a contracting political 1779
subdivision agrees to exercise any power, perform any function, or 1780
render any service for another contracting recipient political 1781
subdivision that the contracting recipient political subdivision 1782
is otherwise legally authorized to exercise, perform, or render. 1783

In the absence in the agreement of provisions determining by 1784
what officer, office, department, agency, or other authority the 1785
powers and duties of a contracting political subdivision shall be 1786
exercised or performed, the legislative authority of the 1787
contracting political subdivision shall determine and assign the 1788
powers and duties. 1789

An agreement shall not suspend the possession by a 1790
contracting recipient political subdivision of any power or 1791
function that is exercised or performed on its behalf by another 1792
contracting political subdivision under the agreement. 1793

A political subdivision shall not enter into an agreement to 1794
levy any tax or to exercise, with regard to public moneys, any 1795
investment powers, perform any investment function, or render any 1796
investment service on behalf of a contracting subdivision. 1797

(C) No power shall be exercised, no function shall be 1798
performed, and no service shall be rendered by a contracting 1799
political subdivision pursuant to an agreement entered into under 1800
this section within a political subdivision that is not a party to 1801
the agreement, without first obtaining the written consent of the 1802
political subdivision that is not a party to the agreement and 1803
within which the power is to be exercised, a function is to be 1804
performed, or a service is to be rendered. 1805

(D) Chapter 2744. of the Revised Code, insofar as it applies 1806

to the operation of a political subdivision, applies to the 1807
political subdivisions that are parties to an agreement and to 1808
their employees when they are rendering a service outside the 1809
boundaries of their employing political subdivision under the 1810
agreement. Employees acting outside the boundaries of their 1811
employing political subdivision while providing a service under an 1812
agreement may participate in any pension or indemnity fund 1813
established by the political subdivision to the same extent as 1814
while they are acting within the boundaries of the political 1815
subdivision, and are entitled to all the rights and benefits of 1816
Chapter 4123. of the Revised Code to the same extent as while they 1817
are performing a service within the boundaries of the political 1818
subdivision. 1819

Sec. 9.90. (A) The governing board of any public institution 1820
of higher education, including without limitation state 1821
universities and colleges, community college districts, university 1822
branch districts, technical college districts, and municipal 1823
universities, may, in addition to all other powers provided in the 1824
Revised Code: 1825

(1) Contract for, purchase, or otherwise procure from an 1826
insurer or insurers licensed to do business by the state of Ohio 1827
for or on behalf of such of its employees as it may determine, 1828
life insurance, or sickness, accident, annuity, endowment, health, 1829
medical, hospital, dental, or surgical coverage and benefits, or 1830
any combination thereof, by means of insurance plans or other 1831
types of coverage, family, group or otherwise, and may pay from 1832
funds under its control and available for such purpose all or any 1833
portion of the cost, premium, or charge for such insurance, 1834
coverage, or benefits. However, the governing board, in addition 1835
to or as an alternative to the authority otherwise granted by 1836
division (A)(1) of this section, may elect to procure coverage for 1837
health care services, for or on behalf of such of its employees as 1838

it may determine, by means of policies, contracts, certificates, 1839
or agreements issued by at least two health insuring corporations 1840
holding a certificate of authority under Chapter 1751. of the 1841
Revised Code and may pay from funds under the governing board's 1842
control and available for such purpose all or any portion of the 1843
cost of such coverage. 1844

(2) Make payments to a custodial account for investment in 1845
regulated investment company stock for the purpose of providing 1846
retirement benefits as described in section 403(b)(7) of the 1847
Internal Revenue Code of 1954, as amended. Such stock shall be 1848
purchased only from persons authorized to sell such stock in this 1849
state. 1850

Any income of an employee deferred under divisions (A)(1) and 1851
(2) of this section in a deferred compensation program eligible 1852
for favorable tax treatment under the Internal Revenue Code of 1853
1954, as amended, shall continue to be included as regular 1854
compensation for the purpose of computing the contributions to and 1855
benefits from the retirement system of such employee. Any sum so 1856
deferred shall not be included in the computation of any federal 1857
and state income taxes withheld on behalf of any such employee. 1858

(B) All or any portion of the cost, premium, or charge 1859
therefor may be paid in such other manner or combination of 1860
matters as the governing board may determine, including direct 1861
payment by the employee in cases under division (A)(1) of this 1862
section, and, if authorized in writing by the employee in cases 1863
under division (A)(1) or (2) of this section, by such governing 1864
board with moneys made available by deduction from or reduction in 1865
salary or wages or by the foregoing of a salary or wage increase. 1866
Nothing in section 3917.01 or section 3917.06 of the Revised Code 1867
shall prohibit the issuance or purchase of group life insurance 1868
authorized by this section by reason of payment of premiums 1869
therefor by the governing board from its funds, and such group 1870

life insurance may be so issued and purchased if otherwise 1871
consistent with the provisions of sections 3917.01 to 3917.07 of 1872
the Revised Code. 1873

(C) The board of education of any school district may 1874
exercise any of the powers granted to the governing boards of 1875
public institutions of higher education under divisions (A) and 1876
(B) of this section, except in relation to the provision of health 1877
care benefits to employees. ~~All health care benefits provided to 1878
persons employed by the public schools of this state shall be 1879
health care plans that contain best practices established by the 1880
school employees health care board pursuant to section 9.901 of 1881
the Revised Code.~~ 1882

Sec. 101.15. (A) As used in this section: 1883

(1) "Caucus" means all of the members of either house of the 1884
general assembly who are members of a committee and members of the 1885
same political party. 1886

(2) "Committee" means any committee of either house of the 1887
general assembly, a joint committee of both houses of the general 1888
assembly, including a committee of conference, or a subcommittee 1889
of any committee listed in division (A)(2) of this section. 1890

(3) "Meeting" means any prearranged discussion of the public 1891
business of a committee by a majority of its members. 1892

(B)(1) Except as otherwise provided in ~~division~~ divisions 1893
(B)(2) and (F) of this section, all meetings of any committee are 1894
declared to be public meetings open to the public at all times. 1895
The secretary assigned to the chairperson of the committee shall 1896
prepare, file, and maintain the minutes of every regular or 1897
special meeting of a committee. The committee, at its next regular 1898
or special meeting, shall approve the minutes prepared, filed, and 1899
maintained by the secretary, or, if the minutes prepared, filed, 1900

and maintained by the secretary require correction before their 1901
approval, the committee shall correct and approve the minutes at 1902
the next following regular or special meeting. The committee shall 1903
make the minutes available for public inspection not later than 1904
seven days after the meeting the minutes reflect or not later than 1905
the committee's next regular or special meeting, whichever occurs 1906
first. 1907

(2) Upon motion, the chairperson of a committee shall recess 1908
a meeting of the committee to enable the members of the committee 1909
who are members of the same political party to hold a caucus 1910
meeting to discuss matters that have been referred to or are under 1911
consideration by the committee. Unless the caucus determines 1912
otherwise, a caucus meeting is neither a public meeting nor open 1913
to the public at any time. During a recess for the purpose of a 1914
caucus meeting, it is not in order for the committee to take up or 1915
dispose of any matter that has been referred to or is under 1916
consideration by the committee. 1917

(C) Each committee shall establish a reasonable method 1918
whereby any person may determine the time and place of all 1919
regularly scheduled meetings and the time, place, and purpose of 1920
all special meetings. No committee shall hold a regular or special 1921
meeting unless it gives at least twenty-four hours' advance notice 1922
to the news media that have requested notification. 1923

The method established by each committee shall provide that, 1924
upon request and payment of a reasonable fee, any person may 1925
obtain reasonable advance notification of all meetings at which 1926
any specific type of public business will be discussed. Provisions 1927
for advance notification may include, but are not limited to, 1928
mailing the agenda of meetings to all subscribers on a mailing 1929
list or mailing notices in self-addressed stamped envelopes 1930
provided by the person who desires advance notification. 1931

(D) Any action of a committee relating to a bill or 1932

resolution, or any other formal action of a committee, is invalid 1933
unless taken in an open meeting of the committee. Any action of a 1934
committee relating to a bill or resolution, or any other formal 1935
action of a committee, taken in an open meeting is invalid if it 1936
results from deliberations in a meeting not open to the public. 1937

(E)(1) Any person may bring an action to enforce this 1938
section. An action under this division shall be brought within two 1939
years after the date of the alleged violation or threatened 1940
violation. Upon proof of a violation or threatened violation of 1941
this section in an action brought by any person, the court of 1942
common pleas shall issue an injunction to compel the members of 1943
the committee to comply with its provisions. 1944

(2)(a) If the court of common pleas issues an injunction 1945
under division (E)(1) of this section, the court shall order the 1946
committee that it enjoins to pay a civil forfeiture of five 1947
hundred dollars to the party that sought the injunction and shall 1948
award to that party all court costs and, subject to reduction as 1949
described in this division, reasonable attorney's fees. The court, 1950
in its discretion, may reduce an award of attorney's fees to the 1951
party that sought the injunction or not award attorney's fees to 1952
that party if the court determines both of the following: 1953

(i) That, based on the ordinary application of statutory law 1954
and case law as it existed at the time of the violation or 1955
threatened violation that was the basis of the injunction, a 1956
well-informed committee reasonably would believe that the 1957
committee was not violating or threatening to violate this 1958
section; 1959

(ii) That a well-informed committee reasonably would believe 1960
that the conduct or threatened conduct that was the basis of the 1961
injunction would serve the public policy that underlies the 1962
authority that is asserted as permitting that conduct or 1963
threatened conduct. 1964

(b) If the court of common pleas does not issue an injunction under division (E)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the committee all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a committee who knowingly violates an injunction issued under division (E)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney of Franklin county or by the attorney general.

(5) The remedies described in divisions (E)(1) to (4) of this section shall be the exclusive remedies for a violation of this section.

(F) This section does not apply to or affect either of the following:

(1) All meetings of the joint legislative ethics committee created under section 101.34 of the Revised Code other than a meeting that is held for any of the following purposes:

(a) To consider the adoption, amendment, or rescission of any rule that the joint legislative ethics committee is authorized to adopt pursuant to division (B)(11) of section 101.34, division (E) of section 101.78, division (B) of section 102.02, or division (E) of section 121.68 of the Revised Code;

(b) To discuss and consider changes to any administrative operation of the joint legislative ethics committee other than any matter described in division (G) of section 121.22 of the Revised Code;

(c) To discuss pending or proposed legislation.	1996
(2) Meetings of a caucus, <u>except as provided in division (B)(2) of this section.</u>	1997 1998
(G) For purposes of division (F)(1)(a) of this section, an advisory opinion, written opinion, or decision relative to a complaint is not a rule.	1999 2000 2001
Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; all members of the Ohio casino control commission, the executive director of the commission, all professional employees of the commission, and all technical employees of the commission who perform an internal audit function; the individuals set forth in division (B)(2) of section 187.03 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the	2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026

Revised Code; employees of the Ohio retirement study council, 2027
other than employees who perform purely administrative or clerical 2028
functions; the administrator of workers' compensation and each 2029
member of the bureau of workers' compensation board of directors; 2030
the bureau of workers' compensation director of investments; the 2031
chief investment officer of the bureau of workers' compensation; 2032
the director appointed by the workers' compensation council; all 2033
members of the board of commissioners on grievances and discipline 2034
of the supreme court and the ethics commission created under 2035
section 102.05 of the Revised Code; every business manager, 2036
treasurer, or superintendent of a city, local, exempted village, 2037
joint vocational, or cooperative education school district or an 2038
educational service center; every person who is elected to or is a 2039
candidate for the office of member of a board of education of a 2040
city, local, exempted village, joint vocational, or cooperative 2041
education school district or of a governing board of an 2042
educational service center that has a total student count of 2043
twelve thousand or more as most recently determined by the 2044
department of education pursuant to section 3317.03 of the Revised 2045
Code; every person who is appointed to the board of education of a 2046
municipal school district pursuant to division (B) or (F) of 2047
section 3311.71 of the Revised Code; all members of the board of 2048
directors of a sanitary district that is established under Chapter 2049
6115. of the Revised Code and organized wholly for the purpose of 2050
providing a water supply for domestic, municipal, and public use, 2051
and that includes two municipal corporations in two counties; 2052
every public official or employee who is paid a salary or wage in 2053
accordance with schedule C of section 124.15 or schedule E-2 of 2054
section 124.152 of the Revised Code; members of the board of 2055
trustees and the executive director of the southern Ohio 2056
agricultural and community development foundation; all members 2057
appointed to the Ohio livestock care standards board under section 2058
904.02 of the Revised Code; and every other public official or 2059

employee who is designated by the appropriate ethics commission 2060
pursuant to division (B) of this section. 2061

The disclosure statement shall include all of the following: 2062

(1) The name of the person filing the statement and each 2063
member of the person's immediate family and all names under which 2064
the person or members of the person's immediate family do 2065
business; 2066

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 2067
and except as otherwise provided in section 102.022 of the Revised 2068
Code, identification of every source of income, other than income 2069
from a legislative agent identified in division (A)(2)(b) of this 2070
section, received during the preceding calendar year, in the 2071
person's own name or by any other person for the person's use or 2072
benefit, by the person filing the statement, and a brief 2073
description of the nature of the services for which the income was 2074
received. If the person filing the statement is a member of the 2075
general assembly, the statement shall identify the amount of every 2076
source of income received in accordance with the following ranges 2077
of amounts: zero or more, but less than one thousand dollars; one 2078
thousand dollars or more, but less than ten thousand dollars; ten 2079
thousand dollars or more, but less than twenty-five thousand 2080
dollars; twenty-five thousand dollars or more, but less than fifty 2081
thousand dollars; fifty thousand dollars or more, but less than 2082
one hundred thousand dollars; and one hundred thousand dollars or 2083
more. Division (A)(2)(a) of this section shall not be construed to 2084
require a person filing the statement who derives income from a 2085
business or profession to disclose the individual items of income 2086
that constitute the gross income of that business or profession, 2087
except for those individual items of income that are attributable 2088
to the person's or, if the income is shared with the person, the 2089
partner's, solicitation of services or goods or performance, 2090
arrangement, or facilitation of services or provision of goods on 2091

behalf of the business or profession of clients, including 2092
corporate clients, who are legislative agents. A person who files 2093
the statement under this section shall disclose the identity of 2094
and the amount of income received from a person who the public 2095
official or employee knows or has reason to know is doing or 2096
seeking to do business of any kind with the public official's or 2097
employee's agency. 2098

(b) If the person filing the statement is a member of the 2099
general assembly, the statement shall identify every source of 2100
income and the amount of that income that was received from a 2101
legislative agent during the preceding calendar year, in the 2102
person's own name or by any other person for the person's use or 2103
benefit, by the person filing the statement, and a brief 2104
description of the nature of the services for which the income was 2105
received. Division (A)(2)(b) of this section requires the 2106
disclosure of clients of attorneys or persons licensed under 2107
section 4732.12 of the Revised Code, or patients of persons 2108
certified under section 4731.14 of the Revised Code, if those 2109
clients or patients are legislative agents. Division (A)(2)(b) of 2110
this section requires a person filing the statement who derives 2111
income from a business or profession to disclose those individual 2112
items of income that constitute the gross income of that business 2113
or profession that are received from legislative agents. 2114

(c) Except as otherwise provided in division (A)(2)(c) of 2115
this section, division (A)(2)(a) of this section applies to 2116
attorneys, physicians, and other persons who engage in the 2117
practice of a profession and who, pursuant to a section of the 2118
Revised Code, the common law of this state, a code of ethics 2119
applicable to the profession, or otherwise, generally are required 2120
not to reveal, disclose, or use confidences of clients, patients, 2121
or other recipients of professional services except under 2122
specified circumstances or generally are required to maintain 2123

those types of confidences as privileged communications except 2124
under specified circumstances. Division (A)(2)(a) of this section 2125
does not require an attorney, physician, or other professional 2126
subject to a confidentiality requirement as described in division 2127
(A)(2)(c) of this section to disclose the name, other identity, or 2128
address of a client, patient, or other recipient of professional 2129
services if the disclosure would threaten the client, patient, or 2130
other recipient of professional services, would reveal details of 2131
the subject matter for which legal, medical, or professional 2132
advice or other services were sought, or would reveal an otherwise 2133
privileged communication involving the client, patient, or other 2134
recipient of professional services. Division (A)(2)(a) of this 2135
section does not require an attorney, physician, or other 2136
professional subject to a confidentiality requirement as described 2137
in division (A)(2)(c) of this section to disclose in the brief 2138
description of the nature of services required by division 2139
(A)(2)(a) of this section any information pertaining to specific 2140
professional services rendered for a client, patient, or other 2141
recipient of professional services that would reveal details of 2142
the subject matter for which legal, medical, or professional 2143
advice was sought or would reveal an otherwise privileged 2144
communication involving the client, patient, or other recipient of 2145
professional services. 2146

(3) The name of every corporation on file with the secretary 2147
of state that is incorporated in this state or holds a certificate 2148
of compliance authorizing it to do business in this state, trust, 2149
business trust, partnership, or association that transacts 2150
business in this state in which the person filing the statement or 2151
any other person for the person's use and benefit had during the 2152
preceding calendar year an investment of over one thousand dollars 2153
at fair market value as of the thirty-first day of December of the 2154
preceding calendar year, or the date of disposition, whichever is 2155
earlier, or in which the person holds any office or has a 2156

fiduciary relationship, and a description of the nature of the 2157
investment, office, or relationship. Division (A)(3) of this 2158
section does not require disclosure of the name of any bank, 2159
savings and loan association, credit union, or building and loan 2160
association with which the person filing the statement has a 2161
deposit or a withdrawable share account. 2162

(4) All fee simple and leasehold interests to which the 2163
person filing the statement holds legal title to or a beneficial 2164
interest in real property located within the state, excluding the 2165
person's residence and property used primarily for personal 2166
recreation; 2167

(5) The names of all persons residing or transacting business 2168
in the state to whom the person filing the statement owes, in the 2169
person's own name or in the name of any other person, more than 2170
one thousand dollars. Division (A)(5) of this section shall not be 2171
construed to require the disclosure of debts owed by the person 2172
resulting from the ordinary conduct of a business or profession or 2173
debts on the person's residence or real property used primarily 2174
for personal recreation, except that the superintendent of 2175
financial institutions shall disclose the names of all 2176
state-chartered savings and loan associations and of all service 2177
corporations subject to regulation under division (E)(2) of 2178
section 1151.34 of the Revised Code to whom the superintendent in 2179
the superintendent's own name or in the name of any other person 2180
owes any money, and that the superintendent and any deputy 2181
superintendent of banks shall disclose the names of all 2182
state-chartered banks and all bank subsidiary corporations subject 2183
to regulation under section 1109.44 of the Revised Code to whom 2184
the superintendent or deputy superintendent owes any money. 2185

(6) The names of all persons residing or transacting business 2186
in the state, other than a depository excluded under division 2187
(A)(3) of this section, who owe more than one thousand dollars to 2188

the person filing the statement, either in the person's own name 2189
or to any person for the person's use or benefit. Division (A)(6) 2190
of this section shall not be construed to require the disclosure 2191
of clients of attorneys or persons licensed under section 4732.12 2192
or 4732.15 of the Revised Code, or patients of persons certified 2193
under section 4731.14 of the Revised Code, nor the disclosure of 2194
debts owed to the person resulting from the ordinary conduct of a 2195
business or profession. 2196

(7) Except as otherwise provided in section 102.022 of the 2197
Revised Code, the source of each gift of over seventy-five 2198
dollars, or of each gift of over twenty-five dollars received by a 2199
member of the general assembly from a legislative agent, received 2200
by the person in the person's own name or by any other person for 2201
the person's use or benefit during the preceding calendar year, 2202
except gifts received by will or by virtue of section 2105.06 of 2203
the Revised Code, or received from spouses, parents, grandparents, 2204
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 2205
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 2206
fathers-in-law, mothers-in-law, or any person to whom the person 2207
filing the statement stands in loco parentis, or received by way 2208
of distribution from any inter vivos or testamentary trust 2209
established by a spouse or by an ancestor; 2210

(8) Except as otherwise provided in section 102.022 of the 2211
Revised Code, identification of the source and amount of every 2212
payment of expenses incurred for travel to destinations inside or 2213
outside this state that is received by the person in the person's 2214
own name or by any other person for the person's use or benefit 2215
and that is incurred in connection with the person's official 2216
duties, except for expenses for travel to meetings or conventions 2217
of a national or state organization to which any state agency, 2218
including, but not limited to, any legislative agency or state 2219
institution of higher education as defined in section 3345.011 of 2220

the Revised Code, pays membership dues, or any political 2221
subdivision or any office or agency of a political subdivision 2222
pays membership dues; 2223

(9) Except as otherwise provided in section 102.022 of the 2224
Revised Code, identification of the source of payment of expenses 2225
for meals and other food and beverages, other than for meals and 2226
other food and beverages provided at a meeting at which the person 2227
participated in a panel, seminar, or speaking engagement or at a 2228
meeting or convention of a national or state organization to which 2229
any state agency, including, but not limited to, any legislative 2230
agency or state institution of higher education as defined in 2231
section 3345.011 of the Revised Code, pays membership dues, or any 2232
political subdivision or any office or agency of a political 2233
subdivision pays membership dues, that are incurred in connection 2234
with the person's official duties and that exceed one hundred 2235
dollars aggregated per calendar year; 2236

(10) If the disclosure statement is filed by a public 2237
official or employee described in division (B)(2) of section 2238
101.73 of the Revised Code or division (B)(2) of section 121.63 of 2239
the Revised Code who receives a statement from a legislative 2240
agent, executive agency lobbyist, or employer that contains the 2241
information described in division (F)(2) of section 101.73 of the 2242
Revised Code or division (G)(2) of section 121.63 of the Revised 2243
Code, all of the nondisputed information contained in the 2244
statement delivered to that public official or employee by the 2245
legislative agent, executive agency lobbyist, or employer under 2246
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 2247
the Revised Code. 2248

A person may file a statement required by this section in 2249
person or by mail. A person who is a candidate for elective office 2250
shall file the statement no later than the thirtieth day before 2251
the primary, special, or general election at which the candidacy 2252

is to be voted on, whichever election occurs soonest, except that 2253
a person who is a write-in candidate shall file the statement no 2254
later than the twentieth day before the earliest election at which 2255
the person's candidacy is to be voted on. A person who holds 2256
elective office shall file the statement on or before the 2257
fifteenth day of April of each year unless the person is a 2258
candidate for office. A person who is appointed to fill a vacancy 2259
for an unexpired term in an elective office shall file the 2260
statement within fifteen days after the person qualifies for 2261
office. Other persons shall file an annual statement on or before 2262
the fifteenth day of April or, if appointed or employed after that 2263
date, within ninety days after appointment or employment. No 2264
person shall be required to file with the appropriate ethics 2265
commission more than one statement or pay more than one filing fee 2266
for any one calendar year. 2267

The appropriate ethics commission, for good cause, may extend 2268
for a reasonable time the deadline for filing a statement under 2269
this section. 2270

A statement filed under this section is subject to public 2271
inspection at locations designated by the appropriate ethics 2272
commission except as otherwise provided in this section. 2273

(B) The Ohio ethics commission, the joint legislative ethics 2274
committee, and the board of commissioners on grievances and 2275
discipline of the supreme court, using the rule-making procedures 2276
of Chapter 119. of the Revised Code, may require any class of 2277
public officials or employees under its jurisdiction and not 2278
specifically excluded by this section whose positions involve a 2279
substantial and material exercise of administrative discretion in 2280
the formulation of public policy, expenditure of public funds, 2281
enforcement of laws and rules of the state or a county or city, or 2282
the execution of other public trusts, to file an annual statement 2283
on or before the fifteenth day of April under division (A) of this 2284

section. The appropriate ethics commission shall send the public 2285
officials or employees written notice of the requirement by the 2286
fifteenth day of February of each year the filing is required 2287
unless the public official or employee is appointed after that 2288
date, in which case the notice shall be sent within thirty days 2289
after appointment, and the filing shall be made not later than 2290
ninety days after appointment. 2291

Except for disclosure statements filed by members of the 2292
board of trustees and the executive director of the southern Ohio 2293
agricultural and community development foundation, disclosure 2294
statements filed under this division with the Ohio ethics 2295
commission by members of boards, commissions, or bureaus of the 2296
state for which no compensation is received other than reasonable 2297
and necessary expenses shall be kept confidential. Disclosure 2298
statements filed with the Ohio ethics commission under division 2299
(A) of this section by business managers, treasurers, and 2300
superintendents of city, local, exempted village, joint 2301
vocational, or cooperative education school districts or 2302
educational service centers shall be kept confidential, except 2303
that any person conducting an audit of any such school district or 2304
educational service center pursuant to section 115.56 or Chapter 2305
117. of the Revised Code may examine the disclosure statement of 2306
any business manager, treasurer, or superintendent of that school 2307
district or educational service center. Disclosure statements 2308
filed with the Ohio ethics commission under division (A) of this 2309
section by the individuals set forth in division (B)(2) of section 2310
187.03 of the Revised Code shall be kept confidential. The Ohio 2311
ethics commission shall examine each disclosure statement required 2312
to be kept confidential to determine whether a potential conflict 2313
of interest exists for the person who filed the disclosure 2314
statement. A potential conflict of interest exists if the private 2315
interests of the person, as indicated by the person's disclosure 2316
statement, might interfere with the public interests the person is 2317

required to serve in the exercise of the person's authority and 2318
duties in the person's office or position of employment. If the 2319
commission determines that a potential conflict of interest 2320
exists, it shall notify the person who filed the disclosure 2321
statement and shall make the portions of the disclosure statement 2322
that indicate a potential conflict of interest subject to public 2323
inspection in the same manner as is provided for other disclosure 2324
statements. Any portion of the disclosure statement that the 2325
commission determines does not indicate a potential conflict of 2326
interest shall be kept confidential by the commission and shall 2327
not be made subject to public inspection, except as is necessary 2328
for the enforcement of Chapters 102. and 2921. of the Revised Code 2329
and except as otherwise provided in this division. 2330

(C) No person shall knowingly fail to file, on or before the 2331
applicable filing deadline established under this section, a 2332
statement that is required by this section. 2333

(D) No person shall knowingly file a false statement that is 2334
required to be filed under this section. 2335

(E)(1) Except as provided in divisions (E)(2) and (3) of this 2336
section, beginning with statements for calendar year 2011, the 2337
statement required by division (A) or (B) of this section shall be 2338
accompanied by a filing fee of ~~forty~~ sixty dollars. 2339

(2) ~~The~~ Beginning with statements for calendar year 2011, the 2340
statement required by division (A) of this section shall be 2341
accompanied by the following filing fee to be paid by the person 2342
who is elected or appointed to, or is a candidate for, any of the 2343
following offices: 2344

For state office, except member of the		2345
state board of education	\$ 65 <u>95</u>	2346
For office of member of general assembly	\$40	2347
For county office	\$ 40 <u>60</u>	2348

For city office	\$25 <u>35</u>	2349
For office of member of the state board		2350
of education	\$25 <u>35</u>	2351
For office of member of the Ohio		2352
livestock care standards board	\$25	2353
For office of member of a city, local,		2354
exempted village, or cooperative		2355
education board of		2356
education or educational service		2357
center governing board	\$20 <u>30</u>	2358
For position of business manager,		2359
treasurer, or superintendent of a		2360
city, local, exempted village, joint		2361
vocational, or cooperative education		2362
school district or		2363
educational service center	\$20 <u>30</u>	2364

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

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

(F) ~~If~~ Beginning with statements for calendar year 2011, if a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ~~ten~~ twenty dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed ~~two~~ five hundred ~~fifty~~ dollars.

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

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

(3) The joint legislative ethics committee shall deposit all receipts it receives from the payment of financial disclosure statement filing fees under divisions (E) and (F) of this section into the joint legislative ethics committee investigative fund.

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

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

(1) Two members of the senate, appointed by the president of the senate, both of whom shall not be members of the same political party; 2412
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(2) Two members of the house of representatives, appointed by the speaker of the house of representatives, both of whom shall not be members of the same political party; 2415
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(3) Five members appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be members of the same political party, one of whom shall be the chief of staff of the governor's office, one of whom shall represent the Ohio arts council, one of whom shall represent the Ohio historical society, one of whom shall represent the Ohio building authority, and one of whom shall represent the public at large; 2418
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(4) One member, who shall be a former president of the senate, appointed by the current president of the senate. If the current president of the senate, in the current president's discretion, decides for any reason not to make the appointment or if no person is eligible or available to serve, the seat shall remain vacant. 2426
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(5) One member, who shall be a former speaker of the house of representatives, appointed by the current speaker of the house of representatives. If the current speaker of the house of representatives, in the current speaker's discretion, decides for any reason not to make the appointment or if no person is eligible or available to serve, the seat shall remain vacant. 2432
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(6) The clerk of the senate and the clerk of the house of representatives. 2438
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(B) Terms of office of each appointed member of the board shall be for three years, except that members of the general assembly appointed to the board shall be members of the board only 2440
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so long as they are members of the general assembly and the chief 2443
of staff of the governor's office shall be a member of the board 2444
only so long as the appointing governor remains in office. Each 2445
member shall hold office from the date of the member's appointment 2446
until the end of the term for which the member was appointed. In 2447
case of a vacancy occurring on the board, the president of the 2448
senate, the speaker of the house of representatives, or the 2449
governor, as the case may be, shall in the same manner prescribed 2450
for the regular appointment to the commission, fill the vacancy by 2451
appointing a member. Any member appointed to fill a vacancy 2452
occurring prior to the expiration of the term for which the 2453
member's predecessor was appointed shall hold office for the 2454
remainder of the term. Any appointed member shall continue in 2455
office subsequent to the expiration date of the member's term 2456
until the member's successor takes office, or until a period of 2457
sixty days has elapsed, whichever occurs first. 2458

(C) The board shall hold meetings in a manner and at times 2459
prescribed by the rules adopted by the board. A majority of the 2460
board constitutes a quorum, and no action shall be taken by the 2461
board unless approved by at least six members or by at least seven 2462
members if a person is appointed under division (A)(4) or (5) of 2463
this section. At its first meeting, the board shall adopt rules 2464
for the conduct of its business and the election of its officers, 2465
and shall organize by selecting a chairperson and other officers 2466
as it considers necessary. Board members shall serve without 2467
compensation but shall be reimbursed for actual and necessary 2468
expenses incurred in the performance of their duties. 2469

(D) The board may do any of the following: 2470

(1) Employ or hire on a consulting basis professional, 2471
technical, and clerical employees as are necessary for the 2472
performance of its duties; 2473

(2) Hold public hearings at times and places as determined by 2474

the board;	2475
(3) Adopt, amend, or rescind rules necessary to accomplish the duties of the board as set forth in this section;	2476 2477
(4) Sponsor, conduct, and support such social events as the board may authorize and consider appropriate for the employees of the board, employees and members of the general assembly, employees of persons under contract with the board or otherwise engaged to perform services on the premises of capitol square, or other persons as the board may consider appropriate. Subject to the requirements of Chapter 4303. of the Revised Code, the board may provide beer, wine, and intoxicating liquor, with or without charge, for those events and may use funds only from the sale of goods and services fund to purchase the beer, wine, and intoxicating liquor the board provides;	2478 2479 2480 2481 2482 2483 2484 2485 2486 2487 2488
(5) Purchase a warehouse in which to store items of the capitol collection trust and, whenever necessary, equipment or other property of the board.	2489 2490 2491
(E) The board shall do all of the following:	2492
(1) Have sole authority to coordinate and approve any improvements, additions, and renovations that are made to the capitol square. The improvements shall include, but not be limited to, the placement of monuments and sculpture on the capitol grounds.	2493 2494 2495 2496 2497
(2) Subject to section 3353.07 of the Revised Code, operate the capitol square, and have sole authority to regulate all uses of the capitol square. The uses shall include, but not be limited to, the casual and recreational use of the capitol square.	2498 2499 2500 2501
(3) Employ, fix the compensation of, and prescribe the duties of the executive director of the board and other employees the board considers necessary for the performance of its powers and duties;	2502 2503 2504 2505

(4) Establish and maintain the capitol collection trust. The 2506
capitol collection trust shall consist of furniture, antiques, and 2507
other items of personal property that the board shall store in 2508
suitable facilities until they are ready to be displayed in the 2509
capitol square. 2510

(5) Perform repair, construction, contracting, purchasing, 2511
maintenance, supervisory, and operating activities the board 2512
determines are necessary for the operation and maintenance of the 2513
capitol square; 2514

(6) Maintain and preserve the capitol square, in accordance 2515
with guidelines issued by the United States secretary of the 2516
interior for application of the secretary's standards for 2517
rehabilitation adopted in 36 C.F.R. part 67; 2518

(7) Plan and develop a center at the capitol building for the 2519
purpose of educating visitors about the history of Ohio, including 2520
its political, economic, and social development and the design and 2521
erection of the capitol building and its grounds. 2522

(F)(1) The board shall lease capital facilities improved or 2523
financed by the Ohio building authority pursuant to Chapter 152. 2524
of the Revised Code for the use of the board, and may enter into 2525
any other agreements with the authority ancillary to improvement, 2526
financing, or leasing of those capital facilities, including, but 2527
not limited to, any agreement required by the applicable bond 2528
proceedings authorized by Chapter 152. of the Revised Code. Any 2529
lease of capital facilities authorized by this section shall be 2530
governed by division (D) of section 152.24 of the Revised Code. 2531

(2) Fees, receipts, and revenues received by the board from 2532
the state underground parking garage constitute available receipts 2533
as defined in section 152.09 of the Revised Code, and may be 2534
pledged to the payment of bond service charges on obligations 2535
issued by the Ohio building authority pursuant to Chapter 152. of 2536

the Revised Code to improve, finance, or purchase capital 2537
facilities useful to the board. The authority may, with the 2538
consent of the board, provide in the bond proceedings for a pledge 2539
of all or a portion of those fees, receipts, and revenues as the 2540
authority determines. The authority may provide in the bond 2541
proceedings or by separate agreement with the board for the 2542
transfer of those fees, receipts, and revenues to the appropriate 2543
bond service fund or bond service reserve fund as required to pay 2544
the bond service charges when due, and any such provision for the 2545
transfer of those fees, receipts, and revenues shall be 2546
controlling notwithstanding any other provision of law pertaining 2547
to those fees, receipts, and revenues. 2548

(3) All moneys received by the treasurer of state on account 2549
of the board and required by the applicable bond proceedings or by 2550
separate agreement with the board to be deposited, transferred, or 2551
credited to the bond service fund or bond service reserve fund 2552
established by the bond proceedings shall be transferred by the 2553
treasurer of state to such fund, whether or not it is in the 2554
custody of the treasurer of state, without necessity for further 2555
appropriation, upon receipt of notice from the Ohio building 2556
authority as prescribed in the bond proceedings. 2557

(G) All fees, receipts, and revenues received by the board 2558
from the state underground parking garage shall be deposited into 2559
the state treasury to the credit of the underground parking garage 2560
operating fund, which is hereby created, to be used for the 2561
purposes specified in division (F) of this section and for the 2562
operation and maintenance of the garage. All investment earnings 2563
of the fund shall be credited to the fund. 2564

(H) All donations received by the board shall be deposited 2565
into the state treasury to the credit of the capitol square 2566
renovation gift fund, which is hereby created. The fund shall be 2567
used by the board as follows: 2568

(1) To provide part or all of the funding related to	2569
construction, goods, or services for the renovation of the capitol	2570
square;	2571
(2) To purchase art, antiques, and artifacts for display at	2572
the capitol square;	2573
(3) To award contracts or make grants to organizations for	2574
educating the public regarding the historical background and	2575
governmental functions of the capitol square. Chapters 125., 127.,	2576
and 153. and section 3517.13 of the Revised Code do not apply to	2577
purchases made exclusively from the fund, notwithstanding anything	2578
to the contrary in those chapters or that section. All investment	2579
earnings of the fund shall be credited to the fund.	2580
(I) Except as provided in divisions (G), (H), and (J) of this	2581
section, all fees, receipts, and revenues received by the board	2582
shall be deposited into the state treasury to the credit of the	2583
sale of goods and services fund, which is hereby created. Money	2584
credited to the fund shall be used solely to pay costs of the	2585
board other than those specified in divisions (F) and (G) of this	2586
section. All investment earnings of the fund shall be credited to	2587
the fund.	2588
(J) There is hereby created in the state treasury the capitol	2589
square improvement fund, to be used by the board to pay	2590
construction, renovation, and other costs related to the capitol	2591
square for which money is not otherwise available to the board.	2592
Whenever the board determines that there is a need to incur those	2593
costs and that the unencumbered, unobligated balance to the credit	2594
of the underground parking garage operating fund exceeds the	2595
amount needed for the purposes specified in division (F) of this	2596
section and for the operation and maintenance of the garage, the	2597
board may request the director of budget and management to	2598
transfer from the underground parking garage operating fund to the	2599
capitol square improvement fund the amount needed to pay such	2600

construction, renovation, or other costs. The director then shall 2601
transfer the amount needed from the excess balance of the 2602
underground parking garage operating fund. 2603

(K) As the operation and maintenance of the capitol square 2604
constitute essential government functions of a public purpose, the 2605
board shall not be required to pay taxes or assessments upon the 2606
square, upon any property acquired or used by the board under this 2607
section, or upon any income generated by the operation of the 2608
square. 2609

(L) As used in this section, "capitol square" means the 2610
capitol building, senate building, capitol atrium, capitol 2611
grounds, the state underground parking garage, and the warehouse 2612
owned by the board. 2613

(M) The capitol annex shall be known as the senate building. 2614

Sec. 107.09. Immediately after the determination of each 2615
decennial apportionment for members of the general assembly the 2616
governor shall cause such apportionment to be published for four 2617
consecutive weeks, or as provided in section 7.16 of the Revised 2618
Code, in three newspapers, one in Cincinnati, one in Cleveland, 2619
and one in Columbus. 2620

Sec. 109.02. The attorney general is the chief law officer 2621
for the state and all its departments and shall be provided with 2622
adequate office space in Columbus. Except as provided in division 2623
(E) of section 120.06 and in sections 9.05, 3517.152 to 3517.157, 2624
and 3521.04 of the Revised Code, no state officer or board, or 2625
head of a department or institution of the state shall employ, or 2626
be represented by, other counsel or attorneys at law. The attorney 2627
general shall appear for the state in the trial and argument of 2628
all civil and criminal causes in the supreme court in which the 2629
state is directly or indirectly interested. When required by the 2630

governor or the general assembly, the attorney general shall 2631
appear for the state in any court or tribunal in a cause in which 2632
the state is a party, or in which the state is directly 2633
interested. Upon the written request of the governor, the attorney 2634
general shall prosecute any person indicted for a crime. 2635

Sec. 109.36. As used in this section and sections 109.361 to 2636
109.366 of the Revised Code: 2637

(A)(1) "Officer or employee" means any of the following: 2638

(a) A person who, at the time a cause of action against the 2639
person arises, is serving in an elected or appointed office or 2640
position with the state or is employed by the state. 2641

(b) A person that, at the time a cause of action against the 2642
person, partnership, or corporation arises, is rendering medical, 2643
nursing, dental, podiatric, optometric, physical therapeutic, 2644
psychiatric, or psychological services pursuant to a personal 2645
services contract or purchased service contract with a department, 2646
agency, or institution of the state. 2647

(c) A person that, at the time a cause of action against the 2648
person, partnership, or corporation arises, is rendering peer 2649
review, utilization review, or drug utilization review services in 2650
relation to medical, nursing, dental, podiatric, optometric, 2651
physical therapeutic, psychiatric, or psychological services 2652
pursuant to a personal services contract or purchased service 2653
contract with a department, agency, or institution of the state. 2654

(d) A person who, at the time a cause of action against the 2655
person arises, is rendering medical, nursing, dental, podiatric, 2656
optometric, physical therapeutic, psychiatric, or psychological 2657
services to patients in a state institution operated by the 2658
department of mental health, ~~is a member of the institution's~~ 2659
~~staff, and is performing the services pursuant to an agreement~~ 2660

~~between the state institution and a board of alcohol, drug
addiction, and mental health services described in section 340.021
of the Revised Code with the department.~~

(2) "Officer or employee" does not include any person
elected, appointed, or employed by any political subdivision of
the state.

(B) "State" means the state of Ohio, including but not
limited to, the general assembly, the supreme court, courts of
appeals, the offices of all elected state officers, and all
departments, boards, offices, commissions, agencies, institutions,
and other instrumentalities of the state of Ohio. "State" does not
include political subdivisions.

(C) "Political subdivisions" of the state means municipal
corporations, townships, counties, school districts, and all other
bodies corporate and politic responsible for governmental
activities only in geographical areas smaller than that of the
state.

(D) "Employer" means the general assembly, the supreme court,
courts of appeals, any office of an elected state officer, or any
department, board, office, commission, agency, institution, or
other instrumentality of the state of Ohio that employs or
contracts with an officer or employee or to which an officer or
employee is elected or appointed.

Sec. 109.42. (A) The attorney general shall prepare and have
printed a pamphlet that contains a compilation of all statutes
relative to victim's rights in which the attorney general lists
and explains the statutes in the form of a victim's bill of
rights. The attorney general shall distribute the pamphlet to all
sheriffs, marshals, municipal corporation and township police
departments, constables, and other law enforcement agencies, to
all prosecuting attorneys, city directors of law, village

solicitors, and other similar chief legal officers of municipal corporations, and to organizations that represent or provide services for victims of crime. The victim's bill of rights set forth in the pamphlet shall contain a description of all of the rights of victims that are provided for in Chapter 2930. or in any other section of the Revised Code and shall include, but not be limited to, all of the following:

(1) The right of a victim or a victim's representative to attend a proceeding before a grand jury, in a juvenile case, or in a criminal case pursuant to a subpoena without being discharged from the victim's or representative's employment, having the victim's or representative's employment terminated, having the victim's or representative's pay decreased or withheld, or otherwise being punished, penalized, or threatened as a result of time lost from regular employment because of the victim's or representative's attendance at the proceeding pursuant to the subpoena, as set forth in section 2151.211, 2930.18, 2939.121, or 2945.451 of the Revised Code;

(2) The potential availability pursuant to section 2151.359 or 2152.61 of the Revised Code of a forfeited recognizance to pay damages caused by a child when the delinquency of the child or child's violation of probation or community control is found to be proximately caused by the failure of the child's parent or guardian to subject the child to reasonable parental authority or to faithfully discharge the conditions of probation or community control;

(3) The availability of awards of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code for injuries caused by criminal offenses;

(4) The right of the victim in certain criminal or juvenile cases or a victim's representative to receive, pursuant to section 2930.06 of the Revised Code, notice of the date, time, and place

of the trial or delinquency proceeding in the case or, if there 2724
will not be a trial or delinquency proceeding, information from 2725
the prosecutor, as defined in section 2930.01 of the Revised Code, 2726
regarding the disposition of the case; 2727

(5) The right of the victim in certain criminal or juvenile 2728
cases or a victim's representative to receive, pursuant to section 2729
2930.04, 2930.05, or 2930.06 of the Revised Code, notice of the 2730
name of the person charged with the violation, the case or docket 2731
number assigned to the charge, and a telephone number or numbers 2732
that can be called to obtain information about the disposition of 2733
the case; 2734

(6) The right of the victim in certain criminal or juvenile 2735
cases or of the victim's representative pursuant to section 2736
2930.13 or 2930.14 of the Revised Code, subject to any reasonable 2737
terms set by the court as authorized under section 2930.14 of the 2738
Revised Code, to make a statement about the victimization and, if 2739
applicable, a statement relative to the sentencing or disposition 2740
of the offender; 2741

(7) The opportunity to obtain a court order, pursuant to 2742
section 2945.04 of the Revised Code, to prevent or stop the 2743
commission of the offense of intimidation of a crime victim or 2744
witness or an offense against the person or property of the 2745
complainant, or of the complainant's ward or child; 2746

(8) The right of the victim in certain criminal or juvenile 2747
cases or a victim's representative pursuant to sections 2151.38, 2748
2929.20, 2930.10, 2930.16, and 2930.17 of the Revised Code to 2749
receive notice of a pending motion for judicial release or other 2750
early release of the person who committed the offense against the 2751
victim, to make an oral or written statement at the court hearing 2752
on the motion, and to be notified of the court's decision on the 2753
motion, and the right of the victim or representative to receive a 2754
copy of any petition for release of the person submitted to a 2755

court under section 2967.19 of the Revised Code, to provide the 2756
court with written information relevant to the petition, and to be 2757
notified of the court's ruling on the petition; 2758

(9) The right of the victim in certain criminal or juvenile 2759
cases or a victim's representative pursuant to section 2930.16, 2760
2967.12, 2967.26, or 5139.56 of the Revised Code to receive notice 2761
of any pending commutation, pardon, parole, transitional control, 2762
discharge, other form of authorized release, post-release control, 2763
or supervised release for the person who committed the offense 2764
against the victim or any application for release of that person 2765
and to send a written statement relative to the victimization and 2766
the pending action to the adult parole authority or the release 2767
authority of the department of youth services; 2768

(10) The right of the victim to bring a civil action pursuant 2769
to sections 2969.01 to 2969.06 of the Revised Code to obtain money 2770
from the offender's profit fund; 2771

(11) The right, pursuant to section 3109.09 of the Revised 2772
Code, to maintain a civil action to recover compensatory damages 2773
not exceeding ten thousand dollars and costs from the parent of a 2774
minor who willfully damages property through the commission of an 2775
act that would be a theft offense, as defined in section 2913.01 2776
of the Revised Code, if committed by an adult; 2777

(12) The right, pursuant to section 3109.10 of the Revised 2778
Code, to maintain a civil action to recover compensatory damages 2779
not exceeding ten thousand dollars and costs from the parent of a 2780
minor who willfully and maliciously assaults a person; 2781

(13) The possibility of receiving restitution from an 2782
offender or a delinquent child pursuant to section 2152.20, 2783
2929.18, or 2929.28 of the Revised Code; 2784

(14) The right of the victim in certain criminal or juvenile 2785
cases or a victim's representative, pursuant to section 2930.16 of 2786

the Revised Code, to receive notice of the escape from confinement 2787
or custody of the person who committed the offense, to receive 2788
that notice from the custodial agency of the person at the 2789
victim's last address or telephone number provided to the 2790
custodial agency, and to receive notice that, if either the 2791
victim's address or telephone number changes, it is in the 2792
victim's interest to provide the new address or telephone number 2793
to the custodial agency; 2794

(15) The right of a victim of domestic violence to seek the 2795
issuance of a civil protection order pursuant to section 3113.31 2796
of the Revised Code, the right of a victim of a violation of 2797
section 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 2798
of the Revised Code, a violation of a substantially similar 2799
municipal ordinance, or an offense of violence who is a family or 2800
household member of the offender at the time of the offense to 2801
seek the issuance of a temporary protection order pursuant to 2802
section 2919.26 of the Revised Code, and the right of both types 2803
of victims to be accompanied by a victim advocate during court 2804
proceedings; 2805

(16) The right of a victim of a sexually oriented offense or 2806
of a child-victim oriented offense that is committed by a person 2807
who is convicted of, pleads guilty to, or is adjudicated a 2808
delinquent child for committing the offense and who is in a 2809
category specified in division (B) of section 2950.10 of the 2810
Revised Code to receive, pursuant to that section, notice that the 2811
person has registered with a sheriff under section 2950.04, 2812
2950.041, or 2950.05 of the Revised Code and notice of the 2813
person's name, the person's residence that is registered, and the 2814
offender's school, institution of higher education, or place of 2815
employment address or addresses that are registered, the person's 2816
photograph, and a summary of the manner in which the victim must 2817
make a request to receive the notice. As used in this division, 2818

"sexually oriented offense" and "child-victim oriented offense" 2819
have the same meanings as in section 2950.01 of the Revised Code. 2820

(17) The right of a victim of certain sexually violent 2821
offenses committed by an offender who also is convicted of or 2822
pleads guilty to a sexually violent predator specification and who 2823
is sentenced to a prison term pursuant to division (A)(3) of 2824
section 2971.03 of the Revised Code, of a victim of a violation of 2825
division (A)(1)(b) of section 2907.02 of the Revised Code 2826
committed on or after January 2, 2007, by an offender who is 2827
sentenced for the violation pursuant to division (B)(1)(a), (b), 2828
or (c) of section 2971.03 of the Revised Code, of a victim of an 2829
attempted rape committed on or after January 2, 2007, by an 2830
offender who also is convicted of or pleads guilty to a 2831
specification of the type described in section 2941.1418, 2832
2941.1419, or 2941.1420 of the Revised Code and is sentenced for 2833
the violation pursuant to division (B)(2)(a), (b), or (c) of 2834
section 2971.03 of the Revised Code, and of a victim of an offense 2835
that is described in division (B)(3)(a), (b), (c), or (d) of 2836
section 2971.03 of the Revised Code and is committed by an 2837
offender who is sentenced pursuant to one of those divisions to 2838
receive, pursuant to section 2930.16 of the Revised Code, notice 2839
of a hearing to determine whether to modify the requirement that 2840
the offender serve the entire prison term in a state correctional 2841
facility, whether to continue, revise, or revoke any existing 2842
modification of that requirement, or whether to terminate the 2843
prison term. As used in this division, "sexually violent offense" 2844
and "sexually violent predator specification" have the same 2845
meanings as in section 2971.01 of the Revised Code. 2846

(B)(1)(a) Subject to division (B)(1)(c) of this section, a 2847
prosecuting attorney, assistant prosecuting attorney, city 2848
director of law, assistant city director of law, village 2849
solicitor, assistant village solicitor, or similar chief legal 2850

officer of a municipal corporation or an assistant of any of those 2851
officers who prosecutes an offense committed in this state, upon 2852
first contact with the victim of the offense, the victim's family, 2853
or the victim's dependents, shall give the victim, the victim's 2854
family, or the victim's dependents a copy of the pamphlet prepared 2855
pursuant to division (A) of this section and explain, upon 2856
request, the information in the pamphlet to the victim, the 2857
victim's family, or the victim's dependents. 2858

(b) Subject to division (B)(1)(c) of this section, a law 2859
enforcement agency that investigates an offense or delinquent act 2860
committed in this state shall give the victim of the offense or 2861
delinquent act, the victim's family, or the victim's dependents a 2862
copy of the pamphlet prepared pursuant to division (A) of this 2863
section at one of the following times: 2864

(i) Upon first contact with the victim, the victim's family, 2865
or the victim's dependents; 2866

(ii) If the offense or delinquent act is an offense of 2867
violence, if the circumstances of the offense or delinquent act 2868
and the condition of the victim, the victim's family, or the 2869
victim's dependents indicate that the victim, the victim's family, 2870
or the victim's dependents will not be able to understand the 2871
significance of the pamphlet upon first contact with the agency, 2872
and if the agency anticipates that it will have an additional 2873
contact with the victim, the victim's family, or the victim's 2874
dependents, upon the agency's second contact with the victim, the 2875
victim's family, or the victim's dependents. 2876

If the agency does not give the victim, the victim's family, 2877
or the victim's dependents a copy of the pamphlet upon first 2878
contact with them and does not have a second contact with the 2879
victim, the victim's family, or the victim's dependents, the 2880
agency shall mail a copy of the pamphlet to the victim, the 2881
victim's family, or the victim's dependents at their last known 2882

address. 2883

(c) In complying on and after December 9, 1994, with the 2884
duties imposed by division (B)(1)(a) or (b) of this section, an 2885
official or a law enforcement agency shall use copies of the 2886
pamphlet that are in the official's or agency's possession on 2887
December 9, 1994, until the official or agency has distributed all 2888
of those copies. After the official or agency has distributed all 2889
of those copies, the official or agency shall use only copies of 2890
the pamphlet that contain at least the information described in 2891
divisions (A)(1) to (17) of this section. 2892

(2) The failure of a law enforcement agency or of a 2893
prosecuting attorney, assistant prosecuting attorney, city 2894
director of law, assistant city director of law, village 2895
solicitor, assistant village solicitor, or similar chief legal 2896
officer of a municipal corporation or an assistant to any of those 2897
officers to give, as required by division (B)(1) of this section, 2898
the victim of an offense or delinquent act, the victim's family, 2899
or the victim's dependents a copy of the pamphlet prepared 2900
pursuant to division (A) of this section does not give the victim, 2901
the victim's family, the victim's dependents, or a victim's 2902
representative any rights under section 2743.51 to 2743.72, 2903
2945.04, 2967.12, 2969.01 to 2969.06, 3109.09, or 3109.10 of the 2904
Revised Code or under any other provision of the Revised Code and 2905
does not affect any right under those sections. 2906

(3) A law enforcement agency, a prosecuting attorney or 2907
assistant prosecuting attorney, or a city director of law, 2908
assistant city director of law, village solicitor, assistant 2909
village solicitor, or similar chief legal officer of a municipal 2910
corporation that distributes a copy of the pamphlet prepared 2911
pursuant to division (A) of this section shall not be required to 2912
distribute a copy of an information card or other printed material 2913
provided by the clerk of the court of claims pursuant to section 2914

2743.71 of the Revised Code.	2915
(C) The cost of printing and distributing the pamphlet prepared pursuant to division (A) of this section shall be paid out of the reparations fund, created pursuant to section 2743.191 of the Revised Code, in accordance with division (D) of that section.	2916 2917 2918 2919 2920
(D) As used in this section:	2921
(1) "Victim's representative" has the same meaning as in section 2930.01 of the Revised Code;	2922 2923
(2) "Victim advocate" has the same meaning as in section 2919.26 of the Revised Code.	2924 2925
Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person	2926 2927 2928 2929 2930 2931 2932 2933 2934 2935 2936 2937 2938 2939 2940 2941 2942 2943 2944 2945

suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a),

(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 2979
or involving an adjudication in a case in which a child under 2980
eighteen years of age was alleged to be a delinquent child for 2981
committing an act that would be a felony or an offense of violence 2982
if committed by an adult. The clerk of the court of common pleas 2983
shall include in the report and summary the clerk sends under this 2984
division all information described in divisions (A)(2)(a) to (f) 2985
of this section regarding a case before the court of appeals that 2986
is served by that clerk. The summary shall be written on the 2987
standard forms furnished by the superintendent pursuant to 2988
division (B) of this section and shall include the following 2989
information: 2990

(a) The incident tracking number contained on the standard 2991
forms furnished by the superintendent pursuant to division (B) of 2992
this section; 2993

(b) The style and number of the case; 2994

(c) The date of arrest, offense, summons, or arraignment; 2995

(d) The date that the person was convicted of or pleaded 2996
guilty to the offense, adjudicated a delinquent child for 2997
committing the act that would be a felony or an offense of 2998
violence if committed by an adult, found not guilty of the 2999
offense, or found not to be a delinquent child for committing an 3000
act that would be a felony or an offense of violence if committed 3001
by an adult, the date of an entry dismissing the charge, an entry 3002
declaring a mistrial of the offense in which the person is 3003
discharged, an entry finding that the person or child is not 3004
competent to stand trial, or an entry of a nolle prosequi, or the 3005
date of any other determination that constitutes final resolution 3006
of the case; 3007

(e) A statement of the original charge with the section of 3008
the Revised Code that was alleged to be violated; 3009

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

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

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence

if committed by an adult, and any other information that the 3042
superintendent may receive from law enforcement officials of the 3043
state and its political subdivisions. 3044

(4) The superintendent shall carry out Chapter 2950. of the 3045
Revised Code with respect to the registration of persons who are 3046
convicted of or plead guilty to a sexually oriented offense or a 3047
child-victim oriented offense and with respect to all other duties 3048
imposed on the bureau under that chapter. 3049

(5) The bureau shall perform centralized recordkeeping 3050
functions for criminal history records and services in this state 3051
for purposes of the national crime prevention and privacy compact 3052
set forth in section 109.571 of the Revised Code and is the 3053
criminal history record repository as defined in that section for 3054
purposes of that compact. The superintendent or the 3055
superintendent's designee is the compact officer for purposes of 3056
that compact and shall carry out the responsibilities of the 3057
compact officer specified in that compact. 3058

(B) The superintendent shall prepare and furnish to every 3059
county, multicounty, municipal, municipal-county, or 3060
multicounty-municipal jail or workhouse, community-based 3061
correctional facility, halfway house, alternative residential 3062
facility, or state correctional institution and to every clerk of 3063
a court in this state specified in division (A)(2) of this section 3064
standard forms for reporting the information required under 3065
division (A) of this section. The standard forms that the 3066
superintendent prepares pursuant to this division may be in a 3067
tangible format, in an electronic format, or in both tangible 3068
formats and electronic formats. 3069

(C)(1) The superintendent may operate a center for 3070
electronic, automated, or other data processing for the storage 3071
and retrieval of information, data, and statistics pertaining to 3072
criminals and to children under eighteen years of age who are 3073

adjudicated delinquent children for committing an act that would 3074
be a felony or an offense of violence if committed by an adult, 3075
criminal activity, crime prevention, law enforcement, and criminal 3076
justice, and may establish and operate a statewide communications 3077
network to be known as the Ohio law enforcement gateway to gather 3078
and disseminate information, data, and statistics for the use of 3079
law enforcement agencies and for other uses specified in this 3080
division. The superintendent may gather, store, retrieve, and 3081
disseminate information, data, and statistics that pertain to 3082
children who are under eighteen years of age and that are gathered 3083
pursuant to sections 109.57 to 109.61 of the Revised Code together 3084
with information, data, and statistics that pertain to adults and 3085
that are gathered pursuant to those sections. 3086

(2) The superintendent or the superintendent's designee shall 3087
gather information of the nature described in division (C)(1) of 3088
this section that pertains to the offense and delinquency history 3089
of a person who has been convicted of, pleaded guilty to, or been 3090
adjudicated a delinquent child for committing a sexually oriented 3091
offense or a child-victim oriented offense for inclusion in the 3092
state registry of sex offenders and child-victim offenders 3093
maintained pursuant to division (A)(1) of section 2950.13 of the 3094
Revised Code and in the internet database operated pursuant to 3095
division (A)(13) of that section and for possible inclusion in the 3096
internet database operated pursuant to division (A)(11) of that 3097
section. 3098

(3) In addition to any other authorized use of information, 3099
data, and statistics of the nature described in division (C)(1) of 3100
this section, the superintendent or the superintendent's designee 3101
may provide and exchange the information, data, and statistics 3102
pursuant to the national crime prevention and privacy compact as 3103
described in division (A)(5) of this section. 3104

(4) The attorney general may adopt rules under Chapter 119. 3105

of the Revised Code establishing guidelines for the operation of 3106
and participation in the Ohio law enforcement gateway. The rules 3107
may include criteria for granting and restricting access to 3108
information gathered and disseminated through the Ohio law 3109
enforcement gateway. The attorney general may appoint a steering 3110
committee to advise the attorney general in the operation of the 3111
Ohio law enforcement gateway that is comprised of persons who are 3112
representatives of the criminal justice agencies in this state 3113
that use the Ohio law enforcement gateway and is chaired by the 3114
superintendent or the superintendent's designee. 3115

(D)(1) The following are not public records under section 3116
149.43 of the Revised Code: 3117

(a) Information and materials furnished to the superintendent 3118
pursuant to division (A) of this section; 3119

(b) Information, data, and statistics gathered or 3120
disseminated through the Ohio law enforcement gateway pursuant to 3121
division (C)(1) of this section; 3122

(c) Information and materials furnished to any board or 3123
person under division (F) or (G) of this section. 3124

(2) The superintendent or the superintendent's designee shall 3125
gather and retain information so furnished under division (A) of 3126
this section that pertains to the offense and delinquency history 3127
of a person who has been convicted of, pleaded guilty to, or been 3128
adjudicated a delinquent child for committing a sexually oriented 3129
offense or a child-victim oriented offense for the purposes 3130
described in division (C)(2) of this section. 3131

(E) The attorney general shall adopt rules, in accordance 3132
with Chapter 119. of the Revised Code, setting forth the procedure 3133
by which a person may receive or release information gathered by 3134
the superintendent pursuant to division (A) of this section. A 3135
reasonable fee may be charged for this service. If a temporary 3136

employment service submits a request for a determination of 3137
whether a person the service plans to refer to an employment 3138
position has been convicted of or pleaded guilty to an offense 3139
listed in division (A)(1), (3), (4), (5), or (6) of section 3140
109.572 of the Revised Code, the request shall be treated as a 3141
single request and only one fee shall be charged. 3142

(F)(1) As used in division (F)(2) of this section, "head 3143
start agency" means an entity in this state that has been approved 3144
to be an agency for purposes of subchapter II of the "Community 3145
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 3146
as amended. 3147

(2)(a) In addition to or in conjunction with any request that 3148
is required to be made under section 109.572, 2151.86, 3301.32, 3149
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 3150
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 3151
Code or that is made under section 3314.41, 3319.392, ~~or 3326.25~~, 3152
or 3328.20 of the Revised Code, the board of education of any 3153
school district; the director of developmental disabilities; any 3154
county board of developmental disabilities; any entity under 3155
contract with a county board of developmental disabilities; the 3156
chief administrator of any chartered nonpublic school; the chief 3157
administrator of any home health agency; the chief administrator 3158
of or person operating any child day-care center, type A family 3159
day-care home, or type B family day-care home licensed or 3160
certified under Chapter 5104. of the Revised Code; the 3161
administrator of any type C family day-care home certified 3162
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 3163
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 3164
assembly; the chief administrator of any head start agency; the 3165
executive director of a public children services agency; a private 3166
company described in section 3314.41, 3319.392, ~~or 3326.25~~, or 3167
3328.20 of the Revised Code; or an employer described in division 3168

(J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education is required to receive information under this section as a prerequisite to employment of an individual pursuant to section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the

bureau in order to make a photocopy of it for that individual's 3202
employment application documents and shall return the certified 3203
copy to the individual. In a case of that nature, a district only 3204
shall accept a certified copy of records of that nature within one 3205
year after the date of their issuance by the bureau. 3206

(c) Notwithstanding division (F)(2)(a) of this section, in 3207
the case of a request under section 3319.39, 3319.391, or 3327.10 3208
of the Revised Code only for criminal records maintained by the 3209
federal bureau of investigation, the superintendent shall not 3210
determine whether any information gathered under division (A) of 3211
this section exists on the person for whom the request is made. 3212

(3) The state board of education may request, with respect to 3213
any individual who has applied for employment after October 2, 3214
1989, in any position with the state board or the department of 3215
education, any information that a school district board of 3216
education is authorized to request under division (F)(2) of this 3217
section, and the superintendent of the bureau shall proceed as if 3218
the request has been received from a school district board of 3219
education under division (F)(2) of this section. 3220

(4) When the superintendent of the bureau receives a request 3221
for information under section 3319.291 of the Revised Code, the 3222
superintendent shall proceed as if the request has been received 3223
from a school district board of education and shall comply with 3224
divisions (F)(2)(a) and (c) of this section. 3225

(5) When a recipient of a classroom reading improvement grant 3226
paid under section 3301.86 of the Revised Code requests, with 3227
respect to any individual who applies to participate in providing 3228
any program or service funded in whole or in part by the grant, 3229
the information that a school district board of education is 3230
authorized to request under division (F)(2)(a) of this section, 3231
the superintendent of the bureau shall proceed as if the request 3232
has been received from a school district board of education under 3233

division (F)(2)(a) of this section. 3234

(G) In addition to or in conjunction with any request that is 3235
required to be made under section 3701.881, 3712.09, 3721.121, or 3236
~~3722.151~~ 5119.85 of the Revised Code with respect to an individual 3237
who has applied for employment in a position that involves 3238
providing direct care to an older adult, the chief administrator 3239
of a home health agency, hospice care program, home licensed under 3240
Chapter 3721. of the Revised Code, adult day-care program operated 3241
pursuant to rules adopted under section 3721.04 of the Revised 3242
Code, or adult care facility may request that the superintendent 3243
of the bureau investigate and determine, with respect to any 3244
individual who has applied after January 27, 1997, for employment 3245
in a position that does not involve providing direct care to an 3246
older adult, whether the bureau has any information gathered under 3247
division (A) of this section that pertains to that individual. 3248

In addition to or in conjunction with any request that is 3249
required to be made under section 173.27 of the Revised Code with 3250
respect to an individual who has applied for employment in a 3251
position that involves providing ombudsperson services to 3252
residents of long-term care facilities or recipients of 3253
community-based long-term care services, the state long-term care 3254
ombudsperson, ombudsperson's designee, or director of health may 3255
request that the superintendent investigate and determine, with 3256
respect to any individual who has applied for employment in a 3257
position that does not involve providing such ombudsperson 3258
services, whether the bureau has any information gathered under 3259
division (A) of this section that pertains to that applicant. 3260

In addition to or in conjunction with any request that is 3261
required to be made under section 173.394 of the Revised Code with 3262
respect to an individual who has applied for employment in a 3263
position that involves providing direct care to an individual, the 3264
chief administrator of a community-based long-term care agency may 3265

request that the superintendent investigate and determine, with 3266
respect to any individual who has applied for employment in a 3267
position that does not involve providing direct care, whether the 3268
bureau has any information gathered under division (A) of this 3269
section that pertains to that applicant. 3270

On receipt of a request under this division, the 3271
superintendent shall determine whether that information exists 3272
and, on request of the individual requesting information, shall 3273
also request from the federal bureau of investigation any criminal 3274
records it has pertaining to the applicant. The superintendent or 3275
the superintendent's designee also may request criminal history 3276
records from other states or the federal government pursuant to 3277
the national crime prevention and privacy compact set forth in 3278
section 109.571 of the Revised Code. Within thirty days of the 3279
date a request is received, the superintendent shall send to the 3280
requester a report of any information determined to exist, 3281
including information contained in records that have been sealed 3282
under section 2953.32 of the Revised Code, and, within thirty days 3283
of its receipt, shall send the requester a report of any 3284
information received from the federal bureau of investigation, 3285
other than information the dissemination of which is prohibited by 3286
federal law. 3287

(H) Information obtained by a government entity or person 3288
under this section is confidential and shall not be released or 3289
disseminated. 3290

(I) The superintendent may charge a reasonable fee for 3291
providing information or criminal records under division (F)(2) or 3292
(G) of this section. 3293

(J) As used in this section, "sexually oriented offense" and 3294
"child-victim oriented offense" have the same meanings as in 3295
section 2950.01 of the Revised Code. 3296

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 3297
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 3298
a completed form prescribed pursuant to division (C)(1) of this 3299
section, and a set of fingerprint impressions obtained in the 3300
manner described in division (C)(2) of this section, the 3301
superintendent of the bureau of criminal identification and 3302
investigation shall conduct a criminal records check in the manner 3303
described in division (B) of this section to determine whether any 3304
information exists that indicates that the person who is the 3305
subject of the request previously has been convicted of or pleaded 3306
guilty to any of the following: 3307

(a) A violation of section 2903.01, 2903.02, 2903.03, 3308
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3309
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 3310
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 3311
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 3312
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 3313
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 3314
2925.06, or 3716.11 of the Revised Code, felonious sexual 3315
penetration in violation of former section 2907.12 of the Revised 3316
Code, a violation of section 2905.04 of the Revised Code as it 3317
existed prior to July 1, 1996, a violation of section 2919.23 of 3318
the Revised Code that would have been a violation of section 3319
2905.04 of the Revised Code as it existed prior to July 1, 1996, 3320
had the violation been committed prior to that date, or a 3321
violation of section 2925.11 of the Revised Code that is not a 3322
minor drug possession offense; 3323

(b) A violation of an existing or former law of this state, 3324
any other state, or the United States that is substantially 3325
equivalent to any of the offenses listed in division (A)(1)(a) of 3326
this section. 3327

(2) On receipt of a request pursuant to section 5123.081 of 3328
the Revised Code with respect to an applicant for employment in 3329
any position with the department of developmental disabilities, 3330
pursuant to section 5126.28 of the Revised Code with respect to an 3331
applicant for employment in any position with a county board of 3332
developmental disabilities, or pursuant to section 5126.281 of the 3333
Revised Code with respect to an applicant for employment in a 3334
direct services position with an entity contracting with a county 3335
board for employment, a completed form prescribed pursuant to 3336
division (C)(1) of this section, and a set of fingerprint 3337
impressions obtained in the manner described in division (C)(2) of 3338
this section, the superintendent of the bureau of criminal 3339
identification and investigation shall conduct a criminal records 3340
check. The superintendent shall conduct the criminal records check 3341
in the manner described in division (B) of this section to 3342
determine whether any information exists that indicates that the 3343
person who is the subject of the request has been convicted of or 3344
pleaded guilty to any of the following: 3345

(a) A violation of section 2903.01, 2903.02, 2903.03, 3346
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3347
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 3348
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 3349
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 3350
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 3351
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 3352
2925.03, or 3716.11 of the Revised Code; 3353

(b) An existing or former municipal ordinance or law of this 3354
state, any other state, or the United States that is substantially 3355
equivalent to any of the offenses listed in division (A)(2)(a) of 3356
this section. 3357

(3) On receipt of a request pursuant to section 173.27, 3358
173.394, 3712.09, 3721.121, or ~~3722.151~~ 5119.85 of the Revised 3359

Code, a completed form prescribed pursuant to division (C)(1) of 3360
this section, and a set of fingerprint impressions obtained in the 3361
manner described in division (C)(2) of this section, the 3362
superintendent of the bureau of criminal identification and 3363
investigation shall conduct a criminal records check with respect 3364
to any person who has applied for employment in a position for 3365
which a criminal records check is required by those sections. The 3366
superintendent shall conduct the criminal records check in the 3367
manner described in division (B) of this section to determine 3368
whether any information exists that indicates that the person who 3369
is the subject of the request previously has been convicted of or 3370
pleaded guilty to any of the following: 3371

(a) A violation of section 2903.01, 2903.02, 2903.03, 3372
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3373
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 3374
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 3375
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 3376
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 3377
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 3378
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 3379
2925.22, 2925.23, or 3716.11 of the Revised Code; 3380

(b) An existing or former law of this state, any other state, 3381
or the United States that is substantially equivalent to any of 3382
the offenses listed in division (A)(3)(a) of this section. 3383

(4) On receipt of a request pursuant to section 3701.881 of 3384
the Revised Code with respect to an applicant for employment with 3385
a home health agency as a person responsible for the care, 3386
custody, or control of a child, a completed form prescribed 3387
pursuant to division (C)(1) of this section, and a set of 3388
fingerprint impressions obtained in the manner described in 3389
division (C)(2) of this section, the superintendent of the bureau 3390
of criminal identification and investigation shall conduct a 3391

criminal records check. The superintendent shall conduct the 3392
criminal records check in the manner described in division (B) of 3393
this section to determine whether any information exists that 3394
indicates that the person who is the subject of the request 3395
previously has been convicted of or pleaded guilty to any of the 3396
following: 3397

(a) A violation of section 2903.01, 2903.02, 2903.03, 3398
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3399
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 3400
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 3401
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 3402
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 3403
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 3404
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 3405
violation of section 2925.11 of the Revised Code that is not a 3406
minor drug possession offense; 3407

(b) An existing or former law of this state, any other state, 3408
or the United States that is substantially equivalent to any of 3409
the offenses listed in division (A)(4)(a) of this section. 3410

(5) On receipt of a request pursuant to section 5111.032, 3411
5111.033, or 5111.034 of the Revised Code, a completed form 3412
prescribed pursuant to division (C)(1) of this section, and a set 3413
of fingerprint impressions obtained in the manner described in 3414
division (C)(2) of this section, the superintendent of the bureau 3415
of criminal identification and investigation shall conduct a 3416
criminal records check. The superintendent shall conduct the 3417
criminal records check in the manner described in division (B) of 3418
this section to determine whether any information exists that 3419
indicates that the person who is the subject of the request 3420
previously has been convicted of, has pleaded guilty to, or has 3421
been found eligible for intervention in lieu of conviction for any 3422
of the following, regardless of the date of the conviction, the 3423

date of entry of the guilty plea, or the date the person was found 3424
eligible for intervention in lieu of conviction: 3425

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 3426
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 3427
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 3428
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 3429
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 3430
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 3431
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 3432
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 3433
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 3434
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 3435
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 3436
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 3437
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 3438
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 3439
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 3440
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 3441
penetration in violation of former section 2907.12 of the Revised 3442
Code, a violation of section 2905.04 of the Revised Code as it 3443
existed prior to July 1, 1996, a violation of section 2919.23 of 3444
the Revised Code that would have been a violation of section 3445
2905.04 of the Revised Code as it existed prior to July 1, 1996, 3446
had the violation been committed prior to that date; 3447

(b) A violation of an existing or former municipal ordinance 3448
or law of this state, any other state, or the United States that 3449
is substantially equivalent to any of the offenses listed in 3450
division (A)(5)(a) of this section. 3451

(6) On receipt of a request pursuant to section 3701.881 of 3452
the Revised Code with respect to an applicant for employment with 3453
a home health agency in a position that involves providing direct 3454
care to an older adult, a completed form prescribed pursuant to 3455

division (C)(1) of this section, and a set of fingerprint 3456
impressions obtained in the manner described in division (C)(2) of 3457
this section, the superintendent of the bureau of criminal 3458
identification and investigation shall conduct a criminal records 3459
check. The superintendent shall conduct the criminal records check 3460
in the manner described in division (B) of this section to 3461
determine whether any information exists that indicates that the 3462
person who is the subject of the request previously has been 3463
convicted of or pleaded guilty to any of the following: 3464

(a) A violation of section 2903.01, 2903.02, 2903.03, 3465
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3466
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 3467
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 3468
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 3469
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 3470
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 3471
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 3472
2925.22, 2925.23, or 3716.11 of the Revised Code; 3473

(b) An existing or former law of this state, any other state, 3474
or the United States that is substantially equivalent to any of 3475
the offenses listed in division (A)(6)(a) of this section. 3476

(7) When conducting a criminal records check upon a request 3477
pursuant to section 3319.39 of the Revised Code for an applicant 3478
who is a teacher, in addition to the determination made under 3479
division (A)(1) of this section, the superintendent shall 3480
determine whether any information exists that indicates that the 3481
person who is the subject of the request previously has been 3482
convicted of or pleaded guilty to any offense specified in section 3483
3319.31 of the Revised Code. 3484

(8) On receipt of a request pursuant to section 2151.86 of 3485
the Revised Code, a completed form prescribed pursuant to division 3486
(C)(1) of this section, and a set of fingerprint impressions 3487

obtained in the manner described in division (C)(2) of this 3488
section, the superintendent of the bureau of criminal 3489
identification and investigation shall conduct a criminal records 3490
check in the manner described in division (B) of this section to 3491
determine whether any information exists that indicates that the 3492
person who is the subject of the request previously has been 3493
convicted of or pleaded guilty to any of the following: 3494

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 3495
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 3496
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 3497
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 3498
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 3499
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 3500
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 3501
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 3502
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 3503
of the Revised Code, a violation of section 2905.04 of the Revised 3504
Code as it existed prior to July 1, 1996, a violation of section 3505
2919.23 of the Revised Code that would have been a violation of 3506
section 2905.04 of the Revised Code as it existed prior to July 1, 3507
1996, had the violation been committed prior to that date, a 3508
violation of section 2925.11 of the Revised Code that is not a 3509
minor drug possession offense, two or more OVI or OVUAC violations 3510
committed within the three years immediately preceding the 3511
submission of the application or petition that is the basis of the 3512
request, or felonious sexual penetration in violation of former 3513
section 2907.12 of the Revised Code; 3514

(b) A violation of an existing or former law of this state, 3515
any other state, or the United States that is substantially 3516
equivalent to any of the offenses listed in division (A)(8)(a) of 3517
this section. 3518

(9) Upon receipt of a request pursuant to section 5104.012 or 3519

5104.013 of the Revised Code, a completed form prescribed pursuant 3520
to division (C)(1) of this section, and a set of fingerprint 3521
impressions obtained in the manner described in division (C)(2) of 3522
this section, the superintendent of the bureau of criminal 3523
identification and investigation shall conduct a criminal records 3524
check in the manner described in division (B) of this section to 3525
determine whether any information exists that indicates that the 3526
person who is the subject of the request has been convicted of or 3527
pleaded guilty to any of the following: 3528

(a) A violation of section 2903.01, 2903.02, 2903.03, 3529
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 3530
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 3531
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 3532
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 3533
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 3534
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 3535
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 3536
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 3537
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 3538
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3539
3716.11 of the Revised Code, felonious sexual penetration in 3540
violation of former section 2907.12 of the Revised Code, a 3541
violation of section 2905.04 of the Revised Code as it existed 3542
prior to July 1, 1996, a violation of section 2919.23 of the 3543
Revised Code that would have been a violation of section 2905.04 3544
of the Revised Code as it existed prior to July 1, 1996, had the 3545
violation been committed prior to that date, a violation of 3546
section 2925.11 of the Revised Code that is not a minor drug 3547
possession offense, a violation of section 2923.02 or 2923.03 of 3548
the Revised Code that relates to a crime specified in this 3549
division, or a second violation of section 4511.19 of the Revised 3550
Code within five years of the date of application for licensure or 3551
certification. 3552

(b) A violation of an existing or former law of this state, 3553
any other state, or the United States that is substantially 3554
equivalent to any of the offenses or violations described in 3555
division (A)(9)(a) of this section. 3556

(10) Upon receipt of a request pursuant to section 5153.111 3557
of the Revised Code, a completed form prescribed pursuant to 3558
division (C)(1) of this section, and a set of fingerprint 3559
impressions obtained in the manner described in division (C)(2) of 3560
this section, the superintendent of the bureau of criminal 3561
identification and investigation shall conduct a criminal records 3562
check in the manner described in division (B) of this section to 3563
determine whether any information exists that indicates that the 3564
person who is the subject of the request previously has been 3565
convicted of or pleaded guilty to any of the following: 3566

(a) A violation of section 2903.01, 2903.02, 2903.03, 3567
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3568
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 3569
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 3570
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 3571
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 3572
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 3573
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 3574
felonious sexual penetration in violation of former section 3575
2907.12 of the Revised Code, a violation of section 2905.04 of the 3576
Revised Code as it existed prior to July 1, 1996, a violation of 3577
section 2919.23 of the Revised Code that would have been a 3578
violation of section 2905.04 of the Revised Code as it existed 3579
prior to July 1, 1996, had the violation been committed prior to 3580
that date, or a violation of section 2925.11 of the Revised Code 3581
that is not a minor drug possession offense; 3582

(b) A violation of an existing or former law of this state, 3583
any other state, or the United States that is substantially 3584

equivalent to any of the offenses listed in division (A)(10)(a) of 3585
this section. 3586

(11) On receipt of a request for a criminal records check 3587
from an individual pursuant to section 4749.03 or 4749.06 of the 3588
Revised Code, accompanied by a completed copy of the form 3589
prescribed in division (C)(1) of this section and a set of 3590
fingerprint impressions obtained in a manner described in division 3591
(C)(2) of this section, the superintendent of the bureau of 3592
criminal identification and investigation shall conduct a criminal 3593
records check in the manner described in division (B) of this 3594
section to determine whether any information exists indicating 3595
that the person who is the subject of the request has been 3596
convicted of or pleaded guilty to a felony in this state or in any 3597
other state. If the individual indicates that a firearm will be 3598
carried in the course of business, the superintendent shall 3599
require information from the federal bureau of investigation as 3600
described in division (B)(2) of this section. The superintendent 3601
shall report the findings of the criminal records check and any 3602
information the federal bureau of investigation provides to the 3603
director of public safety. 3604

(12) On receipt of a request pursuant to section 1321.37, 3605
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 3606
Code, a completed form prescribed pursuant to division (C)(1) of 3607
this section, and a set of fingerprint impressions obtained in the 3608
manner described in division (C)(2) of this section, the 3609
superintendent of the bureau of criminal identification and 3610
investigation shall conduct a criminal records check with respect 3611
to any person who has applied for a license, permit, or 3612
certification from the department of commerce or a division in the 3613
department. The superintendent shall conduct the criminal records 3614
check in the manner described in division (B) of this section to 3615
determine whether any information exists that indicates that the 3616

person who is the subject of the request previously has been 3617
convicted of or pleaded guilty to any of the following: a 3618
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 3619
2925.03 of the Revised Code; any other criminal offense involving 3620
theft, receiving stolen property, embezzlement, forgery, fraud, 3621
passing bad checks, money laundering, or drug trafficking, or any 3622
criminal offense involving money or securities, as set forth in 3623
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 3624
the Revised Code; or any existing or former law of this state, any 3625
other state, or the United States that is substantially equivalent 3626
to those offenses. 3627

(13) On receipt of a request for a criminal records check 3628
from the treasurer of state under section 113.041 of the Revised 3629
Code or from an individual under section 4701.08, 4715.101, 3630
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 3631
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 3632
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 3633
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 3634
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 3635
a completed form prescribed under division (C)(1) of this section 3636
and a set of fingerprint impressions obtained in the manner 3637
described in division (C)(2) of this section, the superintendent 3638
of the bureau of criminal identification and investigation shall 3639
conduct a criminal records check in the manner described in 3640
division (B) of this section to determine whether any information 3641
exists that indicates that the person who is the subject of the 3642
request has been convicted of or pleaded guilty to any criminal 3643
offense in this state or any other state. The superintendent shall 3644
send the results of a check requested under section 113.041 of the 3645
Revised Code to the treasurer of state and shall send the results 3646
of a check requested under any of the other listed sections to the 3647
licensing board specified by the individual in the request. 3648

(14) On receipt of a request pursuant to section 1121.23, 3649
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 3650
Code, a completed form prescribed pursuant to division (C)(1) of 3651
this section, and a set of fingerprint impressions obtained in the 3652
manner described in division (C)(2) of this section, the 3653
superintendent of the bureau of criminal identification and 3654
investigation shall conduct a criminal records check in the manner 3655
described in division (B) of this section to determine whether any 3656
information exists that indicates that the person who is the 3657
subject of the request previously has been convicted of or pleaded 3658
guilty to any criminal offense under any existing or former law of 3659
this state, any other state, or the United States. 3660

(15) On receipt of a request for a criminal records check 3661
from an appointing or licensing authority under section 3772.07 of 3662
the Revised Code, a completed form prescribed under division 3663
(C)(1) of this section, and a set of fingerprint impressions 3664
obtained in the manner prescribed in division (C)(2) of this 3665
section, the superintendent of the bureau of criminal 3666
identification and investigation shall conduct a criminal records 3667
check in the manner described in division (B) of this section to 3668
determine whether any information exists that indicates that the 3669
person who is the subject of the request previously has been 3670
convicted of or pleaded guilty or no contest to any offense under 3671
any existing or former law of this state, any other state, or the 3672
United States that is a disqualifying offense as defined in 3673
section 3772.07 of the Revised Code or substantially equivalent to 3674
such an offense. 3675

(16) Not later than thirty days after the date the 3676
superintendent receives a request of a type described in division 3677
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 3678
(14), or (15) of this section, the completed form, and the 3679
fingerprint impressions, the superintendent shall send the person, 3680

board, or entity that made the request any information, other than 3681
information the dissemination of which is prohibited by federal 3682
law, the superintendent determines exists with respect to the 3683
person who is the subject of the request that indicates that the 3684
person previously has been convicted of or pleaded guilty to any 3685
offense listed or described in division (A)(1), (2), (3), (4), 3686
(5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this 3687
section, as appropriate. The superintendent shall send the person, 3688
board, or entity that made the request a copy of the list of 3689
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 3690
(7), (8), (9), (10), (11), (12), (14), or (15) of this section, as 3691
appropriate. If the request was made under section 3701.881 of the 3692
Revised Code with regard to an applicant who may be both 3693
responsible for the care, custody, or control of a child and 3694
involved in providing direct care to an older adult, the 3695
superintendent shall provide a list of the offenses specified in 3696
divisions (A)(4) and (6) of this section. 3697

Not later than thirty days after the superintendent receives 3698
a request for a criminal records check pursuant to section 113.041 3699
of the Revised Code, the completed form, and the fingerprint 3700
impressions, the superintendent shall send the treasurer of state 3701
any information, other than information the dissemination of which 3702
is prohibited by federal law, the superintendent determines exist 3703
with respect to the person who is the subject of the request that 3704
indicates that the person previously has been convicted of or 3705
pleaded guilty to any criminal offense in this state or any other 3706
state. 3707

(B) The superintendent shall conduct any criminal records 3708
check requested under section 113.041, 121.08, 173.27, 173.394, 3709
1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 3710
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3711
3701.881, 3712.09, 3721.121, ~~3722.151~~ 5119.85, 3772.07, 4701.08, 3712

4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 3713
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 3714
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 3715
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 3716
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 3717
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 3718
5126.281, or 5153.111 of the Revised Code as follows: 3719

(1) The superintendent shall review or cause to be reviewed 3720
any relevant information gathered and compiled by the bureau under 3721
division (A) of section 109.57 of the Revised Code that relates to 3722
the person who is the subject of the request, including, if the 3723
criminal records check was requested under section 113.041, 3724
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 3725
1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 3726
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3727
~~3722.151~~ 5119.85, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 3728
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 3729
5126.281, or 5153.111 of the Revised Code, any relevant 3730
information contained in records that have been sealed under 3731
section 2953.32 of the Revised Code; 3732

(2) If the request received by the superintendent asks for 3733
information from the federal bureau of investigation, the 3734
superintendent shall request from the federal bureau of 3735
investigation any information it has with respect to the person 3736
who is the subject of the request, including fingerprint-based 3737
checks of national crime information databases as described in 42 3738
U.S.C. 671 if the request is made pursuant to section 2151.86, 3739
5104.012, or 5104.013 of the Revised Code or if any other Revised 3740
Code section requires fingerprint-based checks of that nature, and 3741
shall review or cause to be reviewed any information the 3742
superintendent receives from that bureau. If a request under 3743
section 3319.39 of the Revised Code asks only for information from 3744

the federal bureau of investigation, the superintendent shall not 3745
conduct the review prescribed by division (B)(1) of this section. 3746

(3) The superintendent or the superintendent's designee may 3747
request criminal history records from other states or the federal 3748
government pursuant to the national crime prevention and privacy 3749
compact set forth in section 109.571 of the Revised Code. 3750

(C)(1) The superintendent shall prescribe a form to obtain 3751
the information necessary to conduct a criminal records check from 3752
any person for whom a criminal records check is requested under 3753
section 113.041 of the Revised Code or required by section 121.08, 3754
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 3755
1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3756
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151~~ 5119.85, 3757
3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 3758
4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 3759
4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 3760
4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 3761
4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 3762
5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 3763
5126.28, 5126.281, or 5153.111 of the Revised Code. The form that 3764
the superintendent prescribes pursuant to this division may be in 3765
a tangible format, in an electronic format, or in both tangible 3766
and electronic formats. 3767

(2) The superintendent shall prescribe standard impression 3768
sheets to obtain the fingerprint impressions of any person for 3769
whom a criminal records check is requested under section 113.041 3770
of the Revised Code or required by section 121.08, 173.27, 3771
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 3772
1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3773
3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151~~ 5119.85, 3772.07, 3774
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 3775
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 3776

4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 3777
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 3778
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 3779
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 3780
5126.281, or 5153.111 of the Revised Code. Any person for whom a 3781
records check is requested under or required by any of those 3782
sections shall obtain the fingerprint impressions at a county 3783
sheriff's office, municipal police department, or any other entity 3784
with the ability to make fingerprint impressions on the standard 3785
impression sheets prescribed by the superintendent. The office, 3786
department, or entity may charge the person a reasonable fee for 3787
making the impressions. The standard impression sheets the 3788
superintendent prescribes pursuant to this division may be in a 3789
tangible format, in an electronic format, or in both tangible and 3790
electronic formats. 3791

(3) Subject to division (D) of this section, the 3792
superintendent shall prescribe and charge a reasonable fee for 3793
providing a criminal records check requested under section 3794
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 3795
1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 3796
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3797
~~3722.151~~ 5119.85, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 3798
4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 3799
4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 3800
4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 3801
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 3802
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 3803
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 3804
person making a criminal records request under any of those 3805
sections shall pay the fee prescribed pursuant to this division. A 3806
person making a request under section 3701.881 of the Revised Code 3807
for a criminal records check for an applicant who may be both 3808
responsible for the care, custody, or control of a child and 3809

involved in providing direct care to an older adult shall pay one 3810
fee for the request. In the case of a request under section 3811
1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 3812
of the Revised Code, the fee shall be paid in the manner specified 3813
in that section. 3814

(4) The superintendent of the bureau of criminal 3815
identification and investigation may prescribe methods of 3816
forwarding fingerprint impressions and information necessary to 3817
conduct a criminal records check, which methods shall include, but 3818
not be limited to, an electronic method. 3819

(D) A determination whether any information exists that 3820
indicates that a person previously has been convicted of or 3821
pleaded guilty to any offense listed or described in division 3822
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 3823
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 3824
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) 3825
of this section, or that indicates that a person previously has 3826
been convicted of or pleaded guilty to any criminal offense in 3827
this state or any other state regarding a criminal records check 3828
of a type described in division (A)(13) of this section, and that 3829
is made by the superintendent with respect to information 3830
considered in a criminal records check in accordance with this 3831
section is valid for the person who is the subject of the criminal 3832
records check for a period of one year from the date upon which 3833
the superintendent makes the determination. During the period in 3834
which the determination in regard to a person is valid, if another 3835
request under this section is made for a criminal records check 3836
for that person, the superintendent shall provide the information 3837
that is the basis for the superintendent's initial determination 3838
at a lower fee than the fee prescribed for the initial criminal 3839
records check. 3840

(E) As used in this section: 3841

(1) "Criminal records check" means any criminal records check 3842
conducted by the superintendent of the bureau of criminal 3843
identification and investigation in accordance with division (B) 3844
of this section. 3845

(2) "Minor drug possession offense" has the same meaning as 3846
in section 2925.01 of the Revised Code. 3847

(3) "Older adult" means a person age sixty or older. 3848

(4) "OVI or OVUAC violation" means a violation of section 3849
4511.19 of the Revised Code or a violation of an existing or 3850
former law of this state, any other state, or the United States 3851
that is substantially equivalent to section 4511.19 of the Revised 3852
Code. 3853

Sec. 111.12. ~~(A) Except as otherwise provided in division (B)~~ 3854
~~of this section, the~~ The secretary of state shall compile and 3855
publish biennially in a paper, book, or ~~other nonelectronic~~ 3856
electronic format ~~twenty five hundred copies of~~ the election 3857
statistics of Ohio, ~~four thousand copies of~~ the official roster of 3858
federal, state, and county officers, and ~~twenty five hundred~~ 3859
~~copies of~~ the official roster of township and municipal officers. 3860

~~(B) The secretary of state may compile and publish biennially~~ 3861
~~the election statistics of Ohio, the official roster of federal,~~ 3862
~~state, and county officers, and the official roster of township~~ 3863
~~and municipal officers in an electronic format instead of~~ 3864
~~compiling and publishing these documents biennially in a paper,~~ 3865
~~book, or other nonelectronic format in the numbers specified in~~ 3866
~~division (A) of this section. If the secretary of state does so,~~ 3867
~~the secretary of state shall maintain the ability to provide~~ 3868
~~copies of the election statistics of Ohio, the official roster of~~ 3869
~~federal, state, and county officers, and the official roster of~~ 3870
~~township and municipal officers in accordance with section 149.43~~ 3871
~~of the Revised Code.~~ 3872

Sec. 111.16. The secretary of state shall charge and collect,	3873
for the benefit of the state, the following fees:	3874
(A) For filing and recording articles of incorporation of a	3875
domestic corporation, including designation of agent:	3876
(1) Wherein the corporation shall not be authorized to issue	3877
any shares of capital stock, one hundred twenty-five dollars;	3878
(2) Wherein the corporation shall be authorized to issue	3879
shares of capital stock, with or without par value:	3880
(a) Ten cents for each share authorized up to and including	3881
one thousand shares;	3882
(b) Five cents for each share authorized in excess of one	3883
thousand shares up to and including ten thousand shares;	3884
(c) Two cents for each share authorized in excess of ten	3885
thousand shares up to and including fifty thousand shares;	3886
(d) One cent for each share authorized in excess of fifty	3887
thousand shares up to and including one hundred thousand shares;	3888
(e) One-half cent for each share authorized in excess of one	3889
hundred thousand shares up to and including five hundred thousand	3890
shares;	3891
(f) One-quarter cent for each share authorized in excess of	3892
five hundred thousand shares; provided no fee shall be less than	3893
one hundred twenty-five dollars or greater than one hundred	3894
thousand dollars.	3895
(B) For filing and recording a certificate of amendment to or	3896
amended articles of incorporation of a domestic corporation, or	3897
for filing and recording a certificate of reorganization, a	3898
certificate of dissolution, or an amendment to a foreign license	3899
application:	3900
(1) If the domestic corporation is not authorized to issue	3901

any shares of capital stock, fifty dollars; 3902

(2) If the domestic corporation is authorized to issue shares 3903
of capital stock, fifty dollars, and in case of any increase in 3904
the number of shares authorized to be issued, a further sum 3905
computed in accordance with the schedule set forth in division 3906
(A)(2) of this section less a credit computed in the same manner 3907
for the number of shares previously authorized to be issued by the 3908
corporation; provided no fee under division (B)(2) of this section 3909
shall be greater than one hundred thousand dollars; 3910

(3) If the foreign corporation is not authorized to issue any 3911
shares of capital stock, fifty dollars; 3912

(4) If the foreign corporation is authorized to issue shares 3913
of capital stock, fifty dollars. 3914

(C) For filing and recording articles of incorporation of a 3915
savings and loan association, one hundred twenty-five dollars; and 3916
for filing and recording a certificate of amendment to or amended 3917
articles of incorporation of a savings and loan association, fifty 3918
dollars; 3919

(D) For filing and recording a certificate of conversion, 3920
including a designation of agent, a certificate of merger, or a 3921
certificate of consolidation, one hundred twenty-five dollars and, 3922
in the case of any new corporation resulting from a consolidation 3923
or any surviving corporation that has an increased number of 3924
shares authorized to be issued resulting from a merger, an 3925
additional sum computed in accordance with the schedule set forth 3926
in division (A)(2) of this section less a credit computed in the 3927
same manner for the number of shares previously authorized to be 3928
issued or represented in this state by each of the corporations 3929
for which a consolidation or merger is effected by the 3930
certificate; 3931

(E) For filing and recording articles of incorporation of a 3932

credit union or the American credit union guaranty association, 3933
one hundred twenty-five dollars, and for filing and recording a 3934
certificate of increase in capital stock or any other amendment of 3935
the articles of incorporation of a credit union or the 3936
association, fifty dollars; 3937

(F) For filing and recording articles of organization of a 3938
limited liability company, for filing and recording an application 3939
to become a registered foreign limited liability company, for 3940
filing and recording a registration application to become a 3941
domestic limited liability partnership, or for filing and 3942
recording an application to become a registered foreign limited 3943
liability partnership, one hundred twenty-five dollars; 3944

(G) For filing and recording a certificate of limited 3945
partnership or an application for registration as a foreign 3946
limited partnership, or for filing an initial statement of 3947
partnership authority pursuant to section 1776.33 of the Revised 3948
Code, one hundred twenty-five dollars. 3949

(H) For filing a copy of papers evidencing the incorporation 3950
of a municipal corporation or of annexation of territory by a 3951
municipal corporation, five dollars, to be paid by the municipal 3952
corporation, the petitioners therefor, or their agent; 3953

(I) For filing and recording any of the following: 3954

(1) A license to transact business in this state by a foreign 3955
corporation for profit pursuant to section 1703.04 of the Revised 3956
Code or a foreign nonprofit corporation pursuant to section 3957
1703.27 of the Revised Code, one hundred twenty-five dollars; 3958

(2) A biennial report or biennial statement pursuant to 3959
section 1775.63, 1776.83, or 1785.06 of the Revised Code, 3960
twenty-five dollars; 3961

(3) Except as otherwise provided in this section or any other 3962
section of the Revised Code, any other certificate or paper that 3963

is required to be filed and recorded or is permitted to be filed 3964
and recorded by any provision of the Revised Code with the 3965
secretary of state, twenty-five dollars. 3966

(J) For filing any certificate or paper not required to be 3967
recorded, five dollars; 3968

(K)(1) For making copies of any certificate or other paper 3969
filed in the office of the secretary of state, a fee not to exceed 3970
one dollar per page, except as otherwise provided in the Revised 3971
Code, and for creating and affixing the seal of the office of the 3972
secretary of state to any good standing or other certificate, five 3973
dollars. For copies of certificates or papers required by state 3974
officers for official purpose, no charge shall be made. 3975

(2) For creating and affixing the seal of the office of the 3976
secretary of state to the certificates described in division (E) 3977
of section 1701.81, division (E) of section 1701.811, division (E) 3978
of section 1705.38, division (E) of section 1705.381, division (D) 3979
of section 1702.43, division (E) of section 1775.47, division (E) 3980
of section 1775.55, division (E) of section 1776.70, division (E) 3981
of section 1776.74, division (E) of section 1782.433, or division 3982
(E) of section 1782.4310 of the Revised Code, twenty-five dollars. 3983

(L) For a minister's license to solemnize marriages, ten 3984
dollars; 3985

(M) For examining documents to be filed at a later date for 3986
the purpose of advising as to the acceptability of the proposed 3987
filing, fifty dollars; 3988

(N) Fifty dollars for filing and recording any of the 3989
following: 3990

(1) A certificate of dissolution and accompanying documents, 3991
or a certificate of cancellation, under section 1701.86, 1702.47, 3992
1705.43, 1776.65, or 1782.10 of the Revised Code; 3993

(2) A notice of dissolution of a foreign licensed corporation	3994
or a certificate of surrender of license by a foreign licensed	3995
corporation under section 1703.17 of the Revised Code;	3996
(3) The withdrawal of registration of a foreign or domestic	3997
limited liability partnership under section 1775.61, 1775.64,	3998
1776.81, or 1776.86 of the Revised Code, or the certificate of	3999
cancellation of registration of a foreign limited liability	4000
company under section 1705.57 of the Revised Code;	4001
(4) The filing of a statement of denial under section 1776.34	4002
of the Revised Code, a statement of dissociation under section	4003
1776.57 of the Revised Code, a statement of disclaimer of general	4004
partner status under Chapter 1782. of the Revised Code, or a	4005
cancellation of disclaimer of general partner status under Chapter	4006
1782. of the Revised Code.	4007
(O) For filing a statement of continued existence by a	4008
nonprofit corporation, twenty-five dollars;	4009
(P) For filing a restatement under section 1705.08 or 1782.09	4010
of the Revised Code, an amendment to a certificate of cancellation	4011
under section 1782.10 of the Revised Code, an amendment under	4012
section 1705.08 or 1782.09 of the Revised Code, or a correction	4013
under section 1705.55, 1775.61, 1775.64, 1776.12, or 1782.52 of	4014
the Revised Code, fifty dollars;	4015
(Q) For filing for reinstatement of an entity cancelled by	4016
operation of law, by the secretary of state, by order of the	4017
department of taxation, or by order of a court, twenty-five	4018
dollars;	4019
(R) For filing a <u>and recording any of the following:</u>	4020
<u>(1) A</u> change of agent, resignation of agent, or change of	4021
agent's address under section 1701.07, 1702.06, 1703.041, 1703.27,	4022
1705.06, 1705.55, 1746.04, 1747.03, <u>1776.07</u> , or 1782.04 of the	4023
Revised Code, twenty-five dollars;	4024

(2) A multiple change of agent name or address, 4025
standardization of agent address, or resignation of agent under 4026
section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 4027
1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one 4028
hundred twenty-five dollars, plus three dollars per entity record 4029
being changed, by the multiple agent update. 4030

(S) For filing and recording any of the following: 4031

(1) An application for the exclusive right to use a name or 4032
an application to reserve a name for future use under section 4033
1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised 4034
Code, fifty dollars; 4035

(2) A trade name or fictitious name registration or report, 4036
fifty dollars; 4037

(3) An application to renew any item covered by division 4038
(S)(1) or (2) of this section that is permitted to be renewed, 4039
twenty-five dollars; 4040

(4) An assignment of rights for use of a name covered by 4041
division (S)(1), (2), or (3) of this section, the cancellation of 4042
a name registration or name reservation that is so covered, or 4043
notice of a change of address of the registrant of a name that is 4044
so covered, twenty-five dollars. 4045

(T) For filing and recording a report to operate a business 4046
trust or a real estate investment trust, either foreign or 4047
domestic, one hundred twenty-five dollars; and for filing and 4048
recording an amendment to a report or associated trust instrument, 4049
or a surrender of authority, to operate a business trust or real 4050
estate investment trust, fifty dollars; 4051

(U)(1) For filing and recording the registration of a 4052
trademark, service mark, or mark of ownership, one hundred 4053
twenty-five dollars; 4054

(2) For filing and recording the change of address of a 4055
registrant, the assignment of rights to a registration, a renewal 4056
of a registration, or the cancellation of a registration 4057
associated with a trademark, service mark, or mark of ownership, 4058
twenty-five dollars. 4059

(V) For filing a service of process with the secretary of 4060
state, five dollars, except as otherwise provided in any section 4061
of the Revised Code. 4062

Fees specified in this section may be paid by cash, check, or 4063
money order, by credit card in accordance with section 113.40 of 4064
the Revised Code, or by an alternative payment program in 4065
accordance with division (B) of section 111.18 of the Revised 4066
Code. Any credit card number or the expiration date of any credit 4067
card is not subject to disclosure under Chapter 149. of the 4068
Revised Code. 4069

Sec. 111.18. (A) The secretary of state shall keep a record 4070
of all fees collected by the secretary of state and, ~~subject to~~ 4071
~~division (B) of section 1309.528 of the Revised Code and~~ except as 4072
otherwise provided in the Revised Code, shall pay them into the 4073
state treasury to the credit of the corporate and uniform 4074
commercial code filing fund created by section 1309.528 of the 4075
Revised Code. 4076

(B) The secretary of state may implement alternative payment 4077
programs that permit payment of any fee charged by the secretary 4078
of state by means other than cash, check, money order, or credit 4079
card; an alternative payment program may include, but is not 4080
limited to, one that permits a fee to be paid by electronic means 4081
of transmission. Fees paid under an alternative payment program 4082
shall be deposited to the credit of the secretary of state 4083
alternative payment program fund, which is hereby created in the 4084
state treasury. Any investment income of the secretary of state 4085

alternative payment program fund shall be credited to that fund 4086
and used to operate the alternative payment program. Within two 4087
working days following the deposit of funds to the credit of the 4088
secretary of state alternative payment program fund, the secretary 4089
of state shall pay those funds to the credit of the corporate and 4090
uniform commercial code filing fund, subject to division (B) of 4091
section 1309.401 of the Revised Code and except as otherwise 4092
provided in the Revised Code. 4093

The secretary of state shall adopt rules necessary to carry 4094
out the purposes of this division. 4095

Sec. 111.181. There is hereby created in the state treasury 4096
the information systems fund. The fund shall receive revenues from 4097
fees charged to customers for special database requests, including 4098
corporate and uniform commercial code filings. The secretary of 4099
state shall use the fund for information technology related 4100
expenses of the office. 4101

Sec. 111.28. (A) There is hereby created in the state 4102
treasury the help America vote act (HAVA) fund. All moneys 4103
received by the secretary of state from the United States election 4104
assistance commission shall be credited to the fund. The secretary 4105
of state shall use the moneys credited to the fund for activities 4106
conducted pursuant to the "Help America Vote Act of 2002," Pub. L. 4107
No. 107-252, 116 Stat. 1666. All investment earnings of the fund 4108
shall be credited to the fund. 4109

(B) There is hereby created in the state treasury the 4110
election reform/health and human services fund. All moneys 4111
received by the secretary of state from the United States 4112
department of health and human services shall be credited to the 4113
fund. The secretary of state shall use the moneys credited to the 4114
fund for activities conducted pursuant to grants awarded to the 4115

state under Title II, Subtitle D, Sections 261 to 265 of the Help 4116
America Vote Act of 2002 to assure access for individuals with 4117
disabilities. All investment earnings of the fund shall be 4118
credited to the fund. 4119

Sec. 111.29. There is hereby created in the state treasury 4120
the citizen education fund. The fund shall receive gifts, grants, 4121
fees, and donations from private individuals and entities for 4122
voter education purposes. The secretary of state shall use the 4123
moneys credited to the fund for preparing, printing, and 4124
distributing voter registration and educational materials and for 4125
conducting related workshops and conferences for public education. 4126

Sec. 117.101. The auditor of state shall provide, operate, 4127
and maintain a uniform and compatible computerized financial 4128
management and accounting system known as the uniform accounting 4129
network. The network shall be designed to provide public offices, 4130
other than state agencies and the Ohio education computer network 4131
and public school districts, with efficient and economical access 4132
to data processing and management information facilities and 4133
expertise. In accordance with this objective, activities of the 4134
network shall include, but not be limited to, provision, 4135
maintenance, and operation of the following facilities and 4136
services: 4137

(A) A cooperative program of technical assistance for public 4138
offices, other than state agencies and the Ohio education computer 4139
network and public school districts, including, but not limited 4140
to, an adequate computer software system and a data base; 4141

(B) An information processing service center providing 4142
approved computerized financial accounting and reporting services 4143
to participating public offices. 4144

The auditor of state and any public office, other than a 4145

state agency and the Ohio education computer network and public 4146
school districts, may enter into any necessary agreements, without 4147
advertisement or bidding, for the provision of necessary goods, 4148
materials, supplies, and services to such public offices by the 4149
auditor of state through the network. 4150

The auditor of state may, by rule, provide for a system of 4151
user fees to be charged participating public offices for goods, 4152
materials, supplies, and services received from the network. All 4153
such fees shall be paid into the state treasury to the credit of 4154
the uniform accounting network fund, which is hereby created. The 4155
fund shall be used by the auditor of state to pay the costs of 4156
establishing and maintaining the network. The fund shall be 4157
assessed a proportionate share of the auditor of state's 4158
administrative costs in accordance with procedures prescribed by 4159
the auditor of state ~~and approved by the director of budget and~~ 4160
~~management.~~ 4161

Sec. 117.13. (A) The costs of audits of state agencies shall 4162
be recovered by the auditor of state in the following manner: 4163

(1) The costs of all audits of state agencies shall be paid 4164
to the auditor of state on statements rendered by the auditor of 4165
state. Money so received by the auditor of state shall be paid 4166
into the state treasury to the credit of the public audit expense 4167
fund--intrastate, which is hereby created, and shall be used to 4168
pay costs related to such audits. The costs of audits of a state 4169
agency shall be charged to the state agency being audited. The 4170
costs of any assistant auditor, employee, or expert employed 4171
pursuant to section 117.09 of the Revised Code called upon to 4172
testify in any legal proceedings in regard to any audit, or called 4173
upon to review or discuss any matter related to any audit, may be 4174
charged to the state agency to which the audit relates. 4175

(2) The auditor of state shall establish by rule rates to be 4176

charged to state agencies for recovering the costs of audits of 4177
state agencies. 4178

(B) As used in this division, "government auditing standards" 4179
means the government auditing standards published by the 4180
comptroller general of the United States general accounting 4181
office. 4182

(1) Except as provided in divisions (B)(2) and (3) of this 4183
section, any costs of an audit of a private institution, 4184
association, board, or corporation receiving public money for its 4185
use shall be charged to the public office providing the public 4186
money in the same manner as costs of an audit of the public 4187
office. 4188

(2) If an audit of a private child placing agency or private 4189
noncustodial agency receiving public money from a public children 4190
services agency for providing child welfare or child protection 4191
services sets forth that money has been illegally expended, 4192
converted, misappropriated, or is unaccounted for, the costs of 4193
the audit shall be charged to the agency being audited in the same 4194
manner as costs of an audit of a public office, unless the 4195
findings are inconsequential, as defined by government auditing 4196
standards. 4197

(3) If such an audit does not set forth that money has been 4198
illegally expended, converted, misappropriated, or is unaccounted 4199
for or sets forth findings that are inconsequential, as defined by 4200
government auditing standards, the costs of the audit shall be 4201
charged as follows: 4202

(a) One-third of the costs to the agency being audited; 4203

(b) One-third of the costs to the public children services 4204
agency that provided the public money to the agency being audited; 4205

(c) One-third of the costs to the department of job and 4206
family services. 4207

(C) The costs of audits of local public offices shall be 4208
recovered by the auditor of state in the following manner: 4209

(1) The total amount of compensation paid assistant auditors 4210
of state, their expenses, the cost of employees assigned to assist 4211
the assistant auditors of state, the cost of experts employed 4212
pursuant to section 117.09 of the Revised Code, and the cost of 4213
typing, reviewing, and copying reports shall be borne by the 4214
public office to which such assistant auditors of state are so 4215
assigned, ~~except that annual vacation and sick leave of assistant~~ 4216
~~auditors of state, employees, and typists shall be financed from~~ 4217
~~the general revenue fund. The necessary traveling and hotel~~ 4218
~~expenses of the deputy inspectors and supervisors of public~~ 4219
~~offices shall be paid from the state treasury.~~ Assistant auditors 4220
of state shall be compensated by the taxing district or other 4221
public office audited for activities undertaken pursuant to 4222
division (B) of section 117.18 and section 117.24 of the Revised 4223
Code. The costs of any assistant auditor, employee, or expert 4224
employed pursuant to section 117.09 of the Revised Code called 4225
upon to testify in any legal proceedings in regard to any audit, 4226
or called upon to review or discuss any matter related to any 4227
audit, may be charged to the public office to which the audit 4228
relates. 4229

(2) The auditor of state shall certify the amount of such 4230
compensation, expenses, cost of experts, reviewing, copying, and 4231
typing to the fiscal officer of the local public office audited. 4232
The fiscal officer of the local public office shall forthwith draw 4233
a warrant upon the general fund or other appropriate funds of the 4234
local public office to the order of the auditor of state; 4235
provided, that the auditor of state is authorized to negotiate 4236
with any local public office and, upon agreement between the 4237
auditor of state and the local public office, may adopt a schedule 4238
for payment of the amount due under this section. Money so 4239

received by the auditor of state shall be paid into the state 4240
treasury to the credit of the public audit expense fund--local 4241
government, which is hereby created, and shall be used to pay the 4242
compensation, expense, cost of experts and employees, reviewing, 4243
copying, and typing of reports. 4244

(3) At the conclusion of each audit, or analysis and report 4245
made pursuant to section 117.24 of the Revised Code, the auditor 4246
of state shall furnish the fiscal officer of the local public 4247
office audited a statement showing the total cost of the audit, or 4248
of the audit and the analysis and report, and the percentage of 4249
the total cost chargeable to each fund audited. The fiscal officer 4250
may distribute such total cost to each fund audited in accordance 4251
with its percentage of the total cost. 4252

(4) The auditor of state shall provide each local public 4253
office a statement or certification of the amount due from the 4254
public office for services performed by the auditor of state under 4255
this or any other section of the Revised Code, as well as the date 4256
upon which payment is due to the auditor of state. Any local 4257
public office that does not pay the amount due to the auditor of 4258
state by that date may be assessed by the auditor of state for 4259
interest from the date upon which the payment is due at the rate 4260
per annum prescribed by section 5703.47 of the Revised Code. All 4261
interest charges assessed by the auditor of state may be collected 4262
in the same manner as audit costs pursuant to division (D) of this 4263
section. 4264

(5) The auditor of state shall establish by rule rates to be 4265
charged to local public offices for recovering the costs of audits 4266
of local public offices. 4267

(D) If the auditor of state fails to receive payment for any 4268
amount due, including, but not limited to, fines, fees, and costs, 4269
from a public office for services performed under this or any 4270
other section of the Revised Code, the auditor of state may seek 4271

payment through the office of budget and management. (Amounts due 4272
include any amount due to an independent public accountant with 4273
whom the auditor has contracted to perform services, all costs and 4274
fees associated with participation in the uniform accounting 4275
network, and all costs associated with the auditor's provision of 4276
local government services.) Upon certification by the auditor of 4277
state to the director of budget and management of any such amount 4278
due, the director shall withhold from the public office any amount 4279
available, up to and including the amount certified as due, from 4280
any funds under the director's control that belong to or are 4281
lawfully payable or due to the public office. The director shall 4282
promptly pay the amount withheld to the auditor of state. If the 4283
director determines that no funds due and payable to the public 4284
office are available or that insufficient amounts of such funds 4285
are available to cover the amount due, the director shall withhold 4286
and pay to the auditor of state the amounts available and, in the 4287
case of a local public office, certify the remaining amount to the 4288
county auditor of the county in which the local public office is 4289
located. The county auditor shall withhold from the local public 4290
office any amount available, up to and including the amount 4291
certified as due, from any funds under the county auditor's 4292
control and belonging to or lawfully payable or due to the local 4293
public office. The county auditor shall promptly pay any such 4294
amount withheld to the auditor of state. 4295

Sec. 118.023. (A) Upon determining that one or more of the 4296
conditions described in section 118.022 of the Revised Code are 4297
present, the auditor of state shall issue a written declaration of 4298
the existence of a fiscal watch to the municipal corporation, 4299
county, or township and the county budget commission. The fiscal 4300
watch shall be in effect until the auditor of state determines 4301
that none of the conditions are any longer present and cancels the 4302
watch, or until the auditor of state determines that a state of 4303

fiscal emergency exists. The auditor of state, or a designee, 4304
shall provide such technical and support services to the municipal 4305
corporation, county, or township after a fiscal watch has been 4306
declared to exist as the auditor of state considers necessary. The 4307
controlling board shall provide sufficient funds for any costs 4308
that the auditor of state may incur in determining if a fiscal 4309
watch exists and for providing technical and support services. 4310

(B) Within one hundred twenty days after the day a written 4311
declaration of the existence of a fiscal watch is issued under 4312
division (A) of this section, the mayor of the municipal 4313
corporation, the board of county commissioners of the county, or 4314
the board of township trustees of the township for which a fiscal 4315
watch was declared shall submit to the auditor of state a 4316
financial recovery plan that shall identify actions to be taken to 4317
eliminate all of the conditions described in section 118.022 of 4318
the Revised Code, include a schedule detailing the approximate 4319
dates for beginning and completing the actions, and include a 4320
five-year forecast reflecting the effects of the actions. The 4321
financial recovery plan is subject to review and approval by the 4322
auditor of state. The auditor of state may extend the amount of 4323
time by which a financial recovery plan is required to be filed, 4324
for good cause shown. 4325

(C) If a feasible financial recovery plan for a municipal 4326
corporation, county, or township for which a fiscal watch was 4327
declared is not submitted within the time period prescribed by 4328
division (B) of this section, or within any extension of time 4329
thereof, the auditor of state shall declare that a fiscal 4330
emergency condition exists under section 118.04 of the Revised 4331
Code in the municipal corporation, county, or township. 4332

Sec. 118.025. (A) The auditor of state shall develop 4333
guidelines for identifying fiscal practices and budgetary 4334

conditions of municipal corporations, counties, and townships 4335
that, if uncorrected, could result in a future declaration of a 4336
fiscal watch or fiscal emergency. 4337

(B) If the auditor of state determines that a municipal 4338
corporation, county, or township is engaging in any of those 4339
practices or that any of those conditions exist, the auditor of 4340
state may declare the municipal corporation, county, or township 4341
to be under a fiscal caution. 4342

(C) When the auditor of state declares a fiscal caution, the 4343
auditor of state shall promptly notify the municipal corporation, 4344
county, or township of that declaration and shall request the 4345
municipal corporation, county, or township to provide written 4346
proposals for discontinuing or correcting the fiscal practices or 4347
budgetary conditions that prompted the declaration and for 4348
preventing the municipal corporation, county, or township from 4349
experiencing further fiscal difficulties that could result in a 4350
declaration of fiscal watch or fiscal emergency. 4351

(D) The auditor of state, or a designee, may visit and 4352
inspect any municipal corporation, county, or township that is 4353
declared to be under a fiscal caution. The auditor of state may 4354
provide technical assistance to the municipal corporation, county, 4355
or township in implementing proposals to eliminate the practices 4356
or budgetary conditions that prompted the declaration of fiscal 4357
caution and may make recommendations concerning those proposals. 4358

(E) If the auditor of state finds that a municipal 4359
corporation, county, or township declared to be under a fiscal 4360
caution has not made reasonable proposals or otherwise taken 4361
action to discontinue or correct the fiscal practices or budgetary 4362
conditions that prompted the declaration of fiscal caution, and if 4363
the auditor of state considers it necessary to prevent further 4364
fiscal decline, the auditor of state may determine that the 4365

municipal corporation, county, or township should be in a state of 4366
fiscal watch. 4367

(F) The controlling board shall provide sufficient funds for 4368
any costs incurred by the auditor of state in determining if a 4369
fiscal caution exists and for providing technical and support 4370
services. 4371

Sec. 118.04. (A) The existence of a fiscal emergency 4372
condition constitutes a fiscal emergency. The existence of fiscal 4373
emergency conditions shall be determined by the auditor of state. 4374
Such determination, for purposes of this chapter, may be made only 4375
upon the filing with the auditor of state of a written request for 4376
such a determination by the governor, by the county budget 4377
commission, by the mayor of the municipal corporation, or by the 4378
presiding officer of the legislative authority of the municipal 4379
corporation when authorized by a majority of the members of such 4380
legislative authority, by the board of county commissioners, or by 4381
the board of township trustees, or upon initiation by the auditor 4382
of state. The request may designate in general or specific terms, 4383
but without thereby limiting the determination thereto, the 4384
condition or conditions to be examined to determine whether they 4385
constitute fiscal emergency conditions. Promptly upon receipt of 4386
such written request, or upon initiation by the auditor of state, 4387
the auditor of state shall transmit copies of such request or a 4388
written notice of such initiation to the mayor and the presiding 4389
officer of the legislative authority of the municipal corporation 4390
or to the board of county commissioners or the board of township 4391
trustees by personal service or certified mail. Such 4392
determinations shall be set forth in written reports and 4393
supplemental reports, which shall be filed with the mayor, fiscal 4394
officer, and presiding officer of the legislative authority of the 4395
municipal corporation, or with the board of county commissioners 4396
or the board of township trustees, and with the treasurer of 4397

state, secretary of state, governor, director of budget and 4398
management, and county budget commission, within thirty days after 4399
the request. The auditor of state shall so file an initial report 4400
immediately upon determining the existence of any fiscal emergency 4401
condition. 4402

(B) In making such determination, the auditor of state may 4403
rely on reports or other information filed or otherwise made 4404
available by the municipal corporation, county, or township, 4405
accountants' reports, or other sources and data the auditor of 4406
state considers reliable for such purpose. As to the status of 4407
funds or accounts, a determination that the amounts stated in 4408
section 118.03 of the Revised Code are exceeded may be made 4409
without need for determination of the specific amount of the 4410
excess. The auditor of state may engage the services of 4411
independent certified or registered public accountants, including 4412
public accountants engaged or previously engaged by the municipal 4413
corporation, county, or township, to conduct audits or make 4414
reports or render such opinions as the auditor of state considers 4415
desirable with respect to any aspect of the determinations to be 4416
made by the auditor of state. 4417

(C) A determination by the auditor of state under this 4418
section that a fiscal emergency condition does not exist is final 4419
and conclusive and not appealable. A determination by the auditor 4420
of state under this section that a fiscal emergency exists is 4421
final, except that the mayor of any municipal corporation affected 4422
by a determination of the existence of a fiscal emergency 4423
condition under this section, when authorized by a majority of the 4424
members of the legislative authority, or the board of county 4425
commissioners or board of township trustees, may appeal the 4426
determination of the existence of a fiscal emergency condition to 4427
the court of appeals having territorial jurisdiction over the 4428
municipal corporation, county, or township. The appeal shall be 4429

heard expeditiously by the court of appeals and for good cause 4430
shown shall take precedence over all other civil matters except 4431
earlier matters of the same character. Notice of such appeal must 4432
be filed with the auditor of state and such court within thirty 4433
days after certification by the auditor of state to the mayor and 4434
presiding officer of the legislative authority of the municipal 4435
corporation or to the board of county commissioners or board of 4436
township trustees as provided for in division (A) of this section. 4437
In such appeal, determinations of the auditor of state shall be 4438
presumed to be valid and the municipal corporation, county, or 4439
township shall have the burden of proving, by clear and convincing 4440
evidence, that each of the determinations made by the auditor of 4441
state as to the existence of a fiscal emergency condition under 4442
section 118.03 of the Revised Code was in error. If the municipal 4443
corporation, county, or township fails, upon presentation of its 4444
case, to prove by clear and convincing evidence that each such 4445
determination by the auditor of state was in error, the court 4446
shall dismiss the appeal. The municipal corporation, county, or 4447
township and the auditor of state may introduce any evidence 4448
relevant to the existence or nonexistence of such fiscal emergency 4449
conditions at the times indicated in the applicable provisions of 4450
divisions (A) and (B) of section 118.03 of the Revised Code. The 4451
pendency of any such appeal shall not affect or impede the 4452
operations of this chapter; no restraining order, temporary 4453
injunction, or other similar restraint upon actions consistent 4454
with this chapter shall be imposed by the court or any court 4455
pending determination of such appeal; and all things may be done 4456
under this chapter that may be done regardless of the pendency of 4457
any such appeal. Any action taken or contract executed pursuant to 4458
this chapter during the pendency of such appeal is valid and 4459
enforceable among all parties, notwithstanding the decision in 4460
such appeal. If the court of appeals reverses the determination of 4461
the existence of a fiscal emergency condition by the auditor of 4462

state, the determination no longer has any effect, and any 4463
procedures undertaken as a result of the determination shall be 4464
terminated. 4465

(D) ~~All~~ The auditor of state shall be reimbursed for any 4466
expenses incurred by the auditor of state relating to a 4467
determination or termination of a fiscal emergency under this 4468
section or a fiscal watch under section 118.021 of the Revised 4469
Code ~~shall be reimbursed from an appropriation for that purpose,~~ 4470
including technical and support services. If necessary, the 4471
controlling board shall provide sufficient funds for these 4472
purposes. 4473

Sec. 118.05. (A) Pursuant to the powers of the general 4474
assembly and for the purposes of this chapter, upon the occurrence 4475
of a fiscal emergency in any municipal corporation, county, or 4476
township, as determined pursuant to section 118.04 of the Revised 4477
Code, there is established, with respect to that municipal 4478
corporation, county, or township, a body both corporate and 4479
politic constituting an agency and instrumentality of the state 4480
and performing essential governmental functions of the state to be 4481
known as the "financial planning and supervision commission for 4482
..... (name of municipal corporation, county, or 4483
township)," which, in that name, may exercise all authority vested 4484
in such a commission by this chapter. ~~A~~ Except as otherwise 4485
provided in division (L) of this section, a separate commission is 4486
established with respect to each municipal corporation, county, or 4487
township as to which there is a fiscal emergency as determined 4488
under this chapter. 4489

(B) A commission shall consist of the following voting 4490
members: 4491

(1) Four ex officio members: the treasurer of state; the 4492
director of budget and management; in the case of a municipal 4493

corporation, the ~~mayor of the municipal corporation and the~~ 4494
presiding officer of the legislative authority of the municipal 4495
corporation; in the case of a county, the president of the board 4496
of county commissioners ~~and the county auditor; and~~ in the case of 4497
a township, a member of the board of township trustees; and the 4498
county auditor or county fiscal officer. 4499

The treasurer of state may designate a deputy treasurer or 4500
director within the office of the treasurer of state or any other 4501
appropriate person who is not an employee of the treasurer of 4502
state's office; the director of budget and management may 4503
designate an individual within the office of budget and management 4504
or any other appropriate person who is not an employee of the 4505
office of budget and management; ~~the mayor may designate a~~ 4506
~~responsible official within the mayor's office or the fiscal~~ 4507
~~officer of the municipal corporation;~~ the presiding officer of the 4508
legislative authority of the municipal corporation may designate 4509
any other member of the legislative authority; the board of county 4510
commissioners may designate any other member of the board ~~or the~~ 4511
~~fiscal officer of the county;~~ and the board of township trustees 4512
may designate any other member of the board or the fiscal officer 4513
of the township to attend the meetings of the commission when the 4514
ex officio member is absent or unable for any reason to attend. A 4515
designee, when present, shall be counted in determining whether a 4516
quorum is present at any meeting of the commission and may vote 4517
and participate in all proceedings and actions of the commission. 4518
The designations shall be in writing, executed by the ex officio 4519
member or entity making the designation, and filed with the 4520
secretary of the commission. The designations may be changed from 4521
time to time in like manner, but due regard shall be given to the 4522
need for continuity. 4523

(2) ~~If a municipal corporation, county, or township has a~~ 4524
~~population of at least one thousand, three members nominated and~~ 4525

~~appointed as follows:~~ 4526

~~The mayor and presiding officer of the legislative authority 4527
of the municipal corporation, the board of county commissioners, 4528
or the board of township trustees shall, within ten days after the 4529
determination of the fiscal emergency by the auditor of state 4530
under section 118.04 of the Revised Code, submit in writing to the 4531
governor the nomination of five persons agreed to by them and 4532
meeting the qualifications set forth in this division. If the 4533
governor is not satisfied that at least three of the nominees are 4534
well qualified, the governor shall notify the mayor and presiding 4535
officer, or the board of county commissioners, or the board of 4536
township trustees to submit in writing, within five days, 4537
additional nominees agreed upon by them, not exceeding three. The 4538
governor shall appoint three members from all the agreed upon 4539
nominees so submitted or a lesser number that the governor 4540
considers well qualified within thirty days after receipt of the 4541
nominations, and shall fill any remaining positions on the 4542
commission by appointment of any other persons meeting the 4543
qualifications set forth in this division. All appointments by the 4544
governor shall be made with the advice and consent of the senate. 4545
Each of the three appointed members shall serve during the life of 4546
the commission, subject to removal by the governor for 4547
misfeasance, nonfeasance, or malfeasance in office. In the event 4548
of the death, resignation, incapacity, removal, or ineligibility 4549
to serve of an appointed member, the governor, pursuant to the 4550
process for original appointment, shall appoint a successor. 4551~~

~~(3) If a municipal corporation, county, or township has a 4552
population of less than one thousand, one member nominated and 4553
appointed as follows: 4554~~

~~The mayor and presiding officer of the legislative authority 4555
of the municipal corporation, the board of county commissioners, 4556
or the board of township trustees shall, within ten days after the 4557~~

~~determination of the fiscal emergency by the auditor of state 4558
under section 118.04 of the Revised Code, submit in writing to the 4559
governor the nomination of three persons agreed to by them and 4560
meeting the qualifications set forth in this division. If the 4561
governor is not satisfied that at least one of the nominees is 4562
well qualified, the governor shall notify the mayor and presiding 4563
officer, or the board of county commissioners, or the board of 4564
township trustees to submit in writing, within five days, 4565
additional nominees agreed upon by them, not exceeding three. The 4566
governor shall appoint one member from all the agreed upon 4567
nominees so submitted or shall fill the position on the commission 4568
by appointment of any other person meeting the qualifications set 4569
forth in this division. All appointments by the governor shall be 4570
made with the advice and consent of the senate. The appointed 4571
member shall serve during the life of the commission, subject to 4572
removal by the governor for misfeasance, nonfeasance, or 4573
malfeasance in office. In the event of the death, resignation, 4574
incapacity, removal, or ineligibility to serve of the appointed 4575
member, the governor, pursuant to the process for original 4576
appointment, shall appoint a successor. 4577~~

~~Each appointed member shall be an individual: 4578~~

~~(a) Who has knowledge and experience in financial matters, 4579
financial management, or business organization or operations; 4580~~

~~(b) Whose One member appointed by the governor, whose 4581
residency, office, or principal place of professional or business 4582
activity is situated within the municipal corporation, county, or 4583
township; 4584~~

~~(c) Who shall not become a candidate for elected public 4585
office while serving as a member of the commission. 4586~~

~~(C) Immediately after appointment of the initial appointed 4587
member or members of the commission, the governor shall call the 4588~~

first meeting of the commission and shall cause written notice of 4589
the time, date, and place of the first meeting to be given to each 4590
member of the commission at least forty-eight hours in advance of 4591
the meeting. 4592

(D) The director of budget and management shall serve as 4593
chairperson of the commission. The commission shall elect one of 4594
its members to serve as vice-chairperson and may appoint a 4595
secretary and any other officers, who need not be members of the 4596
commission, it considers necessary. The chairperson may remove the 4597
member appointed by the governor if that member fails to attend 4598
three consecutive meetings. In that event, the governor shall fill 4599
the vacancy in the same manner as the original appointment. 4600

(E) The commission may adopt and alter bylaws and rules, 4601
which shall not be subject to section 111.15 or Chapter 119. of 4602
the Revised Code, for the conduct of its affairs and for the 4603
manner, subject to this chapter, in which its powers and functions 4604
shall be exercised and embodied. 4605

(F) ~~Four members of a commission established pursuant to 4606
divisions (B)(1) and (2) of this section constitute a quorum of 4607
the commission. The affirmative vote of a majority of the members 4608
of such a commission is necessary for any action taken by vote of 4609
the commission.~~ Three members of a commission established pursuant 4610
~~to divisions (B)(1) and (3) of this section constitute a quorum of 4611
the commission. The affirmative vote of a majority of the members 4612
of ~~such a~~ the commission is necessary for any action taken by vote 4613
of the commission. No vacancy in the membership of the commission 4614
shall impair the rights of a quorum by such vote to exercise all 4615
the rights and perform all the duties of the commission. Members 4616
of the commission, and their designees, are not disqualified from 4617
voting by reason of the functions of the other office they hold 4618
and are not disqualified from exercising the functions of the 4619
other office with respect to the municipal corporation, county, or 4620~~

township, its officers, or the commission. 4621

(G) The auditor of state shall serve as the "financial 4622
supervisor" to the commission unless the auditor of state elects 4623
to contract for that service. As used in this chapter, "financial 4624
supervisor" means the auditor of state. 4625

(H) At the request of the commission, the auditor of state 4626
shall designate employees of the auditor of state's office to 4627
assist the commission and the financial supervisor and to 4628
coordinate the work of the auditor of state's office and the 4629
financial supervisor. Upon the determination of a fiscal emergency 4630
in any municipal corporation, county, or township, the municipal 4631
corporation, county, or township shall provide the commission with 4632
such reasonable office space in the principal building housing 4633
city, county, or township government, where feasible, as it 4634
determines is necessary to carry out its duties under this 4635
chapter. 4636

(I) The financial supervisor, the members of the commission, 4637
the auditor of state, and any person authorized to act on behalf 4638
of or assist them shall not be personally liable or subject to any 4639
suit, judgment, or claim for damages resulting from the exercise 4640
of or failure to exercise the powers, duties, and functions 4641
granted to them in regard to their functioning under this chapter, 4642
but the commission, the financial supervisor, the auditor of 4643
state, and those other persons shall be subject to mandamus 4644
proceedings to compel performance of their duties under this 4645
chapter and with respect to any debt obligations issued pursuant 4646
or subject to this chapter. 4647

(J) At the request of the commission, the administrative head 4648
of any state agency shall temporarily assign personnel skilled in 4649
accounting and budgeting procedures to assist the commission or 4650
the financial supervisor in its duties as financial supervisor. 4651

(K) The appointed members of the commission are not subject 4652
to section 102.02 of the Revised Code. Each appointed member of 4653
the commission shall file with the commission a signed written 4654
statement setting forth the general nature of sales of goods, 4655
property, or services or of loans to the municipal corporation, 4656
county, or township with respect to which that commission is 4657
established, in which the appointed member has a pecuniary 4658
interest or in which any member of the appointed member's 4659
immediate family, as defined in section 102.01 of the Revised 4660
Code, or any corporation, partnership, or enterprise of which the 4661
appointed member is an officer, director, or partner, or of which 4662
the appointed member or a member of the appointed member's 4663
immediate family, as so defined, owns more than a five per cent 4664
interest, has a pecuniary interest, and of which sale, loan, or 4665
interest such member has knowledge. The statement shall be 4666
supplemented from time to time to reflect changes in the general 4667
nature of any such sales or loans. 4668

(L) A commission is not established with respect to any 4669
village or township with a population of less than two thousand 4670
five hundred as of the most recent federal decennial census. Upon 4671
the occurrence of a fiscal emergency in such a village or 4672
township, the auditor of state shall serve as the financial 4673
supervisor of the village or township and shall have all the 4674
powers and responsibilities of a commission. 4675

Sec. 118.06. (A) Within one hundred twenty days after the 4676
first meeting of the commission, the mayor of the municipal 4677
corporation or the board of county commissioners or board of 4678
township trustees shall submit to the commission a detailed 4679
financial plan, as approved or amended and approved by ordinance 4680
or resolution of the legislative authority, containing the 4681
following: 4682

(1) Actions to be taken by the municipal corporation, county, or township to:	4683 4684
(a) Eliminate all fiscal emergency conditions determined to exist pursuant to section 118.04 of the Revised Code;	4685 4686
(b) Satisfy any judgments, past due accounts payable, and all past due and payable payroll and fringe benefits;	4687 4688
(c) Eliminate the deficits in all deficit funds;	4689
(d) Restore to construction funds and other special funds moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such construction funds by the purchase of debt obligations of the municipal corporation, county, or township with the moneys of such funds, or missing from the construction funds or such special funds and not accounted for;	4690 4691 4692 4693 4694 4695 4696
(e) Balance the budgets, avoid future deficits in any funds, and maintain current payments of payroll, fringe benefits, and all accounts;	4697 4698 4699
(f) Avoid any fiscal emergency condition in the future;	4700
(g) Restore the ability of the municipal corporation, county, or township to market long-term general obligation bonds under provisions of law applicable to municipal corporations, counties, or townships generally.	4701 4702 4703 4704
(2) The legal authorities permitting the municipal corporation, county, or township to take the actions enumerated pursuant to division (A)(1) of this section;	4705 4706 4707
(3) The approximate dates of the commencement, progress upon, and completion of the actions enumerated pursuant to division (A)(1) of this section, <u>a five-year forecast reflecting the effects of those actions</u> , and a reasonable period of time expected to be required to implement the plan. The municipal corporation,	4708 4709 4710 4711 4712

county, or township, in consultation with the commission and the 4713
financial supervisor, shall prepare a reasonable time schedule for 4714
progress toward and achievement of the requirements for the 4715
financial plan and the financial plan shall be consistent with 4716
that time schedule. 4717

(4) The amount and purpose of any issue of debt obligations 4718
that will be issued, together with assurances that any such debt 4719
obligations that will be issued will not exceed debt limits 4720
supported by appropriate certifications by the fiscal officer of 4721
the municipal corporation, county, or township and the county 4722
auditor; 4723

(5) Assurances that the municipal corporation, county, or 4724
township will establish monthly levels of expenditures and 4725
encumbrances pursuant to division (B)(2) of section 118.07 of the 4726
Revised Code; 4727

(6) Assurances that the municipal corporation, county, or 4728
township will conform to statutes with respect to tax budgets and 4729
appropriation measures; 4730

(7) The detail, the form, and the supporting information that 4731
the commission may direct. 4732

(B) The financial plan developed pursuant to division (A) of 4733
this section shall be filed with the financial supervisor and the 4734
financial planning and supervision commission and shall be updated 4735
annually. After consultation with the financial supervisor, the 4736
commission shall either approve or reject any initial or 4737
subsequent financial plan. If the commission rejects the initial 4738
or any subsequent financial plan, it shall forthwith inform the 4739
mayor and legislative authority of the municipal corporation or 4740
the board of county commissioners or board of township trustees of 4741
the reasons for its rejection. Within thirty days after the 4742
rejection of any plan, the mayor with the approval of the 4743

legislative authority by the passage of an ordinance or 4744
resolution, or the board of county commissioners or board of 4745
township trustees, shall submit another plan meeting the 4746
requirements of divisions (A)(1) to (7) of this section, to the 4747
commission and the financial supervisor for approval or rejection 4748
by the commission. 4749

(C) Any initial or subsequent financial plan passed by the 4750
municipal corporation, county, or township shall be approved by 4751
the commission if it complies with divisions (A)(1) to (7) of this 4752
section, and if the commission finds that the plan is bona fide 4753
and can reasonably be expected to be implemented within the period 4754
specified in the plan. 4755

(D) Any financial plan may be amended subsequent to its 4756
adoption in the same manner as the passage and approval of the 4757
initial or subsequent plan pursuant to divisions (A) to (C) of 4758
this section. 4759

(E) If a municipal corporation, county, or township fails to 4760
submit a financial plan as required by this section, or fails to 4761
substantially comply with an approved financial plan, upon 4762
certification of the commission, all state funding for that 4763
municipal corporation, county, or township other than benefit 4764
assistance to individuals shall be escrowed until a feasible plan 4765
is submitted and approved or substantial compliance with the plan 4766
is achieved, as the case may be. 4767

Sec. 118.12. (A) After the date by which the municipal 4768
corporation, county, or township is required to submit a financial 4769
plan or segment of a financial plan to the financial planning and 4770
supervision commission, if the municipal corporation, county, or 4771
township has failed to submit a financial plan or segment as 4772
required by this chapter, expenditures from the general fund of 4773
the municipal corporation, county, or township in any month may 4774

not exceed eighty-five per cent of expenditures from the general 4775
fund for such month in the preceding fiscal year, except the 4776
commission may authorize a higher per cent for any month upon 4777
justification of need by the municipal corporation, county, or 4778
township. If considered prudent by the commission, expenditures 4779
from any other fund of the municipal corporation, county, or 4780
township also may be limited. 4781

(B) After submission of a proposed financial plan by the 4782
municipal corporation, county, or township to the commission, 4783
until approval or disapproval no expenditure may be made contrary 4784
to such proposed financial plan. 4785

(C) After disapproval by the commission of a proposed 4786
financial plan, no expenditure may be made by the municipal 4787
corporation, county, or township inconsistent with the reasons for 4788
disapproval given pursuant to division (B) of section 118.06 of 4789
the Revised Code; and if the municipal corporation, county, or 4790
township fails to submit a revised financial plan within the time 4791
required, the expenditure limits of division (A) of this section 4792
are applicable. 4793

(D) After approval of a financial plan, or any amendment 4794
thereof, no expenditure may be made contrary to the approved 4795
financial plan, or amendment thereof, without the advance approval 4796
of the financial supervisor. The commission, by a majority vote, 4797
may overrule the decision of the financial supervisor. 4798

Sec. 118.17. (A) During a fiscal emergency period and with 4799
the approval of the financial planning and supervision commission, 4800
a municipal corporation, county, or township may issue local 4801
government fund notes, in anticipation of amounts to be allocated 4802
to it pursuant to division (B) of section 5747.50 of the Revised 4803
Code or to be apportioned to it under section 5747.51 or 5747.53 4804
of the Revised Code in a future year or years, for a period of no 4805

more than eight calendar years. The principal amount of the notes 4806
and interest on the notes due and payable in any year shall not 4807
exceed fifty per cent of the total amount of local government fund 4808
moneys so allocated or apportioned to the municipal corporation, 4809
county, or township for the year preceding the year in which the 4810
notes are issued. The notes may mature in semiannual or annual 4811
installments in such amounts as may be fixed by the commission, 4812
and need not mature in substantially equal semiannual or annual 4813
installments. The notes of a municipal corporation may be 4814
authorized and issued, subject to the approval of the commission, 4815
in the manner provided in sections 717.15 and 717.16 of the 4816
Revised Code, except that, notwithstanding division (A)(2) of 4817
section 717.16 of the Revised Code, the rate or rates of interest 4818
payable on the notes shall be the prevailing market rate or rates 4819
as determined and approved by the commission, and except that they 4820
shall not be issued in anticipation of bonds, shall not constitute 4821
general obligations of the municipal corporation, and shall not 4822
pledge the full faith and credit of the municipal corporation. 4823

(B) The principal and interest on the notes provided for in 4824
this section shall be payable, as provided in this section, solely 4825
from the portion of the local government fund that would otherwise 4826
be apportioned to the municipal corporation, county, or township 4827
and shall not be payable from or constitute a pledge of or claim 4828
upon, or require the levy, collection, or application of, any 4829
unvoted ad valorem property taxes or other taxes, or in any manner 4830
occupy any portion of the indirect debt limit. 4831

(C) Local government fund notes may be issued only to the 4832
extent needed to achieve one or more of the following objectives 4833
of the financial plan: 4834

(1) Satisfying any contractual or noncontractual judgments, 4835
past due accounts payable, and all past due and payable payroll 4836
and fringe benefits to be taken into account under section 118.03 4837

of the Revised Code; 4838

(2) Restoring to construction funds or other restricted funds 4839
any money applied from such funds to uses not within the purposes 4840
of such funds and which could not be transferred to such use under 4841
section 5705.14 of the Revised Code; 4842

(3) Eliminating deficit balances in all deficit funds, 4843
including funds that may be used to pay operating expenses. 4844

In addition to the objectives set forth in divisions (C)(1) 4845
to (3) of this section, local government fund notes may be issued 4846
and the proceeds of those notes may be used for the purpose of 4847
retiring or replacing other moneys used to retire current revenue 4848
notes issued pursuant to section 118.23 of the Revised Code to the 4849
extent that the proceeds of the current revenue notes have been or 4850
are to be used directly or to replace other moneys used to achieve 4851
one or more of the objectives of the financial plan specified in 4852
divisions (C)(1) to (3) of this section. Upon authorization of the 4853
local government fund notes by the legislative authority of the 4854
municipal corporation, county, or township, the proceeds of the 4855
local government fund notes and the proceeds of any such current 4856
revenue notes shall be deemed to be appropriated, to the extent 4857
that the proceeds have been or are to be so used, for the purposes 4858
for which the revenues anticipated by any such current revenue 4859
notes are collected and appropriated within the meaning of section 4860
133.10 of the Revised Code. 4861

(D) The need for an issue of local government fund notes for 4862
such purposes shall be determined by taking into consideration 4863
other money and sources of moneys available therefor under this 4864
chapter or other provisions of law, and calculating the respective 4865
amounts needed therefor in accordance with section 118.03 of the 4866
Revised Code, including the deductions or offsets therein 4867
provided, for determining that a fiscal emergency condition 4868
exists, and by eliminating any duplication of amounts thereunder. 4869

The respective amounts needed to achieve such objectives and the 4870
resulting aggregate net amount shall be determined initially by a 4871
certification of the fiscal officer as and to the extent approved 4872
by the financial supervisor. The principal amount of such notes 4873
shall not exceed the aggregate net amount needed for such 4874
purposes. The aggregate amount of all issues of such notes shall 4875
not exceed three times the average of the allocation or 4876
apportionment to the municipal corporation, county, or township of 4877
moneys from the local government fund in each of the three fiscal 4878
years preceding the fiscal year in which the notes are issued. 4879

(E) The proceeds of the sale of local government fund notes 4880
shall be appropriated by the municipal corporation, county, or 4881
township for and shall be applied only to the purposes, and in the 4882
respective amounts for those purposes, set forth in the 4883
certification given pursuant to division (D) of this section, as 4884
the purposes and amounts may be modified in the approval by the 4885
commission provided for in this section. The proceeds shall be 4886
deposited in separate accounts with a fiscal agent designated in 4887
the resolution referred to in division (F) of this section and 4888
released only for such respective purposes in accordance with the 4889
procedures set forth in division (D) of section 118.20 of the 4890
Revised Code. Any amounts not needed for such purposes shall be 4891
deposited with the fiscal agent designated to receive deposits for 4892
payment of the principal of and interest due on the notes. 4893

(F) An application for approval by the financial planning and 4894
supervision commission of an issue of local government fund notes 4895
shall be authorized by a preliminary resolution adopted by the 4896
legislative authority. The resolution may authorize the 4897
application as a part of the initial submission of the financial 4898
plan for approval or as a part of any proposed amendment to an 4899
approved financial plan or at any time after the approval of a 4900
financial plan, or amendment to a financial plan, that proposes 4901

the issue of such notes. The preliminary resolution shall 4902
designate a fiscal agent for the deposit of the proceeds of the 4903
sale of the notes, and shall contain a covenant of the municipal 4904
corporation, county, or township to comply with this chapter and 4905
the financial plan. 4906

The commission shall review and evaluate the application and 4907
supporting certification and financial supervisor action, and 4908
shall thereupon certify its approval or disapproval, or 4909
modification and approval, of the application. 4910

The commission shall certify the amounts, maturities, 4911
interest rates, and terms of issue of the local government fund 4912
notes approved by the commission and the purposes to which the 4913
proceeds of the sale of the notes will be applied in respective 4914
amounts. 4915

The commission shall certify a copy of its approval, of the 4916
preliminary resolution, and of the related certification and 4917
action of the financial supervisor to the fiscal officer, the 4918
financial supervisor, the county budget commission, the county 4919
auditor, the county treasurer, and the fiscal agent designated to 4920
receive and disburse the proceeds of the sale of the notes. 4921

(G) Upon the sale of any local government fund notes issued 4922
under this section, the commission shall determine a schedule for 4923
the deposit of local government fund distributions that are 4924
pledged for the payment of the principal of and interest on the 4925
notes with the fiscal agent or trustee designated in the agreement 4926
between the municipal corporation, county, or township and the 4927
holders of the notes to receive and disburse the distributions. 4928
The amounts to be deposited shall be adequate to provide for the 4929
payment of principal and interest on the notes when due and to pay 4930
all other proper charges, costs, or expenses pertaining thereto. 4931

The amount of the local government fund moneys apportioned to 4932

the municipal corporation, county, or township that is to be so 4933
deposited in each year shall not be included in the tax budget and 4934
appropriation measures of the municipal corporation, county, or 4935
township, or in certificates of estimated revenues, for that year. 4936

The commission shall certify the schedule to the officers 4937
designated in division (F) of this section. 4938

(H) Deposit of amounts with the fiscal agent or trustee 4939
pursuant to the schedule determined by the commission shall be 4940
made from local government fund distributions to or apportioned to 4941
the municipal corporation, county, or township as provided in this 4942
division. The apportionment of local government fund moneys to the 4943
municipal corporation, county, or township for any year from the 4944
undivided local government fund shall be determined as to the 4945
municipal corporation, county, or township without regard to the 4946
amounts to be deposited with the fiscal agent or trustee in that 4947
year in accordance with division (G) of this section. After the 4948
amount of the undivided local government fund apportioned to the 4949
municipal corporation, county, or township for a calendar year is 4950
determined, the county auditor and the county treasurer shall 4951
withhold from each monthly amount to be distributed to the 4952
municipal corporation, county, or township from the undivided 4953
local government fund, and transmit to the fiscal agent or trustee 4954
for deposit, one-twelfth of the amount scheduled for deposit in 4955
that year pursuant to division (G) of this section. 4956

(I) If the commission approves the application, the municipal 4957
corporation, county, or township may proceed with the issuance of 4958
the notes as approved by the commission. 4959

All notes issued under authority of this section are lawful 4960
investments for the entities enumerated in division (A)(1) of 4961
section 133.03 of the Revised Code and are eligible as security 4962
for the repayment of the deposit of public moneys. 4963

Upon the issuance of any notes under this section, the fiscal officer of the municipal corporation, county, or township shall certify the fact of the issuance to the county auditor and shall also certify to the county auditor the last calendar year in which any of the notes are scheduled to mature.

(J) After the legislative authority of the municipal corporation, county, or township has passed an ordinance or resolution authorizing the issuance of local government fund notes and subsequent to the commission's preliminary or final approval of the ordinance or resolution, the director of law, prosecuting attorney, or other chief legal officer of the municipal corporation, county, or township shall certify a sample of the form and content of a note to be used to issue the local government fund notes to the commission. The commission shall determine whether the sample note is consistent with this section and the ordinance or resolution authorizing the issuance of the local government fund notes, and if the sample note is found to be consistent with this section and the ordinance, the commission shall approve the sample note for use by the municipal corporation, county, or township. The form and content of the notes to be used by the municipal corporation, county, or township in issuing the local government fund notes may be modified at any time subsequent to the commission's approval of the sample note upon the approval of the commission and the director of law, prosecuting attorney, or other chief legal officer of the municipal corporation, county, or township. The failure of the director of law, prosecuting attorney, or other chief legal officer of the municipal corporation, county, or township to make the certification required by this division shall not subject that legal officer to removal pursuant to the Revised Code or the charter of a municipal corporation. If the director of law, prosecuting attorney, or other chief legal officer fails or refuses to make the certification required by this division, or if

any officer of the municipal corporation, county, or township 4997
fails or refuses to take any action required by this section or 4998
the ordinance or resolution authorizing the issuance or sale of 4999
local government fund notes, the mayor of the municipal 5000
corporation or the board of county commissioners or board of 5001
township trustees may cause the commencement of a mandamus action 5002
in the supreme court against the director of law, prosecuting 5003
attorney, or other chief legal officer to secure the certification 5004
required by this division or other action required by this section 5005
or the ordinance or resolution. If an adjudication of the matters 5006
that could be adjudicated in validation proceedings under section 5007
133.70 of the Revised Code is necessary to a determination of the 5008
mandamus action, the mayor, the board of county commissioners, or 5009
the board of township trustees or the mayor's or board's legal 5010
counsel shall name and cause to be served as defendants to the 5011
mandamus action all of the following: 5012

(1) The director of law, prosecuting attorney, or other chief 5013
legal officer, or other official of the municipal corporation, 5014
county, or township, whose failure or refusal to act necessitated 5015
the action; 5016

(2) The municipal corporation, through its mayor, or the 5017
board of county commissioners or board of township trustees; 5018

(3) The financial planning and supervision commission, 5019
through its chairperson; 5020

(4) The prosecuting attorney and auditor of each county in 5021
which the municipal corporation, county, or township is located, 5022
in whole or in part; 5023

(5) The auditor of state; 5024

(6) The property owners, taxpayers, citizens of the municipal 5025
corporation, county, or township and others having or claiming any 5026
right, title, or interest in any property or funds to be affected 5027

by the issuance of the local government fund notes by the 5028
municipal corporation, county, or township, or otherwise affected 5029
in any way thereby. 5030

Service upon all defendants described in division (J)(6) of 5031
this section shall be either by publication three times, with at 5032
least six days between each publication, in a newspaper of general 5033
circulation in Franklin county and a newspaper of general 5034
circulation in the county or counties where the municipal 5035
corporation, county, or township is located, or by publication in 5036
both such newspapers as provided in section 7.16 of the Revised 5037
Code. The publication and the notice shall indicate that the 5038
nature of the action is in mandamus, the name of the parties to 5039
the action, and that the action may result in the validation of 5040
the subject local government fund notes. Authorization to commence 5041
such an action by the legislative authority of the municipal 5042
corporation, county, or township is not required. 5043

A copy of the complaint in the mandamus action shall be 5044
served personally or by certified mail upon the attorney general. 5045
If the attorney general has reason to believe that the complaint 5046
is defective, insufficient, or untrue, or if in the attorney 5047
general's opinion the issuance of the local government fund notes 5048
is not lawful or has not been duly authorized, defense shall be 5049
made to the complaint as the attorney general considers proper. 5050

(K) The action in mandamus authorized by division (J) of this 5051
section shall take priority over all other civil cases pending in 5052
the court, except habeas corpus, and shall be determined with the 5053
least possible delay. The supreme court may determine that the 5054
local government fund notes will be consistent with the purpose 5055
and effects, including not occupying the indirect debt limit, 5056
provided for in this section and will be validly issued and 5057
acquired. Such a determination shall include a finding of 5058
validation of the subject local government fund notes if the court 5059

specifically finds that: 5060

(1) The complaint in mandamus, or subsequent pleadings, 5061
include appropriate allegations required by division (C) of 5062
section 133.70 of the Revised Code, and that the proceeding is in 5063
lieu of an action to validate under section 133.70 of the Revised 5064
Code; 5065

(2) All parties described in divisions (J)(1) to (6) of this 5066
section have been duly served with notice or are otherwise 5067
properly before the court; 5068

(3) Notice of the action has been published as required by 5069
division (J) of this section; 5070

(4) The effect of validation is required to provide a 5071
complete review and determination of the controversy in mandamus, 5072
and to avoid duplication of litigation, danger of inconsistent 5073
results, or inordinate delay in light of the fiscal emergency, or 5074
that a disposition in the mandamus action would, as a practical 5075
matter, be dispositive of any subsequent validation proceedings 5076
under section 133.70 of the Revised Code. 5077

(L) Any decision that includes a finding of validation has 5078
the same effect as a validation order established by an action 5079
under section 133.70 of the Revised Code. 5080

(M) Divisions (J) and (K) of this section do not prevent a 5081
municipal corporation, county, or township from using section 5082
133.70 of the Revised Code to validate local government fund notes 5083
by the filing of a petition for validation in the court of common 5084
pleas of the county in which the municipal corporation, county, or 5085
township is located, in whole or in part. 5086

(N) It is hereby determined by the general assembly that a 5087
validation action authorized by section 133.70 of the Revised Code 5088
is not an adequate remedy at law with respect to a municipal 5089
corporation, county, or township that is a party to a mandamus 5090

action pursuant to divisions (J) and (K) of this section and in 5091
which a fiscal emergency condition has been determined to exist 5092
pursuant to section 118.04 of the Revised Code because of, but not 5093
limited to, the following reasons: 5094

(1) It is urgently necessary for such a municipal 5095
corporation, county, or township to take prompt action to issue 5096
local government fund notes for the purposes provided in division 5097
(C) of this section; 5098

(2) The potentially ruinous effect upon the fiscal condition 5099
of a municipal corporation, county, or township by the passage of 5100
the time required to adjudicate such a separate validation action 5101
and any appeals thereof; 5102

(3) The reasons stated in division (K)(4) of this section. 5103

Sec. 118.31. (A) Upon petition of the financial supervisor 5104
and approval of the financial planning and supervision commission, 5105
if any, the attorney general shall file a court action to dissolve 5106
a municipal corporation, county, or township if all of the 5107
following conditions apply: 5108

(1) The municipal corporation, county, or township has a 5109
population of less than five thousand as of the most recent 5110
federal decennial census. 5111

(2) The municipal corporation, county, or township has been 5112
under a fiscal emergency for at least two consecutive years. 5113

(3) Implementation of the financial plan of the municipal 5114
corporation, county, or township required under this chapter 5115
cannot reasonably be expected to correct and eliminate all fiscal 5116
emergency conditions within five years. 5117

(B) If the court finds that all of the conditions described 5118
in division (A) of this section apply to the municipal 5119
corporation, county, or township, it shall enter an order removing 5120

the executive and legislative officers of the municipal 5121
corporation, county, or township and appoint a receiver to execute 5122
all management duties. The receiver, under court supervision, 5123
shall wind up the affairs of the municipal corporation, county, or 5124
township and dissolve it. 5125

Sec. 118.99. (A) During the fiscal emergency period, no 5126
officer or employee of the municipal corporation, county, or 5127
township shall do any of the following: 5128

(1) Knowingly enter into any contract, financial obligation, 5129
or other liability of the municipal corporation, county, or 5130
township involving an expenditure, or make any expenditure in 5131
excess of the amount permitted by section 118.12 of the Revised 5132
Code; 5133

(2) Knowingly enter into any contract, financial obligation, 5134
or other liability of the municipal corporation, county, or 5135
township, or knowingly execute or deliver debt obligations, or 5136
transfer, advance, or borrow moneys from one fund of the municipal 5137
corporation, county, or township to or for any other fund of the 5138
municipal corporation, county, or township where any of such 5139
actions are required to be approved by the financial planning and 5140
supervision commission unless such actions have been so approved 5141
or deemed to be approved as provided in or pursuant to this 5142
chapter; 5143

(3) Knowingly fail or refuse to take any of the actions 5144
required by this chapter for the preparation or amendment of the 5145
financial plan, or knowingly prepare, present, or certify any 5146
information or report for the commission or any of its employees, 5147
advisory committees, task forces, or agents that is false or 5148
misleading or which is recklessly prepared or presented without 5149
due care for its accuracy, or, upon learning that any such 5150
information is false or misleading, or was recklessly prepared or 5151

presented, knowingly fail promptly to advise the commission, or 5152
the employee, advisory committee, task force, or agent to whom 5153
such information was given, of that fact; 5154

(4) Knowingly use or cause to be used moneys of a 5155
construction fund for purposes other than the lawful purposes of 5156
the construction fund, or knowingly use or cause to be used moneys 5157
of a fund created under this chapter for the payment of principal 5158
and interest on debt obligations, or a bond retirement fund, or 5159
sinking fund for other than the payment of the principal of and 5160
interest on debt obligations or other authorized costs or payments 5161
from such funds, or knowingly fail to perform the duty of such 5162
officer or employee to cause the prompt deposit of moneys to any 5163
of the funds referred to in this division. 5164

(B) The prohibitions set forth in division (A) of this 5165
section are in addition to any other prohibitions provided by law 5166
for a municipal corporation, county, or township, or by or 5167
pursuant to a municipal charter. 5168

(C) In addition to any other penalty or liability provided by 5169
law for a municipal corporation, county, or township, or by or 5170
pursuant to a municipal charter, a violation of division (A)(1), 5171
(2), (3), or (4) of this section is a misdemeanor of the second 5172
degree. Upon conviction of any officer or employee of a municipal 5173
corporation, county, or township for any violation under division 5174
(A)(1), (2), (3), or (4) of this section, such officer or employee 5175
shall forfeit office or employment. For the seven-year period 5176
immediately following the date of conviction, such officer shall 5177
also be ineligible to hold any public office or other position of 5178
trust in this state or be employed by any public entity in this 5179
state. 5180

Sec. 121.03. The following administrative department heads 5181
shall be appointed by the governor, with the advice and consent of 5182

the senate, and shall hold their offices during the term of the	5183
appointing governor, and are subject to removal at the pleasure of	5184
the governor.	5185
(A) The director of budget and management;	5186
(B) The director of commerce;	5187
(C) The director of transportation;	5188
(D) The director of agriculture;	5189
(E) The director of job and family services;	5190
(F) Until July 1, 1997, the director of liquor control;	5191
(G) The director of public safety;	5192
(H) The superintendent of insurance;	5193
(I) The director of development;	5194
(J) The tax commissioner;	5195
(K) The director of administrative services;	5196
(L) The director of natural resources;	5197
(M) The director of mental health;	5198
(N) The director of developmental disabilities;	5199
(O) The director of health;	5200
(P) The director of youth services;	5201
(Q) The director of rehabilitation and correction;	5202
(R) The director of environmental protection;	5203
(S) The director of aging;	5204
(T) The director of alcohol and drug addiction services;	5205
(U) The administrator of workers' compensation who meets the	5206
qualifications required under division (A) of section 4121.121 of	5207
the Revised Code;	5208

(V) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;	5209 5210
<u>(W) The chancellor of the Ohio board of regents.</u>	5211
Sec. 121.04. Offices are created within the several departments as follows:	5212 5213
In the department of commerce:	5214
Commissioner of securities;	5215
Superintendent of real estate and professional licensing;	5216
Superintendent of financial institutions;	5217
State fire marshal;	5218
Superintendent of labor;	5219
Superintendent of liquor control;	5220
Superintendent of unclaimed funds.	5221
In the department of administrative services:	5222
State architect and engineer;	5223
Equal employment opportunity coordinator.	5224
In the department of agriculture:	5225
Chiefs of divisions as follows:	5226
Administration;	5227
Animal industry;	5228
Dairy;	5229
Food safety;	5230
Plant industry;	5231
Markets;	5232
Meat inspection;	5233
Consumer analytical laboratory;	5234
Amusement ride safety;	5235
Enforcement;	5236
Weights and measures.	5237

In the department of natural resources:	5238
Chiefs of divisions as follows:	5239
	5240
Mineral resources management;	5241
<u>Oil and gas resources management;</u>	5242
Forestry;	5243
Natural areas and preserves;	5244
Wildlife;	5245
Geological survey;	5246
Parks and recreation;	5247
Watercraft;	5248
Recycling and litter prevention;	5249
Soil and water resources;	5250
Engineering.	5251
In the department of insurance:	5252
Deputy superintendent of insurance;	5253
Assistant superintendent of insurance, technical;	5254
Assistant superintendent of insurance, administrative;	5255
Assistant superintendent of insurance, research.	5256
Sec. 121.22. (A) This section shall be liberally construed to	5257
require public officials to take official action and to conduct	5258
all deliberations upon official business only in open meetings	5259
unless the subject matter is specifically excepted by law.	5260
(B) As used in this section:	5261
(1) "Public body" means any of the following:	5262
(a) Any board, commission, committee, council, or similar	5263
decision-making body of a state agency, institution, or authority,	5264
and any legislative authority or board, commission, committee,	5265
council, agency, authority, or similar decision-making body of any	5266
county, township, municipal corporation, school district, or other	5267

political subdivision or local public institution;	5268
(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;	5269 5270
(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.	5271 5272 5273 5274 5275 5276 5277 5278 5279 5280
(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.	5281 5282
(3) "Regulated individual" means either of the following:	5283
(a) A student in a state or local public educational institution;	5284 5285
(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.	5286 5287 5288 5289
(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.	5290 5291
(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.	5292 5293 5294 5295 5296
The minutes of a regular or special meeting of any public	5297

body shall be promptly prepared, filed, and maintained and shall	5298
be open to public inspection. The minutes need only reflect the	5299
general subject matter of discussions in executive sessions	5300
authorized under division (G) or (J) of this section.	5301
(D) This section does not apply to any of the following:	5302
(1) A grand jury;	5303
(2) An audit conference conducted by the auditor of state or	5304
independent certified public accountants with officials of the	5305
public office that is the subject of the audit;	5306
(3) The adult parole authority when its hearings are	5307
conducted at a correctional institution for the sole purpose of	5308
interviewing inmates to determine parole or pardon;	5309
(4) The organized crime investigations commission established	5310
under section 177.01 of the Revised Code;	5311
(5) Meetings of a child fatality review board established	5312
under section 307.621 of the Revised Code and meetings conducted	5313
pursuant to sections 5153.171 to 5153.173 of the Revised Code;	5314
(6) The state medical board when determining whether to	5315
suspend a certificate without a prior hearing pursuant to division	5316
(G) of either section 4730.25 or 4731.22 of the Revised Code;	5317
(7) The board of nursing when determining whether to suspend	5318
a license or certificate without a prior hearing pursuant to	5319
division (B) of section 4723.281 of the Revised Code;	5320
(8) The state board of pharmacy when determining whether to	5321
suspend a license without a prior hearing pursuant to division (D)	5322
of section 4729.16 of the Revised Code;	5323
(9) The state chiropractic board when determining whether to	5324
suspend a license without a hearing pursuant to section 4734.37 of	5325
the Revised Code;	5326
(10) The executive committee of the emergency response	5327

commission when determining whether to issue an enforcement order 5328
or request that a civil action, civil penalty action, or criminal 5329
action be brought to enforce Chapter 3750. of the Revised Code; 5330

(11) The board of directors of the nonprofit corporation 5331
formed under section 187.01 of the Revised Code or any committee 5332
thereof, and the board of directors of any subsidiary of that 5333
corporation or a committee thereof; 5334

(12) An audit conference conducted by the audit staff of the 5335
department of job and family services with officials of the public 5336
office that is the subject of that audit under section 5101.37 of 5337
the Revised Code. 5338

(E) The controlling board, the development financing advisory 5339
council, the industrial technology and enterprise advisory 5340
council, the tax credit authority, or the minority development 5341
financing advisory board, when meeting to consider granting 5342
assistance pursuant to Chapter 122. or 166. of the Revised Code, 5343
in order to protect the interest of the applicant or the possible 5344
investment of public funds, by unanimous vote of all board, 5345
council, or authority members present, may close the meeting 5346
during consideration of the following information confidentially 5347
received by the authority, council, or board from the applicant: 5348

(1) Marketing plans; 5349

(2) Specific business strategy; 5350

(3) Production techniques and trade secrets; 5351

(4) Financial projections; 5352

(5) Personal financial statements of the applicant or members 5353
of the applicant's immediate family, including, but not limited 5354
to, tax records or other similar information not open to public 5355
inspection. 5356

The vote by the authority, council, or board to accept or 5357

reject the application, as well as all proceedings of the 5358
authority, council, or board not subject to this division, shall 5359
be open to the public and governed by this section. 5360

(F) Every public body, by rule, shall establish a reasonable 5361
method whereby any person may determine the time and place of all 5362
regularly scheduled meetings and the time, place, and purpose of 5363
all special meetings. A public body shall not hold a special 5364
meeting unless it gives at least twenty-four hours' advance notice 5365
to the news media that have requested notification, except in the 5366
event of an emergency requiring immediate official action. In the 5367
event of an emergency, the member or members calling the meeting 5368
shall notify the news media that have requested notification 5369
immediately of the time, place, and purpose of the meeting. 5370

The rule shall provide that any person, upon request and 5371
payment of a reasonable fee, may obtain reasonable advance 5372
notification of all meetings at which any specific type of public 5373
business is to be discussed. Provisions for advance notification 5374
may include, but are not limited to, mailing the agenda of 5375
meetings to all subscribers on a mailing list or mailing notices 5376
in self-addressed, stamped envelopes provided by the person. 5377

(G) Except as provided in division (J) of this section, the 5378
members of a public body may hold an executive session only after 5379
a majority of a quorum of the public body determines, by a roll 5380
call vote, to hold an executive session and only at a regular or 5381
special meeting for the sole purpose of the consideration of any 5382
of the following matters: 5383

(1) To consider the appointment, employment, dismissal, 5384
discipline, promotion, demotion, or compensation of a public 5385
employee or official, or the investigation of charges or 5386
complaints against a public employee, official, licensee, or 5387
regulated individual, unless the public employee, official, 5388
licensee, or regulated individual requests a public hearing. 5389

Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject

of pending or imminent court action;	5422
(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;	5423 5424 5425
(5) Matters required to be kept confidential by federal law or regulations or state statutes;	5426 5427
(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;	5428 5429 5430 5431 5432
(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, a joint township hospital operated pursuant to Chapter 513. of the Revised Code, or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code.	5433 5434 5435 5436 5437 5438
If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.	5439 5440 5441 5442 5443
A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.	5444 5445 5446
(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at	5447 5448 5449 5450 5451 5452

an executive session held in compliance with this section. A 5453
resolution, rule, or formal action adopted in an open meeting is 5454
invalid if the public body that adopted the resolution, rule, or 5455
formal action violated division (F) of this section. 5456

(I)(1) Any person may bring an action to enforce this 5457
section. An action under division (I)(1) of this section shall be 5458
brought within two years after the date of the alleged violation 5459
or threatened violation. Upon proof of a violation or threatened 5460
violation of this section in an action brought by any person, the 5461
court of common pleas shall issue an injunction to compel the 5462
members of the public body to comply with its provisions. 5463

(2)(a) If the court of common pleas issues an injunction 5464
pursuant to division (I)(1) of this section, the court shall order 5465
the public body that it enjoins to pay a civil forfeiture of five 5466
hundred dollars to the party that sought the injunction and shall 5467
award to that party all court costs and, subject to reduction as 5468
described in division (I)(2) of this section, reasonable 5469
attorney's fees. The court, in its discretion, may reduce an award 5470
of attorney's fees to the party that sought the injunction or not 5471
award attorney's fees to that party if the court determines both 5472
of the following: 5473

(i) That, based on the ordinary application of statutory law 5474
and case law as it existed at the time of violation or threatened 5475
violation that was the basis of the injunction, a well-informed 5476
public body reasonably would believe that the public body was not 5477
violating or threatening to violate this section; 5478

(ii) That a well-informed public body reasonably would 5479
believe that the conduct or threatened conduct that was the basis 5480
of the injunction would serve the public policy that underlies the 5481
authority that is asserted as permitting that conduct or 5482
threatened conduct. 5483

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission

conducts as an executive session that pertains to the applicant's, 5515
recipient's, or former recipient's application for financial 5516
assistance. 5517

(3) A veterans service commission shall vote on the grant or 5518
denial of financial assistance under sections 5901.01 to 5901.15 5519
of the Revised Code only in an open meeting of the commission. The 5520
minutes of the meeting shall indicate the name, address, and 5521
occupation of the applicant, whether the assistance was granted or 5522
denied, the amount of the assistance if assistance is granted, and 5523
the votes for and against the granting of assistance. 5524

Sec. 121.37. (A)(1) There is hereby created the Ohio family 5525
and children first cabinet council. The council shall be composed 5526
of the superintendent of public instruction, the administrator of 5527
the rehabilitation services commission, and the directors of youth 5528
services, job and family services, mental health, health, alcohol 5529
and drug addiction services, developmental disabilities, aging, 5530
rehabilitation and correction, and budget and management. The 5531
chairperson of the council shall be the governor or the governor's 5532
designee and shall establish procedures for the council's internal 5533
control and management. 5534

The purpose of the cabinet council is to help families 5535
seeking government services. This section shall not be interpreted 5536
or applied to usurp the role of parents, but solely to streamline 5537
and coordinate existing government services for families seeking 5538
assistance for their children. 5539

(2) In seeking to fulfill its purpose, the council may do any 5540
of the following: 5541

(a) Advise and make recommendations to the governor and 5542
general assembly regarding the provision of services to children; 5543

(b) Advise and assess local governments on the coordination 5544

of service delivery to children; 5545

(c) Hold meetings at such times and places as may be 5546
prescribed by the council's procedures and maintain records of the 5547
meetings, except that records identifying individual children are 5548
confidential and shall be disclosed only as provided by law; 5549

(d) Develop programs and projects, including pilot projects, 5550
to encourage coordinated efforts at the state and local level to 5551
improve the state's social service delivery system; 5552

(e) Enter into contracts with and administer grants to county 5553
family and children first councils, as well as other county or 5554
multicounty organizations to plan and coordinate service delivery 5555
between state agencies and local service providers for families 5556
and children; 5557

(f) Enter into contracts with and apply for grants from 5558
federal agencies or private organizations; 5559

(g) Enter into interagency agreements to encourage 5560
coordinated efforts at the state and local level to improve the 5561
state's social service delivery system. The agreements may include 5562
provisions regarding the receipt, transfer, and expenditure of 5563
funds; 5564

(h) Identify public and private funding sources for services 5565
provided to alleged or adjudicated unruly children and children 5566
who are at risk of being alleged or adjudicated unruly children, 5567
including regulations governing access to and use of the services; 5568

(i) Collect information provided by local communities 5569
regarding successful programs for prevention, intervention, and 5570
treatment of unruly behavior, including evaluations of the 5571
programs; 5572

(j) Identify and disseminate publications regarding alleged 5573
or adjudicated unruly children and children who are at risk of 5574

being alleged or adjudicated unruly children and regarding 5575
programs serving those types of children; 5576

(k) Maintain an inventory of strategic planning facilitators 5577
for use by government or nonprofit entities that serve alleged or 5578
adjudicated unruly children or children who are at risk of being 5579
alleged or adjudicated unruly children. 5580

(3) The cabinet council shall provide for the following: 5581

(a) Reviews of service and treatment plans for children for 5582
which such reviews are requested; 5583

(b) Assistance as the council determines to be necessary to 5584
meet the needs of children referred by county family and children 5585
first councils; 5586

(c) Monitoring and supervision of a statewide, comprehensive, 5587
coordinated, multi-disciplinary, interagency system for infants 5588
and toddlers with developmental disabilities or delays and their 5589
families, as established pursuant to federal grants received and 5590
administered by the department of health for early intervention 5591
services under the "Individuals with Disabilities Education Act of 5592
2004," 20 U.S.C.A. 1400, as amended. 5593

(4) The cabinet council shall develop and implement the 5594
following: 5595

(a) An interagency process to select the indicators that will 5596
be used to measure progress toward increasing child well-being in 5597
the state and to update the indicators on an annual basis. The 5598
indicators shall focus on expectant parents and newborns thriving; 5599
infants and toddlers thriving; children being ready for school; 5600
children and youth succeeding in school; youth choosing healthy 5601
behaviors; and youth successfully transitioning into adulthood. 5602

(b) An interagency system to offer guidance and monitor 5603
progress toward increasing child well-being in the state and in 5604

each county; 5605

(c) An annual plan that identifies state-level agency efforts 5606
taken to ensure progress towards increasing child well-being in 5607
the state. 5608

On an annual basis, the cabinet council shall submit to the 5609
governor and the general assembly a report on the status of 5610
efforts to increase child well-being in the state. This report 5611
shall be made available to any other person on request. 5612

(B)(1) Each board of county commissioners shall establish a 5613
county family and children first council. The board may invite any 5614
local public or private agency or group that funds, advocates, or 5615
provides services to children and families to have a 5616
representative become a permanent or temporary member of its 5617
county council. Each county council must include the following 5618
individuals: 5619

(a) At least three individuals who are not employed by an 5620
agency represented on the council and whose families are or have 5621
received services from an agency represented on the council or 5622
another county's council. Where possible, the number of members 5623
representing families shall be equal to twenty per cent of the 5624
council's membership. 5625

(b) The director of the board of alcohol, drug addiction, and 5626
mental health services that serves the county, or, in the case of 5627
a county that has a board of alcohol and drug addiction services 5628
and a community mental health board, the directors of both boards. 5629
If a board of alcohol, drug addiction, and mental health services 5630
covers more than one county, the director may designate a person 5631
to participate on the county's council. 5632

(c) The health commissioner, or the commissioner's designee, 5633
of the board of health of each city and general health district in 5634
the county. If the county has two or more health districts, the 5635

health commissioner membership may be limited to the commissioners	5636
of the two districts with the largest populations.	5637
(d) The director of the county department of job and family	5638
services;	5639
(e) The executive director of the public children services	5640
agency;	5641
(f) The superintendent of the county board of developmental	5642
disabilities;	5643
(g) The superintendent of the city, exempted village, or	5644
local school district with the largest number of pupils residing	5645
in the county, as determined by the department of education, which	5646
shall notify each board of county commissioners of its	5647
determination at least biennially;	5648
(h) A school superintendent representing all other school	5649
districts with territory in the county, as designated at a	5650
biennial meeting of the superintendents of those districts;	5651
(i) A representative of the municipal corporation with the	5652
largest population in the county;	5653
(j) The president of the board of county commissioners or an	5654
individual designated by the board;	5655
(k) A representative of the regional office of the department	5656
of youth services;	5657
(l) A representative of the county's head start agencies, as	5658
defined in section 3301.32 of the Revised Code;	5659
(m) A representative of the county's early intervention	5660
collaborative established pursuant to the federal early	5661
intervention program operated under the "Individuals with	5662
Disabilities Education Act of 2004";	5663
(n) A representative of a local nonprofit entity that funds,	5664
advocates, or provides services to children and families.	5665

Notwithstanding any other provision of law, the public 5666
members of a county council are not prohibited from serving on the 5667
council and making decisions regarding the duties of the council, 5668
including those involving the funding of joint projects and those 5669
outlined in the county's service coordination mechanism 5670
implemented pursuant to division (C) of this section. 5671

The cabinet council shall establish a state appeals process 5672
to resolve disputes among the members of a county council 5673
concerning whether reasonable responsibilities as members are 5674
being shared. The appeals process may be accessed only by a 5675
majority vote of the council members who are required to serve on 5676
the council. Upon appeal, the cabinet council may order that state 5677
funds for services to children and families be redirected to a 5678
county's board of county commissioners. 5679

The county's juvenile court judge senior in service or 5680
another judge of the juvenile court designated by the 5681
administrative judge or, where there is no administrative judge, 5682
by the judge senior in service shall serve as the judicial advisor 5683
to the county family and children first council. The judge may 5684
advise the county council on the court's utilization of resources, 5685
services, or programs provided by the entities represented by the 5686
members of the county council and how those resources, services, 5687
or programs assist the court in its administration of justice. 5688
Service of a judge as a judicial advisor pursuant to this section 5689
is a judicial function. 5690

(2) The purpose of the county council is to streamline and 5691
coordinate existing government services for families seeking 5692
services for their children. In seeking to fulfill its purpose, a 5693
county council shall provide for the following: 5694

(a) Referrals to the cabinet council of those children for 5695
whom the county council cannot provide adequate services; 5696

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

(c) Participation in the development of a countywide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Individuals with Disabilities Education Act of 2004";

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

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

(3) A county council shall develop and implement the following:

(a) An interagency process to establish local indicators and monitor the county's progress toward increasing child well-being in the county;

(b) An interagency process to identify local priorities to increase child well-being. The local priorities shall focus on expectant parents and newborns thriving; infants and toddlers thriving; children being ready for school; children and youth succeeding in school; youth choosing healthy behaviors; and youth successfully transitioning into adulthood and take into account the indicators established by the cabinet council under division (A)(4)(a) of this section.

(c) An annual plan that identifies the county's interagency

efforts to increase child well-being in the county. 5728

On an annual basis, the county council shall submit a report 5729
on the status of efforts by the county to increase child 5730
well-being in the county to the county's board of county 5731
commissioners and the cabinet council. This report shall be made 5732
available to any other person on request. 5733

(4)(a) Except as provided in division (B)(4)(b) of this 5734
section, a county council shall comply with the policies, 5735
procedures, and activities prescribed by the rules or interagency 5736
agreements of a state department participating on the cabinet 5737
council whenever the county council performs a function subject to 5738
those rules or agreements. 5739

(b) On application of a county council, the cabinet council 5740
may grant an exemption from any rules or interagency agreements of 5741
a state department participating on the council if an exemption is 5742
necessary for the council to implement an alternative program or 5743
approach for service delivery to families and children. The 5744
application shall describe the proposed program or approach and 5745
specify the rules or interagency agreements from which an 5746
exemption is necessary. The cabinet council shall approve or 5747
disapprove the application in accordance with standards and 5748
procedures it shall adopt. If an application is approved, the 5749
exemption is effective only while the program or approach is being 5750
implemented, including a reasonable period during which the 5751
program or approach is being evaluated for effectiveness. 5752

(5)(a) Each county council shall designate an administrative 5753
agent for the council from among the following public entities: 5754
the board of alcohol, drug addiction, and mental health services, 5755
including a board of alcohol and drug addiction or a community 5756
mental health board if the county is served by separate boards; 5757
the board of county commissioners; any board of health of the 5758
county's city and general health districts; the county department 5759

of job and family services; the county agency responsible for the 5760
administration of children services pursuant to section 5153.15 of 5761
the Revised Code; the county board of developmental disabilities; 5762
any of the county's boards of education or governing boards of 5763
educational service centers; or the county's juvenile court. Any 5764
of the foregoing public entities, other than the board of county 5765
commissioners, may decline to serve as the council's 5766
administrative agent. 5767

A county council's administrative agent shall serve as the 5768
council's appointing authority for any employees of the council. 5769
The council shall file an annual budget with its administrative 5770
agent, with copies filed with the county auditor and with the 5771
board of county commissioners, unless the board is serving as the 5772
council's administrative agent. The council's administrative agent 5773
shall ensure that all expenditures are handled in accordance with 5774
policies, procedures, and activities prescribed by state 5775
departments in rules or interagency agreements that are applicable 5776
to the council's functions. 5777

The administrative agent of a county council shall send 5778
notice of a member's absence if a member listed in division (B)(1) 5779
of this section has been absent from either three consecutive 5780
meetings of the county council or a county council subcommittee, 5781
or from one-quarter of such meetings in a calendar year, whichever 5782
is less. The notice shall be sent to the board of county 5783
commissioners that establishes the county council and, for the 5784
members listed in divisions (B)(1)(b), (c), (e), and (l) of this 5785
section, to the governing board overseeing the respective entity; 5786
for the member listed in division (B)(1)(f) of this section, to 5787
the county board of developmental disabilities that employs the 5788
superintendent; for a member listed in division (B)(1)(g) or (h) 5789
of this section, to the school board that employs the 5790
superintendent; for the member listed in division (B)(1)(i) of 5791

this section, to the mayor of the municipal corporation; for the 5792
member listed in division (B)(1)(k) of this section, to the 5793
director of youth services; and for the member listed in division 5794
(B)(1)(n) of this section, to that member's board of trustees. 5795

The administrative agent for a county council may do any of 5796
the following on behalf of the council: 5797

(i) Enter into agreements or administer contracts with public 5798
or private entities to fulfill specific council business. Such 5799
agreements and contracts are exempt from the competitive bidding 5800
requirements of section 307.86 of the Revised Code if they have 5801
been approved by the county council and they are for the purchase 5802
of family and child welfare or child protection services or other 5803
social or job and family services for families and children. The 5804
approval of the county council is not required to exempt 5805
agreements or contracts entered into under section 5139.34, 5806
5139.41, or 5139.43 of the Revised Code from the competitive 5807
bidding requirements of section 307.86 of the Revised Code. 5808

(ii) As determined by the council, provide financial 5809
stipends, reimbursements, or both, to family representatives for 5810
expenses related to council activity; 5811

(iii) Receive by gift, grant, devise, or bequest any moneys, 5812
lands, or other property for the purposes for which the council is 5813
established. The agent shall hold, apply, and dispose of the 5814
moneys, lands, or other property according to the terms of the 5815
gift, grant, devise, or bequest. Any interest or earnings shall be 5816
treated in the same manner and are subject to the same terms as 5817
the gift, grant, devise, or bequest from which it accrues. 5818

(b)(i) If the county council designates the board of county 5819
commissioners as its administrative agent, the board may, by 5820
resolution, delegate any of its powers and duties as 5821
administrative agent to an executive committee the board 5822

establishes from the membership of the county council. The board 5823
shall name to the executive committee at least the individuals 5824
described in divisions (B)(1)(b) to (h) of this section and may 5825
appoint the president of the board or another individual as the 5826
chair of the executive committee. The executive committee must 5827
include at least one family county council representative who does 5828
not have a family member employed by an agency represented on the 5829
council. 5830

(ii) The executive committee may, with the approval of the 5831
board, hire an executive director to assist the county council in 5832
administering its powers and duties. The executive director shall 5833
serve in the unclassified civil service at the pleasure of the 5834
executive committee. The executive director may, with the approval 5835
of the executive committee, hire other employees as necessary to 5836
properly conduct the county council's business. 5837

(iii) The board may require the executive committee to submit 5838
an annual budget to the board for approval and may amend or repeal 5839
the resolution that delegated to the executive committee its 5840
authority as the county council's administrative agent. 5841

(6) Two or more county councils may enter into an agreement 5842
to administer their county councils jointly by creating a regional 5843
family and children first council. A regional council possesses 5844
the same duties and authority possessed by a county council, 5845
except that the duties and authority apply regionally rather than 5846
to individual counties. Prior to entering into an agreement to 5847
create a regional council, the members of each county council to 5848
be part of the regional council shall meet to determine whether 5849
all or part of the members of each county council will serve as 5850
members of the regional council. 5851

(7) A board of county commissioners may approve a resolution 5852
by a majority vote of the board's members that requires the county 5853
council to submit a statement to the board each time the council 5854

proposes to enter into an agreement, adopt a plan, or make a 5855
decision, other than a decision pursuant to section 121.38 of the 5856
Revised Code, that requires the expenditure of funds for two or 5857
more families. The statement shall describe the proposed 5858
agreement, plan, or decision. 5859

Not later than fifteen days after the board receives the 5860
statement, it shall, by resolution approved by a majority of its 5861
members, approve or disapprove the agreement, plan, or decision. 5862
Failure of the board to pass a resolution during that time period 5863
shall be considered approval of the agreement, plan, or decision. 5864

An agreement, plan, or decision for which a statement is 5865
required to be submitted to the board shall be implemented only if 5866
it is approved by the board. 5867

(C) Each county shall develop a county service coordination 5868
mechanism. The county service coordination mechanism shall serve 5869
as the guiding document for coordination of services in the 5870
county. For children who also receive services under the help me 5871
grow program, the service coordination mechanism shall be 5872
consistent with rules adopted by the department of health under 5873
section 3701.61 of the Revised Code. All family service 5874
coordination plans shall be developed in accordance with the 5875
county service coordination mechanism. The mechanism shall be 5876
developed and approved with the participation of the county 5877
entities representing child welfare; mental retardation and 5878
developmental disabilities; alcohol, drug addiction, and mental 5879
health services; health; juvenile judges; education; the county 5880
family and children first council; and the county early 5881
intervention collaborative established pursuant to the federal 5882
early intervention program operated under the "Individuals with 5883
Disabilities Education Act of 2004." The county shall establish an 5884
implementation schedule for the mechanism. The cabinet council may 5885
monitor the implementation and administration of each county's 5886

service coordination mechanism. 5887

Each mechanism shall include all of the following: 5888

(1) A procedure for an agency, including a juvenile court, or 5889
a family voluntarily seeking service coordination, to refer the 5890
child and family to the county council for service coordination in 5891
accordance with the mechanism; 5892

(2) A procedure ensuring that a family and all appropriate 5893
staff from involved agencies, including a representative from the 5894
appropriate school district, are notified of and invited to 5895
participate in all family service coordination plan meetings; 5896

(3) A procedure that permits a family to initiate a meeting 5897
to develop or review the family's service coordination plan and 5898
allows the family to invite a family advocate, mentor, or support 5899
person of the family's choice to participate in any such meeting; 5900

(4) A procedure for ensuring that a family service 5901
coordination plan meeting is conducted for each child who receives 5902
service coordination under the mechanism and for whom an emergency 5903
out-of-home placement has been made or for whom a nonemergency 5904
out-of-home placement is being considered. The meeting shall be 5905
conducted within ten days of an emergency out-of-home placement. 5906
The meeting shall be conducted before a nonemergency out-of-home 5907
placement. The family service coordination plan shall outline how 5908
the county council members will jointly pay for services, where 5909
applicable, and provide services in the least restrictive 5910
environment. 5911

(5) A procedure for monitoring the progress and tracking the 5912
outcomes of each service coordination plan requested in the county 5913
including monitoring and tracking children in out-of-home 5914
placements to assure continued progress, appropriateness of 5915
placement, and continuity of care after discharge from placement 5916
with appropriate arrangements for housing, treatment, and 5917

education.	5918
(6) A procedure for protecting the confidentiality of all	5919
personal family information disclosed during service coordination	5920
meetings or contained in the comprehensive family service	5921
coordination plan.	5922
(7) A procedure for assessing the needs and strengths of any	5923
child or family that has been referred to the council for service	5924
coordination, including a child whose parent or custodian is	5925
voluntarily seeking services, and for ensuring that parents and	5926
custodians are afforded the opportunity to participate;	5927
(8) A procedure for development of a family service	5928
coordination plan described in division (D) of this section;	5929
(9) A local dispute resolution process to serve as the	5930
process that must be used first to resolve disputes among the	5931
agencies represented on the county council concerning the	5932
provision of services to children, including children who are	5933
abused, neglected, dependent, unruly, alleged unruly, or	5934
delinquent children and under the jurisdiction of the juvenile	5935
court and children whose parents or custodians are voluntarily	5936
seeking services. The local dispute resolution process shall	5937
comply with sections 121.38, 121.381, and 121.382 of the Revised	5938
Code. The local dispute resolution process shall be used to	5939
resolve disputes between a child's parents or custodians and the	5940
county council regarding service coordination. The county council	5941
shall inform the parents or custodians of their right to use the	5942
dispute resolution process. Parents or custodians shall use	5943
existing local agency grievance procedures to address disputes not	5944
involving service coordination. The dispute resolution process is	5945
in addition to and does not replace other rights or procedures	5946
that parents or custodians may have under other sections of the	5947
Revised Code.	5948

The cabinet council shall adopt rules in accordance with 5949
Chapter 119. of the Revised Code establishing an administrative 5950
review process to address problems that arise concerning the 5951
operation of a local dispute resolution process. 5952

Nothing in division (C)(4) of this section shall be 5953
interpreted as overriding or affecting decisions of a juvenile 5954
court regarding an out-of-home placement, long-term placement, or 5955
emergency out-of-home placement. 5956

(D) Each county shall develop a family service coordination 5957
plan that does all of the following: 5958

(1) Designates service responsibilities among the various 5959
state and local agencies that provide services to children and 5960
their families, including children who are abused, neglected, 5961
dependent, unruly, or delinquent children and under the 5962
jurisdiction of the juvenile court and children whose parents or 5963
custodians are voluntarily seeking services; 5964

(2) Designates an individual, approved by the family, to 5965
track the progress of the family service coordination plan, 5966
schedule reviews as necessary, and facilitate the family service 5967
coordination plan meeting process; 5968

(3) Ensures that assistance and services to be provided are 5969
responsive to the strengths and needs of the family, as well as 5970
the family's culture, race, and ethnic group, by allowing the 5971
family to offer information and suggestions and participate in 5972
decisions. Identified assistance and services shall be provided in 5973
the least restrictive environment possible. 5974

(4) Includes a process for dealing with a child who is 5975
alleged to be an unruly child. The process shall include methods 5976
to divert the child from the juvenile court system; 5977

(5) Includes timelines for completion of goals specified in 5978
the plan with regular reviews scheduled to monitor progress toward 5979

those goals; 5980

(6) Includes a plan for dealing with short-term crisis 5981
situations and safety concerns. 5982

(E)(1) The process provided for under division (D)(4) of this 5983
section may include, but is not limited to, the following: 5984

(a) Designation of the person or agency to conduct the 5985
assessment of the child and the child's family as described in 5986
division (C)(7) of this section and designation of the instrument 5987
or instruments to be used to conduct the assessment; 5988

(b) An emphasis on the personal responsibilities of the child 5989
and the parental responsibilities of the parents, guardian, or 5990
custodian of the child; 5991

(c) Involvement of local law enforcement agencies and 5992
officials. 5993

(2) The method to divert a child from the juvenile court 5994
system that must be included in the service coordination process 5995
may include, but is not limited to, the following: 5996

(a) The preparation of a complaint under section 2151.27 of 5997
the Revised Code alleging that the child is an unruly child and 5998
notifying the child and the parents, guardian, or custodian that 5999
the complaint has been prepared to encourage the child and the 6000
parents, guardian, or custodian to comply with other methods to 6001
divert the child from the juvenile court system; 6002

(b) Conducting a meeting with the child, the parents, 6003
guardian, or custodian, and other interested parties to determine 6004
the appropriate methods to divert the child from the juvenile 6005
court system; 6006

(c) A method to provide to the child and the child's family a 6007
short-term respite from a short-term crisis situation involving a 6008
confrontation between the child and the parents, guardian, or 6009

custodian; 6010

(d) A program to provide a mentor to the child or the 6011
parents, guardian, or custodian; 6012

(e) A program to provide parenting education to the parents, 6013
guardian, or custodian; 6014

(f) An alternative school program for children who are truant 6015
from school, repeatedly disruptive in school, or suspended or 6016
expelled from school; 6017

(g) Other appropriate measures, including, but not limited 6018
to, any alternative methods to divert a child from the juvenile 6019
court system that are identified by the Ohio family and children 6020
first cabinet council. 6021

(F) Each county may review and revise the service 6022
coordination process described in division (D) of this section 6023
based on the availability of funds under Title IV-A of the "Social 6024
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, 6025
or to the extent resources are available from any other federal, 6026
state, or local funds. 6027

Sec. 121.40. (A) There is hereby created the Ohio ~~community~~ 6028
commission on service council and volunteerism consisting of 6029
twenty-one voting members including the superintendent of public 6030
instruction or the superintendent's designee, the chancellor of 6031
the Ohio board of regents or the chancellor's designee, the 6032
director of youth services or the director's designee, the 6033
director of aging or the director's designee, the chairperson of 6034
the committee of the house of representatives dealing with 6035
education or the chairperson's designee, the chairperson of the 6036
committee of the senate dealing with education or the 6037
chairperson's designee, and fifteen members who shall be appointed 6038
by the governor with the advice and consent of the senate and who 6039

shall serve terms of office of three years. The appointees shall 6040
include educators, including teachers and administrators; 6041
representatives of youth organizations; students and parents; 6042
representatives of organizations engaged in volunteer program 6043
development and management throughout the state, including youth 6044
and conservation programs; and representatives of business, 6045
government, nonprofit organizations, social service agencies, 6046
veterans organizations, religious organizations, or philanthropies 6047
that support or encourage volunteerism within the state. The 6048
director of the governor's office of faith-based and community 6049
initiatives shall serve as a nonvoting ex officio member of the 6050
~~council~~ commission. Members of the ~~council~~ commission shall 6051
receive no compensation, but shall be reimbursed for actual and 6052
necessary expenses incurred in the performance of their official 6053
duties. 6054

(B) The ~~council~~ commission shall appoint an executive 6055
director for the ~~council~~ commission, who shall be in the 6056
unclassified civil service. The governor shall be informed of the 6057
appointment of an executive director before such an appointment is 6058
made. The executive director shall supervise the ~~council's~~ 6059
commission's activities and report to the ~~council~~ commission on 6060
the progress of those activities. The executive director shall do 6061
all things necessary for the efficient and effective 6062
implementation of the duties of the ~~council~~ commission. 6063

The responsibilities assigned to the executive director do 6064
not relieve the members of the ~~council~~ commission from final 6065
responsibility for the proper performance of the requirements of 6066
this section. 6067

(C) The ~~council~~ commission or its designee shall do all of 6068
the following: 6069

(1) Employ, promote, supervise, and remove all employees as 6070
needed in connection with the performance of its duties under this 6071

section and may assign duties to those employees as necessary to 6072
achieve the most efficient performance of its functions, and to 6073
that end may establish, change, or abolish positions, and assign 6074
and reassign duties and responsibilities of any employee of the 6075
~~council~~ commission. Personnel employed by the ~~council~~ commission 6076
who are subject to Chapter 4117. of the Revised Code shall retain 6077
all of their rights and benefits conferred pursuant to that 6078
chapter. Nothing in this chapter shall be construed as eliminating 6079
or interfering with Chapter 4117. of the Revised Code or the 6080
rights and benefits conferred under that chapter to public 6081
employees or to any bargaining unit. 6082

(2) Maintain its office in Columbus, and may hold sessions at 6083
any place within the state; 6084

(3) Acquire facilities, equipment, and supplies necessary to 6085
house the ~~council~~ commission, its employees, and files and records 6086
under its control, and to discharge any duty imposed upon it by 6087
law. The expense of these acquisitions shall be audited and paid 6088
for in the same manner as other state expenses. For that purpose, 6089
the ~~council~~ commission shall prepare and submit to the office of 6090
budget and management a budget for each biennium according to 6091
sections 101.532 and 107.03 of the Revised Code. The budget 6092
submitted shall cover the costs of the ~~council~~ commission and its 6093
staff in the discharge of any duty imposed upon the ~~council~~ 6094
commission by law. The ~~council~~ commission shall not delegate any 6095
authority to obligate funds. 6096

(4) Pay its own payroll and other operating expenses from 6097
line items designated by the general assembly; 6098

(5) Retain its fiduciary responsibility as appointing 6099
authority. Any transaction instructions shall be certified by the 6100
appointing authority or its designee. 6101

(6) Establish the overall policy and management of the 6102

~~council~~ commission in accordance with this chapter; 6103

(7) Assist in coordinating and preparing the state 6104
application for funds under sections 101 to 184 of the "National 6105
and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 6106
U.S.C.A. 12411 to 12544, as amended, assist in administering and 6107
overseeing the "National and Community Service Trust Act of 1993," 6108
P.L. 103-82, 107 Stat. 785, and the americorps program in this 6109
state, and assist in developing objectives for a comprehensive 6110
strategy to encourage and expand community service programs 6111
throughout the state; 6112

(8) Assist the state board of education, school districts, 6113
the chancellor of the board of regents, and institutions of higher 6114
education in coordinating community service education programs 6115
through cooperative efforts between institutions and organizations 6116
in the public and private sectors; 6117

(9) Assist the departments of natural resources, youth 6118
services, aging, and job and family services in coordinating 6119
community service programs through cooperative efforts between 6120
institutions and organizations in the public and private sectors; 6121

(10) Suggest individuals and organizations that are available 6122
to assist school districts, institutions of higher education, and 6123
the departments of natural resources, youth services, aging, and 6124
job and family services in the establishment of community service 6125
programs and assist in investigating sources of funding for 6126
implementing these programs; 6127

(11) Assist in evaluating the state's efforts in providing 6128
community service programs using standards and methods that are 6129
consistent with any statewide objectives for these programs and 6130
provide information to the state board of education, school 6131
districts, the chancellor of the board of regents, institutions of 6132
higher education, and the departments of natural resources, youth 6133

services, aging, and job and family services to guide them in 6134
making decisions about these programs; 6135

(12) Assist the state board of education in complying with 6136
section 3301.70 of the Revised Code and the chancellor of the 6137
board of regents in complying with division (B)(2) of section 6138
3333.043 of the Revised Code; 6139

(13) Advise, assist, consult with, and cooperate with, by 6140
contract or otherwise, agencies and political subdivisions of this 6141
state in establishing a statewide system for volunteers pursuant 6142
to section 121.404 of the Revised Code. 6143

(D) The ~~council~~ commission shall in writing enter into an 6144
agreement with another state agency to serve as the ~~council's~~ 6145
commission's fiscal agent. Before entering into such an agreement, 6146
the ~~council~~ commission shall inform the governor of the terms of 6147
the agreement and of the state agency designated to serve as the 6148
~~council's~~ commission's fiscal agent. The fiscal agent shall be 6149
responsible for all the ~~council's~~ commission's fiscal matters and 6150
financial transactions, as specified in the agreement. Services to 6151
be provided by the fiscal agent include, but are not limited to, 6152
the following: 6153

(1) Preparing and processing payroll and other personnel 6154
documents that the ~~council~~ commission executes as the appointing 6155
authority; 6156

(2) Maintaining ledgers of accounts and reports of account 6157
balances, and monitoring budgets and allotment plans in 6158
consultation with the ~~council~~ commission; and 6159

(3) Performing other routine support services that the fiscal 6160
agent considers appropriate to achieve efficiency. 6161

(E)(1) The ~~council~~ commission, in conjunction and 6162
consultation with the fiscal agent, has the following authority 6163
and responsibility relative to fiscal matters: 6164

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

(b) Sole authority to expend funds from their accounts for programs and any other necessary expenses the ~~council~~ commission may incur and its subgrantees may incur; and

(c) Responsibility to cooperate with and inform the fiscal agent fully of all financial transactions.

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

(3) The fiscal agent shall determine fees to be charged to the ~~council~~ commission, which shall be in proportion to the services performed for the ~~council~~ commission.

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

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

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

(B) The Ohio ~~community~~ commission on service council and volunteerism shall adopt a set of "recommended best practices" for

organizations or entities to follow when one or more volunteers of 6195
the organization or entity have unsupervised access to one or more 6196
children or otherwise interact with one or more children. The 6197
"recommended best practices" shall focus on, but shall not be 6198
limited to, the issue of the safety of the children and, in 6199
addition, the screening and supervision of volunteers. The 6200
"recommended best practices" shall include as a recommended best 6201
practice that the organization or entity subject to a criminal 6202
records check performed by the bureau of criminal identification 6203
and investigation pursuant to section 109.57, section 109.572, or 6204
rules adopted under division (E) of section 109.57 of the Revised 6205
Code, all of the following: 6206

(1) All persons who apply to serve as a volunteer in a 6207
position in which the person will have unsupervised access to a 6208
child on a regular basis. 6209

(2) All volunteers who are in a position in which the person 6210
will have unsupervised access to a child on a regular basis and 6211
who the organization or entity has not previously subjected to a 6212
criminal records check performed by the bureau of criminal 6213
identification and investigation. 6214

(C) The set of "recommended best practices" required to be 6215
adopted by this section are in addition to the educational program 6216
required to be adopted under section 121.402 of the Revised Code. 6217

Sec. 121.402. (A) The Ohio ~~community~~ commission on service 6218
~~council and volunteerism~~ shall establish and maintain an 6219
educational program that does all of the following: 6220

(1) Makes available to parents and guardians of children 6221
notice about the provisions of sections 109.574 to 109.577, 6222
section 121.401, and section 121.402 of the Revised Code and 6223
information about how to keep children safe when they are under 6224
the care, custody, or control of a person other than the parent or 6225

guardian; 6226

(2) Makes available to organizations and entities information 6227
regarding the best methods of screening and supervising 6228
volunteers, how to obtain a criminal records check of a volunteer, 6229
confidentiality issues relating to reports of criminal records 6230
checks, and record keeping regarding the reports; 6231

(3) Makes available to volunteers information regarding the 6232
possibility of being subjected to a criminal records check and 6233
displaying appropriate behavior to minors; 6234

(4) Makes available to children advice on personal safety and 6235
information on what action to take if someone takes inappropriate 6236
action towards a child. 6237

(B) The program shall begin making the materials described in 6238
this section available not later than March 22, 2002. 6239

Sec. 121.403. (A) The Ohio ~~community~~ commission on service 6240
~~council and volunteerism~~ may do any of the following: 6241

(1) Accept monetary gifts or donations; 6242

(2) Sponsor conferences, meetings, or events in furtherance 6243
of the ~~council's~~ commission's purpose described in section 121.40 6244
of the Revised Code and charge fees for participation or 6245
involvement in the conferences, meetings, or events; 6246

(3) Sell promotional items in furtherance of the ~~council's~~ 6247
commission's purpose described in section 121.40 of the Revised 6248
Code. 6249

(B) All monetary gifts and donations, funds from the sale of 6250
promotional items, contributions received from the issuance of 6251
Ohio "volunteer" license plates pursuant to section 4503.93 of the 6252
Revised Code, and any fees paid to the ~~council~~ commission for 6253
conferences, meetings, or events sponsored by the ~~council~~ 6254
commission shall be deposited into the Ohio ~~community~~ commission 6255

on service council and volunteerism gifts and donations fund, 6256
which is hereby created in the state treasury. Moneys in the fund 6257
may be used only as follows: 6258

(1) To pay operating expenses of the ~~council~~ commission, 6259
including payroll, personal services, maintenance, equipment, and 6260
subsidy payments; 6261

(2) To support ~~council~~ commission programs promoting 6262
volunteerism and community service in the state; 6263

(3) As matching funds for federal grants. 6264

Sec. 121.404. (A) The Ohio ~~community~~ commission on service 6265
~~council and volunteerism~~ shall advise, assist, consult with, and 6266
cooperate with agencies and political subdivisions of this state 6267
to establish a statewide system for recruiting, registering, 6268
training, and deploying the types of volunteers the ~~council~~ 6269
commission considers advisable and reasonably necessary to respond 6270
to an emergency declared by the state or political subdivision. 6271

(B) A registered volunteer is not liable in damages to any 6272
person or government entity in tort or other civil action, 6273
including an action upon a medical, dental, chiropractic, 6274
optometric, or other health-related claim or veterinary claim, for 6275
injury, death, or loss to person or property that may arise from 6276
an act or omission of that volunteer. This division applies to a 6277
registered volunteer while providing services within the scope of 6278
the volunteer's responsibilities during an emergency declared by 6279
the state or political subdivision or in disaster-related 6280
exercises, testing, or other training activities, if the 6281
volunteer's act or omission does not constitute willful or wanton 6282
misconduct. 6283

(C) The Ohio ~~community~~ commission on service council and 6284
volunteerism shall adopt rules pursuant to Chapter 119. of the 6285

Revised Code to establish fees, procedures, standards, and 6286
requirements the ~~council~~ commission considers necessary to carry 6287
out the purposes of this section. 6288

(D)(1) A registered volunteer's status as a volunteer, and 6289
any information presented in summary, statistical, or aggregate 6290
form that does not identify an individual, is a public record 6291
pursuant to section 149.43 of the Revised Code. 6292

(2) Information related to a registered volunteer's specific 6293
and unique responsibilities, assignments, or deployment plans, 6294
including but not limited to training, preparedness, readiness, or 6295
organizational assignment, is a security record for purposes of 6296
section 149.433 of the Revised Code. 6297

(3) Information related to a registered volunteer's personal 6298
information, including but not limited to contact information, 6299
medical information, or information related to family members or 6300
dependents, is not a public record pursuant to section 149.43 of 6301
the Revised Code. 6302

(E) As used in this section and section 121.40 of the Revised 6303
Code: 6304

(1) "Registered volunteer" means any individual registered as 6305
a volunteer pursuant to procedures established under this section 6306
and who serves without pay or other consideration, other than the 6307
reasonable reimbursement or allowance for expenses actually 6308
incurred or the provision of incidental benefits related to the 6309
volunteer's service, such as meals, lodging, and childcare. 6310

(2) "Political subdivision" means a county, township, or 6311
municipal corporation in this state. 6312

Sec. 122.085. As used in sections 122.085 to 122.0820 of the 6313
Revised Code: 6314

(A)(1) "Allowable costs" includes costs related to the 6315

following:	6316
(a) Acquisition of land and buildings;	6317
(b) Building construction;	6318
(c) Making improvements to land and buildings, including the following:	6319 6320
(i) Expanding, reconstructing, rehabilitating, remodeling, renovating, enlarging, modernizing, equipping, and furnishing buildings and structures, including leasehold improvements;	6321 6322 6323
(ii) Site preparation, including wetland mitigation.	6324
(d) Planning or determining feasibility or practicability;	6325
(e) Indemnity or surety bonds and premiums on insurance;	6326
(f) Remediation, in compliance with state and federal environmental protection laws, of environmentally contaminated property on which hazardous substances exist under conditions that have caused or would likely cause the property to be identified as contaminated by the Ohio environmental protection agency or the United States environmental protection agency;	6327 6328 6329 6330 6331 6332
(g) Infrastructure improvements, including the following:	6333
(i) Demolition of buildings and other structures;	6334
(ii) Installation or relocation of water, storm water and sanitary sewer lines, water and waste water treatment facilities, pump stations, and water storage mechanisms and other similar equipment or facilities;	6335 6336 6337 6338
(iii) Construction of roads, bridges, traffic control devices, and parking lots and facilities;	6339 6340
(iv) Construction of utility infrastructure such as natural gas, electric, and telecommunications, including broadband and hookups;	6341 6342 6343
(v) Water and railway access improvements;	6344

(vi) Costs of professional services.	6345
(2) "Allowable costs" do not include administrative costs assessed by or fees paid to the recipient of a grant.	6346 6347
(B) " District public works <u>Local government</u> integrating and <u>innovation</u> committees" means those committees established under section 164.04 of the Revised Code.	6348 6349 6350
(C) "Eligible applicant" includes any political subdivision or non-profit <u>nonprofit</u> economic development organization, and, with prior approval of the director of development, private, for-profit entities. "Eligible applicant" does not include public or private institutions of higher education.	6351 6352 6353 6354 6355
(D) "Eligible project" includes projects that, upon completion, will be sites and facilities primarily intended for commercial, industrial, or manufacturing use. "Eligible projects" do not include sites and facilities intended primarily for residential, retail, or government use.	6356 6357 6358 6359 6360
(E) "Professional services" includes legal, environmental, archeological, engineering, architectural, surveying, design, or other similar services performed in conjunction with an eligible project. "Professional services" also includes designs, plans, specifications, surveys, estimates of costs, and other work products.	6361 6362 6363 6364 6365 6366
Sec. 122.088. In order to be considered for a grant under the annual competitive process, an eligible applicant shall fill out an application provided by the department of development and shall file it with the district public works <u>local government</u> integrating and <u>innovation</u> committee with jurisdiction over the area in which the eligible project is located.	6367 6368 6369 6370 6371 6372
Sec. 122.0810. (A) Each application for a grant pursuant to the annual competitive process received by a district public works	6373 6374

local government integrating and innovation committee shall be 6375
evaluated by the executive committee of the district committee. In 6376
conducting the evaluation, the executive committee shall determine 6377
whether the application for the proposed eligible project is 6378
complete and whether the project meets the requirements of section 6379
122.0815 of the Revised Code. If the application is complete and 6380
the eligible project meets the requirements of section 122.0815 of 6381
the Revised Code, the executive committee shall prioritize the 6382
eligible project pursuant to section 122.0816 of the Revised Code 6383
and pursuant to local priorities, as those priorities are 6384
determined by the executive committee, with all other eligible 6385
projects with complete applications that meet the requirements of 6386
section 122.0815 of the Revised Code. If the application is 6387
incomplete or the project does not meet the requirements of 6388
section 122.0815 of the Revised Code, the executive committee 6389
shall notify the applicant of the deficiencies and the period of 6390
time the applicant has to correct the deficiencies and submit the 6391
corrections to the executive committee. Failure to correct 6392
deficiencies within the time designated by the executive committee 6393
shall disqualify the project from consideration for a grant during 6394
the annual competitive process for that year. 6395

The executive committee, by the affirmative vote of a 6396
majority of all its members, shall select up to three eligible 6397
projects from the projects it has prioritized each year pursuant 6398
to the annual competitive process. The executive committee shall 6399
forward the applications and any accompanying information for each 6400
of the selected eligible projects to the department of development 6401
in the time and manner required by the rules governing the annual 6402
competitive process for the job ready site program. 6403

(B) For a ~~district public works~~ local government integrating 6404
and innovation committee that does not have an executive 6405
committee, the full committee shall perform the functions assigned 6406

to the executive committee under section 122.0816 of the Revised Code and division (A) of this section. 6407
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(C) An executive committee, or a district committee that does not have an executive committee, may appoint a working group of committee members and staff to perform the functions of those committees as provided in this section. 6409
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Sec. 122.0816. The department of development and the executive committees of ~~district public works~~ local government integrating and innovation committees shall apply the following factors to eligible projects under the annual competitive process to determine a priority order for the eligible projects subject to that process: 6413
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(A) The potential economic impact of the eligible project; 6419

(B) The potential impact of the eligible project on economic distress; 6420
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(C) The amount of local, federal, and private funding available for the eligible project; 6422
6423

(D) The demonstrated need for the eligible project; 6424

(E) The strength of the eligible project's marketing plan, if appropriate; 6425
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(F) The level of financial need; 6427

(G) Any other factor the director of development determines should be considered. 6428
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Sec. 122.0819. The rules adopted to govern the annual competitive process for the job ready site program may provide for recovery of the costs, or a portion thereof, incurred by ~~district public works~~ local government integrating and innovation committees and executive committees in conducting their duties under the program. 6430
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Sec. 122.121. (A) If an endorsing municipality or endorsing county enters into a joinder undertaking with a site selection organization, the endorsing municipality or endorsing county may apply to the director of development, on a form and in the manner prescribed by the director, for a grant based on the projected incremental increase in the receipts from the tax imposed under section 5739.02 of the Revised Code within the market area designated under division (C) of this section, for the two-week period that ends at the end of the day after the date on which a game will be held, that is directly attributable, as determined by the director, to the preparation for and presentation of the game. The director shall determine the projected incremental increase in the tax imposed under section 5739.02 of the Revised Code from information certified to the director by the endorsing municipality or the endorsing county including, but not limited to, historical attendance and ticket sales for the game, income statements showing revenue and expenditures for the game in prior years, attendance capacity at the proposed venues, event budget at the proposed venues, and projected lodging room nights based on historical attendance, attendance capacity at the proposed venues, and duration of the game and related activities. The endorsing municipality or endorsing county is eligible to receive a grant under this section only if the projected incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code, as determined by the director, exceeds two hundred fifty thousand dollars. The amount of the grant shall be determined by the director but shall not exceed five hundred thousand dollars. The director shall not issue grants with a total value of more than one million dollars in any fiscal year, and shall not issue any grant before July 1, ~~2011~~ 2013.

(B) If the director of development approves an application for an endorsing municipality or endorsing county and that

endorsing municipality or endorsing county enters into a joinder 6468
agreement with a site selection organization, the endorsing 6469
municipality or endorsing county shall file a copy of the joinder 6470
agreement with the director of development, who immediately shall 6471
notify the director of budget and management of the filing. Within 6472
thirty days after receiving the notice, the director of budget and 6473
management shall establish a schedule to disburse from the general 6474
revenue fund to such endorsing municipality or endorsing county 6475
payments that total the amount certified by the director of 6476
development under division (A) of this section, but in no event 6477
shall the total amount disbursed exceed five hundred thousand 6478
dollars, and no disbursement shall be made before ~~July 1, 2011~~ 6479
2013. The payments shall be used exclusively by the endorsing 6480
municipality or endorsing county to fulfill a portion of its 6481
obligations to a site selection organization under game support 6482
contracts, which obligations may include the payment of costs 6483
relating to the preparations necessary for the conduct of the 6484
game, including acquiring, renovating, or constructing facilities; 6485
to pay the costs of conducting the game; and to assist the local 6486
organizing committee, endorsing municipality, or endorsing county 6487
in providing assurances required by a site selection organization 6488
sponsoring one or more games. 6489

(C) For the purposes of division (A) of this section, the 6490
director of development, in consultation with the tax 6491
commissioner, shall designate as a market area for a game each 6492
area in which they determine there is a reasonable likelihood of 6493
measurable economic impact directly attributable to the 6494
preparation for and presentation of the game and related events, 6495
including areas likely to provide venues, accommodations, and 6496
services in connection with the game based on the information and 6497
the copy of the joinder undertaking provided to the director under 6498
divisions (A) and (B) of this section. The director and 6499
commissioner shall determine the geographic boundaries of each 6500

market area. An endorsing municipality or endorsing county that 6501
has been selected as the site for a game must be included in a 6502
market area for the game. 6503

(D) A local organizing committee, endorsing municipality, or 6504
endorsing county shall provide information required by the 6505
director of development and tax commissioner to enable the 6506
director and commissioner to fulfill their duties under this 6507
section, including annual audited statements of any financial 6508
records required by a site selection organization and data 6509
obtained by the local organizing committee, endorsing 6510
municipality, or endorsing county relating to attendance at a game 6511
and to the economic impact of the game. A local organizing 6512
committee, an endorsing municipality, or an endorsing county shall 6513
provide an annual audited financial statement if so required by 6514
the director and commissioner, not later than the end of the 6515
fourth month after the date the period covered by the financial 6516
statement ends. 6517

(E) Within sixty days after the game, the endorsing 6518
municipality or the endorsing county shall report to the director 6519
of development about the economic impact of the game. The report 6520
shall be in the form and substance required by the director, 6521
including, but not limited to, a final income statement for the 6522
event showing total revenue and expenditures and revenue and 6523
expenditures in the market area for the game, and ticket sales for 6524
the game and any related activities for which admission was 6525
charged. The director of development shall determine, based on the 6526
reported information and the exercise of reasonable judgment, the 6527
incremental increase in receipts from the tax imposed under 6528
section 5739.02 of the Revised Code directly attributable to the 6529
game. If the actual incremental increase in such receipts is less 6530
than the projected incremental increase in receipts, the director 6531
may require the endorsing municipality or the endorsing county to 6532

refund to the state all or a portion of the grant. 6533

(F) No disbursement may be made under this section if the 6534
director of development determines that it would be used for the 6535
purpose of soliciting the relocation of a professional sports 6536
franchise located in this state. 6537

(G) This section may not be construed as creating or 6538
requiring a state guarantee of obligations imposed on an endorsing 6539
municipality or endorsing county under a game support contract or 6540
any other agreement relating to hosting one or more games in this 6541
state. 6542

Sec. 122.171. (A) As used in this section: 6543

(1) "Capital investment project" means a plan of investment 6544
at a project site for the acquisition, construction, renovation, 6545
or repair of buildings, machinery, or equipment, or for 6546
capitalized costs of basic research and new product development 6547
determined in accordance with generally accepted accounting 6548
principles, but does not include any of the following: 6549

(a) Payments made for the acquisition of personal property 6550
through operating leases; 6551

(b) Project costs paid before January 1, 2002; 6552

(c) Payments made to a related member as defined in section 6553
5733.042 of the Revised Code or to a consolidated elected taxpayer 6554
or a combined taxpayer as defined in section 5751.01 of the 6555
Revised Code. 6556

(2) "Eligible business" means a taxpayer and its related 6557
members with Ohio operations satisfying all of the following: 6558

(a) The taxpayer employs at least five hundred full-time 6559
equivalent employees or has an annual payroll of at least 6560
thirty-five million dollars at the time the tax credit authority 6561
grants the tax credit under this section; 6562

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

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

(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(iii) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, at least five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

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

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

(4) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during

the taxable year, or during the calendar year that includes the 6594
tax period, from the compensation of all employees employed in the 6595
project whose hours of compensation are included in calculating 6596
the number of full-time equivalent employees. 6597

(5) "Manufacturer" has the same meaning as in section 6598
5739.011 of the Revised Code. 6599

(6) "Project site" means an integrated complex of facilities 6600
in this state, as specified by the tax credit authority under this 6601
section, within a fifteen-mile radius where a taxpayer is 6602
primarily operating as an eligible business. 6603

(7) "Related member" has the same meaning as in section 6604
5733.042 of the Revised Code as that section existed on the 6605
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 6606
general assembly, September 29, 1997. 6607

(8) "Taxable year" includes, in the case of a domestic or 6608
foreign insurance company, the calendar year ending on the 6609
thirty-first day of December preceding the day the superintendent 6610
of insurance is required to certify to the treasurer of state 6611
under section 5725.20 or 5729.05 of the Revised Code the amount of 6612
taxes due from insurance companies. 6613

(B) The tax credit authority created under section 122.17 of 6614
the Revised Code may grant tax credits under this section for the 6615
purpose of fostering job retention in this state. Upon application 6616
by an eligible business and upon consideration of the 6617
recommendation of the director of budget and management, tax 6618
commissioner, the superintendent of insurance in the case of an 6619
insurance company, and director of development under division (C) 6620
of this section, the tax credit authority may grant the following 6621
credits against the tax imposed by section 5725.18, 5729.03, 6622
5733.06, 5747.02, or 5751.02 of the Revised Code: 6623

(1) A nonrefundable credit to an eligible business; 6624

(2) A refundable credit to an eligible business meeting the following conditions, provided that the director of budget and management, tax commissioner, superintendent of insurance in the case of an insurance company, and director of development have recommended the granting of the credit to the tax credit authority before July 1, 2011:

(a) The business retains at least one thousand full-time equivalent employees at the project site.

(b) The business makes or causes to be made payments for a capital investment project of at least twenty-five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted.

(c) In 2010, the business received a written offer of financial incentives from another state of the United States that the director determines to be sufficient inducement for the business to relocate the business' operations from this state to that state.

(3) A refundable credit to an eligible business with a total annual payroll of at least twenty million dollars, provided that the tax credit authority grants the tax credit on or after July 1, 2011, and before January 1, 2014.

The credits authorized in divisions (B)(1) ~~and~~, (2), and (3) of this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. The percentage may

not exceed seventy-five per cent. The credit shall be claimed in 6656
the order required under section 5725.98, 5729.98, 5733.98, 6657
5747.98, or 5751.98 of the Revised Code. In determining the 6658
percentage and term of the credit, the tax credit authority shall 6659
consider both the number of full-time equivalent employees and the 6660
value of the capital investment project. The credit amount may not 6661
be based on the income tax revenue for a calendar year before the 6662
calendar year in which the tax credit authority specifies the tax 6663
credit is to begin, and the credit shall be claimed only for the 6664
taxable years or tax periods specified in the eligible business' 6665
agreement with the tax credit authority. In no event shall the 6666
credit be claimed for a taxable year or tax period terminating 6667
before the date specified in the agreement. Any credit granted 6668
under this section against the tax imposed by section 5733.06 or 6669
5747.02 of the Revised Code, to the extent not fully utilized 6670
against such tax for taxable years ending prior to 2008, shall 6671
automatically be converted without any action taken by the tax 6672
credit authority to a credit against the tax levied under Chapter 6673
5751. of the Revised Code for tax periods beginning on or after 6674
July 1, 2008, provided that the person to whom the credit was 6675
granted is subject to such tax. The converted credit shall apply 6676
to those calendar years in which the remaining taxable years 6677
specified in the agreement end. 6678

If a nonrefundable credit allowed under division (B)(1) of 6679
this section for a taxable year or tax period exceeds the 6680
taxpayer's tax liability for that year or period, the excess may 6681
be carried forward for the three succeeding taxable or calendar 6682
years, but the amount of any excess credit allowed in any taxable 6683
year or tax period shall be deducted from the balance carried 6684
forward to the succeeding year or period. 6685

(C) A taxpayer that proposes a capital investment project to 6686
retain jobs in this state may apply to the tax credit authority to 6687

enter into an agreement for a tax credit under this section. The 6688
director of development shall prescribe the form of the 6689
application. After receipt of an application, the authority shall 6690
forward copies of the application to the director of budget and 6691
management, the tax commissioner, the superintendent of insurance 6692
in the case of an insurance company, and the director of 6693
development, each of whom shall review the application to 6694
determine the economic impact the proposed project would have on 6695
the state and the affected political subdivisions and shall submit 6696
a summary of their determinations and recommendations to the 6697
authority. 6698

(D) Upon review and consideration of the determinations and 6699
recommendations described in division (C) of this section, the tax 6700
credit authority may enter into an agreement with the taxpayer for 6701
a credit under this section if the authority determines all of the 6702
following: 6703

(1) The taxpayer's capital investment project will result in 6704
the retention of employment in this state. 6705

(2) The taxpayer is economically sound and has the ability to 6706
complete the proposed capital investment project. 6707

(3) The taxpayer intends to and has the ability to maintain 6708
operations at the project site for at least the greater of (a) the 6709
term of the credit plus three years, or (b) seven years. 6710

(4) Receiving the credit is a major factor in the taxpayer's 6711
decision to begin, continue with, or complete the project. 6712

(5) If the taxpayer is applying to enter into an agreement 6713
for a tax credit authorized under division (B)(3) of this section, 6714
the taxpayer's capital investment project will be located in the 6715
political subdivision in which the taxpayer maintains its 6716
principal place of business. 6717

(E) An agreement under this section shall include all of the 6718

following: 6719

(1) A detailed description of the project that is the subject 6720
of the agreement, including the amount of the investment, the 6721
period over which the investment has been or is being made, the 6722
number of full-time equivalent employees at the project site, and 6723
the anticipated income tax revenue to be generated. 6724

(2) The term of the credit, the percentage of the tax credit, 6725
the maximum annual value of tax credits that may be allowed each 6726
year, and the first year for which the credit may be claimed. 6727

(3) A requirement that the taxpayer maintain operations at 6728
the project site for at least the greater of (a) the term of the 6729
credit plus three years, or (b) seven years. 6730

~~(4) A requirement that the taxpayer retain a specified number 6731
of full-time equivalent employees at the project site and within 6732
this state for the term of the credit, including a requirement 6733
that the taxpayer continue to employ at least five hundred 6734
full-time equivalent employees during the entire term of the 6735
agreement in the case of a credit granted under division (B)(1) of 6736
this section, and one thousand full-time equivalent employees in 6737
the case of a credit granted under division (B)(2) of this section 6738
(a) In the case of a credit granted under division (B)(1) of this 6739
section, a requirement that the taxpayer retain at least five 6740
hundred full-time equivalent employees at the project site and 6741
within this state for the entire term of the credit, or a 6742
requirement that the taxpayer maintain an annual payroll of at 6743
least thirty-five million dollars for the entire term of the 6744
credit; 6745~~

~~(b) In the case of a credit granted under division (B)(2) of 6746
this section, a requirement that the taxpayer retain at least one 6747
thousand full-time equivalent employees at the project site and 6748
within this state for the entire term of the credit; 6749~~

(c) In the case of a credit granted under division (B)(3) of this section, a requirement that the taxpayer maintain an annual payroll of at least twenty million dollars for the entire term of the credit and either of the following: 6750
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(i) A requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit; 6754
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(ii) A requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit. 6757
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(5) A requirement that the taxpayer annually report to the director of development employment, tax withholding, capital investment, and other information the director needs to perform the director's duties under this section. 6760
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(6) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code. 6764
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(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated. 6775
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For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

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

of the statement or other information. 6813

(H) A taxpayer claiming a tax credit under this section shall 6814
submit to the tax commissioner or, in the case of an insurance 6815
company, to the superintendent of insurance, a copy of the 6816
director of development's certificate of verification under 6817
division (E)(6) of this section with the taxpayer's tax report or 6818
return for the taxable year or for the calendar year that includes 6819
the tax period. Failure to submit a copy of the certificate with 6820
the report or return does not invalidate a claim for a credit if 6821
the taxpayer submits a copy of the certificate to the commissioner 6822
or superintendent within sixty days after the commissioner or 6823
superintendent requests it. 6824

(I) For the purposes of this section, a taxpayer may include 6825
a partnership, a corporation that has made an election under 6826
subchapter S of chapter one of subtitle A of the Internal Revenue 6827
Code, or any other business entity through which income flows as a 6828
distributive share to its owners. A partnership, S-corporation, or 6829
other such business entity may elect to pass the credit received 6830
under this section through to the persons to whom the income or 6831
profit of the partnership, S-corporation, or other entity is 6832
distributed. The election shall be made on the annual report 6833
required under division (E)(5) of this section. The election 6834
applies to and is irrevocable for the credit for which the report 6835
is submitted. If the election is made, the credit shall be 6836
apportioned among those persons in the same proportions as those 6837
in which the income or profit is distributed. 6838

(J) If the director of development determines that a taxpayer 6839
that received a tax credit under this section is not complying 6840
with the requirement under division (E)(3) of this section, the 6841
director shall notify the tax credit authority of the 6842
noncompliance. After receiving such a notice, and after giving the 6843
taxpayer an opportunity to explain the noncompliance, the 6844

authority may terminate the agreement and require the taxpayer to 6845
refund to the state all or a portion of the credit claimed in 6846
previous years, as follows: 6847

(1) If the taxpayer maintained operations at the project site 6848
for less than or equal to the term of the credit, an amount not to 6849
exceed one hundred per cent of the sum of any tax credits allowed 6850
and received under this section. 6851

(2) If the taxpayer maintained operations at the project site 6852
longer than the term of the credit, but less than the greater of 6853
(a) the term of the credit plus three years, or (b) seven years, 6854
the amount required to be refunded shall not exceed seventy-five 6855
per cent of the sum of any tax credits allowed and received under 6856
this section. 6857

In determining the portion of the credit to be refunded to 6858
this state, the authority shall consider the effect of market 6859
conditions on the taxpayer's project and whether the taxpayer 6860
continues to maintain other operations in this state. After making 6861
the determination, the authority shall certify the amount to be 6862
refunded to the tax commissioner or the superintendent of 6863
insurance. If the taxpayer is not an insurance company, the 6864
commissioner shall make an assessment for that amount against the 6865
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 6866
If the taxpayer is an insurance company, the superintendent of 6867
insurance shall make an assessment under section 5725.222 or 6868
5729.102 of the Revised Code. The time limitations on assessments 6869
under those chapters and sections do not apply to an assessment 6870
under this division, but the commissioner or superintendent shall 6871
make the assessment within one year after the date the authority 6872
certifies to the commissioner or superintendent the amount to be 6873
refunded. 6874

(K) The director of development, after consultation with the 6875
tax commissioner and the superintendent of insurance and in 6876

accordance with Chapter 119. of the Revised Code, shall adopt 6877
rules necessary to implement this section. The rules may provide 6878
for recipients of tax credits under this section to be charged 6879
fees to cover administrative costs of the tax credit program. The 6880
fees collected shall be credited to the tax incentive programs 6881
operating fund created in section 122.174 of the Revised Code. At 6882
the time the director gives public notice under division (A) of 6883
section 119.03 of the Revised Code of the adoption of the rules, 6884
the director shall submit copies of the proposed rules to the 6885
chairpersons of the standing committees on economic development in 6886
the senate and the house of representatives. 6887

(L) On or before the first day of August of each year, the 6888
director of development shall submit a report to the governor, the 6889
president of the senate, and the speaker of the house of 6890
representatives on the tax credit program under this section. The 6891
report shall include information on the number of agreements that 6892
were entered into under this section during the preceding calendar 6893
year, a description of the project that is the subject of each 6894
such agreement, and an update on the status of projects under 6895
agreements entered into before the preceding calendar year. 6896

(M)(1) The aggregate amount of tax credits issued under 6897
division (B)(1) of this section during any calendar year for 6898
capital investment projects reviewed and approved by the tax 6899
credit authority may not exceed the following amounts: 6900

(a) For 2010, thirteen million dollars; 6901

(b) For 2011 through 2023, the amount of the limit for the 6902
preceding calendar year plus thirteen million dollars; 6903

(c) For 2024 and each year thereafter, one hundred 6904
ninety-five million dollars. 6905

(2) The aggregate amount of tax credits ~~issued~~ authorized 6906
under ~~division~~ divisions (B)(2) and (3) of this section ~~during~~ and 6907

allowed to be claimed by taxpayers in any calendar year for 6908
capital improvement projects reviewed and approved by the tax 6909
credit authority ~~may not exceed eight million dollars in 2011,~~ 6910
2012, and 2013 combined shall not exceed twenty-five million 6911
dollars. An amount equal to the aggregate amount of credits first 6912
authorized in calendar year 2011, 2012, and 2013 may be claimed 6913
annually for up to fifteen years, subject to the terms of 6914
individual tax credit agreements. 6915

The limitations in division (M) of this section do not apply 6916
to credits for capital investment projects approved by the tax 6917
credit authority before July 1, 2009. 6918

Sec. 122.65. As used in sections 122.65 to 122.659 of the 6919
Revised Code: 6920

(A) "Applicable cleanup standards" means either of the 6921
following: 6922

(1) For property to which Chapter 3734. of the Revised Code 6923
and rules adopted under it apply, the requirements for closure or 6924
corrective action established in rules adopted under section 6925
3734.12 of the Revised Code; 6926

(2) For property to which Chapter 3746. of the Revised Code 6927
and rules adopted under it apply, the cleanup standards that are 6928
established in rules adopted under section 3746.04 of the Revised 6929
Code. 6930

(B) "Applicant" means a county, township, municipal 6931
corporation, port authority, or conservancy district or a park 6932
district, other similar park authority, nonprofit organization, or 6933
organization for profit that has entered into an agreement with a 6934
county, township, municipal corporation, port authority, or 6935
conservancy district to work in conjunction with that county, 6936
township, municipal corporation, port authority, or conservancy 6937

district for the purposes of sections 122.65 to 122.658 of the Revised Code.

(C) "Assessment" means a phase I and phase II property assessment conducted in accordance with section 3746.04 of the Revised Code and rules adopted under that section.

(D) "Brownfield" means an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum.

(E) "Certified professional," "hazardous substance," "petroleum," and "release" have the same meanings as in section 3746.01 of the Revised Code.

(F) "Cleanup or remediation" means any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield. "Cleanup or remediation" includes the acquisition of a brownfield, demolition performed at a brownfield, and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development activity.

(G) "Distressed area" means either a municipal corporation with a population of at least fifty thousand or a county that meets any two of the following criteria:

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

(2) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(3)(a) In the case of a municipal corporation, at least 6968
twenty per cent of the residents have a total income for the most 6969
recent census year that is below the official poverty line. 6970

(b) In the case of a county, in intercensal years, the county 6971
has a ratio of transfer payment income to total county income 6972
equal to or greater than twenty-five per cent. 6973

"Distressed area" includes a municipal corporation the 6974
majority of the population of which is situated in a county that 6975
is a distressed area. 6976

(H) "Eligible area" means a distressed area, an inner city 6977
area, a labor surplus area, or a situational distress area. 6978

(I) "Inner city area" means an area in a municipal 6979
corporation that has a population of at least one hundred 6980
thousand, is not a labor surplus area, and is a targeted 6981
investment area established by the municipal corporation that is 6982
comprised of block tracts identified in the most recently 6983
available figures from the United States census bureau in which at 6984
least twenty per cent of the population in the area is at or below 6985
the official poverty line or of contiguous block tracts meeting 6986
those criteria. 6987

(J) "Institutional property" means property currently or 6988
formerly owned or controlled by the state that is or was used for 6989
a public or charitable purpose. However, "institutional property" 6990
does not mean property that is or was used for educational 6991
purposes. 6992

(K) "Integrating and innovation committee" means a ~~district~~ 6993
~~public works~~ local government integrating and innovation committee 6994
established under section 164.04 of the Revised Code. 6995

(L) "Labor surplus area" means an area designated as a labor 6996
surplus area by the United States department of labor. 6997

(M) "Loan" includes credit enhancement.	6998
(N) "No further action letter" means a letter that is prepared by a certified professional when, on the basis of the best knowledge, information, and belief of the certified professional, the certified professional concludes that the cleanup or remediation of a brownfield meets the applicable cleanup standards and that contains all of the information specified in rules adopted under division (B)(7) of section 3746.04 of the Revised Code.	6999 7000 7001 7002 7003 7004 7005 7006
(O) "Nonprofit organization" means a corporation, association, group, institution, society, or other organization that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501(c)(3), as amended.	7007 7008 7009 7010 7011
(P) "Property" means any parcel of real property, or portion of such a parcel, and any improvements to it.	7012 7013
(Q) "Public health project" means the cleanup or remediation of a release or threatened release of hazardous substances or petroleum at a property where little or no economic redevelopment potential exists.	7014 7015 7016 7017
(R) "Official poverty line" has the same meaning as in section 3923.51 of the Revised Code.	7018 7019
(S) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county or municipal corporation's economy and that has applied to the director of development to be designated as a situational distress area for not more than thirty months by demonstrating all of the following:	7020 7021 7022 7023 7024 7025 7026
(1) The number of jobs lost by the closing or downsizing;	7027

(2) The impact that the job loss has on the county or 7028
municipal corporation's unemployment rate as measured by the 7029
director of job and family services; 7030

(3) The annual payroll associated with the job loss; 7031

(4) The amount of state and local taxes associated with the 7032
job loss; 7033

(5) The impact that the closing or downsizing has on 7034
suppliers located in the county or municipal corporation. 7035

Sec. 122.652. (A)(1) An applicant seeking a grant or loan for 7036
a brownfield cleanup or remediation project from the clean Ohio 7037
revitalization fund created in section 122.658 of the Revised Code 7038
shall request an application form from the appropriate integrating 7039
and innovation committee with geographical jurisdiction over the 7040
project for which a grant or loan is sought. The applicant shall 7041
complete the application and include all of the information 7042
required by sections 122.65 to 122.658 of the Revised Code and 7043
policies and requirements established under section 122.657 of the 7044
Revised Code. 7045

(2) In addition to the information that is required to be 7046
included in the application under division (A)(1) of this section, 7047
an applicant shall include an affidavit signed by the authorized 7048
representative of the applicant certifying that the applicant did 7049
not cause or contribute to the release of hazardous substances or 7050
petroleum at the brownfield that is the subject of the 7051
application. 7052

No person shall submit a false affidavit under division 7053
(A)(2) of this section. 7054

(3) After completion of the application, but prior to the 7055
submission of the application to the integrating and innovation 7056
committee under division (B) of this section, the applicant shall 7057

conduct a public meeting concerning the application and the 7058
proposed cleanup or remediation. Not later than forty-five days 7059
prior to conducting the public meeting, the applicant shall 7060
provide notice of the date, time, and location of the public 7061
meeting in a newspaper of general circulation in the county in 7062
which the property that is the subject of the application is 7063
located. In addition, not later than forty-five days prior to the 7064
hearing, the applicant shall post notice of the date, time, and 7065
location of the public meeting at the property on a sign that 7066
measures not less than four feet by four feet or, if the political 7067
subdivision in which the sign is to be posted prohibits a sign of 7068
that size, the maximum size of sign permitted by that political 7069
subdivision. 7070

In addition, not later than forty-five days prior to the 7071
public meeting, the applicant shall provide a copy of the 7072
application to a public library in the vicinity of the property 7073
for public review. The submission of the application and the 7074
location of the public library shall be included in the notice 7075
required under this division. The general public may submit 7076
comments to the applicant concerning the application prior to and 7077
at the public meeting. 7078

(B) An applicant shall submit a completed application, all 7079
required information, and an application summary to the 7080
appropriate integrating and innovation committee. Based on a 7081
review of the application summaries submitted to it, an 7082
integrating and innovation committee or, if required under 7083
division (C) of this section, the executive committee of the 7084
integrating and innovation committee shall prioritize all 7085
applications in accordance with criteria and procedures 7086
established pursuant to section 122.657 of the Revised Code. The 7087
integrating and innovation committee shall choose not more than 7088
six applications annually that it determines merit funding and 7089

shall forward those applications and all accompanying information 7090
to the clean Ohio council. In prioritizing and choosing 7091
applications under this division, an integrating and innovation 7092
committee or, if required under division (C) of this section, the 7093
executive committee of the integrating and innovation committee 7094
shall consult with local and regional economic development 7095
agencies or resources, community development agencies or 7096
organizations, local business organizations, and other appropriate 7097
entities located or operating in the geographic jurisdiction of 7098
the integrating and innovation committee. 7099

Notwithstanding this division or division (C) of this 7100
section, if an integrating and innovation committee receives only 7101
one application in any given year, the chair of the integrating 7102
and innovation committee or, if required under division (C) of 7103
this section, the chair of the executive committee of the 7104
integrating and innovation committee may forward that application 7105
to the clean Ohio council as the district's top priority project 7106
for that year without a vote of the full integrating and 7107
innovation committee or executive committee, as applicable. 7108
However, the chair of the integrating and innovation committee or 7109
chair of the executive committee, as applicable, shall provide 7110
written notice of the chair's intent to forward the application to 7111
each member of the integrating and innovation committee or 7112
executive committee, as applicable, not later than ~~fifteen~~ fifteen 7113
days prior to forwarding the application. 7114

(C) For purposes of division (B) of this section, all 7115
decisions of an integrating and innovation committee that is 7116
required to be organized in accordance with division (A)(5) or (6) 7117
of section 164.04 of the Revised Code shall be approved by its 7118
executive committee that is required to be established under 7119
division (A)(7) or (8) of that section. The affirmative vote of at 7120
least seven members of an executive committee established under 7121

division (A)(7) of section 164.04 of the Revised Code, or of at least nine members of an executive committee established under division (A)(8) of that section, is required for any action taken by an executive committee for purposes of division (B) of this section. A decision of an executive committee may be rejected by a vote of at least two-thirds of the full membership of the applicable integrating and innovation committee not later than thirty days after the executive committee action. If an executive committee is required under this division to prioritize applications under division (B) of this section, only applications that are approved by the executive committee may be submitted to the clean Ohio council for purposes of sections 122.65 to 122.659 of the Revised Code.

(D) The clean Ohio council shall supply application forms to each integrating and innovation committee.

Sec. 122.653. (A) Upon receipt of an application from an integrating and innovation committee, the clean Ohio council shall examine the application and all accompanying information to determine if the application is complete. If the council determines that the application is not complete, the council immediately shall notify the applicant that the application is not complete, provide a description of the information that is missing from the application, and return the application and all accompanying information to the applicant. The applicant may resubmit the application directly to the council.

(B) The council shall approve or disapprove in writing applications submitted to it by integrating and innovation committees or executive committees of integrating and innovation committees for grants or loans from the clean Ohio revitalization fund. The council shall not approve a project that fails to comply with the requirements established in sections 122.65 to 122.658 of

the Revised Code and policies and requirements established under 7153
section 122.657 of the Revised Code. The council also shall not 7154
approve a project if the applicant caused or contributed to the 7155
contamination at the property. In approving or disapproving 7156
applications, the council shall use the selection process 7157
established in policies and requirements established under section 7158
122.657 of the Revised Code. 7159

(C) If the council approves an application under this 7160
section, the council shall enter into an agreement with the 7161
applicant to award a grant or make a loan for the applicant's 7162
brownfield cleanup or remediation project. The agreement shall be 7163
executed prior to the payment or disbursement of any funds 7164
approved by the council under this section. The agreement shall 7165
contain, at a minimum, all of the following: 7166

(1) The designation of a single officer or employee of the 7167
applicant who will serve as project manager; 7168

(2) Procedures for the payment or disbursement of funds from 7169
the grant or loan to the applicant; 7170

(3) A designation of the percentage of the estimated total 7171
cost of the project for which the grant or loan will provide 7172
funding, which shall not exceed seventy-five per cent of that cost 7173
as provided in section 122.658 of the Revised Code; 7174

(4) A description of the manner by which the applicant will 7175
provide the remainder of the estimated total cost of the project, 7176
which shall equal at least twenty-five per cent of that cost as 7177
provided in section 122.658 of the Revised Code; 7178

(5) An assurance that the applicant will clean up or 7179
remediate the brownfield to the applicable cleanup standards; 7180

(6) A provision for the reimbursement of grant moneys or 7181
immediate repayment of the loan, as applicable, if the completed 7182
project does not comply with the applicable cleanup standards; 7183

(7) Any other provisions that the council considers necessary 7184
in order to ensure that the project's implementation will comply 7185
with the requirements established in sections 122.65 to 122.658 of 7186
the Revised Code and policies and requirements established under 7187
section 122.657 of the Revised Code. 7188

(D) If the council executes an agreement under this section, 7189
the council shall forward a copy of the agreement to the 7190
department of development for the purposes of section 122.658 of 7191
the Revised Code. 7192

(E) A grant may be awarded or a loan may be made for a 7193
project under this section to an applicant to pay the costs of 7194
cleanup or remediation of a brownfield in order to comply with 7195
applicable cleanup standards. 7196

Sec. 122.657. For the purposes of sections 122.65 to 122.658 7197
of the Revised Code, the director of development shall establish 7198
policies and requirements regarding all of the following: 7199

(A) The form and content of applications for grants or loans 7200
from the clean Ohio revitalization fund under section 122.652 of 7201
the Revised Code. The policies and requirements shall require that 7202
each application include, at a minimum, all of the following: 7203

(1) The name, address, and telephone number of the applicant; 7204

(2) The legal description of the property for which the grant 7205
or loan is requested; 7206

(3) A summary description of the hazardous substances or 7207
petroleum present at the brownfield and a certified copy of the 7208
results of an assessment; 7209

(4) A detailed explanation of the proposed cleanup or 7210
remediation of the brownfield, including an identification of the 7211
applicable cleanup standards, and a detailed description of the 7212
proposed use of the brownfield after completion of the cleanup or 7213

remediation;	7214
(5) An estimate of the total cost to clean up or remediate the brownfield in order to comply with the applicable cleanup standards. The total cost shall include the cost of employing a certified professional under section 122.654 of the Revised Code.	7215 7216 7217 7218
(6) A detailed explanation of the portion of the estimated total cost of the cleanup or remediation of the brownfield that the applicant proposes to provide as required under sections 122.653 and 122.658 of the Revised Code and financial records supporting the proposal;	7219 7220 7221 7222 7223
(7) A certified copy of a resolution or ordinance approving the project that the applicant shall obtain from the board of township trustees of the township or the legislative authority of the municipal corporation in which the property is located, whichever is applicable;	7224 7225 7226 7227 7228
(8) A description of the estimated economic benefit that will result from a cleanup or remediation of the brownfield;	7229 7230
(9) An application summary for purposes of review by an integrating <u>and innovation</u> committee or, if applicable, the executive committee of an integrating <u>and innovation</u> committee under division (B) of section 122.652 of the Revised Code;	7231 7232 7233 7234
(10) With respect to applications for loans, information demonstrating that the applicant will implement a financial management plan that includes, without limitation, provisions for the satisfactory repayment of the loan;	7235 7236 7237 7238
(11) Any other provisions that the director determines should be included in an application.	7239 7240
(B) Procedures for conducting public meetings and providing public notice under division (A) of section 122.652 of the Revised Code;	7241 7242 7243

(C) Criteria to be used by integrating and innovation 7244
committees or, if required under division (C) of section 122.652 7245
of the Revised Code, executive committees of integrating and 7246
innovation committees when prioritizing projects under division 7247
(B) of section 122.652 of the Revised Code. The policies and 7248
requirements also shall establish procedures that integrating and 7249
innovation committees or, if required under division (C) of 7250
section 122.652 of the Revised Code, executive committees of 7251
integrating and innovation committees shall use in applying the 7252
criteria. 7253

(D) A selection process that provides for the prioritization 7254
of brownfield cleanup or remediation projects for which grant or 7255
loan applications are submitted under section 122.652 of the 7256
Revised Code. The policies and requirements shall require the 7257
selection process to give priority to projects in which the 7258
post-cleanup or remediation use will be for a combination of 7259
residential, commercial, or industrial purposes, which may include 7260
the conversion of a portion of a brownfield to a recreation, park, 7261
or natural area that is integrated with the residential, 7262
commercial, or industrial use of the brownfield after cleanup or 7263
remediation, or will incorporate projects that are funded by 7264
grants awarded under sections 164.20 to 164.27 of the Revised 7265
Code. The policies and requirements shall require the selection 7266
process to incorporate and emphasize all of the following factors: 7267

(1) The potential economic benefit that will result from the 7268
cleanup or remediation of a brownfield; 7269

(2) The potential environmental improvement that will result 7270
from the cleanup or remediation of a brownfield; 7271

(3) The amount and nature of the match provided by an 7272
applicant as required under sections 122.653 and 122.658 of the 7273
Revised Code; 7274

(4) Funding priorities recommended by integrating and 7275
innovation committees or, if required under division (C) of 7276
section 122.652 of the Revised Code, executive committees of 7277
integrating and innovation committees under division (B) of 7278
section 122.652 of the Revised Code; 7279

(5) The potential benefit to low-income communities, 7280
including minority communities, that will result from the cleanup 7281
or remediation of a brownfield; 7282

(6) Any other factors that the director considers 7283
appropriate. 7284

(E) The development of criteria that the director shall use 7285
when awarding grants under section 122.656 of the Revised Code. 7286
The criteria shall give priority to public health projects. In 7287
addition, the director, in consultation with the director of 7288
environmental protection, shall establish policies and 7289
requirements that require the criteria to include a public health 7290
project selection process that incorporates and emphasizes all of 7291
the following factors: 7292

(1) The potential environmental improvement that will result 7293
from the cleanup or remediation; 7294

(2) The ability of an applicant to access the property for 7295
purposes of the cleanup or remediation; 7296

(3) The name and qualifications of the cleanup or remediation 7297
contractor; 7298

(4) Any other factors that the director of development 7299
considers appropriate. 7300

The director of development may develop any other policies 7301
and requirements that the director determines are necessary for 7302
the administration of section 122.656 of the Revised Code. 7303

(F) The development of a brownfield cleanup and remediation 7304

oversight program to ensure compliance with sections 122.65 to 7305
122.658 of the Revised Code and policies and requirements 7306
established under this section. The policies and requirements 7307
shall require the program to include, at a minimum, both of the 7308
following: 7309

(1) Procedures for the accounting of invoices and receipts 7310
and any other documents that are necessary to demonstrate that a 7311
cleanup or remediation was properly performed; 7312

(2) Procedures that are necessary to provide a detailed 7313
explanation of the status of the property five years after the 7314
completed cleanup or remediation. 7315

(G) A delineation of what constitutes administrative costs 7316
for purposes of divisions (D) and (F) of section 122.658 of the 7317
Revised Code; 7318

(H) Procedures and requirements for making loans and loan 7319
agreements that include at least all of the following: 7320

(1) Not more than fifteen per cent of moneys annually 7321
allocated to the clean Ohio revitalization fund shall be used for 7322
loans. 7323

(2) The loans shall be made at or below market rates of 7324
interest, including, without limitation, interest-free loans. 7325

(3) The recipient of a loan shall identify a source of 7326
security and a source of repayment of the loan. 7327

(4) All payments of principal and interest on a loan shall be 7328
deposited in the state treasury and credited to the clean Ohio 7329
revitalization revolving loan fund. 7330

(5) The clean Ohio council may accept notes and other forms 7331
of obligation to evidence indebtedness, accept mortgages, liens, 7332
pledges, assignments, and other security interests to secure such 7333
indebtedness, and take any actions that are considered by the 7334

council to be appropriate to protect such security and safeguard 7335
against losses, including, without limitation, foreclosure and 7336
bidding on the purchase of property upon foreclosure or other 7337
sale. 7338

(I) Any other policies and requirements that the director 7339
determines are necessary for the administration of sections 122.65 7340
to 122.658 of the Revised Code. 7341

Sec. 122.76. (A) The director of development, with 7342
controlling board approval, may lend funds to minority business 7343
enterprises and to community improvement corporations, Ohio 7344
development corporations, minority contractors business assistance 7345
organizations, and minority business supplier development councils 7346
for the purpose of loaning funds to minority business enterprises 7347
and for the purpose of procuring or improving real or personal 7348
property, or both, for the establishment, location, or expansion 7349
of industrial, distribution, commercial, or research facilities in 7350
the state, and to community development corporations that 7351
predominantly benefit minority business enterprises or are located 7352
in a census tract that has a population that is sixty per cent or 7353
more minority if the director determines, in the director's sole 7354
discretion, that all of the following apply: 7355

(1) The project is economically sound and will benefit the 7356
people of the state by increasing opportunities for employment, by 7357
strengthening the economy of the state, or expanding minority 7358
business enterprises. 7359

(2) The proposed minority business enterprise borrower is 7360
unable to finance the proposed project through ordinary financial 7361
channels at comparable terms. 7362

(3) The value of the project is or, upon completion, will be 7363
at least equal to the total amount of the money expended in the 7364
procurement or improvement of the project, ~~and one or more~~ 7365

~~financial institutions or other governmental entities have loaned 7366~~
~~not less than thirty per cent of that amount. 7367~~

(4) The amount to be loaned by the director will not exceed 7368
sixty per cent of the total amount expended in the procurement or 7369
improvement of the project. 7370

(5) The amount to be loaned by the director will be 7371
adequately secured by a first or second mortgage upon the project 7372
or by mortgages, leases, liens, assignments, or pledges on or of 7373
other property or contracts as the director requires, and such 7374
mortgage will not be subordinate to any other liens or mortgages 7375
except the liens securing loans or investments made by financial 7376
institutions referred to in division (A)(3) of this section, and 7377
the liens securing loans previously made by any financial 7378
institution in connection with the procurement or expansion of all 7379
or part of a project. 7380

(B) Any proposed minority business enterprise borrower 7381
submitting an application for assistance under this section shall 7382
not have defaulted on a previous loan from the director, and no 7383
full or limited partner, major shareholder, or holder of an equity 7384
interest of the proposed minority business enterprise borrower 7385
shall have defaulted on a loan from the director. 7386

(C) The proposed minority business enterprise borrower shall 7387
demonstrate to the satisfaction of the director that it is able to 7388
successfully compete in the private sector if it obtains the 7389
necessary financial, technical, or managerial support and that 7390
support is available through the director, the minority business 7391
development office of the department of development, or other 7392
identified and acceptable sources. In determining whether a 7393
minority business enterprise borrower will be able to successfully 7394
compete, the director may give consideration to such factors as 7395
the successful completion of or participation in courses of study, 7396
recognized by the board of regents as providing financial, 7397

technical, or managerial skills related to the operation of the 7398
business, by the economically disadvantaged individual, owner, or 7399
partner, and the prior success of the individual, owner, or 7400
partner in personal, career, or business activities, as well as to 7401
other factors identified by the director. 7402

(D) The director shall not lend funds for the purpose of 7403
procuring or improving motor vehicles or accounts receivable. 7404

Sec. 123.011. (A) As used in this section: 7405

(1) "Construct" includes reconstruct, improve, renovate, 7406
enlarge, or otherwise alter. 7407

(2) "Energy consumption analysis" means the evaluation of all 7408
energy consuming systems, components, and equipment by demand and 7409
type of energy, including the internal energy load imposed on a 7410
facility by its occupants and the external energy load imposed by 7411
climatic conditions. 7412

(3) "Energy performance index" means a number describing the 7413
energy requirements of a facility per square foot of floor space 7414
or per cubic foot of occupied volume as appropriate under defined 7415
internal and external ambient conditions over an entire seasonal 7416
cycle. 7417

(4) "Facility" means a building or other structure, or part 7418
of a building or other structure, that includes provision for a 7419
heating, refrigeration, ventilation, cooling, lighting, hot water, 7420
or other major energy consuming system, component, or equipment. 7421

(5) "Life-cycle cost analysis" means a general approach to 7422
economic evaluation that takes into account all dollar costs 7423
related to owning, operating, maintaining, and ultimately 7424
disposing of a project over the appropriate study period. 7425

(6) "Political subdivision" means a county, township, 7426
municipal corporation, board of education of any school district, 7427

or any other body corporate and politic that is responsible for 7428
government activities in a geographic area smaller than that of 7429
the state. 7430

(7) "State funded" means funded in whole or in part through 7431
appropriation by the general assembly or through the use of any 7432
guarantee provided by this state. 7433

~~(6)~~(8) "State institution of higher education" has the same 7434
meaning as in section 3345.011 of the Revised Code. 7435

(B) There is hereby created within the department of 7436
administrative services the office of energy services. The office 7437
shall be under the supervision of a manager, who shall be 7438
appointed by the director of administrative services. The director 7439
shall assign to the office such number of employees and furnish 7440
such equipment and supplies as are necessary for the performance 7441
of the office's duties. 7442

The office shall develop energy efficiency and conservation 7443
programs in each of the following areas: 7444

- (1) New construction design and review; 7445
- (2) Existing building audit and retrofit; 7446
- (3) Energy efficient procurement; 7447
- (4) Alternative fuel vehicles. 7448

The office may accept and administer grants from public and 7449
private sources for carrying out any of its duties under this 7450
section. 7451

(C) No state agency, department, division, bureau, office, 7452
unit, board, commission, authority, quasi-governmental entity, or 7453
institution, including those agencies otherwise excluded from the 7454
jurisdiction of the department under division (A)(3) of section 7455
123.01 of the Revised Code, shall lease, construct, or cause to be 7456
leased or constructed, within the limits prescribed in this 7457

section, a state-funded facility, without ~~having secured from the~~ 7458
~~office~~ a proper life-cycle cost analysis or, in the case of a 7459
lease, an energy consumption analysis, as computed or prepared by 7460
a qualified architect or engineer in accordance with the rules 7461
required by division (D) of this section. 7462

Construction shall proceed only upon the disclosure to the 7463
office, for the facility chosen, of the life-cycle costs as 7464
determined in this section and the capitalization of the initial 7465
construction costs of the building. The results of life-cycle cost 7466
analysis shall be a primary consideration in the selection of a 7467
building design. That analysis shall be required only for 7468
construction of buildings with an area of five thousand square 7469
feet or greater. An energy consumption analysis for the term of a 7470
proposed lease shall be required only for the leasing of an area 7471
of twenty thousand square feet or greater within a given building 7472
boundary. That analysis shall be a primary consideration in the 7473
selection of a facility to be leased. 7474

Nothing in this section shall deprive or limit any state 7475
agency that has review authority over design, construction, or 7476
leasing plans from requiring a life-cycle cost analysis or energy 7477
consumption analysis. 7478

~~Whenever any state agency, department, division, bureau,~~ 7479
~~office, unit, board, commission, authority, quasi governmental~~ 7480
~~entity, or institution requests release of capital improvement~~ 7481
~~funds for any state funded facility, it shall submit copies of all~~ 7482
~~pertinent life cycle cost analyses prepared pursuant to this~~ 7483
~~section and in accordance with rules adopted under Chapters 3781.~~ 7484
~~and 4101. of the Revised Code.~~ 7485

(D) For the purposes of assisting the department in its 7486
responsibility for state-funded facilities pursuant to section 7487
123.01 of the Revised Code and of cost-effectively reducing the 7488
energy consumption of those and any other state-funded facilities, 7489

thereby promoting fiscal, economic, and environmental benefits to 7490
this state, the office shall promulgate rules specifying 7491
cost-effective, energy efficiency and conservation standards that 7492
may govern the lease, design, construction, operation, and 7493
maintenance of all state-funded facilities, except facilities of 7494
state institutions of higher education or facilities operated by a 7495
political subdivision. The office of energy efficiency in the 7496
department of development shall cooperate in providing information 7497
and technical expertise to the office of energy services to ensure 7498
promulgation of rules of maximum effectiveness. The standards 7499
prescribed by rules promulgated under this division may draw from 7500
or incorporate, by reference or otherwise and in whole or in part, 7501
standards already developed or implemented by any competent, 7502
public or private standards organization or program. The rules 7503
also may include any of the following: 7504

(1) Specifications for a life-cycle cost analysis that shall 7505
determine, for the economic life of such state-funded facility, 7506
the reasonably expected costs of facility ownership, operation, 7507
and maintenance including labor and materials. Life-cycle cost may 7508
be expressed as an annual cost for each year of the facility's 7509
use. ~~Further, the life cycle cost analysis may demonstrate for~~ 7510
~~each design how the design contributes to energy efficiency and~~ 7511
~~conservation with respect to any of the following:~~ 7512

~~(a) The coordination, orientation, and positioning of the~~ 7513
~~facility on its physical site;~~ 7514

~~(b) The amount and type of glass employed in the facility and~~ 7515
~~the directions of exposure;~~ 7516

~~(c) Thermal characteristics of materials incorporated into~~ 7517
~~facility design, including insulation;~~ 7518

~~(d) Architectural features that affect energy consumption,~~ 7519
~~including the solar absorption and reflection properties of~~ 7520

external surfaces;	7521
(e) The variable occupancy and operating conditions of the	7522
facility and portions of the facility, including illumination	7523
levels;	7524
(f) Any other pertinent, physical characteristics of the	7525
design.	7526
A life-cycle cost analysis additionally may include an energy	7527
consumption analysis that conforms to division (D)(2) of this	7528
section.	7529
(2) Specifications for an energy consumption analysis of the	7530
facility's heating, refrigeration, ventilation, cooling, lighting,	7531
hot water, and other major energy consuming systems, components,	7532
and equipment. This analysis shall include both of the following:	7533
(a) The comparison of two or more system alternatives, one of	7534
which may be a system using solar energy;	7535
(b) The projection of the annual energy consumption of those	7536
major energy consuming systems, components, and equipment, for a	7537
range of operation of the facility over the economic life of the	7538
facility and considering their operation at other than full or	7539
rated outputs.	7540
A life-cycle cost analysis and energy consumption analysis	7541
shall be based on the best currently available methods of	7542
analysis, such as those of the national <u>bureau institute</u> of	7543
standards <u>and technology</u> , the <u>United States</u> department of housing	7544
and urban development <u>energy</u> or other federal agencies,	7545
professional societies, and directions developed by the	7546
department.	7547
(3) Specifications for energy performance indices, to be used	7548
to audit and evaluate competing design proposals submitted to the	7549
state.	7550

(4) A requirement that, not later than two years after ~~the~~ 7551
~~effective date of this amendment~~ April 6, 2007, each state-funded 7552
facility, ~~except a facility of a state institution of higher~~ 7553
~~education~~ or a facility operated by a political subdivision, is 7554
managed by at least one building operator certified under the 7555
building operator certification program or any equivalent program 7556
or standards as shall be prescribed in the rules and considered 7557
reasonably equivalent. 7558

(5) An application process by which a ~~project manager, as to~~ 7559
of a specified state-funded facility, ~~except a facility of a state~~ 7560
institution of higher education or a facility operated by a 7561
political subdivision, may apply for a waiver of compliance with 7562
any provision of the rules required by divisions (D)(1) to (4) of 7563
this section. 7564

(E) The office of energy services shall promulgate rules to 7565
ensure that energy efficiency and conservation will be considered 7566
in the purchase of products and equipment, except motor vehicles, 7567
by any state agency, department, division, bureau, office, unit, 7568
board, commission, authority, quasi-governmental entity, or 7569
institution. Minimum energy efficiency standards for purchased 7570
products and equipment may be required, based on federal testing 7571
and labeling where available or on standards developed by the 7572
office. The rules shall apply to the competitive selection of 7573
energy consuming systems, components, and equipment under Chapter 7574
125. of the Revised Code where possible. 7575

The office also shall ensure energy efficient and energy 7576
conserving purchasing practices by doing all of the following: 7577

(1) Cooperatively with the office of energy efficiency, 7578
identifying available energy efficiency and conservation 7579
opportunities; 7580

(2) Providing for interchange of information among purchasing 7581

agencies; 7582

(3) Identifying laws, policies, rules, and procedures that 7583
need modification; 7584

(4) Monitoring experience with and the cost-effectiveness of 7585
this state's purchase and use of motor vehicles and of major 7586
energy-consuming systems, components, equipment, and products 7587
having a significant impact on energy consumption by government; 7588

(5) Cooperatively with the office of energy efficiency, 7589
providing technical assistance and training to state employees 7590
involved in the purchasing process. 7591

The department of development shall make recommendations to 7592
the office regarding planning and implementation of purchasing 7593
policies and procedures supportive of energy efficiency and 7594
conservation. 7595

(F)(1) The office of energy services shall require all state 7596
agencies, departments, divisions, bureaus, offices, units, 7597
commissions, boards, authorities, quasi-governmental entities, 7598
institutions, and state institutions of higher education to 7599
implement procedures ensuring that all their passenger automobiles 7600
acquired in each fiscal year, except for those passenger 7601
automobiles acquired for use in law enforcement or emergency 7602
rescue work, achieve a fleet average fuel economy of not less than 7603
the fleet average fuel economy for that fiscal year as shall be 7604
prescribed by the office by rule. The office shall promulgate the 7605
rule prior to the beginning of the fiscal year in accordance with 7606
the average fuel economy standards established pursuant to federal 7607
law for passenger automobiles manufactured during the model year 7608
that begins during the fiscal year. 7609

(2) Each state agency, department, division, bureau, office, 7610
unit, commission, board, authority, quasi-governmental entity, 7611
institution, and state institution of higher education shall 7612

determine its fleet average fuel economy by dividing: 7613

(a) The total number of passenger vehicles acquired during 7614
the fiscal year, except for those passenger vehicles acquired for 7615
use in law enforcement or emergency rescue work, by 7616

(b) A sum of terms, each of which is a fraction created by 7617
dividing: 7618

(i) The number of passenger vehicles of a given make, model, 7619
and year, except for passenger vehicles acquired for use in law 7620
enforcement or emergency rescue work, acquired during the fiscal 7621
year, by 7622

(ii) The fuel economy measured by the administrator of the 7623
United States environmental protection agency, for the given make, 7624
model, and year of vehicle, that constitutes an average fuel 7625
economy for combined city and highway driving. 7626

As used in division (F)(2) of this section, "acquired" means 7627
leased for a period of sixty continuous days or more, or 7628
purchased. 7629

(G) Each state agency, department, division, bureau, office, 7630
unit, board, commission, authority, quasi-governmental entity, 7631
institution, and state institution of higher education shall 7632
comply with any applicable provision of this section or of a rule 7633
promulgated pursuant to division (D) or (F) of this section. 7634

Sec. 124.09. The director of administrative services shall do 7635
all of the following: 7636

(A) Prescribe, amend, and enforce administrative rules for 7637
the purpose of carrying out the functions, powers, and duties 7638
vested in and imposed upon the director by this chapter. Except in 7639
the case of rules adopted pursuant to section 124.14 of the 7640
Revised Code, the prescription, amendment, and enforcement of 7641
rules under this division are subject to approval, disapproval, or 7642

modification by the state personnel board of review. 7643

(B) Keep records of the director's proceedings and records of 7644
all applications for examinations and all examinations conducted 7645
by the director or the director's designee. All of those records, 7646
except examinations, proficiency assessments, and recommendations 7647
of former employers, shall be open to public inspection under 7648
reasonable regulations; provided the governor, or any person 7649
designated by the governor, may, for the purpose of investigation, 7650
have free access to all of those records, whenever the governor 7651
has reason to believe that this chapter, or the administrative 7652
rules of the director prescribed under this chapter, are being 7653
violated. 7654

(C) Prepare, continue, and keep in the office of the 7655
department of administrative services a complete roster of all 7656
persons in the classified civil service of the state who are paid 7657
directly by warrant of the director of budget and management. This 7658
roster shall be open to public inspection at all reasonable hours. 7659
It shall show in reference to each of those persons, the person's 7660
name, address, date of appointment to or employment in the 7661
classified civil service of the state, and salary or compensation, 7662
the title of the place or office that the person holds, the nature 7663
of the duties of that place or office, and, in case of the 7664
person's removal or resignation, the date of the termination of 7665
that service. 7666

(D) Approve the establishment of all new positions in the 7667
civil service of the state and the reestablishment of abolished 7668
positions; 7669

(E) Require the abolishment of any position in the civil 7670
service of the state that is not filled after a period of twelve 7671
months unless it is determined that the position is seasonal in 7672
nature or that the vacancy is otherwise justified; 7673

(F) Make investigations concerning all matters touching the 7674
enforcement and effect of this chapter and the administrative 7675
rules of the director of administrative services prescribed under 7676
this chapter. In the course of those investigations, the director 7677
or the director's deputy may administer oaths and affirmations and 7678
take testimony relative to any matter which the director has 7679
authority to investigate. 7680

(G) Have the power to subpoena and require the attendance and 7681
testimony of witnesses and the production of books, papers, public 7682
records, and other documentary evidence pertinent to the 7683
investigations, inquiries, or hearings on any matter which the 7684
director has authority to investigate, inquire into, or hear, and 7685
to examine them in relation to any matter which the director has 7686
authority to investigate, inquire into, or hear. Fees and mileage 7687
shall be allowed to witnesses and, on their certificate, duly 7688
audited, shall be paid by the treasurer of state or, in the case 7689
of municipal or civil service township civil service commissions, 7690
by the county treasurer, for attendance and traveling, as provided 7691
in section 119.094 of the Revised Code. All officers in the civil 7692
service of the state or any of the political subdivisions of the 7693
state and their deputies, clerks, and employees shall attend and 7694
testify when summoned to do so by the director or the state 7695
personnel board of review. Depositions of witnesses may be taken 7696
by the director or the board, or any member of the board, in the 7697
manner prescribed by law for like depositions in civil actions in 7698
the courts of common pleas. In case any person, in disobedience to 7699
any subpoena issued by the director or the board, or any member of 7700
the board, or the chief examiner, fails or refuses to attend and 7701
testify to any matter regarding which the person may be lawfully 7702
interrogated, or produce any documentary evidence pertinent to any 7703
investigation, inquiry, or hearing, the court of common pleas of 7704
any county, or any judge of the court of common pleas of any 7705
county, where the disobedience, failure, or refusal occurs, upon 7706

application of the director or the board, or any member of the 7707
board, or a municipal or civil service township civil service 7708
commission, or any commissioner of such a commission, or their 7709
chief examiner, shall compel obedience by attachment proceedings 7710
for contempt as in the case of disobedience of the requirements of 7711
a subpoena issued from the court or a refusal to testify in the 7712
court. 7713

(H) Make a report to the governor, on or before the first day 7714
of January of each year, showing the director's actions, the rules 7715
and all exceptions to the rules in force, and any recommendations 7716
for the more effectual accomplishment of the purposes of this 7717
chapter. The director shall also furnish any special reports to 7718
the governor whenever the governor requests them. The reports 7719
shall be printed for public distribution under the same 7720
regulations as are the reports of other state officers, boards, or 7721
commissions. 7722

Sec. 124.23. (A) All applicants for positions and places in 7723
the classified service shall be subject to examination, except for 7724
applicants for positions as professional or certified service and 7725
paraprofessional employees of county boards of developmental 7726
disabilities, who shall be hired in the manner provided in section 7727
124.241 of the Revised Code. 7728

(B) Any examination administered under this section shall be 7729
public and be open to all citizens of the United States and those 7730
persons who have legally declared their intentions of becoming 7731
United States citizens. For examinations administered for 7732
positions in the service of the state, the director of 7733
administrative services or the director's designee may determine 7734
certain limitations as to citizenship, age, experience, education, 7735
health, habit, and moral character. 7736

(C) Any person who has completed service in the uniformed 7737

services, who has been honorably discharged from the uniformed 7738
services or transferred to the reserve with evidence of 7739
satisfactory service, and who is a resident of this state and any 7740
member of the national guard or a reserve component of the armed 7741
forces of the United States who has completed more than one 7742
hundred eighty days of active duty service pursuant to an 7743
executive order of the president of the United States or an act of 7744
the congress of the United States may file with the director a 7745
certificate of service or honorable discharge, and, upon this 7746
filing, the person shall receive additional credit of twenty per 7747
cent, or an equivalent weight, of the person's total grade given 7748
in the ~~regular~~ examination in which the person receives a passing 7749
grade, and the person's ranking on an eligible list shall reflect 7750
the passing grade plus the additional credit. 7751

As used in this division, "service in the uniformed services" 7752
and "uniformed services" have the same meanings as in the 7753
"Uniformed Services Employment and Reemployment Rights Act of 7754
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 7755

(D) An examination may include an evaluation of such factors 7756
as education, training, capacity, knowledge, manual dexterity, and 7757
physical or psychological fitness. An examination shall consist of 7758
one or more tests in any combination. Tests may be written, oral, 7759
physical, demonstration of skill, or an evaluation of training and 7760
experiences and shall be designed to fairly test the relative 7761
capacity of the persons examined to discharge the particular 7762
duties of the position for which appointment is sought. Tests may 7763
include structured interviews, assessment centers, work 7764
simulations, examinations of knowledge, skills, and abilities, and 7765
any other acceptable testing methods. If minimum or maximum 7766
requirements are established for any examination, they shall be 7767
specified in the examination announcement. 7768

(E) Except as otherwise provided in sections 124.01 to 124.64 7769

of the Revised Code, when a position in the classified service of 7770
the state is to be filled, an examination shall be administered. 7771
The director of administrative services shall have control of all 7772
examinations administered for positions in the service of the 7773
state and all other examinations the director administers as 7774
provided in section 124.07 of the Revised Code, except as 7775
otherwise provided in sections 124.01 to 124.64 of the Revised 7776
Code. The director shall, by rule adopted under Chapter 119. of 7777
the Revised Code, prescribe the notification method that is to be 7778
used by an appointing authority to notify the director that a 7779
position in the classified service of the state is to be filled. 7780
In addition to the positions described in section 124.30 of the 7781
Revised Code, the director may, with sufficient justification from 7782
the appointing authority, allow the appointing authority to fill 7783
the position by noncompetitive examination. The director shall 7784
establish, by rule adopted under Chapter 119. of the Revised Code, 7785
standards that the director shall use to determine what serves as 7786
sufficient justification from an appointing authority to fill a 7787
position by noncompetitive examination. 7788

(F) No questions in any examination shall relate to political 7789
or religious opinions or affiliations. No credit for seniority, 7790
efficiency, or any other reason shall be added to an applicant's 7791
examination grade unless the applicant achieves at least the 7792
minimum passing grade on the examination without counting that 7793
extra credit. 7794

(G) Except as otherwise provided in sections 124.01 to 124.64 7795
of the Revised Code, the director of administrative services or 7796
the director's designee shall give reasonable notice of the time, 7797
place, and general scope of every competitive examination for 7798
appointment that the director or the director's designee 7799
administers for positions in the classified service of the state. 7800
The director or the director's designee shall ~~send written,~~ 7801

~~printed, or electronic post notices via electronic media of every~~ 7802
~~examination to be conducted for positions in the classified civil~~ 7803
~~service of the state to each agency of the type the director of~~ 7804
~~job and family services specifies and, in the case of a county in~~ 7805
~~which no such agency is located, to the clerk of the court of~~ 7806
~~common pleas of that county and to the clerk of each city located~~ 7807
~~within that county. Those notices shall be posted in conspicuous~~ 7808
~~public places in the designated agencies or the courthouse, and~~ 7809
~~city hall of the cities, of the counties in which no designated~~ 7810
~~agency is located for at least two weeks. The electronic notice~~ 7811
~~shall be posted on the director's internet site on the world wide~~ 7812
~~web for a minimum of one week preceding any examination involved,~~ 7813
~~and in a conspicuous place in the office of the director of~~ 7814
~~administrative services for at least two weeks preceding any~~ 7815
~~examination involved. In case of examinations limited by the~~ 7816
~~director to a district, county, city, or department, the director~~ 7817
~~shall provide by rule for adequate publicity of an examination in~~ 7818
~~the district, county, city, or department within which competition~~ 7819
~~is permitted.~~ 7820

Sec. 124.231. (A) As used in this section, "legally blind" 7821
person" means any person who qualifies as being blind under any 7822
Ohio or federal statute, or any rule adopted thereunder. As used 7823
in this section, "legally deaf person" means any person who 7824
qualifies as being deaf under any Ohio or federal statute, or any 7825
rule adopted thereunder. 7826

(B) ~~The~~ When an examination is to be administered under 7827
sections 124.01 to 124.64 of the Revised Code, the director of 7828
administrative services or the director's designee shall whenever 7829
practicable arrange for special examinations to be administered to 7830
legally blind or legally deaf persons applying for ~~original~~ 7831
~~appointments~~ positions in the classified service to ensure that 7832
the abilities of such applicants are properly assessed and that 7833

such applicants are not subject to discrimination because they are 7834
legally blind or legally deaf persons. 7835

~~(C) The director may administer equitable programs for the 7836
employment of legally blind persons and legally deaf persons in 7837
the classified service. 7838~~

~~Nothing in this section shall be construed to prohibit the 7839
appointment of a legally blind or legally deaf person to a 7840
position in the classified service under the procedures otherwise 7841
provided in this chapter. 7842~~

Sec. 124.24. (A) Notwithstanding sections 124.01 to 124.64 7843
and Chapter 145. of the Revised Code, the examinations of 7844
applicants for the positions of deputy mine inspector, 7845
superintendent of rescue stations, assistant superintendent of 7846
rescue stations, electrical inspectors, ~~gas storage well 7847
inspector,~~ and mine chemists in the division of mineral resources 7848
management, department of natural resources, as provided in 7849
Chapters 1561., 1563., 1565., and 1567. of the Revised Code shall 7850
be provided for, conducted, and administered by the chief of the 7851
division of mineral resources management. 7852

From the returns of the examinations the chief shall prepare 7853
eligible lists of the persons whose general average standing upon 7854
examinations for such grade or class is not less than the minimum 7855
fixed by rules adopted under section 1561.05 of the Revised Code 7856
and who are otherwise eligible. All appointments to a position 7857
shall be made from ~~such~~ that eligible list in the same manner as 7858
appointments are made from eligible lists prepared by the director 7859
of administrative services. Any person upon being appointed to 7860
fill one of the positions provided for in this ~~section~~ division, 7861
from any such eligible list, shall have the same standing, rights, 7862
privileges, and status as other state employees in the classified 7863
service. 7864

(B) Notwithstanding sections 124.01 to 124.64 and Chapter 145. of the Revised Code, the examinations of applicants for the position of gas storage well inspector in the division of oil and gas resources management, department of natural resources, as provided in Chapter 1571. of the Revised Code shall be provided for, conducted, and administered by the chief of the division of oil and gas resources management.

From the returns of the examinations, the chief shall prepare an eligible list of the persons whose general average standing upon examinations for that position is not less than the minimum fixed by rules adopted under section 1571.014 of the Revised Code and who are otherwise eligible. An appointment to the position shall be made from that eligible list in the same manner as appointments are made from eligible lists prepared by the director of administrative services. Any person, upon being appointed to fill the position provided for in this division from any such eligible list, shall have the same standing, rights, privileges, and status as other state employees in the classified service.

Sec. 124.25. The director of administrative services shall require persons applying for an examination for original appointment to file with the director or the director's designee, within reasonable time prior to the examination, a formal application, in which the applicant shall state the applicant's name, address, and such other information as may reasonably be required concerning the applicant's education and experience. No inquiry shall be made as to religious or political affiliations or as to racial or ethnic origin of the applicant, except as necessary to gather equal employment opportunity or other statistics that, when compiled, will not identify any specific individual.

Blank forms for applications shall be furnished by the

director or the director's designee without charge to any person 7896
requesting the same. The director or the director's designee may 7897
require in connection with such application such certificate of 7898
persons having knowledge of the applicant as the good of the 7899
service demands. The director or the director's designee may 7900
refuse to appoint or examine an applicant, or, after an 7901
examination, refuse to certify the applicant as eligible, who is 7902
found to lack any of the established preliminary requirements for 7903
the examination, who is addicted to the habitual use of 7904
intoxicating liquors or drugs to excess, who has a pattern of poor 7905
work habits and performance with previous employers, who has been 7906
convicted of a felony, who has been guilty of infamous or 7907
notoriously disgraceful conduct, who has been dismissed from 7908
either branch of the civil service for delinquency or misconduct, 7909
or who has made false statements of any material fact, or 7910
practiced, or attempted to practice, any deception or fraud in the 7911
application or examination, in establishing eligibility, or 7912
securing an appointment. 7913

Sec. 124.26. From the returns of the examinations, the 7914
director of administrative services or the director's designee 7915
shall prepare an eligible list of the persons whose general 7916
average standing upon examinations for the ~~grade or~~ class or 7917
position is not less than the minimum fixed by the rules of the 7918
director, and who are otherwise eligible. Those persons shall take 7919
rank upon the eligible list as candidates in the order of their 7920
relative excellence as determined by the examination without 7921
reference to priority of the time of examination. If two or more 7922
applicants receive the same mark in an open competitive 7923
examination, priority in the time of filing the application with 7924
the director or the director's designee shall determine the order 7925
in which their names shall be placed on the eligible list, except 7926
that applicants eligible for veteran's preference under section 7927

124.23 of the Revised Code shall receive priority in rank on the 7928
eligible list over nonveterans on the list with a rating equal to 7929
that of the veteran. Ties among veterans shall be decided by 7930
priority of filing the application. ~~If two or more applicants~~ 7931
~~receive the same mark on a promotional examination, seniority~~ 7932
~~shall determine the order in which their names shall be placed on~~ 7933
~~the eligible list. The term of eligibility of each list shall be~~ 7934
~~fixed by the director at not less than one or more than two years.~~ 7935

~~When an eligible list is reduced to ten names or less, a new~~ 7936
~~list may be prepared. The director may consolidate two or more~~ 7937
~~eligible lists of the same kind by the rearranging of eligibles~~ 7938
~~named in the lists, according to their grades. An eligible list~~ 7939
~~expires upon the filling or closing of the position. An expired~~ 7940
~~eligible list may be used to fill a position of the same~~ 7941
~~classification within the same appointing authority for which the~~ 7942
~~list was created. But, in no event shall an expired list be used~~ 7943
~~more than one year past its expiration date.~~ 7944

Sec. 124.27. (A) ~~The head of a department, office, or~~ 7945
~~institution, in which a position in the classified service is to~~ 7946
~~be filled, shall notify the director of administrative services of~~ 7947
~~the fact, and the director shall, except as otherwise provided in~~ 7948
~~this section and sections 124.30 and 124.31 of the Revised Code,~~ 7949
~~certify to the appointing authority the names and addresses of the~~ 7950
~~ten candidates standing highest on the eligible list for the class~~ 7951
~~or grade to which the position belongs, except that the director~~ 7952
~~may certify less than ten names if ten names are not available.~~ 7953
~~When less than ten names are certified to an appointing authority,~~ 7954
~~appointment from that list shall not be mandatory. When a position~~ 7955
~~in the classified service in the department of mental health or~~ 7956
~~the department of developmental disabilities is to be filled, the~~ 7957
~~director of administrative services shall make such certification~~ 7958
~~to the appointing authority within seven working days of the date~~ 7959

~~the eligible list is requested.~~ 7960

~~(B) The appointing authority shall notify the director of a 7961
position in the classified service to be filled, and the 7962
appointing authority shall fill the vacant position by appointment 7963
of one of the ten persons certified by the director. If more than 7964
one position is to be filled, the director may certify a group of 7965
names from the eligible list, and the appointing authority shall 7966
appoint in the following manner: beginning at the top of the list, 7967
each time a selection is made, it must be from one of the first 7968
ten candidates remaining on the list who is willing to accept 7969
consideration for the position. If an eligible list becomes 7970
exhausted, and until a new list can be created, or when no 7971
eligible list for a position exists, names may be certified from 7972
eligible lists most appropriate for the group or class in which 7973
the position to be filled is classified. A person who is certified 7974
from an eligible list more than three times to the same appointing 7975
authority for the same or similar positions may be omitted from 7976
future certification to that appointing authority, provided that 7977
certification for a temporary appointment shall not be counted as 7978
one of those certifications. Every person who qualifies for 7979
veteran's preference under section 124.23 of the Revised Code, who 7980
is a resident of this state, and whose name is on the eligible 7981
list for a position shall be entitled to preference in original 7982
appointments to any such competitive position in the civil service 7983
of the state and its civil divisions over all other persons 7984
eligible for those appointments and standing on the relevant 7985
eligible list with a rating equal to that of the person qualifying 7986
for veteran's preference. Appointments to all positions in the 7987
classified service, that are not filled by promotion, transfer, or 7988
reduction, as provided in sections 124.01 to 124.64 of the Revised 7989
Code and the rules of the director prescribed under those 7990
sections, shall be made only from those persons whose names are 7991
certified to the appointing authority take rank order on an 7992~~

eligible list, and no employment, except as provided in those 7993
sections, shall be otherwise given in the classified service of 7994
this state or any political subdivision of the state. The 7995
appointing authority shall appoint in the following manner: each 7996
time a selection is made, it shall be from one of the names that 7997
ranks in the top twenty-five per cent of the eligible list. But, 7998
in the event that ten or fewer names are on the eligible list, the 7999
appointing authority may select any of the listed candidates. 8000

~~(C)~~(B) All original and promotional appointments, including 8001
appointments made pursuant to section 124.30 of the Revised Code, 8002
but not intermittent appointments, shall be for a probationary 8003
period, not less than sixty days nor more than one year, to be 8004
fixed by the rules of the director, except as provided in section 8005
124.231 of the Revised Code, and except for original appointments 8006
to a police department as a police officer or to a fire department 8007
as a firefighter which shall be for a probationary period of one 8008
year. No appointment or promotion is final until the appointee has 8009
satisfactorily served the probationary period. If the service of 8010
the probationary employee is unsatisfactory, the employee may be 8011
removed or reduced at any time during the probationary period. If 8012
the appointing authority decides to remove a probationary employee 8013
in the service of the state, the appointing authority shall 8014
communicate the removal to the director ~~the reason for that~~ 8015
~~decision~~. A probationary employee duly removed or reduced in 8016
position for unsatisfactory service does not have the right to 8017
appeal the removal or reduction under section 124.34 of the 8018
Revised Code. 8019

Sec. 124.31. ~~(A)~~ Vacancies in positions in the classified 8020
service of the state shall be filled insofar as practicable by 8021
promotions. The director of administrative services shall provide 8022
in the director's rules for keeping a record of efficiency for 8023
each employee in the classified civil service of the state, and 8024

for making promotions in the classified civil service of the state 8025
on the basis of merit, ~~to be ascertained insofar as practicable by~~ 8026
~~promotional examinations, and~~ by conduct and capacity in office, 8027
and by seniority in service. The director shall provide that 8028
vacancies in positions in the classified civil service of the 8029
state shall be filled by promotion in all cases where, in the 8030
judgment of the director, it is for the best interest of the 8031
service. The director's rules shall authorize each appointing 8032
authority of a county to develop and administer in a manner it 8033
devises, an evaluation system for the employees it appoints. 8034

~~(B) All examinations for promotions shall be competitive and~~ 8035
~~may be conducted in the same manner as examinations described in~~ 8036
~~section 124.23 of the Revised Code. In promotional examinations,~~ 8037
~~seniority in service shall be added to the examination grade, but~~ 8038
~~no credit for seniority or any other reason shall be added to an~~ 8039
~~examination grade unless the applicant achieves at least the~~ 8040
~~minimum passing score on the examination without counting that~~ 8041
~~extra credit. Credit for seniority shall equal, for the first four~~ 8042
~~years of service, one per cent of the total grade attainable in~~ 8043
~~the promotion examination, and, for each of the fifth through~~ 8044
~~fourteenth years of service, six tenths per cent of the total~~ 8045
~~grade attainable.~~ 8046

~~In all cases where vacancies are to be filled by promotion,~~ 8047
~~the director shall certify to the appointing authority the names~~ 8048
~~of the three persons having the highest rating on the eligible~~ 8049
~~list. The method of examination for promotions, the manner of~~ 8050
~~giving notice of the examination, and the rules governing it shall~~ 8051
~~be in general the same as those provided for original~~ 8052
~~examinations, except as otherwise provided in sections 124.01 to~~ 8053
~~124.64 of the Revised Code.~~ 8054

Sec. 124.34. (A) The tenure of every officer or employee in 8055

the classified service of the state and the counties, civil 8056
service townships, cities, city health districts, general health 8057
districts, and city school districts of the state, holding a 8058
position under this chapter, shall be during good behavior and 8059
efficient service. No officer or employee shall be reduced in pay 8060
or position, fined, suspended, or removed, or have the officer's 8061
or employee's longevity reduced or eliminated, except as provided 8062
in section 124.32 of the Revised Code, and for incompetency, 8063
inefficiency, dishonesty, drunkenness, immoral conduct, 8064
insubordination, discourteous treatment of the public, neglect of 8065
duty, violation of any policy or work rule of the officer's or 8066
employee's appointing authority, violation of this chapter or the 8067
rules of the director of administrative services or the 8068
commission, any other failure of good behavior, any other acts of 8069
misfeasance, malfeasance, or nonfeasance in office, or conviction 8070
of a felony. The denial of a one-time pay supplement or a bonus to 8071
an officer or employee is not a reduction in pay for purposes of 8072
this section. 8073

This section does not apply to any modifications or 8074
reductions in pay or work week authorized by division (Q) of 8075
section 124.181 or section 124.392 ~~or~~, 124.393, or 124.394 of the 8076
Revised Code. 8077

An appointing authority may require an employee who is 8078
suspended to report to work to serve the suspension. An employee 8079
serving a suspension in this manner shall continue to be 8080
compensated at the employee's regular rate of pay for hours 8081
worked. The disciplinary action shall be recorded in the 8082
employee's personnel file in the same manner as other disciplinary 8083
actions and has the same effect as a suspension without pay for 8084
the purpose of recording disciplinary actions. 8085

A finding by the appropriate ethics commission, based upon a 8086
preponderance of the evidence, that the facts alleged in a 8087

complaint under section 102.06 of the Revised Code constitute a 8088
violation of Chapter 102., section 2921.42, or section 2921.43 of 8089
the Revised Code may constitute grounds for dismissal. Failure to 8090
file a statement or falsely filing a statement required by section 8091
102.02 of the Revised Code may also constitute grounds for 8092
dismissal. The tenure of an employee in the career professional 8093
service of the department of transportation is subject to section 8094
5501.20 of the Revised Code. 8095

Conviction of a felony is a separate basis for reducing in 8096
pay or position, suspending, or removing an officer or employee, 8097
even if the officer or employee has already been reduced in pay or 8098
position, suspended, or removed for the same conduct that is the 8099
basis of the felony. An officer or employee may not appeal to the 8100
state personnel board of review or the commission any disciplinary 8101
action taken by an appointing authority as a result of the 8102
officer's or employee's conviction of a felony. If an officer or 8103
employee removed under this section is reinstated as a result of 8104
an appeal of the removal, any conviction of a felony that occurs 8105
during the pendency of the appeal is a basis for further 8106
disciplinary action under this section upon the officer's or 8107
employee's reinstatement. 8108

A person convicted of a felony immediately forfeits the 8109
person's status as a classified employee in any public employment 8110
on and after the date of the conviction for the felony. If an 8111
officer or employee is removed under this section as a result of 8112
being convicted of a felony or is subsequently convicted of a 8113
felony that involves the same conduct that was the basis for the 8114
removal, the officer or employee is barred from receiving any 8115
compensation after the removal notwithstanding any modification or 8116
disaffirmance of the removal, unless the conviction for the felony 8117
is subsequently reversed or annulled. 8118

Any person removed for conviction of a felony is entitled to 8119

a cash payment for any accrued but unused sick, personal, and 8120
vacation leave as authorized by law. If subsequently reemployed in 8121
the public sector, the person shall qualify for and accrue these 8122
forms of leave in the manner specified by law for a newly 8123
appointed employee and shall not be credited with prior public 8124
service for the purpose of receiving these forms of leave. 8125

As used in this division, "felony" means any of the 8126
following: 8127

(1) A felony that is an offense of violence as defined in 8128
section 2901.01 of the Revised Code; 8129

(2) A felony that is a felony drug abuse offense as defined 8130
in section 2925.01 of the Revised Code; 8131

(3) A felony under the laws of this or any other state or the 8132
United States that is a crime of moral turpitude; 8133

(4) A felony involving dishonesty, fraud, or theft; 8134

(5) A felony that is a violation of section 2921.05, 2921.32, 8135
or 2921.42 of the Revised Code. 8136

(B) In case of a reduction, a suspension of more than forty 8137
work hours in the case of an employee exempt from the payment of 8138
overtime compensation, a suspension of more than twenty-four work 8139
hours in the case of an employee required to be paid overtime 8140
compensation, a fine of more than forty hours' pay in the case of 8141
an employee exempt from the payment of overtime compensation, a 8142
fine of more than twenty-four hours' pay in the case of an 8143
employee required to be paid overtime compensation, or removal, 8144
except for the reduction or removal of a probationary employee, 8145
the appointing authority shall serve the employee with a copy of 8146
the order of reduction, fine, suspension, or removal, which order 8147
shall state the reasons for the action. 8148

Within ten days following the date on which the order is 8149

served or, in the case of an employee in the career professional 8150
service of the department of transportation, within ten days 8151
following the filing of a removal order, the employee, except as 8152
otherwise provided in this section, may file an appeal of the 8153
order in writing with the state personnel board of review or the 8154
commission. For purposes of this section, the date on which an 8155
order is served is the date of hand delivery of the order or the 8156
date of delivery of the order by certified United States mail, 8157
whichever occurs first. If an appeal is filed, the board or 8158
commission shall forthwith notify the appointing authority and 8159
shall hear, or appoint a trial board to hear, the appeal within 8160
thirty days from and after its filing with the board or 8161
commission. The board, commission, or trial board may affirm, 8162
disaffirm, or modify the judgment of the appointing authority. 8163
However, in an appeal of a removal order based upon a violation of 8164
a last chance agreement, the board, commission, or trial board may 8165
only determine if the employee violated the agreement and thus 8166
affirm or disaffirm the judgment of the appointing authority. 8167

In cases of removal or reduction in pay for disciplinary 8168
reasons, either the appointing authority or the officer or 8169
employee may appeal from the decision of the state personnel board 8170
of review or the commission, and any such appeal shall be to the 8171
court of common pleas of the county in which the appointing 8172
authority is located, or to the court of common pleas of Franklin 8173
county, as provided by section 119.12 of the Revised Code. 8174

(C) In the case of the suspension for any period of time, or 8175
a fine, demotion, or removal, of a chief of police, a chief of a 8176
fire department, or any member of the police or fire department of 8177
a city or civil service township, who is in the classified civil 8178
service, the appointing authority shall furnish the chief or 8179
member with a copy of the order of suspension, fine, demotion, or 8180
removal, which order shall state the reasons for the action. The 8181

order shall be filed with the municipal or civil service township 8182
civil service commission. Within ten days following the filing of 8183
the order, the chief or member may file an appeal, in writing, 8184
with the commission. If an appeal is filed, the commission shall 8185
forthwith notify the appointing authority and shall hear, or 8186
appoint a trial board to hear, the appeal within thirty days from 8187
and after its filing with the commission, and it may affirm, 8188
disaffirm, or modify the judgment of the appointing authority. An 8189
appeal on questions of law and fact may be had from the decision 8190
of the commission to the court of common pleas in the county in 8191
which the city or civil service township is situated. The appeal 8192
shall be taken within thirty days from the finding of the 8193
commission. 8194

(D) A violation of division (A)(7) of section 2907.03 of the 8195
Revised Code is grounds for termination of employment of a 8196
nonteaching employee under this section. 8197

(E) As used in this section, "last chance agreement" means an 8198
agreement signed by both an appointing authority and an officer or 8199
employee of the appointing authority that describes the type of 8200
behavior or circumstances that, if it occurs, will automatically 8201
lead to removal of the officer or employee without the right of 8202
appeal to the state personnel board of review or the appropriate 8203
commission. 8204

Sec. 124.393. (A) As used in this section: 8205

(1) "~~County exempt~~ Exempt employee" means a permanent 8206
full-time or permanent part-time county, township, or municipal 8207
corporation employee who is not subject to a collective bargaining 8208
agreement between a public employer and an exclusive 8209
representative. 8210

(2) "Fiscal emergency" means any of the following: 8211

(a) A fiscal emergency declared by the governor under section 126.05 of the Revised Code.	8212 8213
(b) <u>A fiscal watch or fiscal emergency has been declared or determined under section 118.023 or 118.04 of the Revised Code.</u>	8214 8215
(c) Lack of funds as defined in section 124.321 of the Revised Code.	8216 8217
(c) (d) Reasons of economy as described in section 124.321 of the Revised Code.	8218 8219
(B)(1) A county, <u>township, or municipal corporation</u> appointing authority may establish a mandatory cost savings program applicable to its county exempt employees. Each county exempt employee shall participate in the program of mandatory cost savings for not more than eighty hours, as determined by the appointing authority, in each of state fiscal years 2010 and 2011 <u>to 2013</u> . The program may include, but is not limited to, a loss of pay or loss of holiday pay. The program may be administered differently among employees based on their classifications, appointment categories, or other relevant distinctions.	8220 8221 8222 8223 8224 8225 8226 8227 8228 8229
(2) After June 30, 2011 <u>2013</u> , a county, <u>township, or municipal corporation</u> appointing authority may implement mandatory cost savings days as described in division (B)(1) of this section that apply to its county exempt employees in the event of a fiscal emergency.	8230 8231 8232 8233 8234
(C) A county, <u>township, or municipal corporation</u> appointing authority shall issue guidelines concerning how the appointing authority will implement the cost savings program.	8235 8236 8237
<u>Sec. 124.394.</u> (A) As used in this section:	8238
(1) <u>"Exempt employee" means a permanent full-time or permanent part-time county employee , township, or municipal corporation who is not subject to a collective bargaining</u>	8239 8240 8241

agreement between a public employer and an exclusive 8242
representative. 8243

(2) "Fiscal emergency" means any of the following: 8244

(a) A fiscal emergency declared by the governor under section 8245
126.05 of the Revised Code. 8246

(b) A fiscal watch or a fiscal emergency declared or 8247
determined by the auditor of state under section 118.023 or 118.04 8248
of the Revised Code. 8249

(c) Lack of funds as defined in section 124.321 of the 8250
Revised Code. 8251

(d) Reasons of economy as described in section 124.321 of the 8252
Revised Code. 8253

(B) A county, township, or municipal corporation appointing 8254
authority may establish a modified work week schedule program 8255
applicable to its exempt employees. Each exempt employee shall 8256
participate in any established modified work week schedule program 8257
in each of state fiscal years 2012 and 2013. The program may 8258
provide for a reduction from the usual number of hours worked 8259
during a week by exempt employees immediately before the 8260
establishment of the program by the appointing authority. The 8261
reduction in hours may include any number of hours so long as the 8262
reduction is not more than fifty per cent of the usual hours 8263
worked by exempt employees immediately before the establishment of 8264
the program. The program may be administered differently among 8265
employees based on classifications, appointment categories, or 8266
other relevant distinctions. 8267

(C) After June 30, 2013, a county, township, or municipal 8268
corporation appointing authority may implement a modified work 8269
week schedule program as described in division (B) of this section 8270
that applies to its exempt employees in the event of a fiscal 8271
emergency. 8272

Sec. 125.021. (A) Except as to the military department, the 8273
general assembly, the capitol square review advisory board the 8274
bureau of workers' compensation, the industrial commission, and 8275
institutions administered by boards of trustees, the department of 8276
administrative services may contract for telephone, other 8277
telecommunication, and computer services for state agencies. 8278
Nothing in this division precludes the bureau or the commission 8279
from contracting with the department to authorize the department 8280
to contract for those services for the bureau or the commission. 8281

(B)(1) As used in this division: 8282

(a) "Active duty" means active duty pursuant to an executive 8283
order of the president of the United States, an act of the 8284
congress of the United States, or section 5919.29 or 5923.21 of 8285
the Revised Code. 8286

(b) "Immediate family" means a person's spouse residing in 8287
the person's household, brothers and sisters of the whole or of 8288
the half blood, children, including adopted children and 8289
stepchildren, parents, and grandparents. 8290

(2) The department of administrative services may enter into 8291
a contract to purchase bulk long distance telephone services and 8292
make them available at cost, or may make bulk long distance 8293
telephone services available at cost under any existing contract 8294
the department has entered into, to members of the immediate 8295
family of persons deployed on active duty so that those family 8296
members can communicate with the persons so deployed. If the 8297
department enters into contracts under division (B)(2) of this 8298
section, it shall do so in accordance with sections 125.01 to 8299
125.11 of the Revised Code and in a nondiscriminatory manner that 8300
does not place any potential vendor at a competitive disadvantage. 8301

(3) If the department decides to exercise either option under 8302
division (B)(2) of this section, it shall adopt, and may amend, 8303

rules under Chapter 119. of the Revised Code to implement that 8304
division. 8305

Sec. 125.024. (A) Except as provided in division (C) of this 8306
section, the department of administrative services shall select a 8307
single person from which to procure all drugs to be provided by 8308
the department of mental health, under section 5119.16 of the 8309
Revised Code, to the persons and government entities described in 8310
that section. 8311

(B) Before making a selection for purposes of division (A) of 8312
this section, the department of administrative services shall 8313
develop a process to be used in issuing a request for proposals, 8314
receiving responses to the request, and evaluating the responses 8315
on a competitive basis. Not later than sixty days after the 8316
effective date of this section, the department of administrative 8317
services shall issue the first request for proposals. Each 8318
subsequent request for proposals shall be issued at least ninety 8319
days but not more than one hundred twenty days before a contract 8320
for drug procurement services terminates. 8321

(C) Division (A) of this section does not apply if the 8322
department of administrative services determines, from a review of 8323
the proposals submitted through the process described in division 8324
(B) of this section, that the cost of procuring all drugs from a 8325
single person does not result in a net savings to the state when 8326
compared to the cost of procuring drugs from multiple persons. 8327

Sec. 125.15. All state agencies required to secure any 8328
equipment, materials, supplies, or services from the department of 8329
administrative services shall make acquisition in the manner and 8330
upon forms prescribed by the director of administrative services 8331
and shall reimburse the department for the equipment, materials, 8332
supplies, or services, including a reasonable sum to cover the 8333

department's administrative costs and costs relating to energy 8334
efficiency and conservation programs, whenever reimbursement is 8335
required by the department. The money so paid shall be deposited 8336
in the state treasury to the credit of the general services fund 8337
~~or~~, the information technology fund, or the information technology 8338
governance fund, as appropriate. Those funds are hereby created. 8339

Sec. 125.18. (A) There is hereby established the office of 8340
information technology within the department of administrative 8341
services. The office shall be under the supervision of a state 8342
chief information officer to be appointed by the director of 8343
administrative services and subject to removal at the pleasure of 8344
the director. The chief information officer is an assistant 8345
director of administrative services. 8346

(B) Under the direction of the director of administrative 8347
services, the state chief information officer shall lead, oversee, 8348
and direct state agency activities related to information 8349
technology development and use. In that regard, the state chief 8350
information officer shall do all of the following: 8351

(1) Coordinate and superintend statewide efforts to promote 8352
common use and development of technology by state agencies. The 8353
office of information technology shall establish policies and 8354
standards that govern and direct state agency participation in 8355
statewide programs and initiatives. 8356

(2) Establish policies and standards for the acquisition and 8357
use of common information technology by state agencies, including, 8358
but not limited to, hardware, software, technology services, and 8359
security, and the extension of the service life of information 8360
technology systems, with which state agencies shall comply; 8361

(3) Establish criteria and review processes to identify state 8362
agency information technology projects or purchases that require 8363
alignment or oversight. As appropriate, the department of 8364

administrative services shall provide the governor and the 8365
director of budget and management with notice and advice regarding 8366
the appropriate allocation of resources for those projects. The 8367
state chief information officer may require state agencies to 8368
provide, and may prescribe the form and manner by which they must 8369
provide, information to fulfill the state chief information 8370
officer's alignment and oversight role; 8371

(4) Establish policies and procedures for the security of 8372
personal information that is maintained and destroyed by state 8373
agencies; 8374

(5) Employ a chief information security officer who is 8375
responsible for the implementation of the policies and procedures 8376
described in division (B)(4) of this section and for coordinating 8377
the implementation of those policies and procedures in all of the 8378
state agencies; 8379

(6) Employ a chief privacy officer who is responsible for 8380
advising state agencies when establishing policies and procedures 8381
for the security of personal information and developing education 8382
and training programs regarding the state's security procedures; 8383

(7) Establish policies on the purchasing, use, and 8384
reimbursement for use of handheld computing and telecommunications 8385
devices by state agency employees; 8386

(8) Establish policies for the reduction of printing and the 8387
use of electronic records by state agencies; 8388

(9) Establish policies for the reduction of energy 8389
consumption by state agencies; 8390

(10) Compute the amount of revenue attributable to the 8391
amortization of all equipment purchases and capitalized systems 8392
from information technology service delivery and major information 8393
technology purchases operating appropriation items and major 8394
computer purchases capital appropriation items that is recovered 8395

as part of the information technology services rates the 8396
department of administrative services charges and deposits into 8397
the information technology fund created in section 125.15 of the 8398
Revised Code. 8399

(C)(1) The chief information security officer shall assist 8400
each state agency with the development of an information 8401
technology security strategic plan and review that plan, and each 8402
state agency shall submit that plan to the state chief information 8403
officer. The chief information security officer may require that 8404
each state agency update its information technology security 8405
strategic plan annually as determined by the state chief 8406
information officer. 8407

(2) Prior to the implementation of any information technology 8408
data system, a state agency shall prepare or have prepared a 8409
privacy impact statement for that system. 8410

(D) When a state agency requests a purchase of information 8411
technology supplies or services under Chapter 125. of the Revised 8412
Code, the state chief information officer may review and reject 8413
the requested purchase for noncompliance with information 8414
technology direction, plans, policies, standards, or 8415
project-alignment criteria. 8416

(E) The office of information technology may operate 8417
technology services for state agencies in accordance with this 8418
chapter. 8419

(F) With the approval of the director of administrative 8420
services, the office of information technology may establish 8421
cooperative agreements with federal and local government agencies 8422
and state agencies that are not under the authority of the 8423
governor for the provision of technology services and the 8424
development of technology projects. 8425

(G) The office of information technology may operate a 8426

program to make information technology purchases. The director of 8427
administrative services may recover the cost of operating the 8428
program from all participating government entities by issuing 8429
intrastate transfer voucher billings for the procured technology 8430
or through any pass-through billing method agreed to by the 8431
director of administrative services, the director of budget and 8432
management, and the participating government entities that will 8433
receive the procured technology. 8434

If the director of administrative services chooses to recover 8435
the program costs through intrastate transfer voucher billings, 8436
the participating government entities shall process the intrastate 8437
transfer vouchers to pay for the cost. Amounts received under this 8438
section for the information technology purchase program shall be 8439
deposited to the credit of the information technology governance 8440
fund created in section 125.15 of the Revised Code. 8441

(H) Upon request from the director of administrative 8442
services, the director of budget and management may transfer cash 8443
from the information technology fund created in section 125.15 of 8444
the Revised Code to the major information technology purchases 8445
fund in an amount not to exceed the amount computed under division 8446
(B)(10) of this section. The major information technology 8447
purchases fund is hereby created in the state treasury. 8448

(I) As used in this section: 8449

(1) "Personal information" has the same meaning as in section 8450
149.45 of the Revised Code. 8451

(2) "State agency" means every organized body, office, or 8452
agency established by the laws of the state for the exercise of 8453
any function of state government, other than any state-supported 8454
institution of higher education, the office of the auditor of 8455
state, treasurer of state, secretary of state, or attorney 8456
general, the adjutant general's department, the bureau of workers' 8457

compensation, the industrial commission, the public employees 8458
retirement system, the Ohio police and fire pension fund, the 8459
state teachers retirement system, the school employees retirement 8460
system, the state highway patrol retirement system, the general 8461
assembly or any legislative agency, the capitol square review 8462
advisory board, or the courts or any judicial agency. 8463

Sec. 125.182. The office of information technology, by itself 8464
or by contract with another entity, shall establish, operate, and 8465
maintain a state public notice web site. In establishing, 8466
maintaining, and operating the state public notice web site, the 8467
office of information technology shall: 8468

(A) Use a domain name for the web site that will be easily 8469
recognizable and remembered by and understandable to users of the 8470
web site; 8471

(B) Maintain the web site so that it is fully accessible to 8472
and searchable by members of the public at all times; 8473

(C) Not charge a fee to a person who accesses, searches, or 8474
otherwise uses the web site; 8475

(D) Not charge a fee to a state agency or political 8476
subdivision for publishing a notice on the web site; 8477

(E) Ensure that notices displayed on the web site conform to 8478
the requirements that would apply to the notices if they were 8479
being published in a newspaper, as directed in section 7.16 of the 8480
Revised Code or in the relevant provision of the statute or rule 8481
that requires the notice; 8482

(F) Ensure that notices continue to be displayed on the web 8483
site for not less than the length of time required by the relevant 8484
provision of the statute or rule that requires the notice; 8485

(G) Devise and display on the web site a form that may be 8486
downloaded and used to request publication of a notice on the web 8487

<u>site;</u>	8488
<u>(H) Enable responsible parties to submit notices and requests for their publication;</u>	8489 8490
<u>(I) Maintain an archive of notices that no longer are displayed on the web site;</u>	8491 8492
<u>(J) Enable notices, both those currently displayed and those archived, to be accessed by key word, by party name, by case number, by county, and by other useful identifiers;</u>	8493 8494 8495
<u>(K) Maintain adequate systemic security and backup features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseeable difficulties;</u>	8496 8497 8498 8499
<u>(L) Maintain the web site in such a manner that it will not infringe legally protected interests, so that vulnerability of the web site to interruption because of litigation or the threat of litigation is reduced; and</u>	8500 8501 8502 8503
<u>(M) Submit a status report to the secretary of state twice annually that demonstrates compliance with statutory requirements governing publication of notices.</u>	8504 8505 8506
<u>The office of information technology shall bear the expense of maintaining the state public notice web site domain name.</u>	8507 8508
<u>Sec. 125.213. There is hereby created the state employee child support fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. The fund shall consist of all money withheld or deducted from salaries and wages of state officials and employees pursuant to a withholding or deduction notice described in section 3121.03 of the Revised Code for forwarding to the office of child support in the department of job and family services pursuant to section 3121.19 of the Revised Code. All money in the fund, including</u>	8509 8510 8511 8512 8513 8514 8515 8516 8517

investment earnings thereon, shall be used only for the following 8518
purposes: 8519

(A) Forwarding to the office of child support money withheld 8520
or deducted from salaries and wages of state officials and 8521
employees pursuant to a withholding or deduction notice described 8522
in section 3121.03 of the Revised Code; 8523

(B) Paying any direct or indirect costs associated with 8524
maintaining the fund. 8525

Sec. 125.28. (A)(1) Each state agency that is supported in 8526
whole or in part by nongeneral revenue fund money and that 8527
occupies space in the James A. Rhodes or Frank J. Lausche state 8528
office tower, Toledo government center, Senator Oliver R. Ocasek 8529
government office building, Vern Riffe center for government and 8530
the arts, ~~state of Ohio computer center~~, capitol square, or 8531
governor's mansion shall reimburse the general revenue fund for 8532
the cost of occupying the space in the ratio that the occupied 8533
space in each facility attributable to the nongeneral revenue fund 8534
money bears to the total space occupied by the state agency in the 8535
facility. 8536

(2) All agencies that occupy space in the old blind school or 8537
that occupy warehouse space in the general services facility shall 8538
reimburse the department of administrative services for the cost 8539
of occupying the space. The director of administrative services 8540
shall determine the amount of debt service, if any, to be charged 8541
to building tenants and shall collect reimbursements for it. 8542

(3) Each agency that is supported in whole or in part by 8543
nongeneral revenue fund money and that occupies space in any other 8544
facility or facilities owned and maintained by the department of 8545
administrative services or space in the general services facility 8546
other than warehouse space shall reimburse the department for the 8547

cost of occupying the space, including debt service, if any, in 8548
the ratio that the occupied space in each facility attributable to 8549
the nongeneral revenue fund money bears to the total space 8550
occupied by the state agency in the facility. 8551

(B) The director of administrative services may provide 8552
building maintenance services and skilled trades services to any 8553
state agency occupying space in a facility that is not owned by 8554
the department of administrative services and may collect 8555
reimbursements for the cost of providing those services. 8556

(C) All money collected by the department of administrative 8557
services for operating expenses of facilities owned or maintained 8558
by the department shall be deposited into the state treasury to 8559
the credit of the building management fund, which is hereby 8560
created. All money collected by the department for skilled trades 8561
services shall be deposited into the state treasury to the credit 8562
of the skilled trades fund, which is hereby created. All money 8563
collected for debt service shall be deposited into the general 8564
revenue fund. 8565

(D) The director of administrative services shall determine 8566
the reimbursable cost of space in state-owned or state-leased 8567
facilities and shall collect reimbursements for that cost. 8568

Sec. 125.89. Subject to the approval of the governor, the 8569
department of administrative services may enter into contracts, 8570
compacts, and cooperative agreements for and on behalf of the 8571
state of Ohio with the several states or the federal government, 8572
singularly or severally, in order to provide, with or without 8573
reimbursement, for the utilization by and exchange between them, 8574
singularly or severally, of property, facilities, personnel, and 8575
services of each by the other, and, for the same purpose, to enter 8576
into contracts and cooperative agreements with eligible public or 8577
private state or local authorities, institutions, organizations, 8578

or activities. ~~The department shall make, annually, a report of
its actions under sections 125.84 to 125.90 of the Revised Code,
in accordance with section 149.01 of the Revised Code, and file
such report with the general assembly.~~

Sec. 126.12. (A)(1) The office of budget and management shall
prepare and administer a statewide indirect cost allocation plan
that provides for the recovery of statewide indirect costs from
any fund of the state. The director of budget and management may
make transfers of statewide indirect costs from the appropriate
fund of the state to the general revenue fund on an intrastate
transfer voucher. The director, for reasons of sound financial
management, also may waive the recovery of statewide indirect
costs. Prior to making a transfer in accordance with this
division, the director shall notify the affected agency of the
amounts to be transferred.

(2) To support development and upgrade costs to the state's
enterprise resource planning system, the director also may make
transfers of statewide indirect costs attributable to debt service
paid for the system to the OAKS support organization fund created
in section 126.24 of the Revised Code. Transfers may be made from
either of the following:

(a) The appropriate fund of the state;

(b) The general revenue fund, if the statewide indirect costs
have been collected under division (A)(1) of this section and
deposited in the general revenue fund.

(B) As used in this section, "statewide indirect costs" means
operating costs incurred by an agency in providing services to any
other agency, for which there was no billing to such other agency
for the services provided, and for which disbursements have been
made from the general revenue fund.

(C) Notwithstanding any provision of law to the contrary, in order to reduce the payment of adjustments to the federal government as determined under the plan prepared under division (A)(1) of this section, the director of budget and management shall, on or before the first day of September each fiscal year, designate such funds of the state as the director considers necessary to retain their own interest earnings.

Sec. 126.141. Any request for release of capital appropriations by the director of budget and management or the controlling board for facilities projects shall contain a contingency reserve, the amount of which shall be determined by the public authority, for payment of unanticipated project expenses. Any amount deducted from the encumbrance for a contractor's contract as an assessment for liquidated damages shall be added to the encumbrance for the contingency reserve. Contingency reserve funds shall be used to pay costs resulting from unanticipated job conditions, to comply with rulings regarding building and other codes, to pay costs related to errors, omissions, or other deficiencies in contract documents, to pay costs associated with changes in the scope of work, to pay interest due on late payments, and to pay the costs of settlements and judgments related to the project.

Any funds remaining upon completion of a project may, upon approval of the controlling board, be released for the use of the agency or instrumentality to which the appropriation was made for other capital facilities projects.

Sec. 126.21. (A) The director of budget and management shall do all of the following:

- (1) Keep all necessary accounting records;
- (2) Prescribe and maintain the accounting system of the state

and establish appropriate accounting procedures and charts of 8639
accounts; 8640

(3) Establish procedures for the use of written, electronic, 8641
optical, or other communications media for approving and reviewing 8642
payment vouchers; 8643

(4) Reconcile, in the case of any variation between the 8644
amount of any appropriation and the aggregate amount of items of 8645
the appropriation, with the advice and assistance of the state 8646
agency affected by it and the legislative service commission, 8647
totals so as to correspond in the aggregate with the total 8648
appropriation. In the case of a conflict between the item and the 8649
total of which it is a part, the item shall be considered the 8650
intended appropriation. 8651

(5) Evaluate on an ongoing basis and, if necessary, recommend 8652
improvements to the internal controls used in state agencies; 8653

(6) Authorize the establishment of petty cash accounts. The 8654
director may withdraw approval for any petty cash account and 8655
require the officer in charge to return to the state treasury any 8656
unexpended balance shown by the officer's accounts to be on hand. 8657
Any officer who is issued a warrant for petty cash shall render a 8658
detailed account of the expenditures of the petty cash and shall 8659
report when requested the balance of petty cash on hand at any 8660
time. 8661

(7) Process orders, invoices, vouchers, claims, and payrolls 8662
and prepare financial reports and statements; 8663

(8) Perform extensions, reviews, and compliance checks prior 8664
to or after approving a payment as the director considers 8665
necessary; 8666

(9) Issue the official comprehensive annual financial report 8667
of the state. The report shall cover all funds of the state 8668
reporting entity and shall include basic financial statements and 8669

required supplementary information prepared in accordance with 8670
generally accepted accounting principles and other information as 8671
the director provides. All state agencies, authorities, 8672
institutions, offices, retirement systems, and other component 8673
units of the state reporting entity as determined by the director 8674
shall furnish the director whatever financial statements and other 8675
information the director requests for the report, in the form, at 8676
the times, covering the periods, and with the attestation the 8677
director prescribes. The information for state institutions of 8678
higher education, as defined in section 3345.011 of the Revised 8679
Code, shall be submitted to the chancellor by the Ohio board of 8680
regents. The board shall establish a due date by which each such 8681
institution shall submit the information to the board, but no such 8682
date shall be later than one hundred twenty days after the end of 8683
the state fiscal year unless a later date is approved by the 8684
director. 8685

(B) In addition to the director's duties under division (A) 8686
of this section, the director may establish and administer one or 8687
more state payment card programs that permit or require state 8688
agencies to use a payment card to purchase equipment, materials, 8689
supplies, or services in accordance with guidelines issued by the 8690
director. The chief administrative officer of a state agency that 8691
uses a payment card for such purposes shall ensure that purchases 8692
made with the card are made in accordance with the guidelines 8693
issued by the director and do not exceed the unexpended, 8694
unencumbered, unobligated balance in the appropriation to be 8695
charged for the purchase. State agencies may participate in only 8696
those state payment card programs that the director establishes 8697
pursuant to this section. 8698

(C) In addition to the director's duties under divisions (A) 8699
and (B) of this section, the director may enter into any contract 8700
or agreement necessary for and incidental to the performance of 8701

the director's duties or the duties of the office of budget and management. 8702
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(D) In consultation with the director of administrative services, the director may appoint and fix the compensation of employees of the office of budget and management whose primary duties include the consolidation of statewide financing functions and common transactional processes. 8704
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(E) The director may transfer cash between funds other than the general revenue fund in order to correct an erroneous payment or deposit regardless of the fiscal year during which the erroneous payment or deposit occurred. 8709
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Sec. 126.24. The OAKS support organization fund is hereby created in the state treasury for the purpose of paying the operating, development, and upgrade expenses of the state's enterprise resource planning system. The fund shall consist of ~~cash transfers from the accounting and budgeting fund and the human resources services fund, and other~~ received pursuant to division (A)(2) of section 126.12 of the Revised Code and agency payroll charge revenues that are designated to support the operating, development, and upgrade costs of the Ohio administrative knowledge system. All investment earnings of the fund shall be credited to the fund. 8713
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Sec. 126.50. As used in sections ~~126.50, 126.501, 126.502,~~ 126.503, 126.504, 126.505, and 126.506, ~~and 126.507~~ of the Revised Code: 8724
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~~(A) "Critical services" means a service provided by the state the deferral or cancellation of which would cause at least one of the following:~~ 8727
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~~(1) An immediate risk to the health, safety, or welfare of the citizens of the state;~~ 8730
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~~(2) A undermining of activity aimed at creating or retaining jobs in the state;~~ 8732
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~~(3) An interference with the receipt of revenue to the state or the realization of savings to the state.~~ 8734
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~~"Critical services" does not mean a deferral or cancellation of a service provided by the state that would result in inconvenience, sustainable delay, or other similar compromise to the normal provision of state provided services.~~ 8736
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~~(B), "State state agency" has the same meaning as in section 1.60 of the Revised Code, but does not include the elected state officers, the general assembly or any legislative agency, a court or any judicial agency, or a state institution of higher education.~~ 8740
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Sec. 126.60. As used in sections 126.60 to 126.605 of the Revised Code: 8745
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(A) "Contract" means any purchase and sale agreement, lease, service agreement, franchise agreement, concession agreement, or other written agreement entered into under sections 126.60 to 126.605 of the Revised Code with respect to the provision of highway services and any project related thereto. 8747
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(B) "Highway services" means the operation or maintenance of any highway in this state, the construction of which was funded by proceeds from state revenue bonds that are to be repaid primarily from revenues derived from the operation of the highway and any related facilities and not primarily from the tax that is subject to the limitations of Article XII, Section 5a of the Ohio Constitution. 8752
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(C) "Improvement" means any construction, reconstruction, rehabilitation, renovation, installation, improvement, enlargement, or extension of property or improvements to property. 8759
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(D) "Private sector entity" means any corporation, whether 8762
for profit or not for profit, limited liability company, 8763
partnership, limited liability partnership, sole proprietorship, 8764
business trust, joint venture or other entity, but shall not mean 8765
the state, a political subdivision of the state, or a public or 8766
governmental entity, agency, or instrumentality of the state. 8767

(E) "Project" means real or personal property, or both, and 8768
improvements thereto or in support thereof, including undivided 8769
and other interests therein, used for or in the provision of 8770
highway services. 8771

(F) "Proposer" means a private sector entity, local or 8772
regional public entity or agency, or any group or combination 8773
thereof, in collaboration or cooperation with other private sector 8774
entities, local or regional public entities, submitting 8775
qualifications or a proposal for providing highway services. 8776

Sec. 126.601. Notwithstanding any provision of the Revised 8777
Code to the contrary, the director of budget and management and 8778
the director of transportation may take any action and execute any 8779
contract for the provision of highway services in order to more 8780
efficiently and effectively provide those services, including by 8781
generating additional resources in support of those services and 8782
related projects. Any such contract may contain the terms and 8783
conditions established by the director of budget and management 8784
and the department of transportation to carry out and effect the 8785
purposes of sections 126.60 to 126.605 of the Revised Code. The 8786
director is hereby authorized to receive and deposit, consistent 8787
with section 126.603 of the Revised Code, any money received under 8788
the contract. Any such contract shall be sufficient to effect its 8789
purpose notwithstanding any provision of the Revised Code to the 8790
contrary, including other laws governing the sale, lease or other 8791
disposition of property or interests therein, service contracts, 8792

or financial transactions by or for the state. The director of 8793
transportation may exercise all powers of the Ohio turnpike 8794
commission for purposes of sections 126.60 to 126.605 of the 8795
Revised Code, and may take any action and, with the director of 8796
budget and management, execute any contract necessary to effect 8797
the purposes of sections 126.60 to 126.605 of the Revised Code, 8798
notwithstanding any provision of Chapter 5537. of the Revised Code 8799
to the contrary. 8800

Sec. 126.602. (A) Before entering into a contract for the 8801
provision of highway services, the director of budget and 8802
management shall publish notice of its intent to enter into a 8803
contract for the highway services and any related project. The 8804
notice shall notify interested parties of the opportunity to 8805
submit their qualifications or proposals, or both, for 8806
consideration and shall be published at least thirty days prior to 8807
the deadline for submitting those qualifications or proposals. The 8808
director also may advertise the information contained in the 8809
notice in appropriate trade journals and otherwise notify parties 8810
believed to be interested in providing the highway services and in 8811
any related project. The notice shall include a general 8812
description of the highway services to be provided and any related 8813
project and of the qualifications or proposals being sought and 8814
instructions for obtaining the invitation. 8815

(B) After inviting qualifications, the director of budget and 8816
management, in consultation with the department of transportation, 8817
shall evaluate the qualifications submitted and may hold 8818
discussions with proposers to further explore their 8819
qualifications. Following this evaluation, the director, in 8820
consultation with the department, may determine a list of 8821
qualified proposers based on criteria in the invitation and invite 8822
only those proposers to submit a proposal for the provision of the 8823

highway services and any related project. 8824

(C) After inviting proposals, the director of budget and 8825
management, in consultation with the department of transportation, 8826
shall evaluate the proposals submitted and may hold discussions 8827
with proposers to further explore their proposals, the scope and 8828
nature of the highway services they would provide, and the various 8829
technical approaches they may take regarding the highway services 8830
and any related project. Following this evaluation, the director, 8831
in consultation with the department, shall: 8832

(1) Select and rank no fewer than three proposers that the 8833
director considers to be the most qualified to enter into the 8834
contract, except when the director determines that fewer than 8835
three qualified proposers are available, in which case the 8836
director shall select and rank them; 8837

(2) Negotiate a contract with the proposer ranked most 8838
qualified to provide the highway services at a compensation 8839
determined in writing to be fair and reasonable, and to purchase, 8840
lease or otherwise take a legal interest in the project. 8841

(D)(1) Upon failure to negotiate a contract with the proposer 8842
ranked most qualified, the director shall inform the proposer in 8843
writing of the termination of negotiations and may enter into 8844
negotiations with the proposer ranked next most qualified. If 8845
negotiations again fail, the same procedure may be followed with 8846
each next most qualified proposer selected and ranked, in order of 8847
ranking, until a contract is negotiated. 8848

(2) If the director, in consultation with the department, 8849
fails to negotiate a contract with any of the ranked proposers, 8850
the director, in consultation with the department, may terminate 8851
the process or select and rank additional proposers, based on 8852
their qualifications or proposals, and negotiations shall continue 8853
as with the proposers selected and ranked initially until a 8854

contract is negotiated. 8855

(E) Any contract entered into under this section may contain terms, as deemed appropriate by the director, in consultation with the department, including the duration of the contract, which shall not exceed seventy-five years, rates or fees for the highway services to be provided or methods or procedures for the determination of such rates or fees, standards for the highway services to be provided, responsibilities and standards for operation and maintenance of any related project, required financial assurances, financial and other data reporting requirements, bases and procedures for termination of the contract and retaking of possession or title to the project, and events of default and remedies upon default, including mandamus, a suit in equity, an action at law, or any combination of those remedial actions. 8856
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(F) Chapter 4115. of the Revised Code shall not apply to any project. Chapter 4117. of the Revised Code shall not apply to any employees working at or on a project to provide highway services. 8870
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(G) The director of budget and management may reject any and all submissions of qualifications or proposals. 8873
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Sec. 126.603. (A) In addition to its powers under sections 127.14 and 127.16 of the Revised Code, the controlling board shall approve any invitation for qualifications or for proposals and related contract negotiated under sections 126.60 to 126.605 of the Revised Code, which approval may be by pre-approval of specified terms of the contract. The controlling board may approve any transfer of moneys and funds necessary to support the highway services. 8875
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(B) All money received by the director of budget and management under a contract executed pursuant to sections 126.60 to 126.605 of the Revised Code shall be deposited into the state 8883
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treasury to the credit of the highway services fund, which is 8886
hereby created. Any interest earned on money in the fund shall be 8887
credited to the fund. 8888

Sec. 126.604. The exercise of the powers granted by sections 8889
126.60 to 126.605 of the Revised Code will be for the benefit of 8890
the people of the state and shall be liberally construed to effect 8891
the purposes thereof. Any project or part thereof owned by the 8892
state and used for performing any highway services pursuant to a 8893
contract entered into under sections 126.60 to 126.605 of the 8894
Revised Code that would be exempt from real property taxes or 8895
assessments in the absence of such contract shall remain exempt 8896
from real property taxes and assessments levied by the state and 8897
its subdivisions to the same extent as if not subject to that 8898
contract. The gross receipts and income of a successful proposer 8899
derived from providing highway services under a contract through a 8900
project owned by the state shall be exempt from gross receipts and 8901
income taxes levied by the state and its subdivisions, including 8902
the tax levied pursuant to Chapter 5751. of the Revised Code. Any 8903
transfer or lease between a successful proposer and the state of a 8904
project or part thereof, or item included or to be included in the 8905
project, shall be exempt from the taxes levied pursuant to 8906
Chapters 5739. and 5741. of the Revised Code if the state is 8907
retaining ownership of the project or part thereof that is being 8908
transferred or leased. 8909

Sec. 126.605. The director of budget and management, in 8910
consultation with the department of transportation, may retain or 8911
contract for the services of commercial appraisers, engineers, 8912
investment bankers, financial advisers, accounting experts, and 8913
other consultants, independent contractors or providers of 8914
professional services as are necessary in the judgment of the 8915
director to carry out the director's powers and duties under 8916

sections 126.60 to 126.605 of the Revised Code, including the 8917
identification of highway services and any related projects to be 8918
subject to invitations for qualifications or proposals under 8919
sections 126.60 to 126.605 of the Revised Code, the development of 8920
those invitations and related evaluation criteria, the evaluation 8921
of those invitations, and negotiation of any contract under 8922
sections 126.60 to 126.605 of the Revised Code. 8923

Sec. 127.16. (A) Upon the request of either a state agency or 8924
the director of budget and management and after the controlling 8925
board determines that an emergency or a sufficient economic reason 8926
exists, the controlling board may approve the making of a purchase 8927
without competitive selection as provided in division (B) of this 8928
section. 8929

(B) Except as otherwise provided in this section, no state 8930
agency, using money that has been appropriated to it directly, 8931
shall: 8932

(1) Make any purchase from a particular supplier, that would 8933
amount to fifty thousand dollars or more when combined with both 8934
the amount of all disbursements to the supplier during the fiscal 8935
year for purchases made by the agency and the amount of all 8936
outstanding encumbrances for purchases made by the agency from the 8937
supplier, unless the purchase is made by competitive selection or 8938
with the approval of the controlling board; 8939

(2) Lease real estate from a particular supplier, if the 8940
lease would amount to seventy-five thousand dollars or more when 8941
combined with both the amount of all disbursements to the supplier 8942
during the fiscal year for real estate leases made by the agency 8943
and the amount of all outstanding encumbrances for real estate 8944
leases made by the agency from the supplier, unless the lease is 8945
made by competitive selection or with the approval of the 8946

controlling board. 8947

(C) Any person who authorizes a purchase in violation of 8948
division (B) of this section shall be liable to the state for any 8949
state funds spent on the purchase, and the attorney general shall 8950
collect the amount from the person. 8951

(D) Nothing in division (B) of this section shall be 8952
construed as: 8953

(1) A limitation upon the authority of the director of 8954
transportation as granted in sections 5501.17, 5517.02, and 8955
5525.14 of the Revised Code; 8956

(2) Applying to medicaid provider agreements under Chapter 8957
5111. of the Revised Code; 8958

(3) Applying to the purchase of examinations from a sole 8959
supplier by a state licensing board under Title XLVII of the 8960
Revised Code; 8961

(4) Applying to entertainment contracts for the Ohio state 8962
fair entered into by the Ohio expositions commission, provided 8963
that the controlling board has given its approval to the 8964
commission to enter into such contracts and has approved a total 8965
budget amount for such contracts as agreed upon by commission 8966
action, and that the commission causes to be kept itemized records 8967
of the amounts of money spent under each contract and annually 8968
files those records with the clerk of the house of representatives 8969
and the clerk of the senate following the close of the fair; 8970

(5) Limiting the authority of the chief of the division of 8971
mineral resources management to contract for reclamation work with 8972
an operator mining adjacent land as provided in section 1513.27 of 8973
the Revised Code; 8974

(6) Applying to investment transactions and procedures of any 8975
state agency, except that the agency shall file with the board the 8976

name of any person with whom the agency contracts to make, broker, 8977
service, or otherwise manage its investments, as well as the 8978
commission, rate, or schedule of charges of such person with 8979
respect to any investment transactions to be undertaken on behalf 8980
of the agency. The filing shall be in a form and at such times as 8981
the board considers appropriate. 8982

(7) Applying to purchases made with money for the per cent 8983
for arts program established by section 3379.10 of the Revised 8984
Code; 8985

(8) Applying to purchases made by the rehabilitation services 8986
commission of services, or supplies, that are provided to persons 8987
with disabilities, or to purchases made by the commission in 8988
connection with the eligibility determinations it makes for 8989
applicants of programs administered by the social security 8990
administration; 8991

(9) Applying to payments by the department of job and family 8992
services under section 5111.13 of the Revised Code for group 8993
health plan premiums, deductibles, coinsurance, and other 8994
cost-sharing expenses; 8995

(10) Applying to any agency of the legislative branch of the 8996
state government; 8997

(11) Applying to agreements or contracts entered into under 8998
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 8999
Revised Code; 9000

(12) Applying to purchases of services by the adult parole 9001
authority under section 2967.14 of the Revised Code or by the 9002
department of youth services under section 5139.08 of the Revised 9003
Code; 9004

(13) Applying to dues or fees paid for membership in an 9005
organization or association; 9006

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	9007 9008
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	9009 9010 9011 9012
(16) Applying to purchases of tickets for passenger air transportation;	9013 9014
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	9015 9016 9017
(18) Applying to the judicial branch of state government;	9018
(19) Applying to purchases of liquor for resale by the division of liquor control;	9019 9020
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	9021 9022 9023
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	9024 9025 9026 9027
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	9028 9029 9030
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	9031 9032
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	9033 9034 9035 9036

(25) Applying to purchases from a qualified nonprofit agency	9037
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of	9038
the Revised Code;	9039
(26) Applying to payments by the department of job and family	9040
services to the United States department of health and human	9041
services for printing and mailing notices pertaining to the tax	9042
refund offset program of the internal revenue service of the	9043
United States department of the treasury;	9044
(27) Applying to contracts entered into by the department of	9045
developmental disabilities under section 5123.18 of the Revised	9046
Code;	9047
(28) Applying to payments made by the department of mental	9048
health under a physician recruitment program authorized by section	9049
5119.101 of the Revised Code;	9050
(29) Applying to contracts entered into with persons by the	9051
director of commerce for unclaimed funds collection and remittance	9052
efforts as provided in division (F) of section 169.03 of the	9053
Revised Code. The director shall keep an itemized accounting of	9054
unclaimed funds collected by those persons and amounts paid to	9055
them for their services.	9056
(30) Applying to purchases made by a state institution of	9057
higher education in accordance with the terms of a contract	9058
between the vendor and an inter-university purchasing group	9059
comprised of purchasing officers of state institutions of higher	9060
education;	9061
(31) Applying to the department of job and family services'	9062
purchases of health assistance services under the children's	9063
health insurance program part I provided for under section 5101.50	9064
of the Revised Code, the children's health insurance program part	9065
II provided for under section 5101.51 of the Revised Code, or the	9066
children's health insurance program part III provided for under	9067

~~section 5101.52 of the Revised Code, or the children's buy-in program provided for under sections 5101.5211 to 5101.5216 of the Revised Code;~~ 9068
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(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code; 9071
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(33) Applying to contracts with a contracting authority or administrative receiver under division (B) of section 5126.056 of the Revised Code; 9075
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(34) Applying to purchases of goods and services by the department of veterans services in accordance with the terms of contracts entered into by the United States department of veterans affairs; 9078
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(35) Applying to payments by the superintendent of the bureau of criminal identification and investigation to the federal bureau of investigation for criminal records checks pursuant to section 109.572 of the Revised Code. 9082
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(E) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1) and (2) of this section, all of the following purchases by such agency shall not be considered: 9086
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(1) Purchases made through competitive selection or with controlling board approval; 9090
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(2) Purchases listed in division (D) of this section; 9092

(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate. 9093
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(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code. 9095
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Sec. 131.23. The various political subdivisions of this state 9098
may issue bonds, and any indebtedness created by that issuance 9099
shall not be subject to the limitations or included in the 9100
calculation of indebtedness prescribed by sections 133.05, 133.06, 9101
133.07, and 133.09 of the Revised Code, but the bonds may be 9102
issued only under the following conditions: 9103

(A) The subdivision desiring to issue the bonds shall obtain 9104
from the county auditor a certificate showing the total amount of 9105
delinquent taxes due and unpayable to the subdivision at the last 9106
semiannual tax settlement. 9107

(B) The fiscal officer of that subdivision shall prepare a 9108
statement, from the books of the subdivision, verified by the 9109
fiscal officer under oath, which shall contain the following facts 9110
of the subdivision: 9111

(1) The total bonded indebtedness; 9112

(2) The aggregate amount of notes payable or outstanding 9113
accounts of the subdivision, incurred prior to the commencement of 9114
the current fiscal year, which shall include all evidences of 9115
indebtedness issued by the subdivision except notes issued in 9116
anticipation of bond issues and the indebtedness of any 9117
nontax-supported public utility; 9118

(3) Except in the case of school districts, the aggregate 9119
current year's requirement for disability financial assistance 9120
provided under Chapter 5115. of the Revised Code that the 9121
subdivision is unable to finance except by the issue of bonds; 9122

(4) The indebtedness outstanding through the issuance of any 9123
bonds or notes pledged or obligated to be paid by any delinquent 9124
taxes; 9125

(5) The total of any other indebtedness; 9126

(6) The net amount of delinquent taxes unpledged to pay any 9127

bonds, notes, or certificates, including delinquent assessments on	9128
improvements on which the bonds have been paid;	9129
(7) The budget requirements for the fiscal year for bond and	9130
note retirement;	9131
(8) The estimated revenue for the fiscal year.	9132
(C) The certificate and statement provided for in divisions	9133
(A) and (B) of this section shall be forwarded to the tax	9134
commissioner together with a request for authority to issue bonds	9135
of the subdivision in an amount not to exceed seventy per cent of	9136
the net unobligated delinquent taxes and assessments due and owing	9137
to the subdivision, as set forth in division (B)(6) of this	9138
section.	9139
(D) No subdivision may issue bonds under this section in	9140
excess of a sufficient amount to pay the indebtedness of the	9141
subdivision as shown by division (B)(2) of this section and,	9142
except in the case of school districts, to provide funds for	9143
disability financial assistance as shown by division (B)(3) of	9144
this section.	9145
(E) The tax commissioner shall grant to the subdivision	9146
authority requested by the subdivision as restricted by divisions	9147
(C) and (D) of this section and shall make a record of the	9148
certificate, statement, and grant in a record book devoted solely	9149
to such recording and which shall be open to inspection by the	9150
public.	9151
(F) The commissioner shall immediately upon issuing the	9152
authority provided in division (E) of this section notify the	9153
proper authority having charge of the retirement of bonds of the	9154
subdivision by forwarding a copy of the grant of authority and of	9155
the statement provided for in division (B) of this section.	9156
(G) Upon receipt of authority, the subdivision shall proceed	9157
according to law to issue the amount of bonds authorized by the	9158

commissioner, and authorized by the taxing authority, provided the 9159
taxing authority of that subdivision may submit, by resolution, to 9160
the electors of that subdivision the question of issuing the 9161
bonds. The resolution shall make the declarations and statements 9162
required by section 133.18 of the Revised Code. The county auditor 9163
and taxing authority shall thereupon proceed as set forth in 9164
divisions (C) and (D) of that section. The election on the 9165
question of issuing the bonds shall be held under divisions (E), 9166
(F), and (G) of that section, except that publication of the 9167
notice of the election shall be made on two separate days prior to 9168
the election in ~~one or more newspapers~~ a newspaper of general 9169
circulation in the subdivision, ~~and, if~~ or as provided in section 9170
7.16 of the Revised Code. If the board of elections operates and 9171
maintains a web site, notice of the election also shall be posted 9172
on that web site for thirty days prior to the election. The bonds 9173
may be exchanged at their face value with creditors of the 9174
subdivision in liquidating the indebtedness described and 9175
enumerated in division (B)(2) of this section or may be sold as 9176
provided in Chapter 133. of the Revised Code, and in either event 9177
shall be uncontestable. 9178

(H) The per cent of delinquent taxes and assessments 9179
collected for and to the credit of the subdivision after the 9180
exchange or sale of bonds as certified by the commissioner shall 9181
be paid to the authority having charge of the sinking fund of the 9182
subdivision, which money shall be placed in a separate fund for 9183
the purpose of retiring the bonds so issued. The proper authority 9184
of the subdivisions shall provide for the levying of a tax 9185
sufficient in amount to pay the debt charges on all such bonds 9186
issued under this section. 9187

(I) This section is for the sole purpose of assisting the 9188
various subdivisions in paying their unsecured indebtedness, and 9189
providing funds for disability financial assistance. The bonds 9190

issued under authority of this section shall not be used for any 9191
other purpose, and any exchange for other purposes, or the use of 9192
the money derived from the sale of the bonds by the subdivision 9193
for any other purpose, is misapplication of funds. 9194

(J) The bonds authorized by this section shall be redeemable 9195
or payable in not to exceed ten years from date of issue and shall 9196
not be subject to or considered in calculating the net 9197
indebtedness of the subdivision. The budget commission of the 9198
county in which the subdivision is located shall annually allocate 9199
such portion of the then delinquent levy due the subdivision which 9200
is unpledged for other purposes to the payment of debt charges on 9201
the bonds issued under authority of this section. 9202

(K) The issue of bonds under this section shall be governed 9203
by Chapter 133. of the Revised Code, respecting the terms used, 9204
forms, manner of sale, and redemption except as otherwise provided 9205
in this section. 9206

The board of county commissioners of any county may issue 9207
bonds authorized by this section and distribute the proceeds of 9208
the bond issues to any or all of the cities and townships of the 9209
county, according to their relative needs for disability financial 9210
assistance as determined by the county. 9211

All sections of the Revised Code inconsistent with or 9212
prohibiting the exercise of the authority conferred by this 9213
section are inoperative respecting bonds issued under this 9214
section. 9215

Sec. 131.44. (A) As used in this section: 9216

(1) "Surplus revenue" means the excess, if any, of the total 9217
fund balance over the required year-end balance. 9218

(2) "Total fund balance" means the sum of the unencumbered 9219
balance in the general revenue fund on the last day of the 9220

preceding fiscal year plus the balance in the budget stabilization fund. 9221
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(3) "Required year-end balance" means the sum of the following: 9223
9224

(a) Five per cent of the general revenue fund revenues for the preceding fiscal year; 9225
9226

(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year; 9227
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9229

(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year; 9230
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(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed; 9235
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(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code. 9239
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(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following: 9245
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(a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in 9249
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provisions of acts of the general assembly signed by the governor 9251
but not yet effective; 9252

(b) Transfers of ~~appropriation~~ appropriations from the first 9253
fiscal year to the second fiscal year of the biennium approved by 9254
the controlling board. 9255

(5) "Estimated general revenue fund revenue" means the most 9256
recent such estimate available to the director of budget and 9257
management. 9258

(B)(1) Not later than the thirty-first day of July each year, 9259
the director of budget and management shall determine the surplus 9260
revenue that existed on the preceding thirtieth day of June and 9261
transfer from the general revenue fund, to the extent of the 9262
unobligated, unencumbered balance on the preceding thirtieth day 9263
of June in excess of one-half of one per cent of the general 9264
revenue fund revenues in the preceding fiscal year, the following: 9265

(a) First, to the budget stabilization fund, any amount 9266
necessary for the balance of the budget stabilization fund to 9267
equal five per cent of the general revenue fund revenues of the 9268
preceding fiscal year; 9269

(b) Then, to the income tax reduction fund, which is hereby 9270
created in the state treasury, an amount equal to the surplus 9271
revenue. 9272

(2) Not later than the thirty-first day of July each year, 9273
the director shall determine the percentage that the balance in 9274
the income tax reduction fund is of the amount of revenue that the 9275
director estimates will be received from the tax levied under 9276
section 5747.02 of the Revised Code in the current fiscal year 9277
without regard to any reduction under division (B) of that 9278
section. If that percentage exceeds thirty-five one hundredths of 9279
one per cent, the director shall certify the percentage to the tax 9280
commissioner not later than the thirty-first day of July. 9281

(C) The director of budget and management shall transfer 9282
money in the income tax reduction fund to the general revenue 9283
fund, the local government fund, and the public library fund as 9284
necessary to offset revenue reductions resulting from the 9285
reductions in taxes required under division (B) of section 5747.02 9286
of the Revised Code in the respective amounts and percentages 9287
prescribed by division (A) of section 5747.03 and divisions ~~(A)~~(B) 9288
and ~~(B)~~(C) of section 131.51 of the Revised Code as if the amount 9289
transferred had been collected as taxes under Chapter 5747. of the 9290
Revised Code. If no reductions in taxes are made under that 9291
division that affect revenue received in the current fiscal year, 9292
the director shall not transfer money from the income tax 9293
reduction fund to the general revenue fund, the local government 9294
fund, and the public library fund. 9295

Sec. 131.51. (A) ~~Beginning January 2008, on~~ On or before July 9296
5, 2013, the tax commissioner shall compute the following amounts 9297
and certify those amounts to the director of budget and 9298
management: 9299

(1) A percentage calculated by multiplying one hundred by the 9300
quotient obtained by dividing the total amount credited to the 9301
local government fund in fiscal year 2013 by the total amount of 9302
tax revenue credited to the general revenue fund in fiscal year 9303
2013. The percentage shall be rounded to the nearest one-hundredth 9304
of one per cent. 9305

(2) A percentage calculated by multiplying one hundred by the 9306
quotient obtained by dividing the total amount credited to the 9307
public library fund in fiscal year 2013 by the total amount of tax 9308
revenue credited to the general revenue fund in fiscal year 2013. 9309
The percentage shall be rounded to the nearest one-hundredth of 9310
one per cent. 9311

(B) On or before the ~~fifth~~ seventh day of each month, the 9312

director of budget and management shall credit to the local 9313
government fund ~~three and sixty eight one hundredths per cent of~~ 9314
an amount equal to the product obtained by multiplying the 9315
percentage calculated under division (A)(1) of this section by the 9316
total tax revenue credited to the general revenue fund during the 9317
preceding month. ~~In determining the total tax revenue credited to~~ 9318
~~the general revenue fund during the preceding month, the director~~ 9319
~~shall include amounts transferred from that fund during the~~ 9320
~~preceding month pursuant to divisions (A) and (B) of this section.~~ 9321
Money shall be distributed from the local government fund as 9322
required under section 5747.50 of the Revised Code during the same 9323
month in which it is credited to the fund. 9324

~~(B) Beginning January 2008, on~~ (C) On or before the fifth 9325
seventh day of each month, the director of budget and management 9326
shall credit to the public library fund, ~~two and twenty two one~~ 9327
~~hundredths per cent of~~ an amount equal to the product obtained by 9328
multiplying the percentage calculated under division (A)(2) of 9329
this section by the total tax revenue credited to the general 9330
revenue fund during the preceding month. ~~In determining the total~~ 9331
~~tax revenue credited to the general revenue fund during the~~ 9332
~~preceding month, the director shall include amounts transferred~~ 9333
~~from that fund during the preceding month pursuant to divisions~~ 9334
~~(A) and (B) of this section.~~ Money shall be distributed from the 9335
public library fund as required under section 5747.47 of the 9336
Revised Code during the same month in which it is credited to the 9337
fund. 9338

~~(C)(D)~~ The director of budget and management shall develop a 9339
schedule identifying the specific tax revenue sources to be used 9340
to make the monthly transfers required under divisions ~~(A)(B)~~ and 9341
~~(B)(C)~~ of this section. The director may, from time to time, 9342
revise the schedule as the director considers necessary. 9343

Sec. 133.06. (A) A school district shall not incur, without a 9344
vote of the electors, net indebtedness that exceeds an amount 9345
equal to one-tenth of one per cent of its tax valuation, except as 9346
provided in divisions (G) and (H) of this section and in division 9347
(C) of section 3313.372 of the Revised Code, or as prescribed in 9348
section 3318.052 or 3318.44 of the Revised Code, or as provided in 9349
division (J) of this section. 9350

(B) Except as provided in divisions (E), (F), and (I) of this 9351
section, a school district shall not incur net indebtedness that 9352
exceeds an amount equal to nine per cent of its tax valuation. 9353

(C) A school district shall not submit to a vote of the 9354
electors the question of the issuance of securities in an amount 9355
that will make the district's net indebtedness after the issuance 9356
of the securities exceed an amount equal to four per cent of its 9357
tax valuation, unless the superintendent of public instruction, 9358
acting under policies adopted by the state board of education, and 9359
the tax commissioner, acting under written policies of the 9360
commissioner, consent to the submission. A request for the 9361
consents shall be made at least one hundred twenty days prior to 9362
the election at which the question is to be submitted. 9363

The superintendent of public instruction shall certify to the 9364
district the superintendent's and the tax commissioner's decisions 9365
within thirty days after receipt of the request for consents. 9366

If the electors do not approve the issuance of securities at 9367
the election for which the superintendent of public instruction 9368
and tax commissioner consented to the submission of the question, 9369
the school district may submit the same question to the electors 9370
on the date that the next special election may be held under 9371
section 3501.01 of the Revised Code without submitting a new 9372
request for consent. If the school district seeks to submit the 9373
same question at any other subsequent election, the district shall 9374

first submit a new request for consent in accordance with this 9375
division. 9376

(D) In calculating the net indebtedness of a school district, 9377
none of the following shall be considered: 9378

(1) Securities issued to acquire school buses and other 9379
equipment used in transporting pupils or issued pursuant to 9380
division (D) of section 133.10 of the Revised Code; 9381

(2) Securities issued under division (F) of this section, 9382
under section 133.301 of the Revised Code, and, to the extent in 9383
excess of the limitation stated in division (B) of this section, 9384
under division (E) of this section; 9385

(3) Indebtedness resulting from the dissolution of a joint 9386
vocational school district under section 3311.217 of the Revised 9387
Code, evidenced by outstanding securities of that joint vocational 9388
school district; 9389

(4) Loans, evidenced by any securities, received under 9390
sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the 9391
Revised Code; 9392

(5) Debt incurred under section 3313.374 of the Revised Code; 9393

(6) Debt incurred pursuant to division (B)(5) of section 9394
3313.37 of the Revised Code to acquire computers and related 9395
hardware; 9396

(7) Debt incurred under section 3318.042 of the Revised Code. 9397

(E) A school district may become a special needs district as 9398
to certain securities as provided in division (E) of this section. 9399

(1) A board of education, by resolution, may declare its 9400
school district to be a special needs district by determining both 9401
of the following: 9402

(a) The student population is not being adequately serviced 9403
by the existing permanent improvements of the district. 9404

(b) The district cannot obtain sufficient funds by the 9405
issuance of securities within the limitation of division (B) of 9406
this section to provide additional or improved needed permanent 9407
improvements in time to meet the needs. 9408

(2) The board of education shall certify a copy of that 9409
resolution to the superintendent of public instruction with a 9410
statistical report showing all of the following: 9411

(a) A history of and a projection of the growth of the 9412
student population; 9413

(b) The history of and a projection of the growth of the tax 9414
valuation; 9415

(c) The projected needs; 9416

(d) The estimated cost of permanent improvements proposed to 9417
meet such projected needs. 9418

(3) The superintendent of public instruction shall certify 9419
the district as an approved special needs district if the 9420
superintendent finds both of the following: 9421

(a) The district does not have available sufficient 9422
additional funds from state or federal sources to meet the 9423
projected needs. 9424

(b) The projection of the potential average growth of tax 9425
valuation during the next five years, according to the information 9426
certified to the superintendent and any other information the 9427
superintendent obtains, indicates a likelihood of potential 9428
average growth of tax valuation of the district during the next 9429
five years of an average of not less than three per cent per year. 9430
The findings and certification of the superintendent shall be 9431
conclusive. 9432

(4) An approved special needs district may incur net 9433
indebtedness by the issuance of securities in accordance with the 9434

provisions of this chapter in an amount that does not exceed an 9435
amount equal to the greater of the following: 9436

(a) Nine per cent of the sum of its tax valuation plus an 9437
amount that is the product of multiplying that tax valuation by 9438
the percentage by which the tax valuation has increased over the 9439
tax valuation on the first day of the sixtieth month preceding the 9440
month in which its board determines to submit to the electors the 9441
question of issuing the proposed securities; 9442

(b) Nine per cent of the sum of its tax valuation plus an 9443
amount that is the product of multiplying that tax valuation by 9444
the percentage, determined by the superintendent of public 9445
instruction, by which that tax valuation is projected to increase 9446
during the next ten years. 9447

(F) A school district may issue securities for emergency 9448
purposes, in a principal amount that does not exceed an amount 9449
equal to three per cent of its tax valuation, as provided in this 9450
division. 9451

(1) A board of education, by resolution, may declare an 9452
emergency if it determines both of the following: 9453

(a) School buildings or other necessary school facilities in 9454
the district have been wholly or partially destroyed, or condemned 9455
by a constituted public authority, or that such buildings or 9456
facilities are partially constructed, or so constructed or planned 9457
as to require additions and improvements to them before the 9458
buildings or facilities are usable for their intended purpose, or 9459
that corrections to permanent improvements are necessary to remove 9460
or prevent health or safety hazards. 9461

(b) Existing fiscal and net indebtedness limitations make 9462
adequate replacement, additions, or improvements impossible. 9463

(2) Upon the declaration of an emergency, the board of 9464
education may, by resolution, submit to the electors of the 9465

district pursuant to section 133.18 of the Revised Code the 9466
question of issuing securities for the purpose of paying the cost, 9467
in excess of any insurance or condemnation proceeds received by 9468
the district, of permanent improvements to respond to the 9469
emergency need. 9470

(3) The procedures for the election shall be as provided in 9471
section 133.18 of the Revised Code, except that: 9472

(a) The form of the ballot shall describe the emergency 9473
existing, refer to this division as the authority under which the 9474
emergency is declared, and state that the amount of the proposed 9475
securities exceeds the limitations prescribed by division (B) of 9476
this section; 9477

(b) The resolution required by division (B) of section 133.18 9478
of the Revised Code shall be certified to the county auditor and 9479
the board of elections at least one hundred days prior to the 9480
election; 9481

(c) The county auditor shall advise and, not later than 9482
ninety-five days before the election, confirm that advice by 9483
certification to, the board of education of the information 9484
required by division (C) of section 133.18 of the Revised Code; 9485

(d) The board of education shall then certify its resolution 9486
and the information required by division (D) of section 133.18 of 9487
the Revised Code to the board of elections not less than ninety 9488
days prior to the election. 9489

(4) Notwithstanding division (B) of section 133.21 of the 9490
Revised Code, the first principal payment of securities issued 9491
under this division may be set at any date not later than sixty 9492
months after the earliest possible principal payment otherwise 9493
provided for in that division. 9494

(G) The board of education may contract with an architect, 9495
professional engineer, or other person experienced in the design 9496

and implementation of energy conservation measures for an analysis 9497
and recommendations pertaining to installations, modifications of 9498
installations, or remodeling that would significantly reduce 9499
energy consumption in buildings owned by the district. The report 9500
shall include estimates of all costs of such installations, 9501
modifications, or remodeling, including costs of design, 9502
engineering, installation, maintenance, repairs, and debt service, 9503
forgone residual value of materials or equipment replaced by the 9504
energy conservation measure, as defined by the Ohio school 9505
facilities commission, a baseline analysis of actual energy 9506
consumption data for the preceding five years, and estimates of 9507
the amounts by which energy consumption and resultant operational 9508
and maintenance costs, as defined by the ~~Ohio school facilities~~ 9509
commission, would be reduced. 9510

If the board finds after receiving the report that the amount 9511
of money the district would spend on such installations, 9512
modifications, or remodeling is not likely to exceed the amount of 9513
money it would save in energy and resultant operational and 9514
maintenance costs over the ensuing fifteen years, the board may 9515
submit to the commission a copy of its findings and a request for 9516
approval to incur indebtedness to finance the making or 9517
modification of installations or the remodeling of buildings for 9518
the purpose of significantly reducing energy consumption. 9519

If the commission determines that the board's findings are 9520
reasonable, it shall approve the board's request. Upon receipt of 9521
the commission's approval, the district may issue securities 9522
without a vote of the electors in a principal amount not to exceed 9523
nine-tenths of one per cent of its tax valuation for the purpose 9524
of making such installations, modifications, or remodeling, but 9525
the total net indebtedness of the district without a vote of the 9526
electors incurred under this and all other sections of the Revised 9527
Code, except section 3318.052 of the Revised Code, shall not 9528

exceed one per cent of the district's tax valuation. 9529

So long as any securities issued under division (G) of this 9530
section remain outstanding, the board of education shall monitor 9531
the energy consumption and resultant operational and maintenance 9532
costs of buildings in which installations or modifications have 9533
been made or remodeling has been done pursuant to division (G) of 9534
this section and shall maintain and annually update a report 9535
documenting the reductions in energy consumption and resultant 9536
operational and maintenance cost savings attributable to such 9537
installations, modifications, or remodeling. The report shall be 9538
certified by an architect or engineer independent of any person 9539
that provided goods or services to the board in connection with 9540
the energy conservation measures that are the subject of the 9541
report. The resultant operational and maintenance cost savings 9542
shall be certified by the school district treasurer. The report 9543
shall be ~~made available~~ submitted annually to the commission ~~upon~~ 9544
~~request~~. 9545

(H) With the consent of the superintendent of public 9546
instruction, a school district may incur without a vote of the 9547
electors net indebtedness that exceeds the amounts stated in 9548
divisions (A) and (G) of this section for the purpose of paying 9549
costs of permanent improvements, if and to the extent that both of 9550
the following conditions are satisfied: 9551

(1) The fiscal officer of the school district estimates that 9552
receipts of the school district from payments made under or 9553
pursuant to agreements entered into pursuant to section 725.02, 9554
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 9555
5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised 9556
Code, or distributions under division (C) of section 5709.43 of 9557
the Revised Code, or any combination thereof, are, after 9558
accounting for any appropriate coverage requirements, sufficient 9559
in time and amount, and are committed by the proceedings, to pay 9560

the debt charges on the securities issued to evidence that 9561
indebtedness and payable from those receipts, and the taxing 9562
authority of the district confirms the fiscal officer's estimate, 9563
which confirmation is approved by the superintendent of public 9564
instruction; 9565

(2) The fiscal officer of the school district certifies, and 9566
the taxing authority of the district confirms, that the district, 9567
at the time of the certification and confirmation, reasonably 9568
expects to have sufficient revenue available for the purpose of 9569
operating such permanent improvements for their intended purpose 9570
upon acquisition or completion thereof, and the superintendent of 9571
public instruction approves the taxing authority's confirmation. 9572

The maximum maturity of securities issued under division (H) 9573
of this section shall be the lesser of twenty years or the maximum 9574
maturity calculated under section 133.20 of the Revised Code. 9575

(I) A school district may incur net indebtedness by the 9576
issuance of securities in accordance with the provisions of this 9577
chapter in excess of the limit specified in division (B) or (C) of 9578
this section when necessary to raise the school district portion 9579
of the basic project cost and any additional funds necessary to 9580
participate in a project under Chapter 3318. of the Revised Code, 9581
including the cost of items designated by the Ohio school 9582
facilities commission as required locally funded initiatives and 9583
the cost for site acquisition. The school facilities commission 9584
shall notify the superintendent of public instruction whenever a 9585
school district will exceed either limit pursuant to this 9586
division. 9587

(J) A school district whose portion of the basic project cost 9588
of its classroom facilities project under sections 3318.01 to 9589
3318.20 of the Revised Code is greater than or equal to one 9590
hundred million dollars may incur without a vote of the electors 9591
net indebtedness in an amount up to two per cent of its tax 9592

valuation through the issuance of general obligation securities in 9593
order to generate all or part of the amount of its portion of the 9594
basic project cost if the controlling board has approved the 9595
school facilities commission's conditional approval of the project 9596
under section 3318.04 of the Revised Code. The school district 9597
board and the Ohio school facilities commission shall include the 9598
dedication of the proceeds of such securities in the agreement 9599
entered into under section 3318.08 of the Revised Code. No state 9600
moneys shall be released for a project to which this section 9601
applies until the proceeds of any bonds issued under this section 9602
that are dedicated for the payment of the school district portion 9603
of the project are first deposited into the school district's 9604
project construction fund. 9605

Sec. 133.18. (A) The taxing authority of a subdivision may by 9606
legislation submit to the electors of the subdivision the question 9607
of issuing any general obligation bonds, for one purpose, that the 9608
subdivision has power or authority to issue. 9609

(B) When the taxing authority of a subdivision desires or is 9610
required by law to submit the question of a bond issue to the 9611
electors, it shall pass legislation that does all of the 9612
following: 9613

(1) Declares the necessity and purpose of the bond issue; 9614

(2) States the date of the authorized election at which the 9615
question shall be submitted to the electors; 9616

(3) States the amount, approximate date, estimated net 9617
average rate of interest, and maximum number of years over which 9618
the principal of the bonds may be paid; 9619

(4) Declares the necessity of levying a tax outside the tax 9620
limitation to pay the debt charges on the bonds and any 9621
anticipatory securities. 9622

The estimated net average interest rate shall be determined 9623
by the taxing authority based on, among other factors, then 9624
existing market conditions, and may reflect adjustments for any 9625
anticipated direct payments expected to be received by the taxing 9626
authority from the government of the United States relating to the 9627
bonds and the effect of any federal tax credits anticipated to be 9628
available to owners of all or a portion of the bonds. The 9629
estimated net average rate of interest, and any statutory or 9630
charter limit on interest rates that may then be in effect and 9631
that is subsequently amended, shall not be a limitation on the 9632
actual interest rate or rates on the securities when issued. 9633

(C)(1) The taxing authority shall certify a copy of the 9634
legislation passed under division (B) of this section to the 9635
county auditor. The county auditor shall promptly calculate and 9636
advise and, not later than seventy-five days before the election, 9637
confirm that advice by certification to, the taxing authority the 9638
estimated average annual property tax levy, expressed in cents or 9639
dollars and cents for each one hundred dollars of tax valuation 9640
and in mills for each one dollar of tax valuation, that the county 9641
auditor estimates to be required throughout the stated maturity of 9642
the bonds to pay the debt charges on the bonds. In calculating the 9643
estimated average annual property tax levy for this purpose, the 9644
county auditor shall assume that the bonds are issued in one 9645
series bearing interest and maturing in substantially equal 9646
principal amounts in each year over the maximum number of years 9647
over which the principal of the bonds may be paid as stated in 9648
that legislation, and that the amount of the tax valuation of the 9649
subdivision for the current year remains the same throughout the 9650
maturity of the bonds, except as otherwise provided in division 9651
(C)(2) of this section. If the tax valuation for the current year 9652
is not determined, the county auditor shall base the calculation 9653
on the estimated amount of the tax valuation submitted by the 9654
county auditor to the county budget commission. If the subdivision 9655

is located in more than one county, the county auditor shall 9656
obtain the assistance of the county auditors of the other 9657
counties, and those county auditors shall provide assistance, in 9658
establishing the tax valuation of the subdivision for purposes of 9659
certifying the estimated average annual property tax levy. 9660

(2) When considering the tangible personal property component 9661
of the tax valuation of the subdivision, the county auditor shall 9662
take into account the assessment percentages prescribed in section 9663
5711.22 of the Revised Code. The tax commissioner may issue rules, 9664
orders, or instructions directing how the assessment percentages 9665
must be utilized. 9666

(D) After receiving the county auditor's advice under 9667
division (C) of this section, the taxing authority by legislation 9668
may determine to proceed with submitting the question of the issue 9669
of securities, and shall, not later than the seventy-fifth day 9670
before the day of the election, file the following with the board 9671
of elections: 9672

(1) Copies of the legislation provided for in divisions (B) 9673
and (D) of this section; 9674

(2) The amount of the estimated average annual property tax 9675
levy, expressed in cents or dollars and cents for each one hundred 9676
dollars of tax valuation and in mills for each one dollar of tax 9677
valuation, as estimated and certified to the taxing authority by 9678
the county auditor. 9679

(E)(1) The board of elections shall prepare the ballots and 9680
make other necessary arrangements for the submission of the 9681
question to the electors of the subdivision. If the subdivision is 9682
located in more than one county, the board shall inform the boards 9683
of elections of the other counties of the filings with it, and 9684
those other boards shall if appropriate make the other necessary 9685
arrangements for the election in their counties. The election 9686

shall be conducted, canvassed, and certified in the manner 9687
provided in Title XXXV of the Revised Code. 9688

(2) The election shall be held at the regular places for 9689
voting in the subdivision. If the electors of only a part of a 9690
precinct are qualified to vote at the election the board of 9691
elections may assign the electors in that part to an adjoining 9692
precinct, including an adjoining precinct in another county if the 9693
board of elections of the other county consents to and approves 9694
the assignment. Each elector so assigned shall be notified of that 9695
fact prior to the election by notice mailed by the board of 9696
elections, in such manner as it determines, prior to the election. 9697

(3) The board of elections shall publish a notice of the 9698
election, once in ~~one or more newspapers~~ a newspaper of general 9699
circulation in the subdivision, ~~at least once~~ no later than ten 9700
days prior to the election. The notice shall state all of the 9701
following: 9702

(a) The principal amount of the proposed bond issue; 9703

(b) The stated purpose for which the bonds are to be issued; 9704

(c) The maximum number of years over which the principal of 9705
the bonds may be paid; 9706

(d) The estimated additional average annual property tax 9707
levy, expressed in cents or dollars and cents for each one hundred 9708
dollars of tax valuation and in mills for each one dollar of tax 9709
valuation, to be levied outside the tax limitation, as estimated 9710
and certified to the taxing authority by the county auditor; 9711

(e) The first calendar year in which the tax is expected to 9712
be due. 9713

(F)(1) The form of the ballot to be used at the election 9714
shall be substantially either of the following, as applicable: 9715

(a) "Shall bonds be issued by the (name of 9716

subdivision) for the purpose of (purpose of the bond 9717
 issue) in the principal amount of (principal amount of 9718
 the bond issue), to be repaid annually over a maximum period of 9719
 (the maximum number of years over which the principal 9720
 of the bonds may be paid) years, and an annual levy of property 9721
 taxes be made outside the (as applicable, "ten-mill" or 9722
 "...charter tax") limitation, estimated by the county auditor to 9723
 average over the repayment period of the bond issue 9724
 (number of mills) mills for each one dollar of tax valuation, 9725
 which amounts to (rate expressed in cents or dollars 9726
 and cents, such as "36 cents" or "\$1.41") for each one hundred 9727
 dollars of tax valuation, commencing in (first year the 9728
 tax will be levied), first due in calendar year (first 9729
 calendar year in which the tax shall be due), to pay the annual 9730
 debt charges on the bonds, and to pay debt charges on any notes 9731
 issued in anticipation of those bonds? 9732

	For the bond issue
	Against the bond issue

"

9733
 9734
 9735
 9736
 (b) In the case of an election held pursuant to legislation 9737
 adopted under section 3375.43 or 3375.431 of the Revised Code: 9738
 "Shall bonds be issued for (name of library) for 9739
 the purpose of (purpose of the bond issue), in the 9740
 principal amount of (amount of the bond issue) by 9741
 (the name of the subdivision that is to issue the bonds 9742
 and levy the tax) as the issuer of the bonds, to be repaid 9743
 annually over a maximum period of (the maximum number 9744
 of years over which the principal of the bonds may be paid) years, 9745
 and an annual levy of property taxes be made outside the ten-mill 9746
 limitation, estimated by the county auditor to average over the 9747
 repayment period of the bond issue (number of mills) 9748

mills for each one dollar of tax valuation, which amounts to 9749
 (rate expressed in cents or dollars and cents, such as 9750
 "36 cents" or "\$1.41") for each one hundred dollars of tax 9751
 valuation, commencing in (first year the tax will be 9752
 levied), first due in calendar year (first calendar 9753
 year in which the tax shall be due), to pay the annual debt 9754
 charges on the bonds, and to pay debt charges on any notes issued 9755
 in anticipation of those bonds? 9756

	For the bond issue
	Against the bond issue

"

(2) The purpose for which the bonds are to be issued shall be 9761
 printed in the space indicated, in boldface type. 9762

(G) The board of elections shall promptly certify the results 9763
 of the election to the tax commissioner, the county auditor of 9764
 each county in which any part of the subdivision is located, and 9765
 the fiscal officer of the subdivision. The election, including the 9766
 proceedings for and result of the election, is incontestable other 9767
 than in a contest filed under section 3515.09 of the Revised Code 9768
 in which the plaintiff prevails. 9769

(H) If a majority of the electors voting upon the question 9770
 vote for it, the taxing authority of the subdivision may proceed 9771
 under sections 133.21 to 133.33 of the Revised Code with the 9772
 issuance of the securities and with the levy and collection of a 9773
 property tax outside the tax limitation during the period the 9774
 securities are outstanding sufficient in amount to pay the debt 9775
 charges on the securities, including debt charges on any 9776
 anticipatory securities required to be paid from that tax. If 9777
 legislation passed under section 133.22 or 133.23 of the Revised 9778
 Code authorizing those securities is filed with the county auditor 9779

on or before the last day of November, the amount of the voted 9780
property tax levy required to pay debt charges or estimated debt 9781
charges on the securities payable in the following year shall if 9782
requested by the taxing authority be included in the taxes levied 9783
for collection in the following year under section 319.30 of the 9784
Revised Code. 9785

(I)(1) If, before any securities authorized at an election 9786
under this section are issued, the net indebtedness of the 9787
subdivision exceeds that applicable to that subdivision or those 9788
securities, then and so long as that is the case none of the 9789
securities may be issued. 9790

(2) No securities authorized at an election under this 9791
section may be initially issued after the first day of the sixth 9792
January following the election, but this period of limitation 9793
shall not run for any time during which any part of the permanent 9794
improvement for which the securities have been authorized, or the 9795
issuing or validity of any part of the securities issued or to be 9796
issued, or the related proceedings, is involved or questioned 9797
before a court or a commission or other tribunal, administrative 9798
agency, or board. 9799

(3) Securities representing a portion of the amount 9800
authorized at an election that are issued within the applicable 9801
limitation on net indebtedness are valid and in no manner affected 9802
by the fact that the balance of the securities authorized cannot 9803
be issued by reason of the net indebtedness limitation or lapse of 9804
time. 9805

(4) Nothing in this division (I) shall be interpreted or 9806
applied to prevent the issuance of securities in an amount to fund 9807
or refund anticipatory securities lawfully issued. 9808

(5) The limitations of divisions (I)(1) and (2) of this 9809
section do not apply to any securities authorized at an election 9810

under this section if at least ten per cent of the principal 9811
amount of the securities, including anticipatory securities, 9812
authorized has theretofore been issued, or if the securities are 9813
to be issued for the purpose of participating in any federally or 9814
state-assisted program. 9815

(6) The certificate of the fiscal officer of the subdivision 9816
is conclusive proof of the facts referred to in this division. 9817

Sec. 133.20. (A) This section applies to bonds that are 9818
general obligation Chapter 133. securities. If the bonds are 9819
payable as to principal by provision for annual installments, the 9820
period of limitations on their last maturity, referred to as their 9821
maximum maturity, shall be measured from a date twelve months 9822
prior to the first date on which provision for payment of 9823
principal is made. If the bonds are payable as to principal by 9824
provision for semiannual installments, the period of limitations 9825
on their last maturity shall be measured from a date six months 9826
prior to the first date on which provision for payment of 9827
principal is made. 9828

(B) Bonds issued for the following permanent improvements or 9829
for permanent improvements for the following purposes shall have 9830
maximum maturities not exceeding the number of years stated: 9831

(1) Fifty years: 9832

(a) The clearance and preparation of real property for 9833
redevelopment as an urban redevelopment project; 9834

(b) Acquiring, constructing, widening, relocating, enlarging, 9835
extending, and improving a publicly owned railroad or line of 9836
railway or a light or heavy rail rapid transit system, including 9837
related bridges, overpasses, underpasses, and tunnels, but not 9838
including rolling stock or equipment; 9839

(c) Pursuant to section 307.675 of the Revised Code, 9840

constructing or repairing a bridge using long life expectancy	9841
material for the bridge deck, and purchasing, installing, and	9842
maintaining any performance equipment to monitor the physical	9843
condition of a bridge so constructed or repaired. Additionally,	9844
the average maturity of the bonds shall not exceed the expected	9845
useful life of the bridge deck as determined by the county	9846
engineer under that section.	9847
(2) Forty years:	9848
(a) General waterworks or water system permanent	9849
improvements, including buildings, water mains, or other	9850
structures and facilities in connection therewith;	9851
(b) Sewers or sewage treatment or disposal works or	9852
facilities, including fireproof buildings or other structures in	9853
connection therewith;	9854
(c) Storm water drainage, surface water, and flood prevention	9855
facilities.	9856
(3) Thirty-five years:	9857
(a) An arena, a convention center, or a combination of an	9858
arena and convention center under section 307.695 of the Revised	9859
Code;	9860
(b) Sports facilities.	9861
(4) Thirty years:	9862
(a) Municipal recreation, excluding recreational equipment;	9863
(b) Urban redevelopment projects;	9864
(c) Acquisition of real property, except as provided in	9865
division (F) of this section;	9866
(d) Street or alley lighting purposes or relocating overhead	9867
wires, cables, and appurtenant equipment underground.	9868
(5) Twenty years: constructing, reconstructing, widening,	9869

opening, improving, grading, draining, paving, extending, or	9870
changing the line of roads, highways, expressways, freeways,	9871
streets, sidewalks, alleys, or curbs and gutters, and related	9872
bridges, viaducts, overpasses, underpasses, grade crossing	9873
eliminations, service and access highways, and tunnels.	9874
(6) Fifteen years:	9875
(a) Resurfacing roads, highways, streets, or alleys;	9876
(b) Alarm, telegraph, or other communications systems for	9877
police or fire departments or other emergency services;	9878
(c) Passenger buses used for mass transportation;	9879
(d) Energy conservation measures as authorized by section	9880
133.06 of the Revised Code.	9881
(7) Ten years:	9882
(a) Water meters;	9883
(b) Fire department apparatus and equipment;	9884
(c) Road rollers and other road construction and servicing	9885
vehicles;	9886
(d) Furniture, equipment, and furnishings;	9887
(e) Landscape planting and other site improvements;	9888
(f) Playground, athletic, and recreational equipment and	9889
apparatus;	9890
(g) Energy conservation measures as authorized by section	9891
505.264 of the Revised Code.	9892
(8) Five years: New motor vehicles other than those described	9893
in any other division of this section and those for which	9894
provision is made in other provisions of the Revised Code.	9895
(C) Bonds issued for any permanent improvements not within	9896
the categories set forth in division (B) of this section shall	9897

have maximum maturities of from five to thirty years as the fiscal officer estimates is the estimated life or period of usefulness of those permanent improvements. Bonds issued under section 133.51 of the Revised Code for purposes other than permanent improvements shall have the maturities, not to exceed forty years, that the taxing authority shall specify. Bonds issued for energy conservation measures under section 307.041 of the Revised Code shall have maximum maturities not exceeding the lesser of the average life of the energy conservation measures as detailed in the energy conservation report prepared under that section or thirty years.

(D) Securities issued under section 505.265 of the Revised Code shall mature not later than December 31, 2035.

(E) A securities issue for one purpose may include permanent improvements within two or more categories under divisions (B) and (C) of this section. The maximum maturity of such a bond issue shall not exceed the average number of years of life or period of usefulness of the permanent improvements as measured by the weighted average of the amounts expended or proposed to be expended for the categories of permanent improvements.

(F) Securities issued by a school district or county to acquire or construct real property shall have a maximum maturity longer than thirty years, but not longer than forty years, if the ~~school district's~~ fiscal officer of the school district or county estimates the real property's useful life to be longer than thirty years, and certifies that estimate to the board of education or board of county commissioners, respectively.

Sec. 133.55. Before adopting any reassessment provided for in section 133.54 of the Revised Code, the fiscal officer shall prepare and file for public inspection a list containing the names of the owners, a tax duplicate description of each parcel of land

on which the reassessment will be levied, and the total amount to 9929
be reassessed, separately stated as to each parcel, and the taxing 9930
authority shall publish notice for two consecutive weeks in a 9931
newspaper of general circulation in the political subdivision, or 9932
as provided in section 7.16 of the Revised Code, that such 9933
reassessment has been prepared by the fiscal officer and that it 9934
is on file in ~~his~~ the fiscal officer's office for the inspection 9935
and examination of the persons interested therein. Sections 9936
727.13, 727.15, and 727.16 of the Revised Code do not apply to any 9937
such assessments, but any person may file objections in writing 9938
with the fiscal officer within one week after the expiration of 9939
such notice and the taxing authority shall hear and determine any 9940
such objections at its next meeting. Such objections shall be 9941
limited solely to matters of description of parcels and owners and 9942
of computations of amounts, and no matters concluded by any 9943
proceedings on the original assessments shall form the basis for 9944
any such objections. When the reassessment list is confirmed by 9945
the taxing authority, it shall be complete and final and shall be 9946
recorded in the office of the fiscal officer. 9947

Sec. 135.05. Each governing board shall, at least three weeks 9948
prior to the date when it is required by section 135.12 of the 9949
Revised Code to designate public depositories, by resolution, 9950
estimate the aggregate maximum amount of public moneys subject to 9951
its control to be awarded and be on deposit as inactive deposits. 9952
The state board of deposit shall cause a copy of such resolution, 9953
together with a notice of the date on which the meeting of the 9954
board for the designation of such depositories will be held and 9955
the period for which such inactive deposits will be awarded, to be 9956
published once a week for two consecutive weeks in two newspapers 9957
of general circulation in each of the three most populous 9958
counties. The governing board of each subdivision shall cause a 9959
copy of such resolution, together with a notice of the date on 9960

which the meeting of the board for the designation of such 9961
depositories will be held and the period for which such inactive 9962
deposits will be awarded, to be published once a week for two 9963
consecutive weeks in ~~two newspapers~~ a newspaper of ~~opposite~~ 9964
~~politics and of~~ general circulation in the county or as provided 9965
in section 7.16 of the Revised Code. If a subdivision is located 9966
in more than one county, such publication shall be made in 9967
~~newspapers published~~ a newspaper of general circulation in the 9968
county in which the major part of such subdivision is located, and 9969
of general circulation in the subdivision. A written notice 9970
stating the aggregate maximum amount to be awarded as inactive 9971
deposits of the subdivision shall be given to each eligible 9972
depository by the governing board at the time the first 9973
publication is made in the ~~newspapers~~ newspaper. 9974

All deposits of the public moneys of the state or any 9975
subdivision made during the period covered by the designation in 9976
excess of the aggregate amount so estimated shall be active 9977
deposits or interim deposits. Inactive, interim, and active 9978
deposits shall be separately awarded, made, and administered as 9979
provided by sections 135.01 to 135.21, ~~inclusive~~, of the Revised 9980
Code. 9981

Sec. 135.61. As used in sections 135.61 to 135.67 of the 9982
Revised Code: 9983

(A) "Eligible small business" means any person, including, 9984
but not limited to a person engaged in agriculture, that has all 9985
of the following characteristics: 9986

(1) Is headquartered in this state; 9987

(2) Maintains offices and operating facilities exclusively in 9988
this state and transacts business in this state; 9989

(3) Employs fewer than one hundred fifty employees, the 9990

majority of whom are residents of this state; 9991

(4) Is organized for profit. 9992

(B) "Eligible lending institution" means a financial 9993
institution that is eligible to make commercial loans, is a public 9994
depository of state funds under section 135.03 of the Revised 9995
Code, and agrees to participate in the linked deposit program. 9996

(C) "Linked deposit" means a certificate of deposit or other 9997
financial institution instrument placed by the treasurer of state 9998
with an eligible lending institution at a rate below current 9999
market rates, as determined and calculated by the treasurer of 10000
state, provided the institution agrees to lend the value of such 10001
deposit, according to the deposit agreement provided in division 10002
(C) of section 135.65 of the Revised Code, to eligible small 10003
businesses at a rate that reflects an equal percentage rate 10004
reduction below the present borrowing rate applicable to each 10005
specific business at the time of the deposit of state funds in the 10006
institution. 10007

(D) "Other financial institution instrument" has the same 10008
meaning as in section 135.81 of the Revised Code. 10009

Sec. 135.65. (A) The treasurer of state may accept or reject 10010
a linked deposit loan package or any portion thereof, based on the 10011
treasurer's evaluation of the eligible small businesses included 10012
in the package and the amount of state funds to be deposited. When 10013
evaluating the eligible small businesses, the treasurer shall give 10014
priority to the economic needs of the area where the business is 10015
located and the ratio of state funds to be deposited to jobs 10016
sustained or created and shall also consider any reports, 10017
statements, or plans applicable to the business, the overall 10018
financial need of the business, and such other factors as the 10019
treasurer considers appropriate. 10020

(B) Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer of state may place certificates of deposit or other financial institution instruments with the eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state. When necessary, the treasurer may place certificates of deposit or other financial institution instruments prior to acceptance of a linked deposit loan package.

(C) The eligible lending institution shall enter into a deposit agreement with the treasurer of state, which shall include requirements necessary to carry out the purposes of sections 135.61 to 135.67 of the Revised Code. Such requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit or other financial institution instruments to be placed for any maturity considered appropriate by the treasurer of state not to exceed two years, and may be renewed for up to an additional two years at the option of the treasurer. Interest shall be paid at the times determined by the treasurer of state.

(D) Eligible lending institutions shall comply fully with Chapter 135. of the Revised Code.

Sec. 135.66. (A) Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible small business listed in the linked deposit loan package required by division (D) of section 135.64 of the Revised Code and in accordance with the deposit agreement required by division (C) of section 135.65 of the Revised Code. The loan shall be at a rate that reflects a

percentage rate reduction below the present borrowing rate 10052
applicable to each business that is equal to the percentage rate 10053
reduction below market rates at which the ~~certificate~~ certificates 10054
of ~~deposits~~ deposit or other financial institution instruments 10055
that constitute the linked deposit were placed. A certification of 10056
compliance with this section in the form and manner as prescribed 10057
by the treasurer of state shall be required of the eligible 10058
lending institution. 10059

(B) The treasurer of state shall take any and all steps 10060
necessary to implement the linked deposit program and monitor 10061
compliance of eligible lending institutions and eligible small 10062
businesses, including the development of guidelines as necessary. 10063
The treasurer of state and the department of development shall 10064
notify each other at least quarterly of the names of the 10065
businesses receiving financial assistance from their respective 10066
programs. 10067

Annually, by the first day of February, the treasurer of 10068
state shall report on the linked deposits program for the 10069
preceding calendar year to the governor, the speaker of the house 10070
of representatives, and the president of the senate. The speaker 10071
of the house shall transmit copies of this report to the 10072
chairpersons of the standing committees in the house which 10073
customarily consider legislation regarding agriculture and small 10074
business, and the president of the senate shall transmit copies of 10075
this report to the chairpersons of the standing committees in the 10076
senate which customarily consider legislation regarding 10077
agriculture and small business. The report shall set forth the 10078
linked deposits made by the treasurer of state under the program 10079
during the year and shall include information regarding the 10080
nature, terms, and amounts of the loans upon which the linked 10081
deposits were based and the eligible small businesses to which the 10082
loans were made. 10083

Sec. 145.27. (A)(1) As used in this division, "personal history record" means information maintained by the public employees retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the public employees retirement system, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except that the following shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 145.16 of the Revised Code;

(b) The amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by this chapter are privileged, except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(C) Any person who is a member or contributor of the system shall be furnished with a statement of the amount to the credit of the individual's account upon written request. The board is not required to answer more than one such request of a person in any one year. The board may issue annual statements of accounts to members and contributors.

(D) Notwithstanding the exceptions to public inspection in

division (A)(2) of this section, the board may furnish the 10114
following information: 10115

(1) If a member, former member, contributor, former 10116
contributor, or retirant is subject to an order issued under 10117
section 2907.15 of the Revised Code or an order issued under 10118
division (A) or (B) of section 2929.192 of the Revised Code or is 10119
convicted of or pleads guilty to a violation of section 2921.41 of 10120
the Revised Code, on written request of a prosecutor as defined in 10121
section 2935.01 of the Revised Code, the board shall furnish to 10122
the prosecutor the information requested from the individual's 10123
personal history record. 10124

(2) Pursuant to a court or administrative order issued 10125
pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised 10126
Code, the board shall furnish to a court or child support 10127
enforcement agency the information required under that section. 10128

(3) At the written request of any person, the board shall 10129
provide to the person a list of the names and addresses of 10130
members, former members, contributors, former contributors, 10131
retirants, or beneficiaries. The costs of compiling, copying, and 10132
mailing the list shall be paid by such person. 10133

(4) Within fourteen days after receiving from the director of 10134
job and family services a list of the names and social security 10135
numbers of recipients of public assistance pursuant to section 10136
5101.181 of the Revised Code, the board shall inform the auditor 10137
of state of the name, current or most recent employer address, and 10138
social security number of each member whose name and social 10139
security number are the same as that of a person whose name or 10140
social security number was submitted by the director. The board 10141
and its employees shall, except for purposes of furnishing the 10142
auditor of state with information required by this section, 10143
preserve the confidentiality of recipients of public assistance in 10144
compliance with ~~division (A) of~~ section 5101.181 of the Revised 10145

Code. 10146

(5) The system shall comply with orders issued under section 10147
3105.87 of the Revised Code. 10148

On the written request of an alternate payee, as defined in 10149
section 3105.80 of the Revised Code, the system shall furnish to 10150
the alternate payee information on the amount and status of any 10151
amounts payable to the alternate payee under an order issued under 10152
section 3105.171 or 3105.65 of the Revised Code. 10153

(6) At the request of any person, the board shall make 10154
available to the person copies of all documents, including 10155
resumes, in the board's possession regarding filling a vacancy of 10156
an employee member or retirant member of the board. The person who 10157
made the request shall pay the cost of compiling, copying, and 10158
mailing the documents. The information described in division 10159
(D)(6) of this section is a public record. 10160

(E) A statement that contains information obtained from the 10161
system's records that is signed by the executive director or an 10162
officer of the system and to which the system's official seal is 10163
affixed, or copies of the system's records to which the signature 10164
and seal are attached, shall be received as true copies of the 10165
system's records in any court or before any officer of this state. 10166

Sec. 149.01. Each elective state officer, the adjutant 10167
general, the adult parole authority, the department of 10168
agriculture, the director of administrative services, the public 10169
utilities commission, the superintendent of insurance, the 10170
superintendent of financial institutions, the superintendent of 10171
purchases and printing, the state commissioner of soldiers' 10172
claims, the fire marshal, the industrial commission, the 10173
administrator of workers' compensation, the state department of 10174
transportation, the department of health, the state medical board, 10175
the state dental board, the board of embalmers and funeral 10176

directors, the Ohio commission for the blind, the accountancy 10177
board of Ohio, the state council of uniform state laws, the board 10178
of commissioners of the sinking fund, the department of taxation, 10179
the board of tax appeals, ~~the clerk of the supreme court,~~ the 10180
division of liquor control, the director of state armories, the 10181
trustees of the Ohio state university, and every private or 10182
quasi-public institution, association, board, or corporation 10183
receiving state money for its use and purpose shall make annually, 10184
at the end of each fiscal year, in quadruplicate, a report of the 10185
transactions and proceedings of that office or department for that 10186
fiscal year, excepting receipts and disbursements unless otherwise 10187
specifically required by law. The report shall contain a summary 10188
of the official acts of the officer, board, council, commission, 10189
institution, association, or corporation and any suggestions and 10190
recommendations that are proper. On the first day of August of 10191
each year, one of the reports shall be filed with the governor, 10192
one with the secretary of state, and one with the state library, 10193
and one shall be kept on file in the office of the officer, board, 10194
council, commission, institution, association, or corporation. 10195

Sec. 149.091. (A) ~~Except as otherwise provided in division~~ 10196
~~(C) of this section, the~~ The secretary of state shall compile, 10197
publish, and distribute the session laws either annually or 10198
biennially in a paper or electronic format ~~a maximum of nine~~ 10199
~~hundred copies of the session laws.~~ The annual or biennial 10200
publication shall contain all enrolled acts and joint resolutions. 10201
~~The secretary of state shall cause to be printed with each~~ 10202
~~compilation of enrolled acts and joint resolutions distributed,~~ a 10203
subject index, a table indicating Revised Code sections affected, 10204
and the secretary of state's certificate that the laws, as 10205
compiled and distributed, are true copies of the original enrolled 10206
acts or joint resolutions in the secretary of state's office. 10207

(B)(1) The secretary of state ~~shall~~ may distribute the 10208

~~compilations~~ paper or electronic format of the session laws in 10209
free of charge to the following manner persons or entities: 10210

~~(1) One shall be forwarded to each (a) Each~~ county auditor. 10211

~~(2) One shall be forwarded to each (b) Each~~ county law 10212
library. 10213

~~(3) Two hundred may be distributed, free of charge, to (c)~~ 10214
Other public officials upon request of the public official. 10215

~~(4) Remaining compilations may be sold by the secretary of~~ 10216
~~state at a price that shall not exceed the actual cost of~~ 10217
~~publication and distribution.~~ 10218

~~(B) Notwithstanding division (C) of this section, the~~ 10219
~~secretary of state shall compile, publish, and distribute, either~~ 10220
~~annually or biennially, in permanently bound volumes, a minimum of~~ 10221
~~twenty five copies of the session laws. The annual or biennial~~ 10222
~~volumes shall contain copies of all enrolled acts and joint~~ 10223
~~resolutions. The secretary of state shall cause to be printed with~~ 10224
~~each volume of enrolled acts and joint resolutions distributed a~~ 10225
~~subject index, a table indicating Revised Code sections affected,~~ 10226
~~and the secretary of state's certificate that the laws so~~ 10227
~~assembled are true copies of the original enrolled acts or joint~~ 10228
~~resolutions in the secretary of state's office.~~ 10229

(2) The secretary of state shall distribute the permanently 10230
~~bound volumes~~ paper or electronic format of the session laws in 10231
free of charge to the following manner persons or entities: 10232

~~(1) Five copies shall be forwarded to the (a) The~~ clerk of 10233
the house of representatives. 10234

~~(2) Five copies shall be forwarded to the (b) The~~ clerk of 10235
the senate. 10236

~~(3) Five copies shall be forwarded to the (c) The~~ legislative 10237
service commission. 10238

(4) Two copies shall be forwarded to the <u>(d) The</u> Ohio supreme	10239
court.	10240
(5) Two copies shall be forwarded to the <u>(e) The document</u>	10241
division of the library of congress.	10242
(6) Two copies shall be forwarded to the <u>(f) The</u> state	10243
library.	10244
(7) Two copies shall be forwarded to the <u>(g) The</u> Ohio	10245
historical society.	10246
(8) Two copies shall be retained by the <u>The</u> secretary of	10247
state <u>shall retain a paper or electronic format of the session</u>	10248
<u>laws.</u>	10249
(C) The secretary of state annually or biennially may	10250
compile, publish, and distribute the session laws in an electronic	10251
format instead of compiling and publishing the session laws as	10252
provided in division (A) of this section. If the secretary of	10253
state compiles and publishes the session laws in an electronic	10254
format, the following apply:	10255
(1) The session laws in electronic format shall include	10256
copies of all enrolled acts and joint resolutions and shall	10257
contain a subject index and a table indicating Revised Code	10258
sections affected.	10259
(2) Each compilation of the session laws in electronic format	10260
shall include the secretary of state's certificate that the laws	10261
so compiled and published are true copies of the original enrolled	10262
acts and joint resolutions in the secretary of state's office.	10263
(3) The session laws may be distributed in an electronic	10264
format to public officials free of charge.	10265
(4) The session laws may be sold in an <u>a paper or</u> electronic	10266
format to individuals or entities not specified in division (A) <u>or</u>	10267
(B) of this section. The price shall not exceed the actual cost of	10268

producing and distributing the session laws in ~~an~~ a paper or 10269
electronic format. 10270

Sec. 149.11. Any department, division, bureau, board, or 10271
commission of the state government issuing a report, pamphlet, 10272
document, or other publication intended for general public use and 10273
distribution, which publication is reproduced by duplicating 10274
processes such as mimeograph, multigraph, planograph, rotaprint, 10275
or multilith, or printed internally or through a contract awarded 10276
to any person, company, or the state printing division of the 10277
department of administrative services, shall cause to be delivered 10278
to the state library one hundred copies of the publication, 10279
subject to the provisions of section 125.42 of the Revised Code. 10280

The state library board shall distribute the publications so 10281
received as follows: 10282

(A) Retain two copies in the state library; 10283

(B) Send two copies to the document division of the library 10284
of congress; 10285

(C) Send one copy to the Ohio historical society and to each 10286
public or college library in the state designated by the state 10287
library board to be a depository for state publications. In 10288
designating which libraries shall be depositories, the board shall 10289
select those libraries that can best preserve those publications 10290
and that are so located geographically as will make the 10291
publications conveniently accessible to residents in all areas of 10292
the state. 10293

(D) Send one copy to each state in exchange for like 10294
publications of that state. 10295

The provisions of this section ~~shall~~ do not apply to any 10296
publication of the general assembly or to the publications 10297
described in sections 149.07, 149.08, 149.091, and 149.17 of the 10298

Revised Code, except that the secretary of state shall forward to 10299
the document division of the library of congress two copies of all 10300
journals, two copies of the session laws ~~in bound form~~ as provided 10301
for in section 149.091 of the Revised Code, and two copies of all 10302
appropriation laws in separate form. 10303

Sec. 149.308. There is hereby created in the state treasury 10304
the Ohio historical society income tax contribution fund, which 10305
shall consist of money contributed to it under section 5747.113 of 10306
the Revised Code for taxable years beginning on or after January 10307
1, 2011, and of contributions made directly to it. Any person may 10308
contribute directly to the fund in addition to or independently of 10309
the income tax refund contribution system established in section 10310
5747.113 of the Revised Code. 10311

The Ohio historical society shall use money credited to the 10312
fund in furtherance of the public functions with which the society 10313
is charged under section 149.30 of the Revised Code. 10314

Sec. 149.311. (A) As used in this section: 10315

(1) "Historic building" means a building, including its 10316
structural components, that is located in this state and that is 10317
either individually listed on the national register of historic 10318
places under 16 U.S.C. 470a, located in a registered historic 10319
district, and certified by the state historic preservation officer 10320
as being of historic significance to the district, or is 10321
individually listed as a historic landmark designated by a local 10322
government certified under 16 U.S.C. 470a(c). 10323

(2) "Qualified rehabilitation expenditures" means 10324
expenditures paid or incurred during the rehabilitation period, 10325
and before and after that period as determined under 26 U.S.C. 47, 10326
by an owner of a historic building to rehabilitate the building. 10327
"Qualified rehabilitation expenditures" includes architectural or 10328

engineering fees paid or incurred in connection with the	10329
rehabilitation, and expenses incurred in the preparation of	10330
nomination forms for listing on the national register of historic	10331
places. "Qualified rehabilitation expenditures" does not include	10332
any of the following:	10333
(a) The cost of acquiring, expanding, or enlarging a historic	10334
building;	10335
(b) Expenditures attributable to work done to facilities	10336
related to the building, such as parking lots, sidewalks, and	10337
landscaping;	10338
(c) New building construction costs.	10339
(3) "Owner" of a historic building means a person holding the	10340
fee simple interest in the building. "Owner" does not include the	10341
state or a state agency, or any political subdivision as defined	10342
in section 9.23 of the Revised Code.	10343
(4) "Certificate owner" means the owner of a historic	10344
building to which a rehabilitation tax credit certificate was	10345
issued under this section.	10346
(5) "Registered historic district" means a historic district	10347
listed in the national register of historic places under 16 U.S.C.	10348
470a, a historic district designated by a local government	10349
certified under 16 U.S.C. 470a(c), or a local historic district	10350
certified under 36 C.F.R. 67.8 and 67.9.	10351
(6) "Rehabilitation" means the process of repairing or	10352
altering a historic building or buildings, making possible an	10353
efficient use while preserving those portions and features of the	10354
building and its site and environment that are significant to its	10355
historic, architectural, and cultural values.	10356
(7) "Rehabilitation period" means one of the following:	10357
(a) If the rehabilitation initially was not planned to be	10358

completed in stages, a period chosen by the owner not to exceed 10359
twenty-four months during which rehabilitation occurs; 10360

(b) If the rehabilitation initially was planned to be 10361
completed in stages, a period chosen by the owner not to exceed 10362
sixty months during which rehabilitation occurs. 10363

(8) "State historic preservation officer" or "officer" means 10364
the state historic preservation officer appointed by the governor 10365
under 16 U.S.C. 470a. 10366

~~(9) "Application period" means any of the following time 10367
periods for which an application for a rehabilitation tax credit 10368
certificate may be filed under this section: 10369~~

~~(a) July 1, 2007, through June 30, 2008; 10370~~

~~(b) July 1, 2009, through June 30, 2010; 10371~~

~~(c) July 1, 2010, through June 30, 2011. 10372~~

(B) ~~For any application period, the~~ The owner of a historic 10373
building may apply to the state historic preservation officer for 10374
a rehabilitation tax credit certificate for qualified 10375
rehabilitation expenditures paid or incurred after April 4, 2007, 10376
for rehabilitation of a historic building. The form and manner of 10377
filing such applications shall be prescribed by rule of the 10378
director of development, ~~and, except as otherwise provided in~~ 10379
~~division (D) of this section, applications expire at the end of~~ 10380
~~each application period.~~ Each application shall state the amount 10381
of qualified rehabilitation expenditures the applicant estimates 10382
will be paid or incurred. The director may require applicants to 10383
furnish documentation of such estimates. 10384

The director, after consultation with the tax commissioner 10385
and in accordance with Chapter 119. of the Revised Code, shall 10386
adopt rules that establish all of the following: 10387

(1) Forms and procedures by which applicants may apply for 10388

rehabilitation tax credit certificates;	10389
(2) Criteria for reviewing, evaluating, and approving applications for certificates within the limitations under division (D) of this section, criteria for assuring that the certificates issued encompass a mixture of high and low qualified rehabilitation expenditures, and criteria for issuing certificates under division (C)(3)(b) of this section;	10390 10391 10392 10393 10394 10395
(3) Eligibility requirements for obtaining a certificate under this section;	10396 10397
(4) The form of rehabilitation tax credit certificates;	10398
(5) Reporting requirements and monitoring procedures;	10399
(6) Any other rules necessary to implement and administer this section.	10400 10401
(C) The state historic preservation officer shall accept applications and forward them to the director of development, who shall review the applications and determine whether all of the following criteria are met:	10402 10403 10404 10405
(1) That the building that is the subject of the application is a historic building and the applicant is the owner of the building;	10406 10407 10408
(2) That the rehabilitation will satisfy standards prescribed by the United States secretary of the interior under 16 U.S.C. 470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to that section;	10409 10410 10411 10412
(3) That receiving a rehabilitation tax credit certificate under this section is a major factor in:	10413 10414
(a) The applicant's decision to rehabilitate the historic building; or	10415 10416
(b) To increase the level of investment in such rehabilitation.	10417 10418

An applicant shall demonstrate to the satisfaction of the state historic preservation officer and director of development that the rehabilitation will satisfy the standards described in division (C)(2) of this section before the applicant begins the physical rehabilitation of the historic building.

(D)(1) The director of development may approve an application and issue a rehabilitation tax credit certificate to an applicant only if the director determines that the criteria in divisions (C)(1), (2), and (3) of this section are met. The director shall consider the potential economic impact and the regional distributive balance of the credits throughout the state.

(2) A rehabilitation tax credit certificate shall not be issued before rehabilitation of a historic building is completed or for an amount greater than the estimated amount furnished by the applicant on the application for such certificate and approved by the director. The director shall not approve more than a total of ~~sixty~~ twenty-five million dollars of rehabilitation tax credits ~~for an application period per fiscal year.~~

~~(3) Of the sixty million dollars approved for application periods July 1, 2009, through June 30, 2010, and July 1, 2010, through June 30, 2011, forty five million dollars shall be reserved in each application period for the award of rehabilitation tax credit certificates to applicants who, as of March 1, 2008, had filed completed applications that met the criteria described in divisions (C)(1), (2), and (3) of this section, who have not withdrawn the application, and who have not yet been approved to receive a certificate. If the total amount of credits awarded for such applications is less than forty five million dollars in an application period, the remainder shall be made available for other qualifying applications for that application period.~~

~~(4)~~ If an applicant whose application is approved for receipt

of a rehabilitation tax credit certificate fails to provide to the 10451
director of development sufficient evidence of reviewable 10452
progress, including a viable financial plan, copies of final 10453
construction drawings, and evidence that the applicant has 10454
obtained all historic approvals within twelve months after the 10455
date the applicant received notification of approval, or if the 10456
applicant fails to provide evidence to the director of development 10457
that the applicant has secured and closed on financing for the 10458
rehabilitation within eighteen months after receiving notification 10459
of approval, the director shall notify the applicant that the 10460
approval has been rescinded. Credits that would have been 10461
available to an applicant whose approval was rescinded shall be 10462
available for other qualified applicants. Nothing in this division 10463
prohibits an applicant whose approval has been rescinded from 10464
submitting a new application for a rehabilitation tax credit 10465
certificate. 10466

(E) Issuance of a certificate represents a finding by the 10467
director of development of the matters described in divisions 10468
(C)(1), (2), and (3) of this section only; issuance of a 10469
certificate does not represent a verification or certification by 10470
the director of the amount of qualified rehabilitation 10471
expenditures for which a tax credit may be claimed under section 10472
5725.151, 5725.34, 5729.17, 5733.47, or 5747.76 of the Revised 10473
Code. The amount of qualified rehabilitation expenditures for 10474
which a tax credit may be claimed is subject to inspection and 10475
examination by the tax commissioner or employees of the 10476
commissioner under section 5703.19 of the Revised Code and any 10477
other applicable law. Upon the issuance of a certificate, the 10478
director shall certify to the tax commissioner, in the form and 10479
manner requested by the tax commissioner, the name of the 10480
applicant, the amount of qualified rehabilitation expenditures 10481
shown on the certificate, and any other information required by 10482
the rules adopted under this section. 10483

(F)(1) On or before the first day of December ~~in 2007, 2008,~~ 10484
~~2009, 2010, and 2011~~ each year, the director of development and 10485
tax commissioner jointly shall submit to the president of the 10486
senate and the speaker of the house of representatives a report on 10487
the tax credit program established under this section and sections 10488
5725.151, 5725.34, 5729.17, 5733.47, and 5747.76 of the Revised 10489
Code. The report shall present an overview of the program and 10490
shall include information on the number of rehabilitation tax 10491
credit certificates issued under this section during ~~an~~ 10492
~~application period~~ the preceding fiscal year, an update on the 10493
status of each historic building for which an application was 10494
approved under this section, the dollar amount of the tax credits 10495
granted under sections 5725.151, 5725.34, 5729.17, 5733.47, and 10496
5747.76 of the Revised Code, and any other information the 10497
director and commissioner consider relevant to the topics 10498
addressed in the report. 10499

(2) On or before December 1, 2012, the director of 10500
development and tax commissioner jointly shall submit to the 10501
president of the senate and the speaker of the house of 10502
representatives a comprehensive report that includes the 10503
information required by division (F)(1) of this section and a 10504
detailed analysis of the effectiveness of issuing tax credits for 10505
rehabilitating historic buildings. The report shall be prepared 10506
with the assistance of an economic research organization jointly 10507
chosen by the director and commissioner. 10508

Sec. 153.01. (A) Whenever any building or structure for the 10509
use of the state or any institution supported in whole or in part 10510
by the state or in or upon the public works of the state that is 10511
administered by the director of administrative services or by any 10512
other state officer or state agency authorized by law to 10513
administer a project, including an educational institution listed 10514
in section 3345.50 of the Revised Code, is to be erected or 10515

constructed, whenever additions, alterations, or structural or 10516
other improvements are to be made, or whenever heating, cooling, 10517
or ventilating plants or other equipment is to be installed or 10518
material supplied therefor, the ~~aggregate estimated~~ cost of which 10519
amounts to ~~fifty two hundred~~ thousand dollars or more, or the 10520
amount determined pursuant to section 153.53 of the Revised Code 10521
or more, each officer, board, or other authority upon which 10522
devolves the duty of constructing, erecting, altering, or 10523
installing the same, referred to in sections 153.01 to 153.60 of 10524
the Revised Code as the ~~owner~~ public authority, shall cause to be 10525
made, by an architect or engineer whose contract of employment 10526
shall be prepared and approved by the attorney general, the 10527
following: 10528

~~(A)(1)~~ Full and accurate plans, suitable for the use of 10529
mechanics and other builders in the construction, improvement, 10530
addition, alteration, or installation; 10531

~~(B)(2)~~ Details to scale and full-sized, so drawn and 10532
represented as to be easily understood; 10533

~~(C)~~ ~~Accurate bills showing the exact quantity of different~~ 10534
~~kinds of material necessary to the construction;~~ 10535

~~(D)(3)~~ Definite and complete specifications of the work to be 10536
performed, together with directions that will enable a competent 10537
mechanic or other builder to carry them out and afford bidders all 10538
needful information; 10539

~~(E)(4)~~ A full and accurate estimate of each item of expense 10540
and the aggregate cost of those items of expense; 10541

~~(F)(5)~~ A life-cycle cost analysis; 10542

~~(G)(6)~~ Further data as may be required by the department of 10543
administrative services. 10544

(B) The data described in divisions (A)(1) to (6) of this 10545

section shall not be required with respect to any work to be 10546
performed pursuant to a construction management contract entered 10547
into with a construction manager at risk as described in section 10548
9.334 of the Revised Code or pursuant to a design-build contract 10549
entered into with a design-build firm as described in section 10550
153.693 of the Revised Code. 10551

Sec. 153.02. (A) The director of administrative services, on 10552
the director's own initiative or upon request of the Ohio school 10553
facilities commission, may debar a contractor from contract awards 10554
for public improvements as referred to in section 153.01 of the 10555
Revised Code or for projects as defined in section 3318.01 of the 10556
Revised Code, upon proof that the contractor has done any of the 10557
following: 10558

(1) Defaulted on a contract requiring the execution of a 10559
takeover agreement as set forth in division (B) of section 153.17 10560
of the Revised Code; 10561

(2) Knowingly failed during the course of a contract to 10562
maintain the coverage required by the bureau of workers' 10563
compensation; 10564

(3) Knowingly failed during the course of a contract to 10565
maintain the contractor's drug-free workplace program as required 10566
by the contract; 10567

(4) Knowingly failed during the course of a contract to 10568
maintain insurance required by the contract or otherwise by law, 10569
resulting in a substantial loss to the owner, as owner is referred 10570
to in section 153.01 of the Revised Code, or to the commission and 10571
school district board, as provided in division (F) of section 10572
3318.08 of the Revised Code; 10573

(5) Misrepresented the firm's qualifications in the selection 10574
process set forth in sections 153.65 to 153.71 or section 3318.10 10575

of the Revised Code; 10576

(6) Been convicted of a criminal offense related to the 10577
application for or performance of any public or private contract, 10578
including, but not limited to, embezzlement, theft, forgery, 10579
bribery, falsification or destruction of records, receiving stolen 10580
property, and any other offense that directly reflects on the 10581
contractor's business integrity; 10582

(7) Been convicted of a criminal offense under state or 10583
federal antitrust laws; 10584

(8) Deliberately or willfully submitted false or misleading 10585
information in connection with the application for or performance 10586
of a public contract; 10587

(9) Been debarred from bidding on or participating in a 10588
contract with any state or federal agency. 10589

(B) When the director reasonably believes that grounds for 10590
debarment exist, the director shall send the contractor a notice 10591
of proposed debarment indicating the grounds for the proposed 10592
debarment and the procedure for requesting a hearing on the 10593
proposed debarment. The hearing shall be conducted in accordance 10594
with Chapter 119. of the Revised Code. If the contractor does not 10595
respond with a request for a hearing in the manner specified in 10596
Chapter 119. of the Revised Code, the director shall issue the 10597
debarment decision without a hearing and shall notify the 10598
contractor of the decision by certified mail, return receipt 10599
requested. 10600

(C) The director shall determine the length of the debarment 10601
period and may rescind the debarment at any time upon notification 10602
to the contractor. During the period of debarment, the contractor 10603
is not eligible to bid for or participate in any contract for a 10604
public improvement as referred to in section 153.01 of the Revised 10605
Code or for a project as defined in section 3318.01 of the Revised 10606

Code. After the debarment period expires, the contractor shall be 10607
eligible to bid for and participate in such contracts ~~for a public~~ 10608
~~improvement as referred to in section 153.01 of the Revised Code.~~ 10609

(D) The director, through the office of the state architect, 10610
shall maintain a list of all contractors currently debarred under 10611
this section. Any governmental entity awarding a contract for 10612
construction of a public improvement or project may use a 10613
contractor's presence on the debarment list to determine whether a 10614
contractor is responsible or best under section 9.312 or any other 10615
section of the Revised Code in the award of a contract. 10616

Sec. 153.03. (A) As used in this section: 10617

(1) "Contracting authority" means any state agency or other 10618
state instrumentality that is authorized to award a public 10619
improvement contract. 10620

(2) "Bidder" means a person who submits a bid to a 10621
contracting authority to perform work under a public improvement 10622
contract. 10623

(3) "Contractor" means any person with whom a contracting 10624
authority has entered into a public improvement contract to 10625
provide labor for a public improvement and includes a construction 10626
manager at risk and a design-build firm. 10627

(4) "Subcontractor" means any person who undertakes to 10628
provide any part of the labor on the site of a public improvement 10629
under a contract with any person other than the contracting 10630
authority, including all such persons in any tier. 10631

(5) "Construction manager" ~~means a person with substantial~~ 10632
~~discretion and authority to plan, coordinate, manage, and direct~~ 10633
~~all phases of a project for the construction, demolition,~~ 10634
~~alteration, repair, or reconstruction of any public building,~~ 10635
~~structure, or other improvement~~ has the same meaning as in section 10636

<u>9.33 of the Revised Code.</u>	10637
(6) <u>"Construction manager at risk" has the same meaning as in section 9.33 of the Revised Code.</u>	10638
(7) <u>"Design-build firm" has the same meaning as in section 153.65 of the Revised Code.</u>	10639
(7) <u>"Design-build firm" has the same meaning as in section 153.65 of the Revised Code.</u>	10640
(8) "Labor" means any activity performed by a person that contributes to the direct installation of a product, component, or system, or that contributes to the direct removal of a product, component, or system.	10641
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(8) "Labor" means any activity performed by a person that contributes to the direct installation of a product, component, or system, or that contributes to the direct removal of a product, component, or system.	10645
(7) (9) "Public improvement contract" means any contract that is financed in whole or in part with money appropriated by the general assembly, or that is financed in any manner by a contracting authority, and that is awarded by a contracting authority for the construction, alteration, or repair of any public building, public highway, or other public improvement.	10646
(7) (9) "Public improvement contract" means any contract that is financed in whole or in part with money appropriated by the general assembly, or that is financed in any manner by a contracting authority, and that is awarded by a contracting authority for the construction, alteration, or repair of any public building, public highway, or other public improvement.	10647
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(8) (10) "State agency" means every organized body, office, or agency established by the laws of this state for the exercise of any function of state government.	10652
(8) (10) "State agency" means every organized body, office, or agency established by the laws of this state for the exercise of any function of state government.	10653
(8) (10) "State agency" means every organized body, office, or agency established by the laws of this state for the exercise of any function of state government.	10654
(B) A contracting authority shall not award a public improvement contract to a bidder, <u>and a construction manager at risk or design-build firm shall not award a subcontract</u> , unless the contract <u>or subcontract</u> contains both of the following:	10655
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(1) The statements described in division (E) of this section;	10659
(2) Terms that require the contractor <u>or subcontractor</u> to be enrolled in and be in good standing in the drug-free workplace program of the bureau of workers' compensation or a comparable program approved by the bureau that requires an employer to do all of the following:	10660
(2) Terms that require the contractor <u>or subcontractor</u> to be enrolled in and be in good standing in the drug-free workplace program of the bureau of workers' compensation or a comparable program approved by the bureau that requires an employer to do all of the following:	10661
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(a) Develop, implement, and provide to all employees a written substance use policy that conveys full and fair disclosure	10665
(a) Develop, implement, and provide to all employees a written substance use policy that conveys full and fair disclosure	10666

of the employer's expectations that no employee be at work with 10667
alcohol or drugs in the employee's system, and specifies the 10668
consequences for violating the policy. 10669

(b) Conduct drug and alcohol tests on employees in accordance 10670
with division (B)(2)(c) of this section and under the following 10671
conditions: 10672

(i) Prior to an individual's employment or during an 10673
employee's probationary period for employment, which shall not 10674
exceed one hundred twenty days after the probationary period 10675
begins; 10676

(ii) At random intervals while an employee provides labor or 10677
~~onsite~~ on-site supervision of labor for a public improvement 10678
contract. The employer shall use the neutral selection procedures 10679
required by the United States department of transportation to 10680
determine which employees to test and when to test those 10681
employees. 10682

(iii) After an accident at the site where labor is being 10683
performed pursuant to a public improvement contract. For purposes 10684
of this division, "accident" has the meaning established in rules 10685
the administrator of workers' compensation adopts pursuant to 10686
Chapters 4121. and 4123. of the Revised Code for the bureau's 10687
drug-free workplace program, as those rules exist on ~~the effective~~ 10688
~~date of this section~~ March 30, 2007. 10689

(iv) When the employer ~~or a~~ construction manager, 10690
construction manager at risk, or design-build firm has reasonable 10691
suspicion that prior to an accident an employee may be in 10692
violation of the employer's written substance use policy. For 10693
purposes of this division, "reasonable suspicion" has the meaning 10694
established in rules the administrator adopts pursuant to Chapters 10695
4121. and 4123. of the Revised Code for the bureau's drug-free 10696
workplace program, as those rules exist on ~~the effective date of~~ 10697

~~this section~~ March 30, 2007. 10698

(v) Prior to an employee returning to a work site to provide 10699
labor for a public improvement contract after the employee tested 10700
positive for drugs or alcohol, and again after the employee 10701
returns to that site to provide labor under that contract, as 10702
required by either the employer, ~~the~~ construction manager, 10703
construction manager at risk, design-build firm, or conditions in 10704
the contract. 10705

(c) Use the following types of tests when conducting a test 10706
on an employee under the conditions described in division 10707
(B)(2)(b) of this section: 10708

(i) Drug and alcohol testing that uses the federal testing 10709
model that the administrator has incorporated into the bureau's 10710
drug-free workplace program; 10711

(ii) Testing to determine whether the concentration of 10712
alcohol on an employee's breath is equal to or in excess of the 10713
level specified in division (A)(1)(d) or (h) of section 4511.19 of 10714
the Revised Code, which is obtained through an evidentiary breath 10715
test conducted by a breath alcohol technician using breath testing 10716
equipment that meets standards established by the United States 10717
department of transportation, or, if such technician and equipment 10718
are unavailable, a blood test may be used to determine whether the 10719
concentration of alcohol in an employee's blood is equal to or in 10720
excess of the level specified in division (A)(1)(b) or (f) of 10721
section 4511.19 of the Revised Code. 10722

(d) Require all employees to receive at least one hour of 10723
training that increases awareness of and attempts to deter 10724
substance abuse and supplies information about employee assistance 10725
to deal with substance abuse problems, and require all supervisors 10726
to receive one additional hour of training in skill building to 10727
teach a supervisor how to observe and document employee behavior 10728

and intervene when reasonable suspicion exists of substance use; 10729

(e) Require all supervisors and employees to receive the 10730
training described in division (B)(2)(d) of this section before 10731
work for a public improvement contract commences or during the 10732
term of a public improvement contract; 10733

(f) Require that the training described in division (B)(2)(d) 10734
of this section be provided using material prepared by an 10735
individual who has credentials or experience in substance abuse 10736
training; 10737

(g) Assist employees by providing, at a minimum, a list of 10738
community resources from which an employee may obtain help with 10739
substance abuse problems, except that this requirement does not 10740
preclude an employer from having a policy that allows an employer 10741
to terminate an employee's employment the first time the employee 10742
tests positive for drugs or alcohol or if an employee refuses to 10743
be tested for drugs, alcohol, or both. 10744

(C) Any time the United States department of health and human 10745
services changes the federal testing model that the administrator 10746
has incorporated into the bureau's drug-free workplace program in 10747
a manner that allows additional or new products, protocols, 10748
procedures, and standards in the model, the administrator may 10749
adopt rules establishing standards to allow employers to use those 10750
additional or new products, protocols, procedures, or standards to 10751
satisfy the requirements of division (B)(2)(c) of this section, 10752
and the bureau may approve an employer's drug-free workplace 10753
program that meets the administrator's standards and the other 10754
requirements specified in division (B)(2) of this section. 10755

(D) A contracting authority shall ensure that money 10756
appropriated by the general assembly for the contracting 10757
authority's public improvement contract or, in the case of a state 10758
institution of higher education, the institution's financing for 10759

the public improvement contract, is not expended unless the 10760
contractor for that contract is enrolled in and in good standing 10761
in a drug-free workplace program described in division (B) of this 10762
section. Prior to awarding a contract to a bidder, a contracting 10763
authority shall verify that the bidder is enrolled in and in good 10764
standing in such a program. 10765

(E) A contracting authority shall include all of the 10766
following statements in the public improvement contract entered 10767
into between the contracting authority and a contractor for the 10768
public improvement: 10769

(1) "Each contractor shall require all subcontractors with 10770
whom the contractor is in contract for the public improvement to 10771
be enrolled in and be in good standing in the Bureau of Workers' 10772
Compensation's Drug-Free Workplace Program or a comparable program 10773
approved by the Bureau that meets the requirements specified in 10774
section 153.03 of the Revised Code prior to a subcontractor 10775
providing labor at the project site of the public improvement." 10776

(2) "Each subcontractor shall require all lower-tier 10777
subcontractors with whom the subcontractor is in contract for the 10778
public improvement to be enrolled in and be in good standing in 10779
the Bureau of Workers' Compensation's Drug-Free Workplace Program 10780
or a comparable program approved by the Bureau that meets the 10781
requirements specified in section 153.03 of the Revised Code prior 10782
to a lower-tier subcontractor providing labor at the project site 10783
of the public improvement." 10784

(3) "Failure of a contractor to require a subcontractor to be 10785
enrolled in and be in good standing in the Bureau of Workers' 10786
Compensation's Drug-Free Workplace Program or a comparable program 10787
approved by the Bureau that meets the requirements specified in 10788
section 153.03 of the Revised Code prior to the time that the 10789
subcontractor provides labor at the project site will result in 10790
the contractor being found in breach of the contract and that 10791

breach shall be used in the responsibility analysis of that 10792
contractor or the subcontractor who was not enrolled in a program 10793
for future contracts with the state for five years after the date 10794
of the breach." 10795

(4) "Failure of a subcontractor to require a lower-tier 10796
subcontractor to be enrolled in and be in good standing in the 10797
Bureau of Workers' Compensation's Drug-Free Workplace Program or a 10798
comparable program approved by the Bureau that meets the 10799
requirements specified in section 153.03 of the Revised Code prior 10800
to the time that the lower-tier subcontractor provides labor at 10801
the project site will result in the subcontractor being found in 10802
breach of the contract and that breach shall be used in the 10803
responsibility analysis of that subcontractor or the lower-tier 10804
subcontractor who was not enrolled in a program for future 10805
contracts with the state for five years after the date of the 10806
breach." 10807

(F) In the event a construction manager, construction manager 10808
at risk, or design-build firm intends and is authorized to provide 10809
labor for a public improvement contract, a contracting authority 10810
shall verify, prior to awarding a contract for construction 10811
management services or design-build services, that the 10812
construction manager, construction manager at risk, or 10813
design-build firm was enrolled in and in good standing in a 10814
drug-free workplace program described in division (B) of this 10815
section prior to entering into the public improvement contract. 10816
The contracting authority shall not award a contract for 10817
construction manager services ~~to a construction manager or~~ 10818
design-build services if the construction manager, construction 10819
manager at risk, or design-build firm is not enrolled in or in 10820
good standing in such a program. 10821

Sec. 153.07. The notice provided for in section 153.06 of the 10822

Revised Code shall be published once each week for three 10823
consecutive weeks in a newspaper of general circulation, or as 10824
provided in section 7.16 of the Revised Code, in the county where 10825
the activity for which bids are submitted is to occur and in such 10826
other newspapers as ordered by the department of administrative 10827
services, the last publication to be at least eight days preceding 10828
the day for opening the bids, and in such form and with such 10829
phraseology as the department orders. Copies of the plans, 10830
details, ~~bills of material,~~ estimates of cost, and specifications 10831
shall be open to public inspection at all business hours between 10832
the day of the first publication and the day for opening the bids, 10833
at the office of the department where the bids are received, and 10834
such other place as may be designated in such notice. 10835

Sec. 153.08. On the day and at the place named in the notice 10836
provided for in section 153.06 of the Revised Code, the owner 10837
referred to in section 153.01 of the Revised Code shall open the 10838
bids and shall publicly, with the assistance of the architect or 10839
engineer, immediately proceed to tabulate the bids upon duplicate 10840
sheets. The public bid opening may be broadcast by electronic 10841
means pursuant to rules established by the director of 10842
administrative services. A bid shall be invalid and not considered 10843
unless a bid guaranty meeting the requirements of section 153.54 10844
of the Revised Code and in the form approved by the department of 10845
administrative services is filed with such bid ~~and unless such.~~ 10846
For a bid that is not filed electronically, the bid and bid 10847
guaranty are shall be filed in one sealed envelope. If the bid and 10848
bid guaranty are filed electronically, they must be received 10849
electronically before the deadline published pursuant to section 10850
153.06 of the Revised Code. For all bids filed electronically, the 10851
original, unaltered bid guaranty shall be made available to the 10852
public authority after the public bid opening. After 10853
investigation, which shall be completed within thirty days, the 10854

contract shall be awarded by such owner to the lowest responsive 10855
and responsible bidder in accordance with section 9.312 of the 10856
Revised Code. 10857

No contract shall be entered into until the industrial 10858
commission has certified that the person so awarded the contract 10859
has complied with sections 4123.01 to 4123.94 of the Revised Code, 10860
until, if the bidder so awarded the contract is a foreign 10861
corporation, the secretary of state has certified that such 10862
corporation is authorized to do business in this state, until, if 10863
the bidder so awarded the contract is a person nonresident of this 10864
state, such person has filed with the secretary of state a power 10865
of attorney designating the secretary of state as its agent for 10866
the purpose of accepting service of summons in any action brought 10867
under section 153.05 of the Revised Code or under sections 4123.01 10868
to 4123.94 of the Revised Code, and until the contract and bond, 10869
if any, are submitted to the attorney general and the attorney 10870
general's approval certified thereon. 10871

No contract shall be entered into unless the bidder possesses 10872
a valid certificate of compliance with affirmative action programs 10873
issued pursuant to section 9.47 of the Revised Code and dated no 10874
earlier than one hundred eighty days prior to the date fixed for 10875
the opening of bids for a particular project. 10876

Sec. 153.50. (A) ~~An~~ As used in sections 153.50 to 153.52 of 10877
the Revised Code: 10878

(1) "Construction manager at risk" has the same meaning as in 10879
section 9.33 of the Revised Code. 10880

(2) "Design-assist" means monitoring and assisting in the 10881
completion of the plans and specifications. 10882

(3) "Design-assist firm" means a person capable of performing 10883
design-assist. 10884

(4) "Design-build firm" has the same meaning as in section 153.65 of the Revised Code. 10885
10886

(5) "General contracting" means constructing and managing an entire public improvement project, including the branches or classes of work specified in division (B) of this section, under the award of a single aggregate lump sum contract. 10887
10888
10889
10890

(6) "General contracting firm" means a person capable of performing general contracting. 10891
10892

(B) Except for contracts made with a construction manager at risk, with a design-build firm, or with a general contracting firm, an officer, board, or other authority of the state, a county, township, municipal corporation, or school district, or of any public institution belonging thereto, authorized to contract for the erection, repair, alteration, or rebuilding of a public building, institution, bridge, culvert, or improvement and required by law to advertise and receive bids for furnishing of materials and doing the work necessary for the erection thereof, shall require separate and distinct bids to be made for furnishing such materials or doing such work, or both, in their discretion, for each of the following branches or classes of work to be performed, and all work kindred thereto, entering into the improvement: 10893
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(1) Plumbing and gas fitting; 10907

(2) Steam and hot-water heating, ventilating apparatus, and steam-power plant; 10908
10909

(3) Electrical equipment. 10910

~~(B) A public authority is not required to solicit separate bids for a branch or class of work specified in division (A) of this section for an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.~~ 10911
10912
10913
10914

Sec. 153.501. (A) A public authority may accept a subcontract awarded by a construction manager at risk, a design-build firm, or a general contracting firm, or may reject any such contract if the public authority determines that the bidder is not responsible. 10915
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(B) A public authority may authorize a construction manager at risk or design-build firm to utilize a design-assist firm on any public improvement project. 10919
10920
10921

(C) If the construction manager at risk or design-build firm intends and is permitted by the public authority to self-perform a portion of the work to be performed, the construction manager at risk or design-build firm shall submit a sealed bid for the portion of the work prior to accepting and opening any bids for the same work. 10922
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Sec. 153.502. The department of administrative services, pursuant to Chapter 119. of the Revised Code and not later than June 30, 2012, shall adopt rules to do both of the following: 10928
10929
10930

(A) Prescribe the procedures and criteria for determining the best value selection of a construction manager at risk or design-build firm; 10931
10932
10933

(B) Prescribe the form for the contract documents to be used by a public authority when entering into a contract with a construction manager at risk or design-build firm. 10934
10935
10936

Sec. 153.51. (A) ~~When more than one branch or class of work specified in division (A) of~~ If separate and distinct bids are required pursuant to section 153.50 of the Revised Code ~~is required~~, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work ~~shall~~ may be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or 10937
10938
10939
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more kinds of work or materials are lower than the separate bids 10944
in the aggregate. 10945

(B)(1) ~~The If the public authority referred to in section~~ 10946
~~153.50 of the Revised Code also may award~~ awards a single, 10947
aggregate contract for the entire project pursuant to division (A) 10948
of this section. ~~This, the~~ award shall be made to the bidder who 10949
is the lowest responsive and responsible bidder or the lowest and 10950
best bidder, as applicable, as specified in section 153.52 of the 10951
Revised Code. 10952

(2) The public authority ~~referred to in section 153.50 of the~~ 10953
~~Revised Code~~ may assign all or any portion of its interest in the 10954
contract of the lowest responsive and responsible bidder or the 10955
lowest and best bidder, as applicable, to another successful 10956
bidder as an agreed condition for an award of the contract for the 10957
amount of its respective bid. Such assignment may include, but is 10958
not limited to, the duty to schedule, coordinate, and administer 10959
the contracts. 10960

~~(C) A public authority referred to in division (A) of section~~ 10961
~~153.50 of the Revised Code is not required to award separate~~ 10962
~~contracts for a branch or class of work specified in division (A)~~ 10963
~~of section 153.50 of the Revised Code entering into an improvement~~ 10964
~~if the estimated cost for that branch or class of work is less~~ 10965
~~than five thousand dollars.~~ 10966

Sec. 153.52. The A contract for general contracting or for 10967
doing the work belonging to each separate branch or class of work 10968
specified in division ~~(A)~~(B) of section 153.50 of the Revised 10969
Code, or for the furnishing of materials therefor, ~~or both,~~ shall 10970
be awarded by the public authority referred to in section 153.50 10971
of the Revised Code, in its discretion, to the lowest responsive 10972
and responsible separate bidder therefor, in accordance with 10973
section 9.312 of the Revised Code in the case of any public 10974

authority of the state or any public institution belonging 10975
thereto, and to the lowest and best separate bidder in the case of 10976
a county, township, or municipal corporation, ~~or school district,~~ 10977
or any public institution belonging thereto, and to the lowest 10978
responsive and responsible bidder in the case of a school 10979
district, and shall be made directly with the bidder in the manner 10980
and upon the terms, conditions, and limitations as to giving bond 10981
or bid guaranties as prescribed by law, ~~unless it is let as a~~ 10982
~~whole, or to bidders for more than one kind of work or materials.~~ 10983
~~Sections 153.50 to 153.52 of the Revised Code do not apply to the~~ 10984
~~erection of buildings and other structures which cost less than~~ 10985
~~fifty thousand dollars.~~ 10986

Sec. 153.53. (A) As used in this section, "rate of inflation" 10987
has the same meaning as in section 107.032 of the Revised Code. 10988
10989

(B) Five years after the effective date of this section and 10990
every five years thereafter, the director of administrative 10991
services shall evaluate the monetary threshold specified in 10992
section 153.01 of the Revised Code and adopt rules adjusting that 10993
amount based on the average rate of inflation during each of the 10994
previous five years immediately preceding such adjustment. 10995

Sec. 153.54. (A) ~~Each~~ Except with respect to a contract 10996
described in section 9.334 or 153.693 of the Revised Code, each 10997
person bidding for a contract with the state or any political 10998
subdivision, district, institution, or other agency thereof, 10999
excluding therefrom the department of transportation, for any 11000
public improvement shall file with the bid, a bid guaranty in the 11001
form of either: 11002

(1) A bond in accordance with division (B) of this section 11003
for the full amount of the bid; 11004

(2) A certified check, cashier's check, or letter of credit pursuant to Chapter 1305. of the Revised Code, in accordance with division (C) of this section. Any such letter of credit is revocable only at the option of the beneficiary state, political subdivision, district, institution, or agency. The amount of the certified check, cashier's check, or letter of credit shall be equal to ten per cent of the bid.

(B) A bid guaranty filed pursuant to division (A)(1) of this section shall be conditioned to:

(1) Provide that, if the bid is accepted, the bidder, after the awarding or the recommendation for the award of the contract, whichever the contracting authority designates, will enter into a proper contract in accordance with the bid, plans, details, and specifications, ~~and bills of material~~. If for any reason, other than as authorized by section 9.31 of the Revised Code or division (G) of this section, the bidder fails to enter into the contract, and the contracting authority awards the contract to the next lowest bidder, the bidder and the surety on the bidder's bond are liable to the state, political subdivision, district, institution, or agency for the difference between the bid and that of the next lowest bidder, or for a penal sum not to exceed ten per cent of the amount of the bond, whichever is less. If the state, political subdivision, district, institution, or agency does not award the contract to the next lowest bidder but resubmits the project for bidding, the bidder failing to enter into the contract and the surety on the bidder's bond, except as provided in division (G) of this section, are liable to the state, political subdivision, district, institution, or agency for a penal sum not to exceed ten per cent of the amount of the bid or the costs in connection with the resubmission of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less.

(2) Indemnify the state, political subdivision, district, institution, or agency against all damage suffered by failure to perform the contract according to its provisions and in accordance with the plans, details, and specifications, ~~and bills of material~~ therefor and to pay all lawful claims of subcontractors, material suppliers, and laborers for labor performed or material furnished in carrying forward, performing, or completing the contract; and agree and assent that this undertaking is for the benefit of any subcontractor, material supplier, or laborer having a just claim, as well as for the state, political subdivision, district, institution, or agency.

(C)(1) A bid guaranty filed pursuant to division (A)(2) of this section shall be conditioned to provide that if the bid is accepted, the bidder, after the awarding or the recommendation for the award of the contract, whichever the contracting authority designates, will enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material. If for any reason, other than as authorized by section 9.31 of the Revised Code or division (G) of this section, the bidder fails to enter into the contract, and the contracting authority awards the contract to the next lowest bidder, the bidder is liable to the state, political subdivision, district, institution, or agency for the difference between the bidder's bid and that of the next lowest bidder, or for a penal sum not to exceed ten per cent of the amount of the bid, whichever is less. If the state, political subdivision, district, institution, or agency does not award the contract to the next lowest bidder but resubmits the project for bidding, the bidder failing to enter into the contract, except as provided in division (G) of this section, is liable to the state, political subdivision, district, institution, or agency for a penal sum not to exceed ten per cent of the amount of the bid or the costs in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing

notices to prospective bidders, whichever is less. 11070

If the bidder enters into the contract, the bidder, at the 11071
time the contract is entered to, shall file a bond for the amount 11072
of the contract to indemnify the state, political subdivision, 11073
district, institution, or agency against all damage suffered by 11074
failure to perform the contract according to its provisions and in 11075
accordance with the plans, details, and specifications, ~~and bills~~ 11076
~~of material therefor~~ and to pay all lawful claims of 11077
subcontractors, material suppliers, and laborers for labor 11078
performed or material furnished in carrying forward, performing, 11079
or completing the contract; and agree and assent that this 11080
undertaking is for the benefit of any subcontractor, material 11081
supplier, or laborer having a just claim, as well as for the 11082
state, political subdivision, district, institution, or agency. 11083

(2) A construction manager who enters into a contract 11084
pursuant to sections 9.33 to 9.333 of the Revised Code, if 11085
required by the public ~~owner~~ authority at the time the 11086
construction manager enters into the contract, shall file a letter 11087
of credit pursuant to Chapter 1305. of the Revised Code, bond, 11088
certified check, or cashier's check, for the value of the 11089
construction management contract to indemnify the state, political 11090
subdivision, district, institution, or agency against all damage 11091
suffered by the construction manager's failure to perform the 11092
contract according to its provisions, and shall agree and assent 11093
that this undertaking is for the benefit of the state, political 11094
subdivision, district, institution, or agency. A letter of credit 11095
provided by the construction manager is revocable only at the 11096
option of the beneficiary state, political subdivision, district, 11097
institution, or agency. 11098

(D) Where the state, political subdivision, district, 11099
institution, or agency accepts a bid but the bidder fails or 11100
refuses to enter into a proper contract in accordance with the 11101

bid, plans, details, and specifications, ~~and bills of material~~ 11102
within ten days after the awarding of the contract, the bidder and 11103
the surety on any bond, except as provided in division (G) of this 11104
section, are liable for the amount of the difference between the 11105
bidder's bid and that of the next lowest bidder, but not in excess 11106
of the liability specified in division (B)(1) or (C) of this 11107
section. Where the state, political subdivision, district, 11108
institution, or agency then awards the bid to such next lowest 11109
bidder and such next lowest bidder also fails or refuses to enter 11110
into a proper contract in accordance with the bid, plans, details, 11111
and specifications, ~~and bills of material~~ within ten days after 11112
the awarding of the contract, the liability of such next lowest 11113
bidder, except as provided in division (G) of this section, is the 11114
amount of the difference between the bids of such next lowest 11115
bidder and the third lowest bidder, but not in excess of the 11116
liability specified in division (B)(1) or (C) of this section. 11117
Liability on account of an award to any lowest bidder beyond the 11118
third lowest bidder shall be determined in like manner. 11119

(E) Notwithstanding division (C) of this section, where the 11120
state, political subdivision, district, institution, or agency 11121
resubmits the project for bidding, each bidder whose bid was 11122
accepted but who failed or refused to enter into a proper 11123
contract, except as provided in division (G) of this section, is 11124
liable for an equal share of a penal sum in connection with the 11125
resubmission, of printing new contract documents, required 11126
advertising, and printing and mailing notices to prospective 11127
bidders, but no bidder's liability shall exceed the amount of the 11128
bidder's bid guaranty. 11129

(F) All bid guaranties filed pursuant to this section shall 11130
be payable to the state, political subdivision, district, 11131
institution, or agency, be for the benefit of the state, political 11132
subdivision, district, institution, or agency or any person having 11133

a right of action thereon, and be deposited with, and held by, the board, officer, or agent contracting on behalf of the state, political subdivision, district, institution, or agency. All bonds filed pursuant to this section shall be issued by a surety company authorized to do business in this state as surety approved by the board, officer, or agent awarding the contract on behalf of the state, political subdivision, district, institution, or agency.

(G) A bidder for a contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the Ohio department of transportation, for a public improvement costing less than one-half million dollars may withdraw the bid from consideration if the bidder's bid for some other contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the department of transportation, for the public improvement costing less than one-half million dollars has already been accepted, if the bidder certifies in good faith that the total amount of all the bidder's current contracts is less than one-half million dollars, and if the surety certifies in good faith that the bidder is unable to perform the subsequent contract because to do so would exceed the bidder's bonding capacity. If a bid is withdrawn under authority of this division, the contracting authority may award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding, and neither the bidder nor the surety on the bidder's bond are liable for the difference between the bidder's bid and that of the next lowest bidder, for a penal sum, or for the costs of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders.

(H) Bid guaranties filed pursuant to division (A) of this section shall be returned to all unsuccessful bidders immediately after the contract is executed. The bid guaranty filed pursuant to

division (A)(2) of this section shall be returned to the 11166
successful bidder upon filing of the bond required in division (C) 11167
of this section. 11168

(I) For the purposes of this section, "next lowest bidder" 11169
means, in the case of a political subdivision that has adopted the 11170
model Ohio and United States preference requirements promulgated 11171
pursuant to division (E) of section 125.11 of the Revised Code, 11172
the next lowest bidder that qualifies under those preference 11173
requirements. 11174

(J) For the purposes of this section and sections 153.56, 11175
153.57, and 153.571 of the Revised Code, "public improvement," 11176
"subcontractor," "material supplier," "laborer," and "materials" 11177
have the same meanings as in section 1311.25 of the Revised Code. 11178

Sec. 153.55. (A) For purposes of calculating the amount of a 11179
public improvement project to determine whether it is subject to 11180
section 153.01 of the Revised Code, no officer, board, or other 11181
authority of the state or any institution supported by the state 11182
shall subdivide a public improvement project into component parts 11183
or separate projects in order to avoid the threshold of that 11184
section, unless the component parts or separate projects thus 11185
created are conceptually separate and unrelated to each other, or 11186
encompass independent or unrelated needs. 11187

(B) In calculating the project amount for purposes of the 11188
threshold in section 153.01 of the Revised Code, the following 11189
expenses shall be included as costs of the project: 11190

(1) Professional fees and expenses for services associated 11191
with the preparation of plans; 11192

(2) Permit costs, testing costs, and other fees associated 11193
with the work; 11194

(3) Project construction costs; 11195

(4) A contingency reserve fund. 11196

Sec. 153.56. (A) Any person to whom any money is due for 11197
labor or work performed or materials furnished in a public 11198
improvement as provided in section 153.54 of the Revised Code, at 11199
any time after performing the labor or work or furnishing the 11200
materials, but not later than ninety days after the completion of 11201
the contract by the principal contractor or design-build firm and 11202
the acceptance of the public improvement for which the bond was 11203
provided by the duly authorized board or officer, shall furnish 11204
the sureties on the bond, a statement of the amount due to the 11205
person. 11206

(B) A suit shall not be brought against sureties on the bond 11207
until after sixty days after the furnishing of the statement 11208
described in division (A) of this section. If the indebtedness is 11209
not paid in full at the expiration of that sixty days, and if the 11210
person complies with division (C) of this section, the person may 11211
bring an action in the person's own name upon the bond, as 11212
provided in sections 2307.06 and 2307.07 of the Revised Code, that 11213
action to be commenced, notwithstanding section 2305.12 of the 11214
Revised Code, not later than one year from the date of acceptance 11215
of the public improvement for which the bond was provided. 11216

(C) To exercise rights under this section, a subcontractor or 11217
materials supplier supplying labor or materials that cost more 11218
than thirty thousand dollars, who is not in direct privity of 11219
contract with the principal contractor or design-build firm for 11220
the public improvement, shall serve a notice of furnishing upon 11221
the principal contractor or design-build firm in the form provided 11222
in section 1311.261 of the Revised Code. 11223

(D) A subcontractor or materials supplier who serves a notice 11224
of furnishing under division (C) of this section as required to 11225
exercise rights under this section has the right of recovery only 11226

as to amounts owed for labor and work performed and materials 11227
furnished during and after the twenty-one days immediately 11228
preceding service of the notice of furnishing. 11229

(E) For purposes of this section, ~~"principal:~~ 11230

(1) "Design-build firm" has the same meaning as in section 11231
153.65 of the Revised Code. 11232

(2) "Principal contractor" has the same meaning as in section 11233
1311.25 of the Revised Code, and may include a "construction 11234
manager" and a "construction manager at risk" as defined in 11235
section 9.33 of the Revised Code. 11236

Sec. 153.57. (A) The bond provided for in division (B) of 11237
section 9.333, division (C)(1) of section 153.54, and division (C) 11238
of section 153.70 of the Revised Code shall be in substantially 11239
the following form, and recovery of any claimant thereunder shall 11240
be subject to sections 153.01 to 153.60 of the Revised Code, to 11241
the same extent as if the provisions of those sections were fully 11242
incorporated in the bond form: 11243

"KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned 11244
..... as principal and 11245
as sureties, are hereby held and firmly bound unto 11246
..... in the penal sum of dollars, for 11247
the payment of which well and truly to be made, we hereby jointly 11248
and severally bind ourselves, our heirs, executors, 11249
administrators, successors, and assigns. 11250

Signed this day of, 11251

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas 11252
the above named principal did on the day of 11253
.....,, enter into a contract with 11254
....., which said contract is made a part of this bond 11255
the same as though set forth herein; 11256

Now, if the said shall well and 11257
faithfully do and perform the things agreed by 11258
to be done and performed according to the terms of said contract; 11259
and shall pay all lawful claims of subcontractors, material 11260
suppliers, and laborers, for labor performed and materials 11261
furnished in the carrying forward, performing, or completing of 11262
said contract; we agreeing and assenting that this undertaking 11263
shall be for the benefit of any material supplier or laborer 11264
having a just claim, as well as for the obligee herein; then this 11265
obligation shall be void; otherwise the same shall remain in full 11266
force and effect; it being expressly understood and agreed that 11267
the liability of the surety for any and all claims hereunder shall 11268
in no event exceed the penal amount of this obligation as herein 11269
stated. 11270

The said surety hereby stipulates and agrees that no 11271
modifications, omissions, or additions, in or to the terms of the 11272
said contract or in or to the plans or specifications therefor 11273
shall in any wise affect the obligations of said surety on its 11274
bond." 11275

(B) The bond provided for in division (C)(2) of section 11276
153.54 of the Revised Code shall be in substantially the following 11277
form: 11278

"KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned 11279
..... as principal and as sureties, are hereby 11280
held and firmly bound unto in the penal sum of 11281
..... dollars, for the payment of which well and truly be 11282
made, we hereby jointly and severally bind ourselves, our heirs, 11283
executors, administrators, successors, and assigns. 11284

Signed this day of, 11285

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas 11286
the above named principal did on the day of, 11287

....., entered into a contract with which said 11288
contract is made a part of this bond the same as though set forth 11289
herein; 11290

Now, if the said shall well and faithfully 11291
do and perform the things agreed by to be done and 11292
performed according to the terms of the said contract; we agreeing 11293
and assenting that this undertaking shall be for the benefit of 11294
the obligee herein; then this obligation shall be void; otherwise 11295
the same shall remain in full force and effect; it being expressly 11296
understood and agreed that the liability of the surety for any and 11297
all claims hereunder shall in no event exceed the penal amount of 11298
the obligation as herein stated. 11299

The surety hereby stipulates and agrees that no 11300
modifications, omissions, or additions, in or to the terms of the 11301
contract shall in any way affect the obligation of the surety on 11302
its bond." 11303

Sec. 153.581. As used in sections 153.581 and 153.591 of the 11304
Revised Code: 11305

(A) "Public works contract" means any contract awarded by a 11306
contracting authority for the construction, engineering, 11307
alteration, or repair of any public building, public highway, or 11308
other public work. 11309

(B) "Contracting authority" means the state, any township, 11310
county, municipal corporation, school board, or other governmental 11311
entity empowered to award a public works contract, and any 11312
construction manager at risk as defined in section 9.33 of the 11313
Revised Code or design-build firm as defined in section 153.65 of 11314
the Revised Code awarding a subcontract. 11315

(C) "Contractor" means any person, partnership, corporation, 11316
or association that has been awarded a public works contract. 11317

Sec. 153.65. As used in sections 153.65 to ~~153.71~~ 153.73 of 11318
the Revised Code: 11319

(A)(1) "Public authority" means the state, a state 11320
institution of higher education as defined in section 3345.011 of 11321
the Revised Code, a county, township, municipal corporation, 11322
school district, or other political subdivision, or any public 11323
agency, authority, board, commission, instrumentality, or special 11324
purpose district of the state or of a county, township, municipal 11325
corporation, school district, or other political subdivision. 11326

(2) "Public authority" does not include the Ohio turnpike 11327
commission. 11328

(B) "Professional design firm" means any person legally 11329
engaged in rendering professional design services. 11330

(C) "Professional design services" means services within the 11331
scope of practice of an architect or landscape architect 11332
registered under Chapter 4703. of the Revised Code or a 11333
professional engineer or surveyor registered under Chapter 4733. 11334
of the Revised Code. 11335

(D) "Qualifications" means all of the following: 11336

(1) ~~Competence of the~~ (a) For a professional design firm, 11337
competence to perform the required professional design services as 11338
indicated by the technical training, education, and experience of 11339
the firm's personnel, especially the technical training, 11340
education, and experience of the employees within the firm who 11341
would be assigned to perform the services; 11342

(b) For a design-build firm, competence to perform the 11343
required design-build services as indicated by the technical 11344
training, education, and experience of the design-build firm's 11345
personnel and key consultants, especially the technical training, 11346
education, and experience of the employees and consultants of the 11347

design-build firm who would be assigned to perform the services, 11348
including the proposed architect of record. 11349

(2) Ability of the firm in terms of its workload and the 11350
availability of qualified personnel, equipment, and facilities to 11351
perform the required professional design services or design-build 11352
services competently and expeditiously; 11353

(3) Past performance of the firm as reflected by the 11354
evaluations of previous clients with respect to such factors as 11355
control of costs, quality of work, and meeting of deadlines; 11356

(4) Any other relevant factors as determined by the public 11357
authority; 11358

(5) With respect to a design-build firm, compliance with 11359
sections 4703.182, 4703.332, and 4733.16 of the Revised Code, 11360
including the use of a licensed professional for all design 11361
services. 11362

(E) "Design-build contract" means a contract between a public 11363
authority and another person that obligates the person to provide 11364
design-build services. 11365

(F) "Design-build firm" means a person capable of providing 11366
design-build services. 11367

(G) "Design-build services" means services that form an 11368
integrated delivery system for which a person is responsible to a 11369
public authority for both the design and construction, demolition, 11370
alteration, repair, or reconstruction of a public improvement. 11371

(H) "Architect of record" means the architect that serves as 11372
the final signatory on the plans and specifications for the 11373
design-build project. 11374

(I) "Criteria architect or engineer" means the architect or 11375
engineer retained by a public authority to prepare conceptual 11376
plans and specifications, to assist the public authority in 11377

connection with the establishment of the design criteria for a 11378
design-build project, and, if requested by the public authority, 11379
to serve as the representative of the public authority and 11380
provide, during the design-build project, other design and 11381
construction administration services on behalf of the public 11382
authority, including but not limited to, confirming that the 11383
design prepared by the design-build firm reflects the original 11384
design intent established in the design criteria package. 11385

(J) "Open book pricing method" means a method in which a 11386
design-build firm provides the public authority, at the public 11387
authority's request, all books, records, documents, contracts, 11388
subcontracts, purchase orders, and other data in its possession 11389
pertaining to the bidding, pricing, or performance of a contract 11390
for design-build services awarded to the design-build firm. 11391

Sec. 153.66. (A) Each public authority planning to contract 11392
for professional design services or design-build services shall 11393
encourage professional design firms and design-build firms to 11394
submit a statement of qualifications and update the statements at 11395
regular intervals. 11396

(B) Notwithstanding any contrary requirements in sections 11397
153.65 to 153.70 of the Revised Code, for every design-build 11398
contract, each public authority planning to contract for 11399
design-build services shall evaluate the statements of 11400
qualifications submitted by design-build firms for the project, 11401
including the qualifications of the design-build firm's proposed 11402
architect of record, in consultation with the criteria architect 11403
or engineer before selecting a design-build firm pursuant to 11404
section 153.693 of the Revised Code. 11405

Sec. 153.67. Each public authority planning to contract for 11406
professional design services or design-build services shall 11407

publicly announce all contracts available from it for such 11408
services. The announcements shall: 11409

(A) Be made in a uniform and consistent manner and shall be 11410
made sufficiently in advance of the time that responses must be 11411
received from qualified professional design firms or design-build 11412
firms for the firms to have an adequate opportunity to submit a 11413
statement of interest in the project; 11414

(B) Include a general description of the project, a statement 11415
of the specific professional design services or design-build 11416
services required, and a description of the qualifications 11417
required for the project; 11418

(C) Indicate how qualified professional design firms or 11419
design-build firms may submit statements of qualifications in 11420
order to be considered for a contract to design or design-build 11421
the project; 11422

(D) Be sent to ~~either~~ any of the following that the public 11423
authority considers appropriate: 11424

(1) ~~Each professional design firm that has a current~~ 11425
~~statement of qualifications on file with the public authority and~~ 11426
~~is qualified to perform the required professional design services~~ 11427
Design-build firms, including contractors or other entities that 11428
seek to perform the work as a design-build firm; 11429

(2) Architect, landscape architect, engineer, and surveyor 11430
~~trade associations, the~~ 11431

(3) The news media, and any; 11432

(4) Any publications or other public media that the public 11433
authority considers appropriate, including electronic media. 11434

Sec. 153.69. For every professional design services contract, 11435
each public authority planning to contract for professional design 11436
services shall evaluate the statements of qualifications of 11437

~~professional design firms currently on file, together with those~~ 11438
~~that are~~ submitted by ~~other~~ professional design firms specifically 11439
regarding the project, and may hold discussions with individual 11440
firms to explore further the firms' statements of qualifications, 11441
the scope and nature of the services the firms would provide, and 11442
the various technical approaches the firms may take toward the 11443
project. Following this evaluation, the public authority shall: 11444

(A) Select and rank no fewer than three firms which it 11446
considers to be the most qualified to provide the required 11447
professional design services, except when the public authority 11448
determines in writing that fewer than three qualified firms are 11449
available in which case the public authority shall select and rank 11450
those firms; 11451

(B) Negotiate a contract with the firm ranked most qualified 11452
to perform the required services at a compensation determined in 11453
writing to be fair and reasonable to the public authority. 11454
Contract negotiations shall be directed toward: 11455

(1) Ensuring that the professional design firm and the agency 11456
have a mutual understanding of the essential requirements involved 11457
in providing the required services; 11458

(2) Determining that the firm will make available the 11459
necessary personnel, equipment, and facilities to perform the 11460
services within the required time; 11461

(3) Agreeing upon compensation which is fair and reasonable, 11462
taking into account the estimated value, scope, complexity, and 11463
nature of the services. 11464

(C) If a contract is negotiated with the firm ranked to 11465
perform the required services most qualified, the public authority 11466
shall, if applicable under section 127.16 of the Revised Code, 11467
request approval of the board to make expenditures under the 11468

contract. 11469

(D) Upon failure to negotiate a contract with the firm ranked 11470
most qualified, the public authority shall inform the firm in 11471
writing of the termination of negotiations and may enter into 11472
negotiations with the firm ranked next most qualified. If 11473
negotiations again fail, the same procedure ~~shall~~ may be followed 11474
with each next most qualified firm selected and ranked pursuant to 11475
division (A) of this section, in order of ranking, until a 11476
contract is negotiated. 11477

(E) Should the public authority fail to negotiate a contract 11478
with any of the firms selected pursuant to division (A) of this 11479
section, the public authority ~~shall~~ may select and rank additional 11480
firms, based on their qualifications, and negotiations ~~shall~~ may 11481
continue as with the firms selected and ranked initially until a 11482
contract is negotiated. 11483

(F) Nothing in this section affects a public authority's 11484
right to accept or reject any or all proposals in whole or in 11485
part. 11486

Sec. 153.692. For every design-build contract, the public 11487
authority planning to contract for design-build services shall 11488
first obtain the services of a criteria architect or engineer by 11489
doing either of the following: 11490

(A) Contracting for the services consistent with sections 11491
153.65 to 153.70 of the Revised Code; 11492

(B) Obtaining the services through an architect or engineer 11493
who is an employee of the public authority and notifying the 11494
department of administrative services before the services are 11495
performed. 11496

Sec. 153.693. (A) For every design-build contract, the public 11497
authority planning to contract for design-build services, in 11498

consultation with the criteria architect or engineer, shall 11499
evaluate the statements of qualifications submitted by 11500
design-build firms specifically regarding the project, including 11501
the design-build firm's proposed architect of record. Following 11502
this evaluation, the public authority shall: 11503

(1) Select and rank not fewer than three firms which it 11504
considers to be the most qualified to provide the required 11505
design-build services, except that the public authority shall 11506
select and rank fewer than three firms when the public authority 11507
determines in writing that fewer than three qualified firms are 11508
available; 11509

(2) Provide each selected design-build firm with all of the 11510
following: 11511

(a) A description of the project and project delivery; 11512

(b) The design criteria produced by the criteria architect or 11513
engineer under section 153.692 of the Revised Code; 11514

(c) A preliminary project schedule; 11515

(d) A description of any preconstruction services; 11516

(e) A description of the proposed design services; 11517

(f) A description of a guaranteed maximum price, including 11518
the estimated level of design on which such guaranteed maximum 11519
price is based; 11520

(g) The form of the design-build services contract; 11521

(h) A request for a pricing proposal that shall be divided 11522
into a design services fee and a preconstruction and design-build 11523
services fee. The pricing proposal of each design-build firm shall 11524
include at least all of the following: 11525

(i) A list of key personnel and consultants for the project; 11526

(ii) Design concepts adhering to the design criteria produced 11527

<u>by the criteria architect or engineer under section 153.692 of the</u>	11528
<u>Revised Code;</u>	11529
<u>(iii) The design-build firm's statement of general conditions</u>	11530
<u>and estimated contingency requirements;</u>	11531
<u>(iv) A preliminary project schedule.</u>	11532
<u>(3) Evaluate the pricing proposal submitted by each selected</u>	11533
<u>firm and, at its discretion, hold discussions with each firm to</u>	11534
<u>further investigate its pricing proposal, including the scope and</u>	11535
<u>nature of the firm's proposed services and potential technical</u>	11536
<u>approaches;</u>	11537
<u>(4) Rank the selected firms based on the public authority's</u>	11538
<u>evaluation of the value of each firm's pricing proposal, with such</u>	11539
<u>evaluation considering each firm's proposed costs and</u>	11540
<u>qualifications;</u>	11541
<u>(5) Enter into contract negotiations for design-build</u>	11542
<u>services with the design-build firm whose pricing proposal the</u>	11543
<u>public authority determines to be the best value under this</u>	11544
<u>section.</u>	11545
<u>(B) In complying with division (A)(5) of this section,</u>	11546
<u>contract negotiations shall be directed toward:</u>	11547
<u>(1) Ensuring that the design-build firm and the public</u>	11548
<u>authority mutually understand the essential requirements involved</u>	11549
<u>in providing the required design-build services, the provisions</u>	11550
<u>for the use of contingency funds, and the terms of the contract,</u>	11551
<u>including terms related to the possible distribution of savings in</u>	11552
<u>the final costs of the project;</u>	11553
<u>(2) Ensuring that the design-build firm shall be able to</u>	11554
<u>provide the necessary personnel, equipment, and facilities to</u>	11555
<u>perform the design-build services within the time required by the</u>	11556
<u>design-build construction contract;</u>	11557

(3) Agreeing upon a procedure and schedule for determining a 11558
guaranteed maximum price using an open book pricing method that 11559
shall represent the total maximum amount to be paid by the public 11560
authority to the design-build firm for the project and that shall 11561
include the costs of all work, the cost of its general conditions, 11562
the contingency, and the fee payable to the design-build firm. 11563

(C) If the public authority fails to negotiate a contract 11564
with the design-build firm whose pricing proposal the public 11565
authority determines to be the best value as determined under this 11566
section, the public authority shall inform the design-build firm 11567
in writing of the termination of negotiations. The public 11568
authority may then do the following: 11569

(1) Negotiate a contract with a design-build firm ranked next 11570
highest under this section following the negotiation procedure 11571
described in this section; 11572

(2) If negotiations fail with the design-build firm under 11573
division (C)(1) of this section, negotiate a contract with the 11574
design-build firm ranked next highest under this section following 11575
the negotiation procedure described in this section and continue 11576
negotiating with the design-build firms selected under this 11577
section in the order of their ranking until a contract is 11578
negotiated. 11579

(D) If the public authority fails to negotiate a contract 11580
with a design-build firm whose pricing proposal the public 11581
authority determines to be the best value as determined under this 11582
section, it may select additional design-build firms to provide 11583
pricing proposals to the public authority pursuant to this section 11584
or may select an alternative delivery method for the project. 11585

(E) The public authority may provide a stipend for pricing 11586
proposals received from design-build firms. 11587

(F) Nothing in this section affects a public authority's 11588

right to accept or reject any or all proposals in whole or in 11589
part. 11590

Sec. 153.694. If a professional design firm selected as the 11591
criteria architect or engineer creates the preliminary criteria 11592
and design criteria for a project and provides professional design 11593
services to a public authority to assist that public authority in 11594
evaluating the design-build requirements provided to the public 11595
authority by a design-build firm pursuant to section 153.692 of 11596
the Revised Code, that professional design firm shall not provide 11597
any design-build services pursuant to a design-build contract 11598
under section 153.693 of the Revised Code. 11599

Sec. 153.70. (A) Except for any person providing professional 11600
design services of a research or training nature, any person 11601
rendering professional design services to a public authority or to 11602
a design-build firm, including a criteria architect or engineer 11603
and person performing architect of record services, shall have and 11604
maintain, or be covered by, during the period the services are 11605
rendered, a professional liability insurance policy or policies 11606
with a company or companies that are authorized to do business in 11607
this state and that afford professional liability coverage for the 11608
professional design services rendered. The insurance shall be in 11609
amount considered sufficient by the public authority. At the 11610
public authority's discretion, the design-build firm shall carry 11611
contractor's professional liability insurance and any other 11612
insurance the public authority considers appropriate. 11613

(B) The requirement for professional liability insurance set 11615
forth in division (A) of this section may be waived by the public 11616
authority for good cause, or the public authority may allow the 11617
person providing the professional design services to provide other 11618
assurances of financial responsibility. 11619

(C) Before construction begins pursuant to a contract for design-build services with a design-build firm, the design-build firm shall provide a surety bond to the public authority in accordance with section 153.57 of the Revised Code in an amount not less than the combined contract values of any work under contract to be constructed pursuant to the contract for design-build services prior to the establishment of the guaranteed maximum price or in the amount of the guaranteed maximum price as agreed to by the public authority, as the case may be.

Sec. 153.71. Any public authority planning to contract for professional design services or design-build services may adopt, amend, or rescind rules, in accordance with Chapter 119. of the Revised Code, to implement sections 153.66 to 153.70 of the Revised Code. Sections 153.66 to 153.70 of the Revised Code do not apply to any of the following:

(A) Any project with an estimated professional design fee of less than twenty-five thousand dollars;

(B) Any project determined in writing by the public authority head to be an emergency requiring immediate action including, but not limited to, any projects requiring multiple contracts let as part of a program requiring a large number of professional design firms of the same type;

(C) Any public authority that is not empowered by law to contract for professional design services.

Sec. 153.72. A design-build firm contracted for design-build services by a public authority may do either of the following:

(A) Perform design, construction, demolition, alteration, repair, or reconstruction work pursuant to such contract;

(B) Perform professional design services when contracted by a public authority for design-build services even if the

design-build firm is not a professional design firm. 11650

Sec. 153.73. The requirements set forth in sections 153.65 to 11651
153.72 of the Revised Code for the bidding, selection, and award 11652
of a contract for professional design services or design-build 11653
services by a public authority prevail in the event of any 11654
conflict with any other provision of this chapter. 11655

Sec. 153.80. (A) A contract for the construction, demolition, 11656
alteration, repair, or reconstruction of a public improvement 11657
entered into on or after ~~the effective date of this section~~ April 11658
16, 1993, shall be deemed to include the provisions contained in 11659
division (B) of this section. 11660

(B)(1) In regard to any bond filed by the contractor for the 11661
work contracted, the contracting authority, in its sole 11662
discretion, may reduce the bond required by twenty-five per cent 11663
of the total amount of the bond after at least fifty per cent of 11664
the work contracted for has been completed and by fifty per cent 11665
after at least seventy-five per cent of the work contracted for 11666
has been completed provided that all of the following conditions 11667
are met: 11668

(a) The contracting authority determines that the percentage 11669
of the work that has been completed at the time of determination 11670
has been satisfactorily performed and meets the terms of the 11671
contract, including a provision in regard to the time when the 11672
whole or any specified portion of work contemplated in the 11673
contract must be completed; 11674

(b) The contracting authority determines that no disputed 11675
claim caused by the contractor exists or remains unresolved; 11676

(c) The successful bid upon which the contract is based was 11677
not more than ten per cent below the next lowest bid or not more 11678
than ten per cent below a cost estimate for the work as published 11679

by the contracting authority. 11680

(2) In regard to the amount of any funds retained, the 11681
contracting authority, in its sole discretion, may reduce the 11682
amount of funds retained pursuant to ~~section~~ sections 153.12 and 11683
153.14 of the Revised Code for the faithful performance of work by 11684
fifty per cent of the amount of funds required to be retained 11685
pursuant to those sections, provided that the surety on the bond 11686
remains liable for all of the following that are caused due to 11687
default by the contractor: 11688

(a) Completion of the job; 11689

(b) All delay claims; 11690

(c) All liquidated damages; 11691

(d) All additional expenses incurred by the contracting 11692
authority. 11693

(C) As used in this section: 11694

(1) "Contracting authority" means an officer, board, or other 11695
authority of the state, a county, township, municipal corporation, 11696
or school district, or of any other political subdivision of the 11697
state, authorized to contract for the construction, demolition, 11698
alteration, repair, or reconstruction of a public improvement, and 11699
any construction manager at risk as defined in section 9.33 of the 11700
Revised Code or design-build firm as defined in section 153.65 of 11701
the Revised Code awarding a subcontract, but does not include an 11702
officer, board, or other authority of the department of 11703
transportation. 11704

(2) "Delay claim" means a claim that arises due to default on 11705
provisions in a contract in regard to the time when the whole or 11706
any specified portion of work contemplated in the contract must be 11707
completed. 11708

Sec. 154.02. (A) Pursuant to the provisions of Chapter 154. 11709

of the Revised Code, the issuing authority may issue obligations 11710
as from time to time authorized by or pursuant to act or 11711
resolution of the general assembly, consistent with such 11712
limitations thereon, subject to section 154.12 of the Revised 11713
Code, as the general assembly may thereby prescribe as to 11714
principal amount, bond service charges, or otherwise, and shall 11715
cause the proceeds thereof to be applied to those capital 11716
facilities designated by or pursuant to act of the general 11717
assembly for any of the following: 11718

(1) Mental hygiene and retardation, including housing for 11719
mental hygiene and retardation patients under Section 16 of 11720
Article VIII, Ohio Constitution; 11721

(2) State supported and assisted institutions of higher 11722
education, including community or technical education colleges; 11723

(3) Parks and recreation; 11724

(4) Ohio cultural facilities; 11725

(5) Ohio sports facilities; 11726

(6) Housing of branches and agencies of state government. 11727

(B) The authority provided by Chapter 154. of the Revised 11728
Code is in addition to any other authority provided by law for the 11729
same or similar purposes, except as may otherwise specifically be 11730
provided in Chapter 154. of the Revised Code. In case any section 11731
or provision of Chapter 154. of the Revised Code or in case any 11732
covenant, stipulation, obligation, resolution, trust agreement, 11733
indenture, lease agreement, act, or action, or part thereof, made, 11734
assumed, entered into, or taken under Chapter 154. of the Revised 11735
Code, or any application thereof, is for any reason held to be 11736
illegal or invalid, such illegality or invalidity shall not affect 11737
the remainder thereof or any other section or provision of Chapter 11738
154. of the Revised Code or any other covenant, stipulation, 11739
obligation, resolution, trust agreement, indenture, lease, 11740

agreement, act, or action, or part thereof, made, assumed, entered 11741
into, or taken under such chapter, which shall be construed and 11742
enforced as if such illegal or invalid portion were not contained 11743
therein, nor shall such illegality or invalidity or any 11744
application thereof affect any legal and valid application 11745
thereof, and each such section, provision, covenant, stipulation, 11746
obligation, resolution, trust agreement, indenture, lease, 11747
agreement, act, or action, or part thereof, shall be deemed to be 11748
effective, operative, made, entered into or taken in the manner 11749
and to the full extent permitted by law. 11750

Sec. 154.07. For the respective purposes provided in sections 11751
154.20, 154.21, 154.22, ~~and 154.23,~~ 154.24, and 154.25 of the 11752
Revised Code, the issuing authority may issue obligations of the 11753
state of Ohio as provided in Chapter 154. of the Revised Code, 11754
provided that the holders or owners of obligations shall have no 11755
right to have excises or taxes levied by the general assembly for 11756
the payment of the bond service charges. The right of holders and 11757
owners to payment of bond service charges shall be limited to the 11758
revenues or receipts and funds pledged thereto in accordance with 11759
Chapter 154. of the Revised Code, and each obligation shall bear 11760
on its face a statement to that effect. Chapter 154. of the 11761
Revised Code does not permit, and no provision of that chapter 11762
shall be applied to authorize or grant, a pledge of charges for 11763
the treatment or care of mental hygiene and retardation patients 11764
to bond service charges on obligations other than those issued for 11765
capital facilities for mental hygiene and retardation, or a pledge 11766
of any receipts of or on behalf of state supported or state 11767
assisted institutions of higher education to bond service charges 11768
on obligations other than those issued for capital facilities for 11769
state supported or state assisted institutions of higher 11770
education, or a pledge of receipts with respect to parks and 11771
recreation to bond service charges on obligations other than those 11772

issued for capital facilities for parks and recreation, or a 11773
pledge of revenues or receipts received by or on behalf of any 11774
state agency to bond service charges on obligations other than 11775
those issued for capital facilities which are in whole or in part 11776
useful to, constructed by, or financed by the state agency that 11777
receives the revenues or receipts so pledged. 11778

Sec. 154.24. (A) In addition to the definitions provided in 11779
section 154.01 of the Revised Code: 11780

(1) "Capital facilities" includes, for purposes of this 11781
section, storage and parking facilities related to such capital 11782
facilities. 11783

(2) "Costs of capital facilities" includes, for purposes of 11784
this section, the costs of assessing, planning, and altering 11785
capital facilities, and the financing thereof, all related direct 11786
administrative expenses and allocable portions of direct costs of 11787
lessee state agencies, and all other expenses necessary or 11788
incident to the assessment, planning, alteration, maintenance, 11789
equipment, or furnishing of capital facilities and the placing of 11790
the same in use and operation, including any one, part of, or 11791
combination of such classes of costs and expenses. 11792

(3) "Governmental agency" includes, for purposes of this 11793
section, any state of the United States or any department, 11794
division, or agency of any state. 11795

(4) "State agency" includes, for purposes of this section, 11796
branches, authorities, courts, the general assembly, counties, 11797
municipal corporations, and any other governmental entities of 11798
this state that enter into leases with the commission pursuant to 11799
this section or that are designated by law as state agencies for 11800
the purpose of performing a state function that is to be housed by 11801
a capital facility for which the issuing authority is authorized 11802
to issue revenue obligations pursuant to this section. 11803

(B) Subject to authorization by the general assembly under section 154.02 of the Revised Code, the issuing authority may issue obligations pursuant to this chapter to pay costs of capital facilities for housing branches and agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination thereof that a state agency is responsible for housing, including obligations to pay the costs of capital facilities described in section 307.021 of the Revised Code, and the costs of capital facilities in which one or more state agencies are participating with the federal government, municipal corporations, counties, or other governmental entities, or any one or more of them, and in which that portion of the facility allocated to the participating state agencies is to be used for the purpose of housing branches and agencies of state government including housing personnel, equipment, or functions, or any combination thereof. Such participation may be by grants, loans, or contributions to other participating governmental agencies for any of those capital facilities.

(C) The commission may lease any capital facilities for housing branches and agencies of state government to, and make or provide for other agreements with respect to the use or purchase of such capital facilities with, any state agency or governmental agency having authority under law to operate such capital facilities.

(D)(1) For purposes of this division, "available receipts" means fees, charges, revenues, grants, subsidies, income from the investment of moneys, proceeds from the sale of goods or services, and all other revenues or receipts derived from the operation, leasing, or other disposition of capital facilities financed with obligations issued under this section or received by or on behalf of any state agency for which capital facilities are financed with

obligations issued under this section or any state agency 11836
participating in or by which the capital facilities are 11837
constructed or financed; the proceeds of obligations issued under 11838
this section and sections 154.11 or 154.12 of the Revised Code; 11839
and any moneys appropriated by a governmental agency, and gifts, 11840
grants, donations, and pledges, and receipts therefrom, available 11841
for the payment of bond service charges on such obligations. 11842

(2) The issuing authority may pledge all, or such portion as 11843
it determines, of the available receipts to the payment of bond 11844
service charges on obligations issued under this section and 11845
section 154.11 or 154.12 of the Revised Code and for the 11846
establishment and maintenance of any reserves, as provided in the 11847
bond proceedings, and make other provisions therein with respect 11848
to such available receipts as authorized by this chapter, which 11849
provisions shall be controlling notwithstanding any other 11850
provision of law pertaining thereto. 11851

(E) There is hereby created one or more funds, as determined 11852
by the issuing authority in the bond proceedings, with identifying 11853
names as the issuing authority determines, which shall be in the 11854
custody of the treasurer of state but shall be separate and apart 11855
from and not a part of the state treasury. All money received by 11856
or on account of the issuing authority or the commission and 11857
required by the applicable bond proceedings to be deposited, 11858
transferred, or credited to a bond service fund created pursuant 11859
to this section, and all other money transferred or allocated to 11860
or received for the purposes of that fund, shall be deposited with 11861
the treasurer of state and credited to the applicable fund, 11862
subject to applicable provisions of the bond proceedings, but 11863
without necessity of any act or appropriation. Any bond service 11864
fund created pursuant to this section is a trust fund hereby 11865
pledged to the payment of bond service charges on the applicable 11866
obligations issued pursuant to this section and section 154.11 or 11867

154.12 of the Revised Code to the extent provided in the 11868
applicable bond proceedings, and payment thereof from such funds 11869
shall be made or provided for by the treasurer of state in 11870
accordance with the applicable bond proceedings without necessity 11871
for any act or appropriation. The director of budget and 11872
management may also create one or more improvement funds, with 11873
identifying names as the director determines, which shall be in 11874
the state treasury, to receive the proceeds of obligations issued 11875
under this section appropriated to fund costs of capital 11876
facilities. 11877

(F) This section is to be applied with other applicable 11878
provisions of this chapter. 11879

Sec. 154.25. (A) As used in this section: 11880

(1) "Available community or technical college receipts" means 11881
all money received by a community or technical college or 11882
community or technical college district, including income, 11883
revenues, and receipts from the operation, ownership, or control 11884
of facilities, grants, gifts, donations, and pledges and receipts 11885
therefrom, receipts from fees and charges, the allocated state 11886
share of instruction as defined in section 3333.90 of the Revised 11887
Code, and the proceeds of the sale of obligations, including 11888
proceeds of obligations issued to refund obligations previously 11889
issued, but excluding any special fee, and receipts therefrom, 11890
charged pursuant to division (D) of section 154.21 of the Revised 11891
Code. 11892

(2) "Community or technical college," "college," "community 11893
or technical college district," and "district" have the same 11894
meanings as in section 3333.90 of the Revised Code. 11895

(3) "Community or technical college capital facilities" means 11896
auxiliary facilities, education facilities, and housing and dining 11897
facilities, as those terms are defined in section 3345.12 of the 11898

Revised Code, to the extent permitted to be financed by the 11899
issuance of obligations under division (A)(2) of section 3357.112 11900
of the Revised Code, that are authorized by sections 3354.121, 11901
3357.112, and 3358.10 of the Revised Code to be financed by 11902
obligations issued by a community or technical college district, 11903
and for which the issuing authority is authorized to issue 11904
obligations pursuant to this section, and includes any one, part 11905
of, or any combination of the foregoing, and further includes site 11906
improvements, utilities, machinery, furnishings, and any separate 11907
or connected buildings, structures, improvements, sites, open 11908
space and green space areas, utilities, or equipment to be used 11909
in, or in connection with the operation or maintenance of, or 11910
supplementing or otherwise related to the services or facilities 11911
to be provided by, such facilities. 11912

(4) "Cost of community or technical college capital 11913
facilities" means the costs of acquiring, constructing, 11914
reconstructing, rehabilitating, remodeling, renovating, enlarging, 11915
improving, equipping, or furnishing community or technical college 11916
capital facilities, and the financing thereof, including the cost 11917
of clearance and preparation of the site and of any land to be 11918
used in connection with community or technical college capital 11919
facilities, the cost of any indemnity and surety bonds and 11920
premiums on insurance, all related direct administrative expenses 11921
and allocable portions of direct costs of the commission and the 11922
issuing authority, community or technical college or community or 11923
technical college district, cost of engineering, architectural 11924
services, design, plans, specifications and surveys, estimates of 11925
cost, legal fees, fees and expenses of trustees, depositories, 11926
bond registrars, and paying agents for obligations, cost of 11927
issuance of obligations and financing costs and fees and expenses 11928
of financial advisers and consultants in connection therewith, 11929
interest on obligations from the date thereof to the time when 11930
interest is to be covered by available receipts or other sources 11931

other than proceeds of those obligations, amounts necessary to 11932
establish reserves as required by the bond proceedings, costs of 11933
audits, the reimbursements of all moneys advanced or applied by or 11934
borrowed from the community or technical college, community or 11935
technical college district, or others, from whatever source 11936
provided, including any temporary advances from state 11937
appropriations, for the payment of any item or items of cost of 11938
community or technical college facilities, and all other expenses 11939
necessary or incident to planning or determining feasibility or 11940
practicability with respect to such facilities, and such other 11941
expenses as may be necessary or incident to the acquisition, 11942
construction, reconstruction, rehabilitation, remodeling, 11943
renovation, enlargement, improvement, equipment, and furnishing of 11944
community or technical college capital facilities, the financing 11945
thereof and the placing of them in use and operation, including 11946
any one, part of, or combination of such classes of costs and 11947
expenses. 11948

(5) "Capital facilities" includes community or technical 11949
college capital facilities. 11950

(6) "Obligations" has the same meaning as in section 154.01 11951
or 3345.12 of the Revised Code, as the context requires. 11952

(B) The issuing authority is authorized to issue revenue 11953
obligations under Section 2i of Article VIII, Ohio Constitution, 11954
on behalf of a community or technical college district and shall 11955
cause the net proceeds thereof, after any deposits of accrued 11956
interest for the payment of bond service charges and after any 11957
deposit of all or such lesser portion as the issuing authority may 11958
direct of the premium received upon the sale of those obligations 11959
for the payment of the bond service charges, to be applied to the 11960
cost of community or technical college capital facilities, 11961
provided that the issuance of such obligations is subject to the 11962
execution of a written agreement in accordance with division (C) 11963

of section 3333.90 of the Revised Code for the withholding and 11964
depositing of funds otherwise due the district, or the college it 11965
operates, in respect of its allocated state share of instruction. 11966

(C) The bond service charges and all other payments required 11967
to be made by the trust agreement or indenture securing the 11968
obligations shall be payable solely from available community or 11969
technical college receipts pledged thereto as provided in the 11970
resolution. The available community or technical college receipts 11971
pledged and thereafter received by the commission are immediately 11972
subject to the lien of such pledge without any physical delivery 11973
thereof or further act, and the lien of any such pledge is valid 11974
and binding against all parties having claims of any kind against 11975
the authority, irrespective of whether those parties have notice 11976
thereof, and creates a perfected security interest for all 11977
purposes of Chapter 1309. of the Revised Code and a perfected lien 11978
for purposes of any real property interest, all without the 11979
necessity for separation or delivery of funds or for the filing or 11980
recording of the resolution, trust agreement, indenture, or other 11981
agreement by which such pledge is created or any certificate, 11982
statement, or other document with respect thereto; and the pledge 11983
of such available community or technical college receipts is 11984
effective and the money therefrom and thereof may be applied to 11985
the purposes for which pledged. Every pledge, and every covenant 11986
and agreement made with respect to the pledge, made in the 11987
resolution may therein be extended to the benefit of the owners 11988
and holders of obligations authorized by this section, and to any 11989
trustee therefor, for the further securing of the payment of the 11990
bond service charges, and all or any rights under any agreement or 11991
lease made under this section may be assigned for such purpose. 11992

(D) This section is to be applied with other applicable 11993
provisions of this chapter. 11994

Sec. 164.02. (A) There is hereby created the Ohio public 11995
works commission consisting of seven members who shall be 11996
appointed as follows: two persons shall be appointed by the 11997
speaker of the house of representatives; one person shall be 11998
appointed by the minority leader of the house of representatives; 11999
two persons shall be appointed by the president of the senate; one 12000
person shall be appointed by the minority leader of the senate; 12001
and one person from the private sector, who shall have at least 12002
eight years experience in matters of public finance, shall be 12003
appointed alternately by the speaker of the house of 12004
representatives and the president of the senate, with the speaker 12005
of the house making the first appointment. The director of 12006
transportation, the director of environmental protection, the 12007
director of development, the director of natural resources, and 12008
the chairperson of the Ohio water development authority shall be 12009
nonvoting, ex officio members of the commission. The initial 12010
appointments made to the commission by the minority leaders of the 12011
senate and house of representatives and one of the initial 12012
appointments made by the speaker of the house of representatives 12013
and the president of the senate shall be for terms ending December 12014
31, 1989; one of the initial appointments made by the speaker of 12015
the house of representatives and the president of the senate shall 12016
be for terms ending December 31, 1990; and the initial term of the 12017
appointment to the commission that is alternately made by the 12018
speaker of the house of representatives and the president of the 12019
senate shall be for a term ending December 31, 1989. Thereafter, 12020
terms of office shall be for three years, each term ending on the 12021
same day of the same month of the year as did the term which it 12022
succeeds. Each member shall hold office from the date of 12023
appointment until the end of the term for which the member is 12024
appointed. Members may be reappointed one time. Vacancies shall be 12025
filled in the same manner provided for original appointments. Any 12026

member appointed to fill a vacancy occurring prior to the 12027
expiration date of the term for which the member's predecessor was 12028
appointed shall hold office for the remainder of that term. A 12029
member shall continue in office subsequent to the expiration date 12030
of the member's term until the member's successor takes office or 12031
until a period of sixty days has elapsed, whichever occurs first. 12032

The commission shall elect a chairperson, vice-chairperson, 12033
and other officers as it considers advisable. Four members 12034
constitute a quorum. Members of the commission shall serve without 12035
compensation but shall be reimbursed for their actual and 12036
necessary expenses incurred in the performance of their duties. 12037

(B) The Ohio public works commission shall: 12038

(1) Review and evaluate persons who will be recommended to 12039
the governor for appointment to the position of director of the 12040
Ohio public works commission, and, when the commission considers 12041
it appropriate, recommend the removal of a director; 12042

(2) Provide the governor with a list of names of three 12043
persons who are, in the judgment of the commission, qualified to 12044
be appointed to the position of director. The commission shall 12045
provide the list, which may include the name of the incumbent 12046
director to the governor, not later than sixty days prior to the 12047
expiration of the term of such incumbent director. A director 12048
shall serve a two-year term upon initial appointment, and 12049
four-year terms if subsequently reappointed by the governor; 12050
however, the governor may remove a director at any time following 12051
the commission's recommendation of such action. Upon the 12052
expiration of a director's term, or in the case of the 12053
resignation, death, or removal of a director, the commission shall 12054
provide such list of the names of three persons to the governor 12055
within thirty days of such expiration, resignation, death, or 12056
removal. Nothing in this section shall prevent the governor, in 12057
the governor's discretion, from rejecting all of the nominees of 12058

the commission and requiring the commission to select three 12059
additional nominees. However, when the governor has requested and 12060
received a second list of three additional names, the governor 12061
shall make the appointment from one of the names on the first list 12062
or the second list. Appointment by the governor is subject to the 12063
advice and consent of the senate. 12064

In the case of the resignation, removal, or death of the 12065
director during the director's term of office, a successor shall 12066
be chosen for the remainder of the term in the same manner as is 12067
provided for an original appointment. 12068

(3) Provide oversight to the director and advise in the 12069
development of policy guidelines for the implementation of this 12070
chapter, and report and make recommendations to the general 12071
assembly with respect to such implementation; 12072

(4) Adopt bylaws to govern the conduct of the commission's 12073
business; 12074

(5) Appoint the members of the Ohio small government capital 12075
improvements commission in accordance with division (C) of this 12076
section. 12077

(C)(1) There is hereby created the Ohio small government 12078
capital improvements commission. The commission shall consist of 12079
ten members, including the director of transportation, the 12080
director of environmental protection, and the chairperson of the 12081
Ohio water development authority as nonvoting, ex officio members 12082
and seven voting members appointed by the Ohio public works 12083
commission. Each such appointee shall be a member of a ~~district~~ 12084
~~public works~~ local government integrating and innovation committee 12085
who was appointed to the integrating and innovation committee 12086
pursuant to the majority vote of the chief executive officers of 12087
the villages of the appointee's district or by a majority of the 12088
boards of township trustees of the appointee's district. 12089

(2) Two of the initial appointments shall be for terms ending 12090
two years after March 29, 1988. The remaining initial appointments 12091
shall be for terms ending three years after March 29, 1988. 12092
Thereafter, terms of office shall be for two years, with each term 12093
ending on the same date of the same month as did the term that it 12094
succeeds. Each member shall hold office from the date of 12095
appointment until the end of the term for which the member is 12096
appointed. Vacancies shall be filled in the same manner as 12097
original appointments. Any member appointed to fill a vacancy 12098
occurring prior to the expiration date of the term for which the 12099
member's predecessor was appointed shall hold office as a member 12100
for the remainder of that term. A member shall continue in office 12101
subsequent to the expiration of the member's term until the 12102
member's successor takes office or until a period of sixty days 12103
has elapsed, whichever occurs first. Members of the commission may 12104
be reappointed to serve two additional terms, except that no 12105
member appointed to an initial term of three years may be 12106
reappointed to more than one additional term. No more than two 12107
members of the commission may be members of the same ~~district~~ 12108
~~public works~~ local government integrating and innovation 12109
committee. 12110

(3) The Ohio small government capital improvements commission 12111
shall elect one of its appointed members as chairperson and 12112
another as vice-chairperson. Four voting members of the commission 12113
constitute a quorum, and the affirmative vote of four appointed 12114
members is required for any action taken by vote of the 12115
commission. No vacancy in the membership of the commission shall 12116
impair the right of a quorum by an affirmative vote of four 12117
appointed members to exercise all rights and perform all duties of 12118
the commission. Members of the commission shall serve without 12119
compensation, but shall be reimbursed for their actual and 12120
necessary expenses incurred in the performance of their duties. 12121

(D) The Ohio small government capital improvements commission 12122
shall: 12123

(1) Advise the general assembly on the development of policy 12124
guidelines for the implementation of this chapter, especially as 12125
it relates to the interests of small governments and the use of 12126
the portion of bond proceeds set aside for the exclusive use of 12127
townships and villages; 12128

(2) Advise the township and village subcommittees of the 12129
various ~~district public works~~ local government integrating and 12130
innovation committees concerning the selection of projects for 12131
which the use of such proceeds will be authorized; 12132

(3) Affirm or overrule the recommendations of its 12133
administrator made in accordance with section 164.051 of the 12134
Revised Code concerning requests from townships and villages for 12135
financial assistance for capital improvement projects. 12136

(E) Membership on the Ohio public works commission or the 12137
Ohio small government capital improvements commission does not 12138
constitute the holding of a public office. No appointed member 12139
shall be required, by reason of section 101.26 of the Revised 12140
Code, to resign from or forfeit membership in the general 12141
assembly. 12142

Notwithstanding any provision of law to the contrary, a 12143
county, municipal, or township public official may serve as a 12144
member of the Ohio public works commission or the Ohio small 12145
government capital improvements commission. 12146

Members of the commissions established by this section do not 12147
have an unlawful interest in a public contract under section 12148
2921.42 of the Revised Code solely by virtue of the receipt of 12149
financial assistance under this chapter by the local subdivision 12150
of which they are also a public official or appointee. 12151

(F) The director of the Ohio public works commission shall 12152

administer the small counties capital improvement program, which 12153
is hereby created. The program shall provide financial assistance 12154
to county governments of counties that have a population of less 12155
than eighty-five thousand according to the most recent decennial 12156
census. Under the program, the director shall review and may 12157
approve projects submitted by subcommittees of ~~district public~~ 12158
~~works~~ local government integrating and innovation committees under 12159
division (E) of section 164.06 of the Revised Code. In approving 12160
projects, the director shall be guided by the provisions of 12161
division (B) of that section, while taking into consideration the 12162
special capital improvement needs of small counties. 12163

Sec. 164.04. (A) In each of the districts created in section 12164
164.03 of the Revised Code, a ~~district public works~~ local 12165
government integrating and innovation committee shall be 12166
established as follows: 12167

(1) In district one, the district committee shall consist of 12168
seven members appointed as follows: two members shall be appointed 12169
by the board of county commissioners or the chief executive 12170
officer of the county; two members shall be appointed by the chief 12171
executive officer of the most populous municipal corporation in 12172
the district; two members shall be appointed by a majority of the 12173
chief executive officers of the other municipal corporations 12174
located within the district; and one member, who shall have 12175
experience in local infrastructure planning and economic 12176
development and who shall represent the interests of private 12177
industry within the district, shall be appointed by a majority of 12178
the members of the district committee or their alternates. Except 12179
with respect to the selection of the private sector member of the 12180
committee, the affirmative vote of at least five committee members 12181
or their alternates is required for any action taken by a vote of 12182
the committee. 12183

(2) In district two, the district committee shall consist of 12184
nine members appointed as follows: two members shall be appointed 12185
by the board of county commissioners; three members shall be 12186
appointed by the chief executive officer of the most populous 12187
municipal corporation in the district; two members shall be 12188
appointed by a majority of the other chief executive officers of 12189
municipal corporations in the district; and two members shall be 12190
appointed by a majority of the boards of township trustees in the 12191
district. Of the members appointed by the board of county 12192
commissioners, one member shall have experience in local 12193
infrastructure planning and economic development, and one member 12194
shall be either a county commissioner or a county engineer of the 12195
district. The affirmative vote of at least seven members of the 12196
committee or their alternates is required for any action taken by 12197
a vote of the committee. 12198

(3) In districts three, four, eight, twelve, and nineteen, 12199
the district committee shall consist of nine members appointed as 12200
follows: two members shall be appointed by the board of county 12201
commissioners or by the chief executive officer of the county; two 12202
members shall be appointed by the chief executive officer of the 12203
most populous municipal corporation located within the district; 12204
two members shall be appointed by a majority of the other chief 12205
executive officers of the municipal corporations located in the 12206
district; two members shall be appointed by a majority of the 12207
boards of township trustees located in the district; and one 12208
member, who shall have experience in local infrastructure planning 12209
and economic development and who shall represent the interests of 12210
private industry within the district, shall be appointed by a 12211
majority of the members of the committee or their alternates. 12212
Except with respect to the selection of the private sector member 12213
of the committee, the affirmative vote of at least seven committee 12214
members or their alternates is required for any action taken by a 12215
vote of the committee. 12216

(4) In district six, the district committee shall consist of 12217
nine members appointed as follows: one member shall be appointed 12218
by the board of county commissioners of each county in the 12219
district; one member shall be appointed by the chief executive 12220
officer of the most populous municipal corporation in each county 12221
in the district; one member shall be appointed alternately by a 12222
majority of the chief executives of the municipal corporations, 12223
other than the largest municipal corporation, within one of the 12224
counties of the district; and one member shall be appointed 12225
alternately by a majority of the boards of township trustees 12226
within one of the counties in the district. The two persons who 12227
are the county engineers of the counties in the district also 12228
shall be members of the committee. At least six of these members 12229
or their alternates shall agree upon the appointment to the 12230
committee of a private sector person who shall have experience in 12231
local infrastructure planning and economic development. The 12232
affirmative vote of seven committee members or their alternates is 12233
required for any action taken by a vote of the committee. 12234

The first appointment to the committee made by the majority 12235
of the boards of township trustees of a county shall be made by 12236
the boards of township trustees located in the least populous 12237
county of the district, and the first appointment made by the 12238
majority of the chief executives of municipal corporations, other 12239
than the largest municipal corporation, of a county shall be made 12240
by the chief executives of municipal corporations, other than the 12241
largest municipal corporation, from the most populous county in 12242
the district. 12243

Notwithstanding division (C) of this section, the members of 12244
the district committee appointed alternately by a majority of the 12245
chief executive officers of municipal corporations, other than the 12246
largest municipal corporation, of a county and a majority of 12247
boards of township trustees of a county shall serve five-year 12248

terms. 12249

(5) In districts seven, nine, and ten, the district committee 12250
shall consist of two members appointed by the board of county 12251
commissioners of each county in the district, two members 12252
appointed by a majority of the chief executive officers of all 12253
cities within each county in the district, three members appointed 12254
by a majority of the boards of township trustees of all townships 12255
in the district, three members appointed by a majority of chief 12256
executive officers of all villages in the district, one member who 12257
is appointed by a majority of the county engineers in the district 12258
and who shall be a county engineer, and one member, who shall have 12259
experience in local infrastructure planning and economic 12260
development, shall be appointed by a majority of all other 12261
committee members or their alternates. If there is a county in the 12262
district in which there are no cities, the member that is to be 12263
appointed by the chief executive officers of the cities within 12264
that county shall be appointed by the chief executive officer of 12265
the village with the largest population in that county. 12266

(6) In districts five, eleven, and thirteen through eighteen, 12267
the members of each district committee shall be appointed as 12268
follows: one member shall be appointed by each board of county 12269
commissioners; one member shall be appointed by the majority of 12270
the chief executive officers of the cities located in each county; 12271
three members shall be appointed by a majority of the chief 12272
executive officers of villages located within the district; three 12273
members shall be appointed by a majority of the boards of township 12274
trustees located within the district; one member shall be 12275
appointed by a majority of the county engineers of the district 12276
and shall be a county engineer; and one member, who shall have 12277
experience in local infrastructure planning and economic 12278
development and who shall represent the interests of private 12279
industry within the district, shall be appointed by a majority of 12280

the members of the committee or their alternates. If there is a 12281
county in the district in which there are no cities, the member 12282
that is to be appointed by the chief executive officers of the 12283
cities within that county shall be appointed by the chief 12284
executive officer of the village with the largest population in 12285
that county. 12286

(7) In districts five, seven, nine, ten, eleven, thirteen, 12287
fourteen, sixteen, and seventeen organized in accordance with 12288
divisions (A)(5) and (6) of this section, a nine-member executive 12289
committee shall be established that shall include at least one of 12290
the persons appointed to the district committee by the chief 12291
executive officers of the villages within the district, at least 12292
one of the persons appointed to the district committee by the 12293
boards of township trustees within the district, the person 12294
appointed to the district committee to represent the interests of 12295
private industry, and six additional district committee members 12296
selected to serve on the executive committee by a majority of the 12297
members of the district committee or their alternates, except that 12298
not more than three persons who were appointed to the district 12299
committee by a board of county commissioners and not more than 12300
three persons who were appointed to the district committee by the 12301
chief executives of the cities located in the district shall serve 12302
on the executive committee. 12303

(8) In districts fifteen and eighteen organized in accordance 12304
with division (A)(6) of this section, an eleven-member executive 12305
committee shall be established that shall include at least one of 12306
the persons appointed to the district committee by the chief 12307
executive officers of the villages within the district, at least 12308
one of the persons appointed to the district committee by the 12309
boards of township trustees within the district, the person 12310
appointed to the district committee to represent the interests of 12311
private industry, and eight additional district committee members 12312

selected to serve on the executive committee by a majority of the 12313
members of the district committee or their alternates, except that 12314
not more than four persons who were appointed to the district 12315
committee by a board of county commissioners and not more than 12316
four persons who were appointed to the district committee by the 12317
chief executives of the cities located in the district shall serve 12318
on the executive committee. No more than two persons from each 12319
county shall be on the executive committee. 12320

All decisions of a district committee required to be 12321
organized in accordance with divisions (A)(5) and (6) of this 12322
section shall be approved by its executive committee. The 12323
affirmative vote of at least seven executive committee members or 12324
their alternates for executive committees formed under division 12325
(A)(7) of this section and at least nine members or their 12326
alternates for executive committees formed under division (A)(8) 12327
of this section is required for any action taken by vote of the 12328
executive committee, except that any decision of the executive 12329
committee may be rejected by a vote of at least two-thirds of the 12330
full membership of the district committee within thirty days of 12331
the executive committee action. Only projects approved by the 12332
executive committee may be submitted to the director of the Ohio 12333
public works commission pursuant to section 164.05 of the Revised 12334
Code. 12335

(B) Appointing authorities that appoint district committee 12336
members also may appoint an alternate for each committee member 12337
appointed under divisions (A)(1) to (6) of this section. If a 12338
district committee member is absent from a district or executive 12339
committee or subcommittee meeting, the alternate has the right to 12340
vote and participate in all proceedings and actions at that 12341
meeting. 12342

(C) Terms of office for members of district committees and 12343
their alternates shall be for three years, with each term ending 12344

on the same day of the same month as did the term that it 12345
succeeds. Each member and that member's alternate shall hold 12346
office from the date of appointment until the end of the term for 12347
which the member is appointed, except that, with respect to any 12348
member who was an elected or appointed official of a township, 12349
county, or municipal corporation or that member's alternate, the 12350
term of office for that person under this section shall not extend 12351
beyond the member's term as an elected or appointed official 12352
unless the member was appointed by a group of officials of more 12353
than one political subdivision or the members of the district 12354
committee, in which case the member's alternate shall continue to 12355
serve for the full term. Members and their alternates may be 12356
reappointed. Vacancies shall be filled in the same manner provided 12357
for original appointments. Any member or that member's alternate 12358
appointed to fill a vacancy occurring prior to the expiration date 12359
of the term for which the member's or alternate's predecessor was 12360
appointed shall hold office for the remainder of that term. A 12361
member or that member's alternate shall continue in office 12362
subsequent to the expiration date of the member's or alternate's 12363
term until the member's or alternate's successor takes office or 12364
until a period of sixty days has elapsed, whichever occurs first. 12365
Each ~~district public works~~ local government integrating and 12366
innovation committee shall elect a chairperson, vice-chairperson, 12367
and other officers it considers advisable. 12368

(D) For purposes of this chapter, if a subdivision is located 12369
in more than one county or in more than one district, the 12370
subdivision shall be deemed to be a part of the county or district 12371
in which the largest number of its population is located. However, 12372
if after a decennial census the change in a subdivision's 12373
population would result in the subdivision becoming part of a 12374
different county or district, the legislative authority of the 12375
subdivision may, by resolution, choose to remain a part of the 12376
county or district of which the subdivision was originally deemed 12377

to be a part. Such a decision is not revocable unless similar 12378
conditions arise following the next decennial census. 12379

(E) Notwithstanding any provision of law to the contrary, a 12380
county, municipal, or township public official may serve as a 12381
member of a ~~district public works~~ local government integrating and 12382
innovation committee. 12383

(F) A member of a district committee or that member's 12384
alternate does not have an unlawful interest in a public contract 12385
under section 2921.42 of the Revised Code solely by virtue of the 12386
receipt of financial assistance under this chapter by the local 12387
subdivision of which the member or that member's alternate is also 12388
a public official or appointee. 12389

Sec. 164.05. (A) The director of the Ohio public works 12390
commission shall do all of the following: 12391

(1) Approve requests for financial assistance from ~~district~~ 12392
~~public works~~ local government integrating and innovation 12393
committees and enter into agreements with one or more local 12394
subdivisions to provide loans, grants, and local debt support and 12395
credit enhancements for a capital improvement project if the 12396
director determines that: 12397

(a) The project is an eligible project pursuant to this 12398
chapter; 12399

(b) The financial assistance for the project has been 12400
properly approved and requested by the district committee of the 12401
district which includes the recipient of the loan or grant; 12402

(c) The amount of the financial assistance, when added to all 12403
other financial assistance provided during the fiscal year for 12404
projects within the district, does not exceed that district's 12405
allocation of money from the state capital improvements fund for 12406
that fiscal year; 12407

(d) The district committee has provided such documentation 12408
and other evidence as the director may require that the district 12409
committee has satisfied the requirements of section 164.06 or 12410
164.14 of the Revised Code; 12411

(e) The portion of a district's annual allocation which the 12412
director approves in the form of loans and local debt support and 12413
credit enhancements for eligible projects is consistent with 12414
divisions (E) and (F) of this section. 12415

(2) Authorize payments to local subdivisions or their 12416
contractors for costs incurred for capital improvement projects 12417
which have been approved pursuant to this chapter. All requests 12418
for payments shall be submitted to the director on forms and in 12419
accordance with procedures specified in rules adopted by the 12420
director pursuant to division (A)(4) of this section. 12421

(3) Retain the services of or employ financial consultants, 12422
engineers, accountants, attorneys, and such other employees as the 12423
director determines are necessary to carry out the director's 12424
duties under this chapter and fix the compensation for their 12425
services; 12426

(4) Adopt rules establishing the procedures for making 12427
applications, reviewing, approving, and rejecting projects for 12428
which assistance is authorized under this chapter, and any other 12429
rules needed to implement the provisions of this chapter. Such 12430
rules shall be adopted under Chapter 119. of the Revised Code. 12431

(5) Provide information and other assistance to local 12432
subdivisions and ~~district public works~~ local government 12433
integrating and innovation committees in developing their requests 12434
for financial assistance for capital improvements under this 12435
chapter and encourage cooperation and coordination of requests and 12436
the development of multisubdivision and multidistrict projects in 12437
order to maximize the benefits that may be derived by districts 12438

from each year's allocation;	12439
(6) Require local subdivisions, to the extent practicable, to use Ohio products, materials, services, and labor in connection with any capital improvement project financed in whole or in part under this chapter;	12440 12441 12442 12443
(7) Notify the director of budget and management of all approved projects, and supply all information necessary to track approved projects through the state accounting system;	12444 12445 12446
(8) Appoint the administrator of the Ohio small government capital improvements commission;	12447 12448
(9) Do all other acts, enter into contracts, and execute all instruments necessary or appropriate to carry out this chapter;	12449 12450
(10) Develop a standardized methodology for evaluating capital improvement needs which will be used by local subdivisions in preparing the plans required by division (C) of section 164.06 of the Revised Code. The director shall develop this methodology not later than July 1, 1991.	12451 12452 12453 12454 12455
(11) Establish a program to provide local subdivisions with technical assistance in preparing project applications. The program shall be designed to assist local subdivisions that lack the financial or technical resources to prepare project applications on their own.	12456 12457 12458 12459 12460
(B) When the director of the Ohio public works commission decides to conditionally approve or disapprove projects, the director's decisions and the reasons for which they are made shall be made in writing. These written decisions shall be conclusive for the purposes of the validity and enforceability of such determinations.	12461 12462 12463 12464 12465 12466
(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and	12467 12468

provisions of and security for financial assistance provided 12469
pursuant to the provisions of this chapter shall be such as the 12470
director determines to be appropriate. If any payments required by 12471
a loan agreement entered into pursuant to this chapter are not 12472
paid, the funds which would otherwise be apportioned to the local 12473
subdivision from the county undivided local government fund, 12474
pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, 12475
at the direction of the director of the Ohio public works 12476
commission, be reduced by the amount payable. The county treasurer 12477
shall, at the direction of the director, pay the amount of such 12478
reductions to the state capital improvements revolving loan fund. 12479
The director may renegotiate a loan repayment schedule with a 12480
local subdivision whose payments from the county undivided local 12481
government fund could be reduced pursuant to this division, but 12482
such a renegotiation may occur only one time with respect to any 12483
particular loan agreement. 12484

(D) Grants approved for the repair and replacement of 12485
existing infrastructure pursuant to this chapter shall not exceed 12486
ninety per cent of the estimated total cost of the capital 12487
improvement project. Grants approved for new or expanded 12488
infrastructure shall not exceed fifty per cent of the estimated 12489
cost of the new or expansion elements of the capital improvement 12490
project. A local subdivision share of the estimated cost of a 12491
capital improvement may consist of any of the following: 12492

(1) The reasonable value, as determined by the director or 12493
the administrator, of labor, materials, and equipment that will be 12494
contributed by the local subdivision in performing the capital 12495
improvement project; 12496

(2) Moneys received by the local subdivision in any form from 12497
an authority, commission, or agency of the United States for use 12498
in performing the capital improvement project; 12499

(3) Loans made to the local subdivision under this chapter; 12500

(4) Engineering costs incurred by the local subdivision in performing engineering activities related to the project. 12501
 12502

A local subdivision share of the cost of a capital improvement shall not include any amounts awarded to it from the local transportation improvement program fund created in section 164.14 of the Revised Code. 12503
 12504
 12505
 12506

(E) The following portion of a ~~district public works~~ local government integrating and innovation committee's annual allocation share pursuant to section 164.08 of the Revised Code may be awarded to subdivisions only in the form of interest-free, low-interest, market rate of interest, or blended-rate loans: 12507
 12508
 12509
 12510
 12511

YEAR IN WHICH	PORTION USED FOR	
MONEYS ARE ALLOCATED	LOANS	
Year 1	0%	12514
Year 2	0%	12515
Year 3	10%	12516
Year 4	12%	12517
Year 5	15%	12518
Year 6	20%	12519
Year 7, 8, 9, and 10	22%	12520

(F) The following portion of a ~~district public works~~ local government integrating and innovation committee's annual allocation pursuant to section 164.08 of the Revised Code shall be awarded to subdivisions in the form of local debt supported and credit enhancements: 12521
 12522
 12523
 12524
 12525

YEAR IN WHICH	PORTIONS USED FOR	
MONEYS ARE ALLOCATED	LOCAL DEBT SUPPORT	
	AND CREDIT ENHANCEMENTS	
Year 1	0%	12529
Year 2	0%	12530
Year 3	3%	12531
Year 4	5%	12532

Year 5	5%	12533
Year 6	7%	12534
Year 7	7%	12535
Year 8	8%	12536
Year 9	8%	12537
Year 10	8%	12538

(G) For the period commencing on March 29, 1988 and ending on 12539
 June 30, 1993, for the period commencing July 1, 1993, and ending 12540
 June 30, 1999, and for each five-year period thereafter, the total 12541
 amount of financial assistance awarded under sections 164.01 to 12542
 164.08 of the Revised Code for capital improvement projects 12543
 located wholly or partially within a county shall be equal to at 12544
 least thirty per cent of the amount of what the county would have 12545
 been allocated from the obligations authorized to be sold under 12546
 this chapter during each period, if such amounts had been 12547
 allocable to each county on a per capita basis. 12548

(H) The amount of the annual allocations made pursuant to 12549
 divisions (B)(1) and (6) of section 164.08 of the Revised Code 12550
 which can be used for new or expanded infrastructure is limited as 12551
 follows: 12552

YEAR IN WHICH	PORTION WHICH MAY	
MONEYS ARE ALLOCATED	BE USED FOR NEW OR	
	EXPANSION INFRASTRUCTURE	
Year 1	5%	12553
Year 2	5%	12554
Year 3	10%	12555
Year 4	10%	12556
Year 5	10%	12557
Year 6	15%	12558
Year 7	15%	12559
Year 8	20%	12560
Year 9	20%	12561

Year 10 and each year 12565
thereafter 20% 12566

(I) The following portion of a ~~district public works~~ local 12567
government integrating and innovation committee's annual 12568
allocation share pursuant to section 164.08 of the Revised Code 12569
shall be awarded to subdivisions in the form of interest-free, 12570
low-interest, market rate of interest, or blended-rate loans, or 12571
local debt support and credit enhancements: 12572

YEAR IN WHICH	PORTION USED FOR LOANS	OR LOCAL DEBT SUPPORT
MONEYS ARE ALLOCATED	AND CREDIT ENHANCEMENTS	
Year 11 and each year		
thereafter	20%	

(J) No project shall be approved under this section unless 12578
the project is designed to have a useful life of at least seven 12579
years. In addition, the average useful life of all projects for 12580
which grants or loans are awarded in each district during a 12581
program year shall not be less than twenty years. 12582

Sec. 164.051. (A) The administrator of the Ohio small 12583
government capital improvements commission shall review projects 12584
submitted to ~~him~~ the administrator by subcommittees of ~~district~~ 12585
~~public works~~ local government integrating and innovation 12586
committees in accordance with section 164.06 of the Revised Code. 12587
If ~~he~~ the administrator determines that a project satisfies the 12588
criteria of division (B) of that section, while taking into 12589
consideration the special needs of villages and townships, the 12590
administrator shall recommend to the Ohio small government capital 12591
improvements commission that the project be approved. If ~~he~~ the 12592
administrator determines that a project should not be approved or 12593
that a decision on the project should be delayed, such 12594
determinations and an explanation should also be sent to the Ohio 12595
small government capital improvements commission for final 12596

resolution.	12597
(B) With respect to projects which the Ohio small government capital improvements commission approves, the administrator is authorized to:	12598 12599 12600
(1) Enter into agreements to provide financial assistance in the form of loans, grants, or local debt support and credit enhancements to villages or townships with populations in the unincorporated areas of the township of less than five thousand;	12601 12602 12603 12604
(2) Authorize payments to such villages or townships or their contractors for the costs incurred for capital improvement projects which have been approved in accordance with this chapter. All requests for payments shall be submitted to the administrator on forms and in accordance with procedures specified in rules adopted pursuant to division (A)(4) of section 164.05 of the Revised Code.	12605 12606 12607 12608 12609 12610 12611
(3) Notify the director of budget and management of all approved projects, and supply all information necessary to track the approved projects through the state accounting system.	12612 12613 12614
(4) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out this section.	12615 12616 12617
(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for financial assistance provided pursuant to the provisions of this section shall be such as the administrator determines to be appropriate. If any payments required by a loan agreement entered into pursuant to this section are not paid, the funds which would otherwise be apportioned to the local subdivision from the county undivided local government fund, pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, at the direction of the Ohio small government capital	12618 12619 12620 12621 12622 12623 12624 12625 12626 12627

improvements commission, be reduced by the amount payable. The 12628
county treasurer shall, at the direction of the commission, pay 12629
the amount of such reductions to the state capital improvements 12630
revolving loan fund. Subject to the approval of the Ohio small 12631
government capital improvements commission, the administrator may 12632
renegotiate a loan repayment schedule with a local subdivision 12633
whose payments from the county undivided local government fund 12634
could be reduced pursuant to this division, but such a 12635
renegotiation may occur only one time with respect to any 12636
particular loan agreement. 12637

Sec. 164.06. (A) Each ~~district public works~~ local government 12638
integrating and innovation committee shall evaluate materials 12639
submitted to it by the local subdivisions located in the district 12640
concerning capital improvements for which assistance is sought 12641
from the state capital improvements fund and shall, pursuant to 12642
division (B) of this section, select the requests for financial 12643
assistance that will be formally submitted by the district to the 12644
director of the Ohio public works commission. In order to provide 12645
for the efficient use of the district's state capital improvements 12646
fund allocation each year, a district committee shall assist its 12647
subdivisions in the preparation and coordination of project plans. 12648

(B) In selecting the requests for assistance for capital 12649
improvement projects which will be submitted to the director, and 12650
in determining the nature, amount, and terms of the assistance 12651
that will be requested, a ~~district public works~~ local government 12652
integrating and innovation committee shall give priority to 12653
capital improvement projects for the repair or replacement of 12654
existing infrastructure and which would be unlikely to be 12655
undertaken without assistance under this chapter, and shall 12656
specifically consider all of the following factors: 12657

(1) The infrastructure repair and replacement needs of the 12658

district;	12659
(2) The age and condition of the system to be repaired or replaced;	12660 12661
(3) Whether the project would generate revenue in the form of user fees or assessments;	12662 12663
(4) The importance of the project to the health and safety of the citizens of the district;	12664 12665
(5) The cost of the project and whether it is consistent with division (G) of section 164.05 of the Revised Code and the district's allocation for grants, loans, and local debt support and credit enhancements for that year;	12666 12667 12668 12669
(6) The effort and ability of the benefited local subdivisions to assist in financing the project;	12670 12671
(7) The availability of federal or other funds for the project;	12672 12673
(8) The overall economic health of the particular local subdivision;	12674 12675
(9) The adequacy of the planning for the project and the readiness of the applicant to proceed should the project be approved;	12676 12677 12678
(10) Any other factors relevant to a particular project.	12679
(C) Prior to filing an application with its district public works <u>local government</u> <u>integrating and innovation</u> committee for assistance in financing a capital improvement project under this section, a local subdivision shall conduct a study of its existing capital improvements, the condition of those improvements, and the projected capital improvement needs of the subdivision in the ensuing five-year period. After completing this study, the subdivision shall compile a report that includes an inventory of its existing capital improvements, a plan detailing the capital	12680 12681 12682 12683 12684 12685 12686 12687 12688

improvement needs of the subdivision in the ensuing five-year 12689
period, and a list of the subdivision's priorities with respect to 12690
addressing those needs. Each year, the report shall be reviewed 12691
and updated by the subdivision to reflect capital improvement 12692
projects undertaken or completed in the past year and any changes 12693
in the subdivision's plan or priorities. The report and annual 12694
updates shall be made available upon request to the Ohio public 12695
works commission, the Ohio small government capital improvements 12696
commission, and the ~~district public works~~ local government 12697
integrating and innovation committee of the district of which the 12698
subdivision is a part. 12699

(D) In addition to reviewing and selecting the projects for 12700
which approval will be sought from the director of the Ohio public 12701
works commission for financial assistance from the state capital 12702
improvements fund, each ~~district public works~~ local government 12703
integrating and innovation committee shall appoint a subcommittee 12704
of its members that will represent the interests of villages and 12705
townships and that will review and select the capital improvement 12706
projects which will be submitted by the subcommittee to the 12707
administrator of the Ohio small government capital improvements 12708
commission for consideration of assistance from the portion of the 12709
net proceeds of obligations issued and sold by the treasurer of 12710
state which is allocated pursuant to division (B)(1) of section 12711
164.08 of the Revised Code. In reviewing and approving the 12712
projects selected by its subcommittee, the administrator, and the 12713
Ohio small government capital improvements commission shall be 12714
guided by the provisions of division (B) of this section, and 12715
shall also take into account the fact that villages and townships 12716
may have different public infrastructure needs than larger 12717
subdivisions. 12718

(E) The ~~district public works~~ local government integrating 12719
and innovation committee for each district that includes at least 12720

one county with a population of less than eighty-five thousand 12721
according to the most recent decennial census shall appoint a 12722
subcommittee of its members for the purposes of the small counties 12723
capital improvement program created under division (F) of section 12724
164.02 of the Revised Code. The subcommittee shall select and 12725
submit to the director the projects that will be considered for 12726
assistance from the money allocated to the program under division 12727
(B)(4) of section 164.08 of the Revised Code. 12728

Sec. 164.08. (A) Except as provided in sections 151.01 and 12729
151.08 or section 164.09 of the Revised Code, the net proceeds of 12730
obligations issued and sold by the treasurer of state pursuant to 12731
section 164.09 of the Revised Code before September 30, 2000, or 12732
pursuant to sections 151.01 and 151.08 of the Revised Code, for 12733
the purpose of financing or assisting in the financing of the cost 12734
of public infrastructure capital improvement projects of local 12735
subdivisions, as provided for in Section 2k, 2m, or 2p of Article 12736
VIII, Ohio Constitution, and this chapter, shall be paid into the 12737
state capital improvements fund, which is hereby created in the 12738
state treasury. Investment earnings on moneys in the fund shall be 12739
credited to the fund. 12740

(B) Beginning July 1, 2011, each program year the amount of 12741
obligations authorized by the general assembly in accordance with 12742
sections 151.01 and 151.08 or section 164.09 of the Revised Code, 12743
excluding the proceeds of refunding or renewal obligations, shall 12744
be allocated by the director of the Ohio public works commission 12745
as follows: 12746

(1) First, fifteen million dollars of the amount of 12747
obligations authorized shall be allocated to provide financial 12748
assistance to villages and to townships with populations in the 12749
unincorporated areas of the township of less than five thousand 12750
persons, for capital improvements in accordance with section 12751

164.051 and division (D) of section 164.06 of the Revised Code. As 12752
used in division (B)(1) of this section, "capital improvements" 12753
includes resurfacing and improving roads. 12754

(2) Following the allocation required by division (B)(1) of 12755
this section, the director may allocate three million dollars of 12756
the authorized obligations to provide financial assistance to 12757
local subdivisions for capital improvement projects which in the 12758
judgment of the director of the Ohio public works commission are 12759
necessary for the immediate preservation of the health, safety, 12760
and welfare of the citizens of the local subdivision requesting 12761
assistance. 12762

(3) For the second, third, fourth, and fifth years that 12763
obligations are authorized and are available for allocation under 12764
this chapter, one million dollars shall be allocated to the sewer 12765
and water fund created in section 1525.11 of the Revised Code. 12766
Money from this allocation shall be transferred to that fund when 12767
needed to support specific payments from that fund. 12768

(4) For program years twelve and fourteen that obligations 12769
are authorized and available for allocation under this chapter, 12770
two million dollars each program year shall be allocated to the 12771
small county capital improvement program for use in providing 12772
financial assistance under division (F) of section 164.02 of the 12773
Revised Code. 12774

(5) After the allocation required by division (B)(3) of this 12775
section is made, the director shall determine the amount of the 12776
remaining obligations authorized to be issued and sold that each 12777
county would receive if such amounts were allocated on a per 12778
capita basis each year. If a county's per capita share for the 12779
year would be less than three hundred thousand dollars, the 12780
director shall allocate to the district in which that county is 12781
located an amount equal to the difference between three hundred 12782
thousand dollars and the county's per capita share. 12783

(6) After making the allocation required by division (B)(5) 12784
of this section, the director shall allocate the remaining amount 12785
to each district on a per capita basis. 12786

(C)(1) There is hereby created in the state treasury the 12787
state capital improvements revolving loan fund, into which shall 12788
be deposited all repayments of loans made to local subdivisions 12789
for capital improvements pursuant to this chapter. Investment 12790
earnings on moneys in the fund shall be credited to the fund. 12791

(2) There may also be deposited in the state capital 12792
improvements revolving loan fund moneys obtained from federal or 12793
private grants, or from other sources, which are to be used for 12794
any of the purposes authorized by this chapter. Such moneys shall 12795
be allocated each year in accordance with division (B)(6) of this 12796
section. 12797

(3) Moneys deposited into the state capital improvements 12798
revolving loan fund shall be used to make loans for the purpose of 12799
financing or assisting in the financing of the cost of capital 12800
improvement projects of local subdivisions. 12801

(4) Investment earnings credited to the state capital 12802
improvements revolving loan fund that exceed the amounts required 12803
to meet estimated federal arbitrage rebate requirements shall be 12804
used to pay costs incurred by the public works commission in 12805
administering this section. Investment earnings credited to the 12806
state capital improvements revolving loan fund that exceed the 12807
amounts required to pay for the administrative costs and estimated 12808
rebate requirements shall be allocated to each district on a per 12809
capita basis. 12810

(5) Each program year, loan repayments received and on 12811
deposit in the state capital improvements revolving loan fund 12812
shall be allocated as follows: 12813

(a) Each ~~district public works~~ local government integrating 12814

and innovation committee shall be allocated an amount equal to the 12815
sum of all loan repayments made to the state capital improvements 12816
revolving loan fund by local subdivisions that are part of the 12817
district. Moneys not used in a program year may be used in the 12818
next program year in the same manner and for the same purpose as 12819
originally allocated. 12820

(b) Loan repayments made pursuant to projects approved under 12821
division (B)(1) of this section shall be used to make loans in 12822
accordance with section 164.051 and division (D) of section 164.06 12823
of the Revised Code. Allocations for this purpose made pursuant to 12824
division (C)(5) of this section shall be in addition to the 12825
allocation provided in division (B)(1) of this section. 12826

(c) Loan repayments made pursuant to projects approved under 12827
division (B)(2) of this section shall be used to make loans in 12828
accordance with division (B)(2) of this section. Allocations for 12829
this purpose made pursuant to division (C)(5) of this section 12830
shall be in addition to the allocation provided in division (B)(2) 12831
of this section. 12832

(d) Loans made from the state capital improvements revolving 12833
loan fund shall not be limited in their usage by divisions (E), 12834
(F), (G), (H), and (I) of section 164.05 of the Revised Code. 12835

(D) Investment earnings credited to the state capital 12836
improvements fund that exceed the amounts required to meet 12837
estimated federal arbitrage rebate requirements shall be used to 12838
pay costs incurred by the public works commission in administering 12839
sections 164.01 to 164.12 of the Revised Code. 12840

(E) The director of the Ohio public works commission shall 12841
notify the director of budget and management of the amounts 12842
allocated pursuant to this section and such information shall be 12843
entered into the state accounting system. The director of budget 12844
and management shall establish appropriation line items as needed 12845

to track these allocations. 12846

(F) If the amount of a district's allocation in a program 12847
year exceeds the amount of financial assistance approved for the 12848
district by the commission for that year, the remaining portion of 12849
the district's allocation shall be added to the district's 12850
allocation pursuant to division (B) of this section for the next 12851
succeeding year for use in the same manner and for the same 12852
purposes as it was originally allocated, except that any portion 12853
of a district's allocation which was available for use on new or 12854
expanded infrastructure pursuant to division (H) of section 164.05 12855
of the Revised Code shall be available in succeeding years only 12856
for the repair and replacement of existing infrastructure. 12857

(G) When an allocation based on population is made by the 12858
director pursuant to division (B) of this section, the director 12859
shall use the most recent decennial census statistics, and shall 12860
not make any reallocations based upon a change in a district's 12861
population. 12862

Sec. 164.14. (A) The local transportation improvement program 12863
fund is hereby created in the state treasury. The fund shall 12864
consist of moneys credited to it pursuant to sections 117.16 and 12865
5735.23 of the Revised Code, and, subject to the limitations of 12866
section 5735.05 of the Revised Code, shall be used to make grants 12867
to local subdivisions for projects that have been approved by 12868
~~district public works~~ local government integrating and innovation 12869
committees and the Ohio public works commission in accordance with 12870
this section. The fund shall be administered by the Ohio public 12871
works commission, and shall be allocated each fiscal year on a per 12872
capita basis to ~~district public works~~ local government integrating 12873
and innovation committees in accordance with the most recent 12874
decennial census statistics. Money in the fund may be used to pay 12875
reasonable costs incurred by the commission in administering this 12876

section. Investment earnings on moneys credited to the fund shall 12877
be retained by the fund. 12878

(B) Grants awarded under this section may provide up to one 12879
hundred per cent of the estimated total cost of the project. 12880

(C) No grant shall be awarded for a project under this 12881
section unless the project is designed to have a useful life of at 12882
least seven years, except that the average useful life of all such 12883
projects for which grants are awarded in each district during a 12884
fiscal year shall be not less than twenty years. 12885

(D) For the period beginning on July 1, 1989, and ending on 12886
June 30, 1994, and for each succeeding five-year period, at least 12887
one-third of the total amount of money allocated to each district 12888
from the local transportation improvement program fund shall be 12889
awarded as follows: 12890

(1) Forty-two and eight-tenths per cent for projects of 12891
municipal corporations; 12892

(2) Thirty-seven and two-tenths per cent for projects of 12893
counties; 12894

(3) Twenty per cent for projects of townships, except that 12895
the requirement of division (D)(3) of this section shall not apply 12896
in districts where the combined population of the townships in the 12897
district is less than five per cent of the population of the 12898
district. 12899

(E) Each ~~district public works~~ local government integrating 12900
and innovation committee shall review, and approve or disapprove 12901
requests submitted to it by local subdivisions for assistance from 12902
the local transportation improvement program fund. In reviewing 12903
projects submitted to it, a ~~district public works~~ local government 12904
integrating and innovation committee shall consider the following 12905
factors: 12906

(1) Whether the project is of critical importance to the safety of the residents of the local subdivision;	12907 12908
(2) Whether the project would alleviate serious traffic problems or hazards or would respond to needs caused by rapid growth and development;	12909 12910 12911
(3) Whether the project would assist the local subdivision in attaining the transportation infrastructure needed to pursue significant and specific economic development opportunities;	12912 12913 12914
(4) The availability of other sources of funding for the project;	12915 12916
(5) The adequacy of the planning for the project and the readiness of the local subdivision to proceed should the project be approved;	12917 12918 12919
(6) The local subdivision's ability to pay for and history of investing in bridge and highway improvements;	12920 12921
(7) The impact of the project on the multijurisdictional highway and bridge needs of the district;	12922 12923
(8) The requirements of divisions (A), (B), (C), and (D) of this section;	12924 12925
(9) The condition of the infrastructure system proposed for improvement;	12926 12927
(10) Any other factors related to the safety, orderly growth, or economic development of the district or local subdivision that the district public works <u>local government</u> integrating and <u>innovation</u> committee considers relevant.	12928 12929 12930 12931
A district public works <u>local government</u> integrating and <u>innovation</u> committee or its executive committee may appoint a subcommittee to assist it in carrying out its responsibilities under this section.	12932 12933 12934 12935
(F) Every project approved by a district public works <u>local</u>	12936

government integrating and innovation committee shall be submitted 12937
to the Ohio public works commission for its review and approval or 12938
disapproval. The commission shall not approve any project that 12939
fails to meet the requirements of this section. 12940

(G) Grants awarded from the local transportation improvement 12941
program fund shall not be limited in their usage by divisions (D), 12942
(E), (F), (G), (H), and (I) of section 164.05 of the Revised Code. 12943

(H) As used in this section, "local subdivision" means a 12944
county, municipal corporation, or township. 12945

(I) The director of the Ohio public works commission shall 12946
notify the director of budget and management of the amounts 12947
allocated pursuant to this section, and the allocation information 12948
shall be entered into the state accounting system. The director of 12949
budget and management shall establish appropriation line items as 12950
needed to track these allocations. 12951

Sec. 164.21. (A) Each ~~district public works~~ local government 12952
integrating and innovation committee or, if applicable, the 12953
executive committee of the integrating and innovation committee 12954
shall appoint a natural resources assistance council consisting of 12955
eleven members. Of the eleven members, one shall be a member of 12956
the appointing integrating and innovation committee and one shall 12957
represent a soil and water conservation district that is located 12958
within the geographical jurisdiction of the appointing integrating 12959
and innovation committee. The nine other members of the council 12960
shall be appointed from the following categories of organizations, 12961
units of government, or agencies and shall include at least one 12962
member from each of those categories: 12963

(1) A county, municipal corporation, township, conservancy 12964
district, regional or joint district or unit of local government, 12965
or regional or joint political subdivision that is located within 12966
the geographical jurisdiction of the appointing integrating and 12967

innovation committee; 12968

(2) A conservation organization, an environmental advocacy 12969
organization, an organization with a primary interest in watershed 12970
protection and restoration, the department of natural resources, 12971
the environmental protection agency, or the United States natural 12972
resources conservation service; 12973

(3) A city park system or metropolitan park system or a board 12974
of park commissioners from a county that is located within the 12975
geographical jurisdiction of the appointing integrating and 12976
innovation committee, a statewide parks and recreation 12977
organization, or the United States national park service; 12978

(4) A statewide organization representing agriculture, an 12979
organization representing forestry interests, the department of 12980
agriculture, or the United States department of agriculture; 12981

(5) An organization representing business, local realtors, or 12982
a planning agency, including a port authority, located within the 12983
geographical jurisdiction of the appointing integrating and 12984
innovation committee. 12985

No organization, unit of government, or agency that is listed 12986
in divisions (A)(1) to (5) of this section shall be represented by 12987
more than one member on the council at any given time. The 12988
membership of a natural resources assistance council shall reflect 12989
the demographic and economic diversity of the population located 12990
within the geographical area represented by the council. 12991

A council shall be appointed by the appropriate integrating 12992
and innovation committee not later than ninety days after ~~the~~ 12993
~~effective date of this section~~ July 26, 2001. Of the initial 12994
members appointed to the council, four shall be appointed for one 12995
year, four shall be appointed for two years, and three shall be 12996
appointed for three years. Thereafter, terms of office for members 12997
of the council shall be for three years, with each term ending on 12998

the same day of the same month as did the term that it succeeds. 12999
Each member shall hold office from the date of appointment until 13000
the end of the term for which the member is appointed, except 13001
that, with respect to any member who is an elected or appointed 13002
official of a township, municipal corporation, or county, the term 13003
of office for that person on the council shall not extend beyond 13004
the member's term as an elected or appointed official. 13005

Members may be reappointed. Vacancies shall be filled in the 13006
same manner provided for original appointments. Any member 13007
appointed to fill a vacancy occurring prior to the expiration date 13008
of the term for which the member was appointed shall hold office 13009
for the remainder of that term. A member shall continue in office 13010
subsequent to the expiration date of the member's term until the 13011
member's successor takes office or until a period of sixty days 13012
has elapsed, whichever occurs first. Members may be removed by the 13013
~~district public works~~ local government integrating and innovation 13014
committee for misfeasance, malfeasance, or nonfeasance in office. 13015

(B) A natural resources assistance council shall elect a 13016
chairperson, a vice-chairperson, and other officers that the 13017
council considers appropriate. A council may adopt bylaws 13018
governing its operation, including bylaws that establish the 13019
frequency of regular meetings and any necessary procedures. All 13020
meetings of a council are subject to section 121.22 of the Revised 13021
Code. 13022

(C) Serving as a member of a natural resources assistance 13023
council under this section does not constitute holding a public 13024
office or position of employment under the laws of this state and 13025
does not confer a right to compensation from any agency of this 13026
state. A member of a natural resources assistance council does not 13027
have an unlawful interest in a public contract under section 13028
2921.42 of the Revised Code solely by virtue of the receipt of 13029
financial assistance under sections 164.20 to 164.27 of the 13030

Revised Code by the local political subdivision of which the member is also a public official or appointee. 13031
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(D) Sections 101.82 to 101.87 of the Revised Code do not apply to natural resources assistance councils. 13033
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Sec. 164.30. (A) There is hereby created in the state treasury the local government integrating and innovation fund. The fund shall be composed of credits to the fund from revenue from the commercial activity tax under section 5751.20 of the Revised Code. The purpose of the fund is to provide grants to local subdivisions to implement and enhance the sharing of services. 13035
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(B) Money in the fund shall be allocated among the local government integrating and innovation committees created under section 164.03 of the Revised Code beginning in fiscal year 2012. The amount allocated to each such committee each fiscal year shall be proportionate to the amount distributed in the most recently closed program year from the state capital improvements fund to local subdivisions within the district represented by that committee. 13041
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(C) Local subdivisions in each district may apply to the district's local government integrating and innovation committee for grants from the local government integrating and innovation fund to assist with the payment of allowable expenses of implementing or enhancing service sharing among local subdivisions. For the purposes of this section, allowable expenses include costs of making the transition to shared services, establishing shared services, and paying for the initial operations of the shared services; allowable expenses does not include costs of ongoing operations of shared services. The applications shall describe, in the manner and as directed by the committee, the shared services, the projected cost savings of the shared services, and any other matters the committee requires. 13049
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(D) Each local government integrating and innovation committee shall accept and review such applications and award grants to the applicants the committee determines to be proposing shared services resulting in the greatest cost efficiencies, subject to the following: 13062
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(1) Not less than twenty per cent of the grant money available to each district shall be awarded to townships. 13067
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(2) Up to thirty per cent of the grant money available to each district may be awarded to local subdivisions determined to be in fiscal emergency under Chapter 118. of the Revised Code, the primary cause of the emergency being, in the opinion of the committee, reductions in revenue from federal, state, or local government sources since 2008. 13069
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(3) Not more than two hundred fifty thousand dollars may be awarded to each applicant for each service-sharing proposal. 13075
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Upon approval of a grant application, a committee shall forward the application and evidence of the committee's approval to the director of the Ohio public works commission, who shall review the materials and, if the director finds that the application was properly approved under the terms of this section, the director shall authorize the award of the grant to the local subdivision. 13077
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(E) Not more than three per cent of the money credited to the local government integrating and innovation fund may be used by the director of the Ohio public works commission to defray the costs of the commission or of local government integrating and innovation committees in administering this section. 13084
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Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development programs provided for 13089
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in this chapter will constitute deserved, necessary reinvestment 13092
by the state in those areas, materially contribute to their 13093
economic revitalization, and result in improving the economic 13094
welfare of all the people of the state. Accordingly, it is 13095
declared to be the public policy of the state, through the 13096
operations of this chapter and other applicable laws adopted 13097
pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, 13098
and other authority vested in the general assembly, to assist in 13099
and facilitate the establishment or development of eligible 13100
projects or assist and cooperate with any governmental agency in 13101
achieving such purpose. 13102

(B) In furtherance of such public policy and to implement 13103
such purpose, the director of development may: 13104

(1) After consultation with appropriate governmental 13105
agencies, enter into agreements with persons engaged in industry, 13106
commerce, distribution, or research and with governmental agencies 13107
to induce such persons to acquire, construct, reconstruct, 13108
rehabilitate, renovate, enlarge, improve, equip, or furnish, or 13109
otherwise develop, eligible projects and make provision therein 13110
for project facilities and governmental actions, as authorized by 13111
this chapter and other applicable laws, subject to any required 13112
actions by the general assembly or the controlling board and 13113
subject to applicable local government laws and regulations; 13114

(2) Provide for the guarantees and loans as provided for in 13115
sections 166.06 and 166.07 of the Revised Code; 13116

(3) Subject to release of such moneys by the controlling 13117
board, contract for labor and materials needed for, or contract 13118
with others, including governmental agencies, to provide, project 13119
facilities the allowable costs of which are to be paid for or 13120
reimbursed from moneys in the facilities establishment fund, and 13121
contract for the operation of such project facilities; 13122

(4) Subject to release thereof by the controlling board, from 13123
moneys in the facilities establishment fund acquire or contract to 13124
acquire by gift, exchange, or purchase, including the obtaining 13125
and exercise of purchase options, property, and convey or 13126
otherwise dispose of, or provide for the conveyance or disposition 13127
of, property so acquired or contracted to be acquired by sale, 13128
exchange, lease, lease purchase, conditional or installment sale, 13129
transfer, or other disposition, including the grant of an option 13130
to purchase, to any governmental agency or to any other person 13131
without necessity for competitive bidding and upon such terms and 13132
conditions and manner of consideration pursuant to and as the 13133
director determines to be appropriate to satisfy the objectives of 13134
sections 166.01 to 166.11 of the Revised Code; 13135

(5) Retain the services of or employ financial consultants, 13136
appraisers, consulting engineers, superintendents, managers, 13137
construction and accounting experts, attorneys, and employees, 13138
agents, and independent contractors as are necessary in the 13139
director's judgment and fix the compensation for their services; 13140

(6) Receive and accept from any person grants, gifts, and 13141
contributions of money, property, labor, and other things of 13142
value, to be held, used and applied only for the purpose for which 13143
such grants, gifts, and contributions are made; 13144

(7) Enter into appropriate arrangements and agreements with 13145
any governmental agency for the taking or provision by that 13146
governmental agency of any governmental action; 13147

(8) Do all other acts and enter into contracts and execute 13148
all instruments necessary or appropriate to carry out the 13149
provisions of this chapter; 13150

(9) Adopt rules to implement any of the provisions of this 13151
chapter applicable to the director. 13152

(C) The determinations by the director that facilities 13153

constitute eligible projects, that facilities are project 13154
facilities, that costs of such facilities are allowable costs, and 13155
all other determinations relevant thereto or to an action taken or 13156
agreement entered into shall be conclusive for purposes of the 13157
validity and enforceability of rights of parties arising from 13158
actions taken and agreements entered into under this chapter. 13159

(D) Except as otherwise prescribed in this chapter, all 13160
expenses and obligations incurred by the director in carrying out 13161
the director's powers and in exercising the director's duties 13162
under this chapter, shall be payable solely from, as appropriate, 13163
moneys in the facilities establishment fund, the loan guarantee 13164
fund, the innovation Ohio loan guarantee fund, the innovation Ohio 13165
loan fund, the research and development loan fund, the logistics 13166
and distribution infrastructure fund, the logistics and 13167
distribution infrastructure taxable bond fund, or moneys 13168
appropriated for such purpose by the general assembly. This 13169
chapter does not authorize the director or the issuing authority 13170
under section 166.08 of the Revised Code to incur bonded 13171
indebtedness of the state or any political subdivision thereof, or 13172
to obligate or pledge moneys raised by taxation for the payment of 13173
any bonds or notes issued or guarantees made pursuant to this 13174
chapter. 13175

~~(E) No financial assistance for project facilities shall be 13176
provided under this chapter unless the provisions of the agreement 13177
providing for such assistance specify that all wages paid to 13178
laborers and mechanics employed on such project facilities for 13179
which the assistance is granted shall be paid at the prevailing 13180
rates of wages of laborers and mechanics for the class of work 13181
called for by such project facilities, which wages shall be 13182
determined in accordance with the requirements of Chapter 4115. of 13183
the Revised Code for determination of prevailing wage rates, 13184
provided that the requirements of this division do not apply where 13185~~

~~the federal government or any of its agencies provides financing 13186
assistance as to all or any part of the funds used in connection 13187
with such project facilities and prescribes predetermined minimum 13188
wages to be paid to such laborers and mechanics; and provided 13189
further that should a nonpublic user beneficiary of the eligible 13190
project undertake, as part of the eligible project, construction 13191
to be performed by its regular bargaining unit employees who are 13192
covered under a collective bargaining agreement which was in 13193
existence prior to the date of the document authorizing such 13194
assistance then, in that event, the rate of pay provided under the 13195
collective bargaining agreement may be paid to such employees. 13196~~

~~(F) Any governmental agency may enter into an agreement with 13197
the director, any other governmental agency, or a person to be 13198
assisted under this chapter, to take or provide for the purposes 13199
of this chapter any governmental action it is authorized to take 13200
or provide, and to undertake on behalf and at the request of the 13201
director any action which the director is authorized to undertake 13202
pursuant to divisions (B)(3), (4), and (5) of this section or 13203
divisions (B)(3), (4), and (5) of section 166.12 of the Revised 13204
Code. Governmental agencies of the state shall cooperate with and 13205
provide assistance to the director of development and the 13206
controlling board in the exercise of their respective functions 13207
under this chapter. 13208~~

Sec. 173.14. As used in sections 173.14 to 173.27 of the 13209
Revised Code: 13210

(A)(1) Except as otherwise provided in division (A)(2) of 13211
this section, "long-term care facility" includes any residential 13212
facility that provides personal care services for more than 13213
twenty-four hours for two or more unrelated adults, including all 13214
of the following: 13215

(a) A "nursing home," "residential care facility," or "home 13216

for the aging" as defined in section 3721.01 of the Revised Code;	13217
(b) A facility authorized to provide extended care services	13218
under Title XVIII of the "Social Security Act," 49 Stat. 620	13219
(1935), 42 U.S.C. 301, as amended, <u>including a long-term acute</u>	13220
<u>care hospital that provides medical and rehabilitative care to</u>	13221
<u>patients who require an average length of stay greater than</u>	13222
<u>twenty-five days and is classified by the centers for medicare and</u>	13223
<u>medicaid services as a long-term care hospital pursuant to 42</u>	13224
<u>C.F.R. 412.23(e);</u>	13225
(c) A county home or district home operated pursuant to	13226
Chapter 5155. of the Revised Code;	13227
(d) An "adult care facility" as defined in section 3722.01	13228
<u>5119.70</u> of the Revised Code;	13229
(e) A facility approved by the veterans administration under	13230
section 104(a) of the "Veterans Health Care Amendments of 1983,"	13231
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for	13232
the placement and care of veterans;	13233
(f) An adult foster home certified under section 173.36	13234
<u>5119.692</u> of the Revised Code.	13235
(2) "Long-term care facility" does not include a "residential	13236
facility" as defined in section 5119.22 of the Revised Code or a	13237
"residential facility" as defined in section 5123.19 of the	13238
Revised Code.	13239
(B) "Resident" means a resident of a long-term care facility	13240
and, where appropriate, includes a prospective, previous, or	13241
deceased resident of a long-term care facility.	13242
(C) "Community-based long-term care services" means health	13243
and social services provided to persons in their own homes or in	13244
community care settings, and includes any of the following:	13245
(1) Case management;	13246

(2) Home health care;	13247
(3) Homemaker services;	13248
(4) Chore services;	13249
(5) Respite care;	13250
(6) Adult day care;	13251
(7) Home-delivered meals;	13252
(8) Personal care;	13253
(9) Physical, occupational, and speech therapy;	13254
(10) Transportation;	13255
(11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.	13256 13257 13258
(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.	13259 13260 13261 13262
(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.	13263 13264 13265
(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.	13266 13267
(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.	13268 13269 13270 13271
(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised	13272 13273 13274 13275

Code.	13276
(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.	13277 13278 13279
Sec. 173.21. (A) The office of the state long-term care ombudsman <u>ombudsperson</u> program, through the state long-term care ombudsman <u>ombudsperson</u> and the regional long-term care ombudsman <u>ombudsperson</u> programs, shall require each representative of the office to complete a training and certification program in accordance with this section and to meet the continuing education requirements established under this section.	13280 13281 13282 13283 13284 13285 13286
(B) The department of aging shall adopt rules under Chapter 119. of the Revised Code specifying the content of training programs for representatives of the office of the state long-term care ombudsman <u>ombudsperson</u> program. Training for representatives other than those who are volunteers providing services through regional long-term care ombudsman <u>ombudsperson</u> programs shall include instruction regarding federal, state, and local laws, rules, and policies on long-term care facilities and community-based long-term care services; investigative techniques; and other topics considered relevant by the department and shall consist of the following:	13287 13288 13289 13290 13291 13292 13293 13294 13295 13296 13297
(1) A minimum of forty clock hours of basic instruction, which shall be completed before the trainee is permitted to handle complaints without the supervision of a representative of the office certified under this section;	13298 13299 13300 13301
(2) An additional sixty clock hours of instruction, which shall be completed within the first fifteen months of employment;	13302 13303
(3) An internship of twenty clock hours, which shall be completed within the first twenty-four months of employment,	13304 13305

including instruction in, and observation of, basic nursing care 13306
and long-term care provider operations and procedures. The 13307
internship shall be performed at a site that has been approved as 13308
an internship site by the state long-term care ~~ombudsman~~ 13309
ombudsperson. 13310

(4) One of the following, which shall be completed within the 13311
first twenty-four months of employment: 13312

(a) Observation of a survey conducted by the director of 13313
health to certify a facility to receive funds under sections 13314
5111.20 to 5111.32 of the Revised Code; 13315

(b) Observation of an inspection conducted by the director of 13316
mental health to license an adult care facility under section 13317
~~3722.04~~ 5119.73 of the Revised Code. 13318

(5) Any other training considered appropriate by the 13319
department. 13320

(C) Persons who for a period of at least six months prior to 13321
June 11, 1990, served as ombudsmen through the long-term care 13322
~~ombudsman~~ ombudsperson program established by the department of 13323
aging under division (M) of section 173.01 of the Revised Code 13324
shall not be required to complete a training program. These 13325
persons and persons who complete a training program shall take an 13326
examination administered by the department of aging. On attainment 13327
of a passing score, the person shall be certified by the 13328
department as a representative of the office. The department shall 13329
issue the person an identification card, which the representative 13330
shall show at the request of any person with whom ~~he~~ the 13331
representative deals while performing ~~his~~ the representative's 13332
duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ 13333
the representative separates from the office. 13334

(D) The state ~~ombudsman~~ ombudsperson and each regional 13335
program shall conduct training programs for volunteers on their 13336

respective staffs in accordance with the rules of the department 13337
of aging adopted under division (B) of this section. Training 13338
programs may be conducted that train volunteers to complete some, 13339
but not all, of the duties of a representative of the office. Each 13340
regional office shall bear the cost of training its 13341
representatives who are volunteers. On completion of a training 13342
program, the representative shall take an examination administered 13343
by the department of aging. On attainment of a passing score, ~~he a~~ 13344
volunteer shall be certified by the department as a representative 13345
authorized to perform services specified in the certification. The 13346
department shall issue an identification card, which the 13347
representative shall show at the request of any person with whom 13348
~~he the representative~~ deals while performing ~~his the~~ 13349
representative's duties and which ~~he shall surrender be~~ 13350
surrendered at the time ~~he the representative~~ separates from the 13351
office. Except as a supervised part of a training program, no 13352
volunteer shall perform any duty unless he is certified as a 13353
representative having received appropriate training for that duty. 13354

(E) The state ~~ombudsman~~ ombudsperson shall provide technical 13355
assistance to regional programs conducting training programs for 13356
volunteers and shall monitor the training programs. 13357

(F) Prior to scheduling an observation of a certification 13358
survey or licensing inspection for purposes of division (B)(4) of 13359
this section, the state ~~ombudsman~~ ombudsperson shall obtain 13360
permission to have the survey or inspection observed from both the 13361
director of health and the long-term care facility at which the 13362
survey or inspection is to take place. 13363

(G) The department of aging shall establish continuing 13364
education requirements for representatives of the office. 13365

Sec. 173.26. (A) Each of the following facilities shall 13366
annually pay to the department of aging six dollars for each bed 13367

maintained by the facility for use by a resident during any part 13368
of the previous year: 13369

(1) Nursing homes, residential care facilities, and homes for 13370
the aging as defined in section 3721.01 of the Revised Code; 13371

(2) Facilities authorized to provide extended care services 13372
under Title XVIII of the "Social Security Act," 49 Stat. 620 13373
(1935), 42 U.S.C. 301, as amended, including a long-term acute 13374
care hospital that provides medical and rehabilitative care to 13375
patients who require an average length of stay greater than 13376
twenty-five days and is classified by the centers for medicare and 13377
medicaid services as a long-term care hospital pursuant to 42 13378
C.F.R. 412.23(e); 13379

(3) County homes and district homes operated pursuant to 13380
Chapter 5155. of the Revised Code; 13381

(4) Adult care facilities as defined in section ~~3722.01~~ 13382
5119.70 of the Revised Code; 13383

(5) Facilities approved by the Veterans Administration under 13384
Section 104(a) of the "Veterans Health Care Amendments of 1983," 13385
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 13386
the placement and care of veterans. 13387

The department shall, by rule adopted in accordance with 13388
Chapter 119. of the Revised Code, establish deadlines for payments 13389
required by this section. A facility that fails, within ninety 13390
days after the established deadline, to pay a payment required by 13391
this section shall be assessed at two times the original invoiced 13392
payment. 13393

(B) All money collected under this section shall be deposited 13394
in the state treasury to the credit of the office of the state 13395
long-term care ombudsperson program fund, which is hereby created. 13396
Money credited to the fund shall be used solely to pay the costs 13397
of operating the regional long-term care ombudsperson programs. 13398

(C) The state long-term care ombudsperson and the regional programs may solicit and receive contributions to support the operation of the office or a regional program, except that no contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a person or government entity to provide community-based long-term care services under a program the department administers if the person or government entity satisfies the requirements for certification established by rules adopted under division (B) of this section and pays the fee, if any, established by rules adopted under division (G) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a person or government entity ~~issued a certificate~~ certified under division (A)(1) of this section:

(a) Issue a written warning;

(b) Require the submission of a plan of correction or evidence of compliance with requirements identified by the department;

(c) Suspend referrals;

(d) Remove clients;

(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;

(f) Suspend the certification;

(g) Revoke the ~~certificate~~ certification;

(g) (h) Impose another sanction.	13428
(3) Hold <u>Except as provided in division (E) of this section,</u>	13429
<u>hold</u> hearings when there is a dispute between the department or	13430
its designee and a person or government entity concerning actions	13431
the department or its designee takes or does not take <u>regarding a</u>	13432
<u>decision not to certify the person or government entity under</u>	13433
<u>division (A)(1) of this section or a disciplinary action</u> under	13434
division (A) (1) or (2) (c) (e) to (g) (h) of this section.	13435
(B) The director of aging shall adopt rules in accordance	13436
with Chapter 119. of the Revised Code establishing certification	13437
requirements and standards for determining which type of	13438
disciplinary action to take under division (A)(2) of this section	13439
in individual situations. The rules shall establish procedures for	13440
all of the following:	13441
(1) Ensuring that community-based long-term care agencies	13442
comply with section 173.394 of the Revised Code;	13443
(2) Evaluating the services provided <u>by the agencies</u> to	13444
ensure that they <u>the services</u> are provided in a quality manner	13445
advantageous to the individual receiving the services;	13446
(3) Determining when to take disciplinary action under	13447
division (A)(2) of this section and which disciplinary action to	13448
take;	13449
<u>(4) Determining what constitutes another sanction for</u>	13450
<u>purposes of division (A)(2)(h) of this section.</u>	13451
(C) The procedures established in rules adopted under	13452
division (B)(2) of this section shall require that all of the	13453
following be considered as part of an evaluation <u>described in</u>	13454
<u>division (B)(2) of this section:</u>	13455
(1) The service provider's <u>community-based long-term care</u>	13456
<u>agency's</u> experience and financial responsibility;	13457

(2) The ~~service provider's~~ agency's ability to comply with 13458
standards for the community-based long-term care services that the 13459
~~provider~~ agency provides under a program the department 13460
administers; 13461

(3) The ~~service provider's~~ agency's ability to meet the needs 13462
of the individuals served; 13463

(4) Any other factor the director considers relevant. 13464

(D) The rules adopted under division (B)(3) of this section 13465
shall specify that the reasons disciplinary action may be taken 13466
under division (A)(2) of this section include good cause, 13467
including misfeasance, malfeasance, nonfeasance, confirmed abuse 13468
or neglect, financial irresponsibility, or other conduct the 13469
director determines is injurious, or poses a threat, to the health 13470
or safety of individuals being served. 13471

(E) Subject to division (F) of this section, the department 13472
is not required to hold hearings under division (A)(3) of this 13473
section if any of the following conditions apply: 13474

(1) Rules adopted by the director of aging pursuant to this 13475
chapter require the community-based long-term care agency to be a 13476
party to a provider agreement; hold a license, certificate, or 13477
permit; or maintain a certification, any of which is required or 13478
issued by a state or federal government entity other than the 13479
department of aging, and either of the following is the case: 13480

(a) The provider agreement has not been entered into or the 13481
license, certificate, permit, or certification has not been 13482
obtained or maintained. 13483

(b) The provider agreement, license, certificate, permit, or 13484
certification has been denied, revoked, not renewed, or suspended 13485
or has been otherwise restricted. 13486

(2) The agency's certification under this section has been 13487

denied, suspended, or revoked for any of the following reasons: 13488

(a) A government entity of this state, other than the 13489
department of aging, has terminated or refused to renew any of the 13490
following held by, or has denied any of the following sought by, a 13491
community-based long-term care agency: a provider agreement, 13492
license, certificate, permit, or certification. Division (E)(2)(a) 13493
of this section applies regardless of whether the agency has 13494
entered into a provider agreement in, or holds a license, 13495
certificate, permit, or certification issued by, another state. 13496

(b) The agency or a principal owner or manager of the agency 13497
who provides direct care has entered a guilty plea for, or has 13498
been convicted of, an offense materially related to the medicaid 13499
program. 13500

(c) The agency or a principal owner or manager of the agency 13501
who provides direct care has entered a guilty plea for, or been 13502
convicted of, an offense listed in division (C)(1)(a) of section 13503
173.394 of the Revised Code, but only if none of the personal 13504
character standards established by the department in rules adopted 13505
under division (F) of section 173.394 of the Revised Code apply. 13506

(d) The United States department of health and human services 13507
has taken adverse action against the agency and that action 13508
impacts the agency's participation in the medicaid program. 13509

(e) The agency has failed to enter into or renew a provider 13510
agreement with the PASSPORT administrative agency, as that term is 13511
defined in section 173.42 of the Revised Code, that administers 13512
programs on behalf of the department of aging in the region of the 13513
state in which the agency is certified to provide services. 13514

(f) The agency has not billed or otherwise submitted a claim 13515
to the department for payment under the medicaid program in at 13516
least two years. 13517

(g) The agency denied or failed to provide the department or 13518

its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review. 13519
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(h) The agency has ceased doing business. 13522

(i) The agency has voluntarily relinquished its certification for any reason. 13523
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(3) The agency's provider agreement with the department of job and family services has been suspended under division (C) of section 5111.031 of the Revised Code. 13525
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13527

(4) The agency's provider agreement with the department of job and family services is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5111.031 of the Revised Code. 13528
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(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the agency describing a decision not to certify the agency under division (A)(1) of this section or the disciplinary action the department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the agency's address that is on record with the department and may be sent by regular mail. 13534
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(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under this section. 13542
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All fees collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used to pay for 13546
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community-based long-term care services, administrative costs 13550
associated with community-based long-term care agency 13551
certification under this section, and administrative costs related 13552
to the publication of the Ohio long-term care consumer guide. 13553

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the 13554
Revised Code, "PASSPORT: 13555

"Medicaid waiver component" has the same meaning as in 13556
section 5111.85 of the Revised Code. 13557

"PASSPORT program" means the program created under this 13558
section. 13559

"PASSPORT waiver" means the federal medicaid waiver granted 13560
by the United States secretary of health and human services that 13561
authorizes the medicaid-funded component of the PASSPORT program. 13562

"Unified long-term services and support medicaid waiver 13563
component" means the medicaid waiver component authorized by 13564
section 5111.863 of the Revised Code. 13565

(B) There is hereby created the preadmission screening system 13566
providing options and resources today program, or PASSPORT. The 13567
PASSPORT program shall provide home and community-based services 13568
as an alternative to nursing facility placement for individuals 13569
who are aged and disabled medicaid recipients and meet the 13570
program's applicable eligibility requirements. The Subject to 13571
division (C) of this section, the program shall have a 13572
medicaid-funded component and a state-funded component. 13573

(C)(1) Unless the medicaid-funded component of the PASSPORT 13574
program is terminated under division (C)(2) of this section, all 13575
of the following apply: 13576

(a) The department of aging shall administer the 13577
medicaid-funded component through a contract entered into with the 13578
department of job and family services under section 5111.91 of the 13579

Revised Code. 13580

(b) The medicaid-funded component shall be operated as a 13581
separate medicaid waiver component, as defined in section 5111.85 13582
of the Revised Code, until the United States secretary of health 13583
and human services approves the consolidated federal medicaid 13584
waiver sought under section 5111.861 of the Revised Code. The 13585
program shall be part of the consolidated federal medicaid waiver 13586
sought under that section if the United States secretary approves 13587
the waiver. The department of aging shall administer the program 13588
through a contract entered into with the department of job and 13589
family services under section 5111.91 of the Revised Code. The 13590

(c) For an individual to be eligible for the medicaid-funded 13591
component, the individual must be a medicaid recipient and meet 13592
the additional eligibility requirements applicable to the 13593
individual established in rules adopted under division (C)(1)(d) 13594
of this section. 13595

(d) The director of job and family services shall adopt rules 13596
under section 5111.85 of the Revised Code and the director of 13597
aging shall adopt rules in accordance with Chapter 119. of the 13598
Revised Code to implement the program medicaid-funded component. 13599

(2) If the unified long-term services and support medicaid 13600
waiver component is created, the departments of aging and job and 13601
family services shall work together to determine whether the 13602
medicaid-funded component of the PASSPORT program should continue 13603
to operate as a separate medicaid waiver component or be 13604
terminated. If the departments determine that the medicaid-funded 13605
component of the PASSPORT program should be terminated, the 13606
medicaid-funded component shall cease to exist on a date the 13607
departments shall specify. 13608

(D)(1) The department of aging shall administer the 13609
state-funded component of the PASSPORT program. The state-funded 13610

component shall not be administered as part of the medicaid 13611
program. 13612

(2) For an individual to be eligible for the state-funded 13613
component, the individual must meet one of the following 13614
requirements and meet the additional eligibility requirements 13615
applicable to the individual established in rules adopted under 13616
division (D)(4) of this section: 13617

(a) The individual must have been enrolled in the 13618
state-funded component on September 1, 1991, (as the state-funded 13619
component was authorized by uncodified law in effect at that time) 13620
and have had one or more applications for enrollment in the 13621
medicaid-funded component (or, if the medicaid-funded component is 13622
terminated under division (C)(2) of this section, the unified 13623
long-term services and support medicaid waiver component) denied. 13624

(b) The individual must have had the individual's enrollment 13625
in the medicaid-funded component (or, if the medicaid-funded 13626
component is terminated under division (C)(2) of this section, the 13627
unified long-term services and support medicaid waiver component) 13628
terminated and the individual must still need the home and 13629
community-based services provided under the PASSPORT program to 13630
protect the individual's health and safety. 13631

(c) The individual must have an application for the 13632
medicaid-funded component (or, if the medicaid-funded component is 13633
terminated under division (C)(2) of this section, the unified 13634
long-term services and support medicaid waiver component) pending 13635
and the department or the department's designee must have 13636
determined that the individual meets the nonfinancial eligibility 13637
requirements of the medicaid-funded component (or, if the 13638
medicaid-funded component is terminated under division (C)(2) of 13639
this section, the unified long-term services and support medicaid 13640
waiver component) and not have reason to doubt that the individual 13641
meets the financial eligibility requirements of the 13642

medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component).

(3) An individual who is eligible for the state-funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component for not more than three months.

(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.

Sec. 173.401. (A) As used in this section:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the PASSPORT program.~~

(B) The Subject to division (C)(2) of section 173.40 of the

Revised Code, the department shall establish a home first 13673
component of the PASSPORT program under which eligible individuals 13674
may be enrolled in the medicaid-funded component of the PASSPORT 13675
program in accordance with this section. An individual is eligible 13676
for the PASSPORT program's home first component if ~~all~~ both of the 13677
following apply: 13678

(1) The individual ~~is~~ has been determined to be eligible for 13679
the medicaid-funded component of the PASSPORT program. 13680

~~(2) The individual is on the unified waiting list established 13681
under section 173.404 of the Revised Code. 13682~~

~~(3)~~ At least one of the following applies: 13683

(a) The individual has been admitted to a nursing facility. 13684

(b) A physician has determined and documented in writing that 13685
the individual has a medical condition that, unless the individual 13686
is enrolled in home and community-based services such as the 13687
PASSPORT program, will require the individual to be admitted to a 13688
nursing facility within thirty days of the physician's 13689
determination. 13690

(c) The individual has been hospitalized and a physician has 13691
determined and documented in writing that, unless the individual 13692
is enrolled in home and community-based services such as the 13693
PASSPORT program, the individual is to be transported directly 13694
from the hospital to a nursing facility and admitted. 13695

(d) Both of the following apply: 13696

(i) The individual is the subject of a report made under 13697
section 5101.61 of the Revised Code regarding abuse, neglect, or 13698
exploitation or such a report referred to a county department of 13699
job and family services under section 5126.31 of the Revised Code 13700
or has made a request to a county department for protective 13701
services as defined in section 5101.60 of the Revised Code. 13702

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual should be admitted to a nursing facility.

(C) Each month, each area agency on aging shall identify individuals residing in the area that the agency serves who are eligible for the home first component of the PASSPORT program. When an area agency on aging identifies such an individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue or begin to reside in a nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the PASSPORT program than continue or begin to reside in a nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department shall approve the individual's enrollment in the medicaid-funded component of the PASSPORT program regardless of the unified waiting list established under section 173.404 of the Revised Code, unless the enrollment would cause the PASSPORT program component to exceed any limit on the number of individuals who may be enrolled in the program component as set by the United States secretary of health and human services in the PASSPORT waiver.

~~(D) Each quarter, the department of aging shall certify to the director of budget and management the estimated increase in costs of the PASSPORT program resulting from enrollment of individuals in the PASSPORT program pursuant to this section.~~

Sec. 173.403. ~~"Choices~~ (A) As used in this section: 13734

"Choices program" means the program created under this 13735
section. 13736

~~There~~ "Medicaid waiver component" has the same meaning as in 13737
section 5111.85 of the Revised Code. 13738

"Unified long-term services and support medicaid waiver 13739
component" means the medicaid waiver component authorized by 13740
section 5111.863 of the Revised Code. 13741

(B) Subject to division (C) of this section, there is hereby 13742
created the choices program. The program shall provide home and 13743
community-based services. ~~The choices program shall be operated as~~ 13744
~~a separate medicaid waiver component, as defined in section~~ 13745
~~5111.85 of the Revised Code, until the United States secretary of~~ 13746
~~health and human services approves the consolidated federal~~ 13747
~~medicaid waiver sought under section 5111.861 of the Revised Code.~~ 13748
~~The program shall be part of the consolidated federal medicaid~~ 13749
~~waiver sought under that section if the United States secretary~~ 13750
~~approves the waiver.~~ The department of aging shall administer the 13751
program through a contract entered into with the department of job 13752
and family services under section 5111.91 of the Revised Code. 13753
Subject to federal approval, the program shall be available 13754
statewide. 13755

(C) If the unified long-term services and support medicaid 13756
waiver component is created, the departments of aging and job and 13757
family services shall work together to determine whether the 13758
choices program should continue to operate as a separate medicaid 13759
waiver component or be terminated. If the departments determine 13760
that the choices program should be terminated, the program shall 13761
cease to exist on a date the departments shall specify. 13762

Sec. 173.404. (A) As used in this section: 13763

(1) "Department of aging-administered medicaid waiver component" means each of the following:	13764
	13765
(a) The <u>medicaid-funded component of the</u> PASSPORT program created under section 173.40 of the Revised Code;	13766
	13767
(b) The choices program created under section 173.403 of the Revised Code;	13768
	13769
(c) The <u>medicaid-funded component of the</u> assisted living program created under section 5111.89 of the Revised Code.	13770
	13771
(2) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.	13772
	13773
	13774
(B) <u>The If the department of aging determines that there are insufficient funds to enroll all individuals who have applied and been determined eligible for department of aging-administered medicaid waiver components and the PACE program, the department of</u>	13775
<u>aging shall establish a unified waiting list for department of aging-administered medicaid waiver the components and the PACE</u>	13776
<u>program. Only individuals eligible for a department of</u>	13777
<u>aging-administered medicaid waiver component or the PACE program may be placed on the unified waiting list. An individual who may be enrolled in a department of aging-administered medicaid waiver component or the PACE program through a home first component established under section 173.401, 173.501, or 5111.894 of the Revised Code may be so enrolled without being placed on the unified waiting list.</u>	13778
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<u>Sec. 173.41. (A) The department of aging shall promote the development of a statewide aging and disabilities resource network through which older adults, adults with disabilities, and their caregivers are provided with both of the following:</u>	13789
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	13792
(1) <u>Information on any long-term care service options</u>	13793

<u>available to the individuals;</u>	13794
<u>(2) Streamlined access to long-term care services, both</u>	13795
<u>publicly funded services and services available through private</u>	13796
<u>payment.</u>	13797
<u>(B) Area agencies on aging shall establish the network</u>	13798
<u>throughout the state. In doing so, the agencies shall collaborate</u>	13799
<u>with centers for independent living and other locally funded</u>	13800
<u>organizations to establish a cost-effective and consumer-friendly</u>	13801
<u>network that builds on existing, local infrastructures of services</u>	13802
<u>that support consumers in their communities.</u>	13803
Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the	13804
Revised Code:	13805
(1) "Area agency on aging" means a public or private	13806
nonprofit entity designated under section 173.011 of the Revised	13807
Code to administer programs on behalf of the department of aging.	13808
(2) "Department of aging-administered medicaid waiver	13809
component" means each of the following:	13810
(a) The <u>medicaid-funded component of the</u> PASSPORT program	13811
created under section 173.40 of the Revised Code;	13812
(b) The choices program created under section 173.403 of the	13813
Revised Code;	13814
(c) The <u>medicaid-funded component of the</u> assisted living	13815
program created under section 5111.89 of the Revised Code;	13816
(d) Any other medicaid waiver component, as defined in	13817
section 5111.85 of the Revised Code, that the department of aging	13818
administers pursuant to an interagency agreement with the	13819
department of job and family services under section 5111.91 of the	13820
Revised Code.	13821
(3) "Home and community-based services covered by medicaid	13822

components the department of aging administers" means all of the	13823
following:	13824
(a) Medicaid waiver services available to a participant in a	13825
department of aging-administered medicaid waiver component;	13826
(b) The following medicaid state plan services available to a	13827
participant in a department of aging-administered medicaid waiver	13828
component as specified in rules adopted under section 5111.02 of	13829
the Revised Code:	13830
(i) Home health services;	13831
(ii) Private duty nursing services;	13832
(iii) Durable medical equipment;	13833
(iv) Services of a clinical nurse specialist;	13834
(v) Services of a certified nurse practitioner.	13835
(c) Services available to a participant of the PACE program.	13836
(4) "Long-term care consultation" or "consultation" means the	13837
consultation service made available by the department of aging or	13838
a program administrator through the long-term care consultation	13839
program established pursuant to this section.	13840
(5) "Medicaid" means the medical assistance program	13841
established under Chapter 5111. of the Revised Code.	13842
(6) "Nursing facility" has the same meaning as in section	13843
5111.20 of the Revised Code.	13844
(7) "PACE program" means the component of the medicaid	13845
program the department of aging administers pursuant to section	13846
173.50 of the Revised Code.	13847
(8) "PASSPORT administrative agency" means an entity under	13848
contract with the department of aging to provide administrative	13849
services regarding the PASSPORT program.	13850
(9) "Program administrator" means an area agency on aging or	13851

other entity under contract with the department of aging to 13852
administer the long-term care consultation program in a geographic 13853
region specified in the contract. 13854

(10) "Representative" means a person acting on behalf of an 13855
individual specified in division (G) of this section. A 13856
representative may be a family member, attorney, hospital social 13857
worker, or any other person chosen to act on behalf of the 13858
individual. 13859

(B) The department of aging shall develop a long-term care 13860
consultation program whereby individuals or their representatives 13861
are provided with long-term care consultations and receive through 13862
these professional consultations information about options 13863
available to meet long-term care needs and information about 13864
factors to consider in making long-term care decisions. The 13865
long-term care consultations provided under the program may be 13866
provided at any appropriate time, as permitted or required under 13867
this section and the rules adopted under it, including either 13868
prior to or after the individual who is the subject of a 13869
consultation has been admitted to a nursing facility or granted 13870
assistance in receiving home and community-based services covered 13871
by medicaid components the department of aging administers. 13872

(C) The long-term care consultation program shall be 13873
administered by the department of aging, except that the 13874
department may have the program administered on a regional basis 13875
by one or more program administrators. The department and each 13876
program administrator shall administer the program in such a 13877
manner that all of the following are included: 13878

(1) Coordination and collaboration with respect to all 13879
available funding sources for long-term care services; 13880

(2) Assessments of individuals regarding their long-term care 13881
service needs; 13882

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;	13883 13884
(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;	13885 13886 13887
(5) Priorities for using available resources efficiently and effectively.	13888 13889
(D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.	13890 13891 13892
(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:	13893 13894 13895
(1) The availability of any long-term care options open to the individual;	13896 13897
(2) Sources and methods of both public and private payment for long-term care services;	13898 13899
(3) Factors to consider when choosing among the available programs, services, and benefits;	13900 13901
(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.	13902 13903 13904
(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment required under section 5111.204 of the Revised Code.	13905 13906 13907 13908 13909 13910
(G)(1) Unless an exemption specified in division (I) of this section is applicable, each of the following shall be provided	13911 13912

with a long-term care consultation:	13913
(a) An individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in a nursing facility;	13914 13915 13916 13917
(b) An individual who requests a long-term care consultation;	13918
(c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation.	13919 13920 13921
(2) In addition to the individuals specified in division (G)(1) of this section, a long-term care consultation may be provided to a nursing facility resident regardless of the source of payment being used for the resident's care in the nursing facility.	13922 13923 13924 13925 13926
(H)(1) Except as provided in division (H)(2) or (3) of this section, a long-term care consultation provided pursuant to division (G) of this section shall be provided as follows:	13927 13928 13929
(a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment.	13930 13931 13932 13933 13934 13935 13936
(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or program administrator receives notice of the reason for which the consultation is to be provided pursuant to division (G) of this section.	13937 13938 13939 13940 13941
(2) An individual or the individual's representative may	13942

request that a long-term care consultation be provided on a date 13943
that is later than the date required under division (H)(1)(a) or 13944
(b) of this section. 13945

(3) If a long-term care consultation cannot be completed 13946
within the number of days required by division (H)(1) or (2) of 13947
this section, the department or program administrator may do any 13948
of the following: 13949

(a) In the case of an individual specified in division (G)(1) 13950
of this section, exempt the individual from the consultation 13951
pursuant to rules that may be adopted under division (L) of this 13952
section; 13953

(b) In the case of an applicant for admission to a nursing 13954
facility, provide the consultation after the individual is 13955
admitted to the nursing facility; 13956

(c) In the case of a resident of a nursing facility, provide 13957
the consultation as soon as practicable. 13958

(I) An individual is not required to be provided a long-term 13959
care consultation under division (G)(1) of this section if any of 13960
the following apply: 13961

(1) The department or program administrator has attempted to 13962
provide the consultation, but the individual or the individual's 13963
representative refuses to cooperate; 13964

(2) The individual is to receive care in a nursing facility 13965
under a contract for continuing care as defined in section 173.13 13966
of the Revised Code; 13967

(3) The individual has a contractual right to admission to a 13968
nursing facility operated as part of a system of continuing care 13969
in conjunction with one or more facilities that provide a less 13970
intensive level of services, including a residential care facility 13971
licensed under Chapter 3721. of the Revised Code, an adult care 13972

facility licensed under Chapter 3722 , <u>sections 5119.70 to 5119.88</u>	13973
of the Revised Code, or an independent living arrangement;	13974
(4) The individual is to receive continual care in a home for	13975
the aged exempt from taxation under section 5701.13 of the Revised	13976
Code;	13977
(5) The individual is seeking admission to a facility that is	13978
not a nursing facility with a provider agreement under section	13979
5111.22, 5111.671, or 5111.672 of the Revised Code;	13980
(6) The individual is exempted from the long-term care	13981
consultation requirement by the department or the program	13982
administrator pursuant to rules that may be adopted under division	13983
(L) of this section.	13984
(J) As part of the long-term care consultation program, the	13985
department or program administrator shall assist an individual or	13986
individual's representative in accessing all sources of care and	13987
services that are appropriate for the individual and for which the	13988
individual is eligible, including all available home and	13989
community-based services covered by medicaid components the	13990
department of aging administers. The assistance shall include	13991
providing for the conduct of assessments or other evaluations and	13992
the development of individualized plans of care or services under	13993
section 173.424 of the Revised Code.	13994
(K) No nursing facility for which an operator has a provider	13995
agreement under section 5111.22, 5111.671, or 5111.672 of the	13996
Revised Code shall admit any individual as a resident, unless the	13997
nursing facility has received evidence that a long-term care	13998
consultation has been completed for the individual or division (I)	13999
of this section is applicable to the individual.	14000
(L) The director of aging may adopt any rules the director	14001
considers necessary for the implementation and administration of	14002
this section. The rules shall be adopted in accordance with	14003

Chapter 119. of the Revised Code and may specify any or all of the	14004
following:	14005
(1) Procedures for providing long-term care consultations	14006
pursuant to this section;	14007
(2) Information to be provided through long-term care	14008
consultations regarding long-term care services that are	14009
available;	14010
(3) Criteria and procedures to be used to identify and	14011
recommend appropriate service options for an individual receiving	14012
a long-term care consultation;	14013
(4) Criteria for exempting individuals from the long-term	14014
care consultation requirement;	14015
(5) Circumstances under which it may be appropriate to	14016
provide an individual's long-term care consultation after the	14017
individual's admission to a nursing facility rather than before	14018
admission;	14019
(6) Criteria for identifying nursing facility residents who	14020
would benefit from the provision of a long-term care consultation;	14021
(7) A description of the types of information from a nursing	14022
facility that is needed under the long-term care consultation	14023
program to assist a resident with relocation from the facility;	14024
(8) Standards to prevent conflicts of interest relative to	14025
the referrals made by a person who performs a long-term care	14026
consultation, including standards that prohibit the person from	14027
being employed by a provider of long-term care services;	14028
(9) Procedures for providing notice and an opportunity for a	14029
hearing under division (N) of this section.	14030
(M) To assist the department and each program administrator	14031
with identifying individuals who are likely to benefit from a	14032
long-term care consultation, the department and program	14033

administrator may ask to be given access to nursing facility 14034
resident assessment data collected through the use of the resident 14035
assessment instrument specified in rules adopted under section 14036
5111.02 of the Revised Code for purposes of the medicaid program. 14037
Except when prohibited by state or federal law, the department of 14038
health, department of job and family services, or nursing facility 14039
holding the data shall grant access to the data on receipt of the 14040
request from the department of aging or program administrator. 14041

(N)(1) The director of aging, after providing notice and an 14042
opportunity for a hearing, may fine a nursing facility an amount 14043
determined by rules the director shall adopt in accordance with 14044
Chapter 119. of the Revised Code for any of the following reasons: 14045

(a) The nursing facility admits an individual, without 14046
evidence that a long-term care consultation has been provided, as 14047
required by this section; 14048

(b) The nursing facility denies a person attempting to 14049
provide a long-term care consultation access to the facility or a 14050
resident of the facility; 14051

(c) The nursing facility denies the department of aging or 14052
program administrator access to the facility or a resident of the 14053
facility, as the department or administrator considers necessary 14054
to administer the program. 14055

(2) In accordance with section 5111.62 of the Revised Code, 14056
all fines collected under division (N)(1) of this section shall be 14057
deposited into the state treasury to the credit of the residents 14058
protection fund. 14059

Sec. 173.45. As used in this section and in sections 173.46 14060
to 173.49 of the Revised Code: 14061

(A) "Adult care facility" has the same meaning as in section 14062
5119.70 of the Revised Code. 14063

(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code. 14064
14065

(C) "Long-term care facility" means a nursing home or residential care facility. 14066
14067

~~(B)~~(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 14068
14069

~~(C)~~(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 14070
14071

Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to ~~the effective date of this section~~ September 29, 2005, under rules adopted under section 173.02 of the Revised Code. 14072
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(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility: 14082
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14085

(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations; 14086
14087

(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative; 14088
14089
14090
14091

(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code; 14092
14093

(4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code. 14094
14095

(C) The Ohio long-term care consumer guide may include information on adult care facilities and providers of community-based long-term care services. The department may adopt rules under section 173.49 of the Revised Code to specify the information to be included in the guide pursuant to this division. 14096
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Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both. 14101
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~~(B)(1) The department may charge fees for the conduct of annual customer satisfaction surveys. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with section 173.48 of the Revised Code.~~ 14107
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14111

~~(2) The fees charged under this section shall not exceed the following amounts:~~ 14112
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~~(a) Four hundred dollars for the customer satisfaction survey of a long term care facility that is a nursing home;~~ 14114
14115

~~(b) Three hundred dollars for the customer satisfaction survey pertaining to a long term care facility that is a residential care facility.~~ 14116
14117
14118

~~(3) Fees paid by a long term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.~~ 14119
14120
14121

~~(C) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey.~~ 14122
14123

Sec. 173.48. (A)(1) The department of aging may charge annual fees to long-term care facilities for the publication of the Ohio long-term care consumer guide. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with division (B) of this section.

(2) The annual fees charged under this section shall not exceed the following amounts:

(a) Six hundred fifty dollars for each long-term care facility that is a nursing home;

(b) Three hundred dollars for each long-term care facility that is a residential care facility.

(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.

(B) There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the ~~conduct of customer satisfaction surveys~~ publication of the Ohio long-term care consumer guide under ~~division (A) of this section 173.47 of the Revised Code~~ shall be credited to the fund. The department of ~~aging~~ shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys.

Sec. 173.501. (A) As used in this section:

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"PACE provider" has the same meaning as in 42 U.S.C.

1396u-4(a)(3).	14153
(B) The department of aging shall establish a home first component of the PACE program under which eligible individuals may be enrolled in the PACE program in accordance with this section. An individual is eligible for the PACE program's home first component if all <u>both</u> of the following apply:	14154 14155 14156 14157 14158
(1) The individual is <u>has been determined to be</u> eligible for the PACE program.	14159 14160
(2) The individual is on the unified waiting list established under section 173.404 of the Revised Code.	14161 14162
(3) At least one of the following applies:	14163
(a) The individual has been admitted to a nursing facility.	14164
(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PACE program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.	14165 14166 14167 14168 14169
(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual is to be transported directly from the hospital to a nursing facility and admitted.	14170 14171 14172 14173 14174
(d) Both of the following apply:	14175
(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.	14176 14177 14178 14179 14180 14181
(ii) A county department of job and family services and an	14182

area agency on aging have jointly documented in writing that, 14183
unless the individual is enrolled in home and community-based 14184
services such as the PACE program, the individual should be 14185
admitted to a nursing facility. 14186

(C) Each month, the department of aging shall identify 14187
individuals who are eligible for the home first component of the 14188
PACE program. When the department identifies such an individual, 14189
the department shall notify the PACE provider serving the area in 14190
which the individual resides. The PACE provider shall determine 14191
whether the PACE program is appropriate for the individual and 14192
whether the individual would rather participate in the PACE 14193
program than continue or begin to reside in a nursing facility. If 14194
the PACE provider determines that the PACE program is appropriate 14195
for the individual and the individual would rather participate in 14196
the PACE program than continue or begin to reside in a nursing 14197
facility, the PACE provider shall so notify the department of 14198
aging. On receipt of the notice from the PACE provider, the 14199
department of aging shall approve the individual's enrollment in 14200
the PACE program in accordance with priorities established in 14201
rules adopted under section 173.50 of the Revised Code. 14202

~~(D) Each quarter, the department of aging shall certify to 14203
the director of budget and management the estimated increase in 14204
costs of the PACE program resulting from enrollment of individuals 14205
in the PACE program pursuant to this section. 14206~~

Sec. 183.151. (A) As used in this section, "eligible 14207
institution of higher education" includes any of the following: 14208

(1) A state institution of higher education as defined in 14209
section 3345.011 of the Revised Code; 14210

(2) A private, nonprofit college or university that holds a 14211
certificate of authorization issued under Chapter 1713. of the 14212
Revised Code; 14213

<u>(3) An institution that has a certificate of registration</u>	14214
<u>from the state board of career colleges and schools;</u>	14215
<u>(4) A private institution exempt from regulation under</u>	14216
<u>Chapter 3332. of the Revised Code as prescribed in section</u>	14217
<u>3333.046 of the Revised Code;</u>	14218
<u>(5) An institution of higher education located outside of the</u>	14219
<u>state, but within fifty miles of the borders of this state.</u>	14220
<u>(B) Grants or loans awarded by the southern Ohio agricultural</u>	14221
<u>and community development foundation to provide education and</u>	14222
<u>training assistance pursuant to section 183.15 of the Revised Code</u>	14223
<u>shall be limited to applicants who are enrolled in an eligible</u>	14224
<u>institution of higher education. This section applies to grants</u>	14225
<u>and loans awarded by the foundation after the effective date of</u>	14226
<u>this section.</u>	14227
Sec. 183.30. (A) (1) Except as provided in division (C) (A) (2)	14228
of this section, no more than five per cent of the total	14229
disbursements, encumbrances, and obligations of the southern Ohio	14230
agricultural and community development foundation in a fiscal year	14231
shall be for administrative expenses of the foundation in the same	14232
fiscal year.	14233
(B) Except as provided in division (C) of this section, no	14234
more than five per cent of the total disbursements, encumbrances,	14235
and obligations of the biomedical research and technology transfer	14236
trust fund in a fiscal year shall be for expenses relating to the	14237
administration of the trust fund by the third frontier commission	14238
in the same fiscal year.	14239
(C) This section's (2) The five per cent limitation on	14240
administrative expenses does not apply to any fiscal year for	14241
which the controlling board approves a spending plan that the	14242
foundation or commission submits to the board.	14243

(B) Payments may be made from the biomedical research and 14244
technology transfer trust fund for third frontier commission 14245
expenses related to the administration of awards made from the 14246
fund prior to the effective date of this section. No such payments 14247
shall be made after June 30, 2013. 14248

Sec. 183.51. (A) As used in this section and in the 14249
applicable bond proceedings unless otherwise provided: 14250

(1) "Bond proceedings" means the resolutions, orders, 14251
indentures, purchase and sale and trust and other agreements 14252
including any amendments or supplements to them, and credit 14253
enhancement facilities, and amendments and supplements to them, or 14254
any one or more or combination of them, authorizing, awarding, or 14255
providing for the terms and conditions applicable to or providing 14256
for the security or liquidity of, the particular obligations, and 14257
the provisions contained in those obligations. 14258

(2) "Bond service fund" means the bond service fund created 14259
in the bond proceedings for the obligations. 14260

(3) "Capital facilities" means, as applicable, capital 14261
facilities or projects as referred to in section 151.03 or 151.04 14262
of the Revised Code. 14263

(4) "Consent decree" means the consent decree and final 14264
judgment entered November 25, 1998, in the court of common pleas 14265
of Franklin county, Ohio, as the same may be amended or 14266
supplemented from time to time. 14267

(5) "Cost of capital facilities" has the same meaning as in 14268
section 151.01 of the Revised Code, as applicable. 14269

(6) "Credit enhancement facilities," "financing costs," and 14270
"interest" or "interest equivalent" have the same meanings as in 14271
section 133.01 of the Revised Code. 14272

(7) "Debt service" means principal, including any mandatory 14273

sinking fund or redemption requirements for retirement of 14274
obligations, interest and other accreted amounts, interest 14275
equivalent, and any redemption premium, payable on obligations. If 14276
not prohibited by the applicable bond proceedings, "debt service" 14277
may include costs relating to credit enhancement facilities that 14278
are related to and represent, or are intended to provide a source 14279
of payment of or limitation on, other debt service. 14280

(8) "Improvement fund" means, as applicable, the school 14281
building program assistance fund created in section 3318.25 of the 14282
Revised Code and the higher education improvement fund created in 14283
section 154.21 of the Revised Code. 14284

(9) "Issuing authority" means the buckeye tobacco settlement 14285
financing authority created in section 183.52 of the Revised Code. 14286

(10) "Net proceeds" means amounts received from the sale of 14287
obligations, excluding amounts used to refund or retire 14288
outstanding obligations, amounts required to be deposited into 14289
special funds pursuant to the applicable bond proceedings, and 14290
amounts to be used to pay financing costs. 14291

(11) "Obligations" means bonds, notes, or other evidences of 14292
obligation of the issuing authority, including any appertaining 14293
interest coupons, issued by the issuing authority under this 14294
section and Section 2i of Article VIII, Ohio Constitution, for the 14295
purpose of providing funds to the state, in exchange for the 14296
assignment and sale described in division (B) of this section, for 14297
the purpose of paying costs of capital facilities for: (a) housing 14298
branches and agencies of state government limited to facilities 14299
for a system of common schools throughout the state and (b) 14300
state-supported or state-assisted institutions of higher 14301
education. 14302

(12) "Pledged receipts" means, as and to the extent provided 14303
for in the applicable bond proceedings: 14304

(a) Pledged tobacco settlement receipts;	14305
(b) Accrued interest received from the sale of obligations;	14306
(c) Income from the investment of the special funds;	14307
(d) Additional or any other specific revenues or receipts	14308
lawfully available to be pledged, and pledged, pursuant to the	14309
bond proceedings, including but not limited to amounts received	14310
under credit enhancement facilities, to the payment of debt	14311
service.	14312
(13) "Pledged tobacco settlement receipts" means all amounts	14313
received by the issuing authority pursuant to division (B) of this	14314
section.	14315
(14) "Principal amount" means the aggregate of the amount as	14316
stated or provided for in the applicable bond proceedings as the	14317
amount on which interest or interest equivalent on particular	14318
obligations is initially calculated. "Principal amount" does not	14319
include any premium paid to the issuing authority by the initial	14320
purchaser of the obligations. "Principal amount" of a capital	14321
appreciation bond, as defined in division (C) of section 3334.01	14322
of the Revised Code, means its original face amount and not its	14323
accrued value, and "principal amount" of a zero coupon bond, as	14324
defined in division (J) of section 3334.01 of the Revised Code,	14325
means the discounted offering price at which the bond is initially	14326
sold to the public, disregarding any purchase price discount to	14327
the original purchaser, if provided in or for pursuant to the bond	14328
proceedings.	14329
(15) "Special funds" or "funds," unless the context indicates	14330
otherwise, means the bond service fund, and any other funds,	14331
including any reserve funds, created under the bond proceedings	14332
and stated to be special funds in those proceedings, including	14333
moneys and investments, and earnings from investments, credited	14334
and to be credited to the particular fund. "Special funds" does	14335

not include any improvement fund or investment earnings on amounts 14336
in any improvement fund, or other funds created by the bond 14337
proceedings that are not stated by those proceedings to be special 14338
funds. 14339

(B) The state may assign and sell to the issuing authority, 14340
and the issuing authority may accept and purchase, all or a 14341
portion of the amounts to be received by the state under the 14342
tobacco master settlement agreement for a purchase price payable 14343
by the issuing authority to the state consisting of the net 14344
proceeds of obligations and any residual interest, if any. Any 14345
such assignment and sale shall be irrevocable in accordance with 14346
its terms during the period any obligations secured by amounts so 14347
assigned and sold are outstanding under the applicable bond 14348
proceedings, and shall constitute a contractual obligation to the 14349
holders or owners of those obligations. Any such assignment and 14350
sale shall also be treated as an absolute transfer and true sale 14351
for all purposes, and not as a pledge or other security interest. 14352
The characterization of any such assignment and sale as a true 14353
sale and absolute transfer shall not be negated or adversely 14354
affected by only a portion of the amounts to be received under the 14355
tobacco master settlement agreement being transferred, the 14356
acquisition or retention by the state of a residual interest, the 14357
participation of any state officer or employee as a member or 14358
officer of, or providing staff support to, the issuing authority, 14359
any responsibility of an officer or employee of the state for 14360
collecting the amounts to be received under the tobacco master 14361
settlement agreement or otherwise enforcing that agreement or 14362
retaining any legal title to or interest in any portion of the 14363
amounts to be received under that agreement for the purpose of 14364
these collection activities, any characterization of the issuing 14365
authority or its obligations for purposes of accounting, taxation, 14366
or securities regulation, or by any other factors whatsoever. A 14367
true sale shall exist under this section regardless of whether the 14368

issuing authority has any recourse against the state or any other 14369
term of the bond proceedings or the treatment or characterization 14370
of the transfer as a financing for any purpose. Upon and following 14371
the assignment and sale, the state shall not have any right, 14372
title, or interest in the portion of the receipts under the 14373
tobacco master settlement agreement so assigned and sold, other 14374
than any residual interest that may be described in the applicable 14375
bond proceedings for those obligations, and that portion, if any, 14376
shall be the property of the issuing authority and not of the 14377
state, and shall be paid directly to the issuing authority, and 14378
shall be owned, received, held, and disbursed by the issuing 14379
authority and not by the state. 14380

The state may covenant, pledge, and agree in the bond 14381
proceedings, with and for the benefit of the issuing authority, 14382
the holders and owners of obligations, and providers of any credit 14383
enhancement facilities, that it shall: (1) maintain statutory 14384
authority for, and cause to be collected and paid directly to the 14385
issuing authority or its assignee, the pledged receipts, (2) 14386
enforce the rights of the issuing authority to receive the 14387
receipts under the tobacco master settlement agreement assigned 14388
and sold to the issuing authority, (3) not materially impair the 14389
rights of the issuing authority to fulfill the terms of its 14390
agreements with the holders or owners of outstanding obligations 14391
under the bond proceedings, (4) not materially impair the rights 14392
and remedies of the holders or owners of outstanding obligations 14393
or materially impair the security for those outstanding 14394
obligations, and (5) enforce Chapter 1346. of the Revised Code, 14395
the tobacco master settlement agreement, and the consent decree to 14396
effectuate the collection of the pledged tobacco settlement 14397
receipts. The bond proceedings may provide or authorize the manner 14398
for determining material impairment of the security for any 14399
outstanding obligations, including by assessing and evaluating the 14400
pledged receipts in the aggregate. 14401

As further provided for in division (H) of this section, the 14402
bond proceedings may also include such other covenants, pledges, 14403
and agreements by the state to protect and safeguard the security 14404
and rights of the holders and owners of the obligations, and of 14405
the providers of any credit enhancement facilities, including, 14406
without limiting the generality of the foregoing, any covenant, 14407
pledge, or agreement customary in transactions involving the 14408
issuance of securities the debt service on which is payable from 14409
or secured by amounts received under the tobacco master settlement 14410
agreement. Notwithstanding any other provision of law, any 14411
covenant, pledge, and agreement of the state, if and when made in 14412
the bond proceedings, shall be controlling and binding upon, and 14413
enforceable against the state in accordance with its terms for so 14414
long as any obligations are outstanding under the applicable bond 14415
proceedings. The bond proceedings may also include limitations on 14416
the remedies available to the issuing authority, the holders and 14417
owners of the obligations, and the providers of any credit 14418
enhancement facilities, including, without limiting the generality 14419
of the foregoing, a provision that those remedies may be limited 14420
to injunctive relief in circumstances where there has been no 14421
prior determination by a court of competent jurisdiction that the 14422
state has not enforced Chapter 1346. of the Revised Code, the 14423
tobacco master settlement agreement, or the consent decree as may 14424
have been covenanted or agreed in the bond proceedings under 14425
division (B)(5) of this section. 14426

Nothing in this section or the bond proceedings shall 14427
preclude or limit, or be construed to preclude or limit, the state 14428
from regulating or authorizing or permitting the regulation of 14429
smoking or from taxing and regulating the sale of cigarettes or 14430
other tobacco products, or from defending or prosecuting cases or 14431
other actions relating to the sale or use of cigarettes or other 14432
tobacco products. Except as otherwise may be agreed in writing by 14433
the attorney general, nothing in this section or the bond 14434

proceedings shall modify or limit, or be construed to modify or 14435
limit, the responsibility, power, judgment, and discretion of the 14436
attorney general to protect and discharge the duties, rights, and 14437
obligations of the state under the tobacco master settlement 14438
agreement, the consent decree, or Chapter 1346. of the Revised 14439
Code. 14440

The governor and the director of budget and management, in 14441
consultation with the attorney general, on behalf of the state, 14442
and any member or officer of the issuing authority as authorized 14443
by that issuing authority, on behalf of the issuing authority, may 14444
take any action and execute any documents, including any purchase 14445
and sale agreements, necessary to effect the assignment and sale 14446
and the acceptance of the assignment and title to the receipts 14447
including, providing irrevocable direction to the escrow agent 14448
acting under the tobacco master settlement agreement to transfer 14449
directly to the issuing authority the amounts to be received under 14450
that agreement that are subject to such assignment and sale. Any 14451
purchase and sale agreement or other bond proceedings may contain 14452
the terms and conditions established by the state and the issuing 14453
authority to carry out and effectuate the purposes of this 14454
section, including, without limitation, covenants binding the 14455
state in favor of the issuing authority and its assignees and the 14456
owners of the obligations. Any such purchase and sale agreement 14457
shall be sufficient to effectuate such purchase and sale without 14458
regard to any other laws governing other property sales or 14459
financial transactions by the state. 14460

Not later than two years following the date on which there 14461
are no longer any obligations outstanding under the bond 14462
proceedings, all assets of the issuing authority shall vest in the 14463
state, the issuing authority shall execute any necessary 14464
assignments or instruments, including any assignment of any right, 14465
title, or ownership to the state for receipt of amounts under the 14466

tobacco master settlement agreement, and the issuing authority 14467
shall be dissolved. 14468

(C) The issuing authority is authorized to issue and to sell 14469
obligations as provided in this section. The aggregate principal 14470
amount of obligations issued under this section shall not exceed 14471
six billion dollars, exclusive of obligations issued under 14472
division (M)(1) of this section to refund, renew, or advance 14473
refund other obligations issued or incurred. At least seventy-five 14474
per cent of the aggregate net proceeds of the obligations issued 14475
under the authority of this section, exclusive of obligations 14476
issued to refund, renew, or advance refund other obligations, 14477
shall be paid to the state for deposit into the school building 14478
program assistance fund created in section 3318.25 of the Revised 14479
Code. 14480

(D) Each issue of obligations shall be authorized by 14481
resolution or order of the issuing authority. The bond proceedings 14482
shall provide for or authorize the manner for determining the 14483
principal amount or maximum principal amount of obligations of an 14484
issue, the principal maturity or maturities, the interest rate or 14485
rates, the date of and the dates of payment of interest on the 14486
obligations, their denominations, and the place or places of 14487
payment of debt service which may be within or outside the state. 14488
Unless otherwise provided by law, the latest principal maturity 14489
may not be later than the earlier of the thirty-first day of 14490
December of the fiftieth calendar year after the year of issuance 14491
of the particular obligations or of the fiftieth calendar year 14492
after the year in which the original obligation to pay was issued 14493
or entered into. Sections 9.96, 9.98, 9.981, 9.982, and 9.983 of 14494
the Revised Code apply to the obligations. 14495

The purpose of the obligations may be stated in the bond 14496
proceedings in general terms, such as, as applicable, "paying 14497
costs of capital facilities for a system of common schools" and 14498

"paying costs of facilities for state-supported and state-assisted 14499
institutions of higher education." Unless otherwise provided in 14500
the bond proceedings or in division (C) of this section, the net 14501
proceeds from the issuance of the obligations shall be paid to the 14502
state for deposit into the applicable improvement fund. In 14503
addition to the investments authorized in Chapter 135. of the 14504
Revised Code, the net proceeds held in an improvement fund may be 14505
invested by the treasurer of state in guaranteed investment 14506
contracts with providers rated at the time of any investment in 14507
the three highest rating categories by two nationally recognized 14508
rating agencies, all subject to the terms and conditions set forth 14509
in those agreements or the bond proceedings. Notwithstanding 14510
~~division (B)(4) of section 3318.38~~ anything to the contrary in 14511
Chapter 3318. of the Revised Code, net proceeds of obligations 14512
deposited into the school building program assistance fund created 14513
in section 3318.25 of the Revised Code may be used to pay basic 14514
project costs under ~~section 3318.38 of the Revised Code~~ that 14515
chapter at the times determined by the Ohio school facilities 14516
commission without regard to whether those expenditures are in 14517
proportion to the state's and the school district's respective 14518
shares of that basic project cost; provided that this shall not 14519
result in any change in the state or school district shares of the 14520
basic project costs ~~provided under Chapter 3318. of the Revised~~ 14521
~~Code~~ as determined under that chapter. As used in the preceding 14522
sentence, "Ohio school facilities commission" and "basic project 14523
costs" have the same meanings as in section 3318.01 of the Revised 14524
Code. 14525

(E) The issuing authority may, without need for any other 14526
approval, appoint or provide for the appointment of paying agents, 14527
bond registrars, securities depositories, credit enhancement 14528
providers or counterparties, clearing corporations, and transfer 14529
agents, and retain or contract for the services of underwriters, 14530
investment bankers, financial advisers, accounting experts, 14531

marketing, remarketing, indexing, and administrative agents, other 14532
consultants, and independent contractors, including printing 14533
services, as are necessary in the judgment of the issuing 14534
authority to carry out the issuing authority's functions under 14535
this section and section 183.52 of the Revised Code. The attorney 14536
general as counsel to the issuing authority shall represent the 14537
authority in the execution of its powers and duties, and shall 14538
institute and prosecute all actions on its behalf. The issuing 14539
authority, in consultation with the attorney general, shall select 14540
counsel, and the attorney general shall appoint the counsel 14541
selected, for the purposes of carrying out the functions under 14542
this section and related sections of the Revised Code. Financing 14543
costs are payable, as may be provided in the bond proceedings, 14544
from the proceeds of the obligations, from special funds, or from 14545
other moneys available for the purpose, including as to future 14546
financing costs, from the pledged receipts. 14547

(F) The issuing authority may irrevocably pledge and assign 14548
all, or such portion as the issuing authority determines, of the 14549
pledged receipts to the payment of the debt service charges on 14550
obligations issued under this section, and for the establishment 14551
and maintenance of any reserves, as provided in the bond 14552
proceedings, and make other provisions in the bond proceedings 14553
with respect to pledged receipts as authorized by this section, 14554
which provisions are controlling notwithstanding any other 14555
provisions of law pertaining to them. Any and all pledged receipts 14556
received by the issuing authority and required by the bond 14557
proceedings, consistent with this section, to be deposited, 14558
transferred, or credited to the bond service fund, and all other 14559
money transferred or allocated to or received for the purposes of 14560
that fund, shall be deposited and credited to the bond service 14561
fund created in the bond proceedings for the obligations, subject 14562
to any applicable provisions of those bond proceedings, but 14563
without necessity for any act of appropriation. Those pledged 14564

receipts shall immediately be subject to the lien of that pledge 14565
without any physical delivery thereof or further act, and shall 14566
not be subject to other court judgments. The lien of the pledge of 14567
those pledged receipts shall be valid and binding against all 14568
parties having claims of any kind against the issuing authority, 14569
irrespective of whether those parties have notice thereof. The 14570
pledge shall create a perfected security interest for all purposes 14571
of Chapter 1309. of the Revised Code and a perfected lien for 14572
purposes of any other interest, all without the necessity for 14573
separation or delivery of funds or for the filing or recording of 14574
the applicable bond proceedings by which that pledge is created or 14575
any certificate, statement, or other document with respect 14576
thereto. The pledge of the pledged receipts shall be effective and 14577
the money therefrom and thereof may be applied to the purposes for 14578
which pledged. 14579

(G) Obligations may be further secured, as determined by the 14580
issuing authority, by an indenture or a trust agreement between 14581
the issuing authority and a corporate trustee, which may be any 14582
trust company or bank having a place of business within the state. 14583
Any indenture or trust agreement may contain the resolution or 14584
order authorizing the issuance of the obligations, any provisions 14585
that may be contained in any bond proceedings, and other 14586
provisions that are customary or appropriate in an agreement of 14587
that type, including, but not limited to: 14588

(1) Maintenance of each pledge, indenture, trust agreement, 14589
or other instrument comprising part of the bond proceedings until 14590
the issuing authority has fully paid or provided for the payment 14591
of debt service on the obligations secured by it; 14592

(2) In the event of default in any payments required to be 14593
made by the bond proceedings, enforcement of those payments or 14594
agreements by mandamus, the appointment of a receiver, suit in 14595
equity, action at law, or any combination of them; 14596

(3) The rights and remedies of the holders or owners of obligations and of the trustee and provisions for protecting and enforcing them, including limitations on rights of individual holders and owners.

(H) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or to particular obligations including, but not limited to, provisions for:

(1) The redemption of obligations prior to maturity at the option of the issuing authority or of the holder or upon the occurrence of certain conditions, and at a particular price or prices and under particular terms and conditions;

(2) The form of and other terms of the obligations;

(3) The establishment, deposit, investment, and application of special funds, and the safeguarding of moneys on hand or on deposit, in lieu of the applicability of provisions of Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to the application of particular funds or moneys. Any financial institution that acts as a depository of any moneys in special funds or other funds under the bond proceedings may furnish indemnifying bonds or pledge securities as required by the issuing authority.

(4) Any or every provision of the bond proceedings being binding upon the issuing authority and upon such governmental agency or entity, officer, board, authority, agency, department, institution, district, or other person or body as may from time to time be authorized to take actions as may be necessary to perform all or any part of the duty required by the provision;

(5) The maintenance of each pledge or instrument comprising part of the bond proceedings until the issuing authority has fully paid or provided for the payment of the debt service on the

obligations or met other stated conditions;	14628
(6) In the event of default in any payments required to be made by the bond proceedings, or by any other agreement of the issuing authority made as part of a contract under which the obligations were issued or secured, including a credit enhancement facility, the enforcement of those payments by mandamus, a suit in equity, an action at law, or any combination of those remedial actions;	14629 14630 14631 14632 14633 14634 14635
(7) The rights and remedies of the holders or owners of obligations or of book-entry interests in them, and of third parties under any credit enhancement facility, and provisions for protecting and enforcing those rights and remedies, including limitations on rights of individual holders or owners;	14636 14637 14638 14639 14640
(8) The replacement of mutilated, destroyed, lost, or stolen obligations;	14641 14642
(9) The funding, refunding, or advance refunding, or other provision for payment, of obligations that will then no longer be outstanding for purposes of this section or of the applicable bond proceedings;	14643 14644 14645 14646
(10) Amendment of the bond proceedings;	14647
(11) Any other or additional agreements with the owners of obligations, and such other provisions as the issuing authority determines, including limitations, conditions, or qualifications, relating to any of the foregoing or the activities of the issuing authority in connection therewith.	14648 14649 14650 14651 14652
The bond proceedings shall make provision for the payment of the expenses of the enforcement activity of the attorney general referred to in division (B) of this section from the amounts from the tobacco master settlement agreement assigned and sold to the issuing authority under that division or from the proceeds of obligations, or a combination thereof, which may include provision	14653 14654 14655 14656 14657 14658

for both annual payments and a special fund providing reserve 14659
amounts for the payment of those expenses. 14660

The issuing authority shall not, and shall covenant in the 14661
bond proceedings that it shall not, be authorized to and shall not 14662
file a voluntary petition under the United States Bankruptcy Code, 14663
11 U.S.C. 101 et seq., as amended, or voluntarily commence any 14664
similar bankruptcy proceeding under state law including, without 14665
limitation, consenting to the appointment of a receiver or trustee 14666
or making a general or specific assignment for the benefit of 14667
creditors, and neither any public officer or any organization, 14668
entity, or other person shall authorize the issuing authority to 14669
be or become a debtor under the United States Bankruptcy Code or 14670
take any of those actions under the United States Bankruptcy Code 14671
or state law. The state hereby covenants, and the issuing 14672
authority shall covenant, with the holders or owners of the 14673
obligations, that the state shall not permit the issuing authority 14674
to file a voluntary petition under the United States Bankruptcy 14675
Code or take any of those actions under the United States 14676
Bankruptcy Code or state law during the period obligations are 14677
outstanding and for any additional period for which the issuing 14678
authority covenants in the bond proceedings, which additional 14679
period may, but need not, be a period of three hundred sixty-seven 14680
days or more. 14681

(I) The obligations requiring execution by or for the issuing 14682
authority shall be signed as provided in the bond proceedings, and 14683
may bear the official seal of the issuing authority or a facsimile 14684
thereof. Any obligation may be signed by the individual who, on 14685
the date of execution, is the authorized signer even though, on 14686
the date of the obligations, that individual is not an authorized 14687
signer. In case the individual whose signature or facsimile 14688
signature appears on any obligation ceases to be an authorized 14689
signer before delivery of the obligation, that signature or 14690

facsimile is nevertheless valid and sufficient for all purposes as 14691
if that individual had remained the authorized signer until 14692
delivery. 14693

(J) Obligations are investment securities under Chapter 1308. 14694
of the Revised Code. Obligations may be issued in bearer or in 14695
registered form, registrable as to principal alone or as to both 14696
principal and interest, or both, or in certificated or 14697
uncertificated form, as the issuing authority determines. 14698
Provision may be made for the exchange, conversion, or transfer of 14699
obligations and for reasonable charges for registration, exchange, 14700
conversion, and transfer. Pending preparation of final 14701
obligations, the issuing authority may provide for the issuance of 14702
interim instruments to be exchanged for the final obligations. 14703

(K) Obligations may be sold at public sale or at private 14704
sale, in such manner, and at such price at, above, or below par, 14705
all as determined by and provided by the issuing authority in the 14706
bond proceedings. 14707

(L) Except to the extent that rights are restricted by the 14708
bond proceedings, any owner of obligations or provider of or 14709
counterparty to a credit enhancement facility may by any suitable 14710
form of legal proceedings protect and enforce any rights relating 14711
to obligations or that facility under the laws of this state or 14712
granted by the bond proceedings. Those rights include the right to 14713
compel the performance of all applicable duties of the issuing 14714
authority and the state. Each duty of the issuing authority and 14715
that issuing authority's officers, staff, and employees, and of 14716
each state entity or agency, or using district or using 14717
institution, and its officers, members, staff, or employees, 14718
undertaken pursuant to the bond proceedings, is hereby established 14719
as a duty of the entity or individual having authority to perform 14720
that duty, specifically enjoined by law and resulting from an 14721
office, trust, or station within the meaning of section 2731.01 of 14722

the Revised Code. The individuals who are from time to time 14723
members of the issuing authority, or their designees acting 14724
pursuant to section 183.52 of the Revised Code, or the issuing 14725
authority's officers, staff, agents, or employees, when acting 14726
within the scope of their employment or agency, shall not be 14727
liable in their personal capacities on any obligations or 14728
otherwise under the bond proceedings, or for otherwise exercising 14729
or carrying out any purposes or powers of the issuing authority. 14730

(M)(1) Subject to any applicable limitations in division (C) 14731
of this section, the issuing authority may also authorize and 14732
provide for the issuance of: 14733

(a) Obligations in the form of bond anticipation notes, and 14734
may authorize and provide for the renewal of those notes from time 14735
to time by the issuance of new notes. The holders of notes or 14736
appertaining interest coupons have the right to have debt service 14737
on those notes paid solely from the moneys and special funds, and 14738
all or any portion of the pledged receipts, that are or may be 14739
pledged to that payment, including the proceeds of bonds or 14740
renewal notes or both, as the issuing authority provides in the 14741
bond proceedings authorizing the notes. Notes may be additionally 14742
secured by covenants of the issuing authority to the effect that 14743
the issuing authority will do all things necessary for the 14744
issuance of bonds or renewal notes in such principal amount and 14745
upon such terms as may be necessary to provide moneys to pay when 14746
due the debt service on the notes, and apply their proceeds to the 14747
extent necessary, to make full and timely payment of debt service 14748
on the notes as provided in the applicable bond proceedings. In 14749
the bond proceedings authorizing the issuance of bond anticipation 14750
notes the issuing authority shall set forth for the bonds 14751
anticipated an estimated schedule of annual principal payments the 14752
latest of which shall be no later than provided in division (D) of 14753
this section. While the notes are outstanding there shall be 14754

deposited, as shall be provided in the bond proceedings for those 14755
notes, from the sources authorized for payment of debt service on 14756
the bonds, amounts sufficient to pay the principal of the bonds 14757
anticipated as set forth in that estimated schedule during the 14758
time the notes are outstanding, which amounts shall be used solely 14759
to pay the principal of those notes or of the bonds anticipated. 14760

(b) Obligations for the refunding, including funding and 14761
retirement, and advance refunding, with or without payment or 14762
redemption prior to maturity, of any obligations previously issued 14763
under this section and any bonds or notes previously issued for 14764
the purpose of paying costs of capital facilities for: (i) 14765
state-supported or state-assisted institutions of higher education 14766
as authorized by sections 151.01 and 151.04 of the Revised Code, 14767
pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution, 14768
and (ii) housing branches and agencies of state government limited 14769
to facilities for a system of common schools throughout the state 14770
as authorized by sections 151.01 and 151.03 of the Revised Code, 14771
pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution. 14772
Refunding obligations may be issued in amounts sufficient to pay 14773
or to provide for repayment of the principal amount, including 14774
principal amounts maturing prior to the redemption of the 14775
remaining prior obligations or bonds or notes, any redemption 14776
premium, and interest accrued or to accrue to the maturity or 14777
redemption date or dates, payable on the prior obligations or 14778
bonds or notes, and related financing costs and any expenses 14779
incurred or to be incurred in connection with that issuance and 14780
refunding. Subject to the applicable bond proceedings, the portion 14781
of the proceeds of the sale of refunding obligations issued under 14782
division (M)(1)(b) of this section to be applied to debt service 14783
on the prior obligations or bonds or notes shall be credited to an 14784
appropriate separate account in the bond service fund and held in 14785
trust for the purpose by the issuing authority or by a corporate 14786
trustee, and may be invested as provided in the bond proceedings. 14787

Obligations authorized under this division shall be considered to 14788
be issued for those purposes for which the prior obligations or 14789
bonds or notes were issued. 14790

(2) The principal amount of refunding, advance refunding, or 14791
renewal obligations issued pursuant to division (M) of this 14792
section shall be in addition to the amount authorized in division 14793
(C) of this section. 14794

(N) Obligations are lawful investments for banks, savings and 14795
loan associations, credit union share guaranty corporations, trust 14796
companies, trustees, fiduciaries, insurance companies, including 14797
domestic for life and domestic not for life, trustees or other 14798
officers having charge of sinking and bond retirement or other 14799
special funds of the state and political subdivisions and taxing 14800
districts of this state, notwithstanding any other provisions of 14801
the Revised Code or rules adopted pursuant to those provisions by 14802
any state agency with respect to investments by them, and are also 14803
acceptable as security for the repayment of the deposit of public 14804
moneys. The exemptions from taxation in Ohio as provided for in 14805
particular sections of the Ohio Constitution and section 5709.76 14806
of the Revised Code apply to the obligations. 14807

(O)(1) Unless otherwise provided or provided for in any 14808
applicable bond proceedings, moneys to the credit of or in a 14809
special fund shall be disbursed on the order of the issuing 14810
authority. No such order is required for the payment, from the 14811
bond service fund or other special fund, when due of debt service 14812
or required payments under credit enhancement facilities. 14813

(2) Payments received by the issuing authority under interest 14814
rate hedges entered into as credit enhancement facilities under 14815
this section shall be deposited as provided in the applicable bond 14816
proceedings. 14817

(P) The obligations shall not be general obligations of the 14818

state and the full faith and credit, revenue, and taxing power of 14819
the state shall not be pledged to the payment of debt service on 14820
them or to any guarantee of the payment of that debt service. The 14821
holders or owners of the obligations shall have no right to have 14822
any moneys obligated or pledged for the payment of debt service 14823
except as provided in this section and in the applicable bond 14824
proceedings. The rights of the holders and owners to payment of 14825
debt service are limited to all or that portion of the pledged 14826
receipts, and those special funds, pledged to the payment of debt 14827
service pursuant to the bond proceedings in accordance with this 14828
section, and each obligation shall bear on its face a statement to 14829
that effect. 14830

(Q) Each bond service fund is a trust fund and is hereby 14831
pledged to the payment of debt service on the applicable 14832
obligations. Payment of that debt service shall be made or 14833
provided for by the issuing authority in accordance with the bond 14834
proceedings without necessity for any act of appropriation. The 14835
bond proceedings may provide for the establishment of separate 14836
accounts in the bond service fund and for the application of those 14837
accounts only to debt service on specific obligations, and for 14838
other accounts in the bond service fund within the general 14839
purposes of that fund. 14840

(R) Subject to the bond proceedings pertaining to any 14841
obligations then outstanding in accordance with their terms, the 14842
issuing authority may in the bond proceedings pledge all, or such 14843
portion as the issuing authority determines, of the moneys in the 14844
bond service fund to the payment of debt service on particular 14845
obligations, and for the establishment and maintenance of any 14846
reserves for payment of particular debt service. 14847

(S)(1) Unless otherwise provided in any applicable bond 14848
proceedings, moneys to the credit of special funds may be invested 14849
by or on behalf of the issuing authority only in one or more of 14850

the following: 14851

(a) Notes, bonds, or other direct obligations of the United States or of any agency or instrumentality of the United States, or in no-front-end-load money market mutual funds consisting exclusively of those obligations, or in repurchase agreements, including those issued by any fiduciary, secured by those obligations, or in collective investment funds consisting exclusively of those obligations; 14852
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14858

(b) Obligations of this state or any political subdivision of this state; 14859
14860

(c) Certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions; 14861
14862
14863
14864

(d) The treasurer of state's pooled investment program under section 135.45 of the Revised Code; 14865
14866

(e) Other investment agreements or repurchase agreements that are consistent with the ratings on the obligations. 14867
14868

(2) The income from investments referred to in division (S)(1) of this section shall be credited to special funds or otherwise as the issuing authority determines in the bond proceedings. Those investments may be sold or exchanged at times as the issuing authority determines, provides for, or authorizes. 14869
14870
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14873

(T) The treasurer of state shall have responsibility for keeping records, making reports, and making payments, relating to any arbitrage rebate requirements under the applicable bond proceedings. 14874
14875
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(U) The issuing authority shall make quarterly reports to the general assembly of the amounts in, and activities of, each improvement fund, including amounts and activities on the subfund 14878
14879
14880

level. Each report shall include a detailed description and 14881
analysis of the amount of proceeds remaining in each fund from the 14882
sale of obligations pursuant to this section, and any other 14883
deposits, credits, interest earnings, disbursements, expenses, 14884
transfers, or activities of each fund. 14885

(V) The costs of the annual audit of the authority conducted 14886
pursuant to section 117.112 of the Revised Code are payable, as 14887
may be provided in the bond proceedings, from the proceeds of the 14888
obligations, from special funds, or from other moneys available 14889
for the purpose, including as to future financing costs, from the 14890
pledged receipts. 14891

Sec. 185.01. As used in this chapter: 14892

(A) "Advanced practice nurse" has the same meaning as in 14893
section 4723.01 of the Revised Code. 14894

(B) "Collaboration" has the same meaning as in section 14895
4723.01 of the Revised Code. 14896

~~(C) "Health care coverage and quality council" means the 14897
entity established under section 3923.90 of the Revised Code. 14898~~

~~(D)~~ "Patient centered medical home education advisory group" 14899
means the entity established under section 185.03 of the Revised 14900
Code to implement and administer the patient centered medical home 14901
education pilot project. 14902

~~(E)~~(D) "Patient centered medical home education pilot 14903
project" means the pilot project established under section 185.02 14904
of the Revised Code. 14905

Sec. 185.03. (A) The patient centered medical home education 14906
advisory group is hereby created for the purpose of implementing 14907
and administering the patient centered medical home pilot project. 14908
The advisory group shall develop a set of expected outcomes for 14909

the pilot project. 14910

(B) The advisory group shall consist of the following voting 14911
members: 14912

(1) One individual with expertise in the training and 14913
education of primary care physicians who is appointed by the dean 14914
of the university of Toledo college of medicine; 14915

(2) One individual with expertise in the training and 14916
education of primary care physicians who is appointed by the dean 14917
of the Boonshoft school of medicine at Wright state university; 14918

(3) One individual with expertise in the training and 14919
education of primary care physicians who is appointed by the 14920
president and dean of the northeastern Ohio universities colleges 14921
of medicine and pharmacy; 14922

(4) One individual with expertise in the training and 14923
education of primary care physicians who is appointed by the dean 14924
of the Ohio university college of osteopathic medicine; 14925

(5) Two individuals appointed by the governing board of the 14926
Ohio academy of family physicians; 14927

(6) One individual appointed by the governing board of the 14928
Ohio chapter of the American college of physicians; 14929

(7) One individual appointed by the governing board of the 14930
American academy of pediatrics; 14931

(8) One individual appointed by the governing board of the 14932
Ohio osteopathic association; 14933

(9) One individual with expertise in the training and 14934
education of advanced practice nurses who is appointed by the 14935
governing board of the Ohio council of deans and directors of 14936
baccalaureate and higher degree programs in nursing; 14937

(10) One individual appointed by the governing board of the 14938
Ohio nurses association; 14939

(11) One individual appointed by the governing board of the Ohio association of advanced practice nurses;	14940 14941
(12) A member of the health care coverage and quality council, other than the advisory group member specified in division (C)(2) of this section, <u>One individual appointed by the governing board of the Ohio council for home care and hospice;</u>	14942 14943 14944 14945
<u>(13) One individual</u> appointed by the superintendent of insurance.	14946 14947
(C) The advisory group shall consist of the following nonvoting, ex officio members:	14948 14949
(1) The executive director of the state medical board, or the director's designee;	14950 14951
(2) The executive director of the board of nursing or the director's designee;	14952 14953
(3) The chancellor of the Ohio board of regents, or the chancellor's designee;	14954 14955
(4) The individual within the department of job and family services who serves as the director of medicaid, or the director's designee;	14956 14957 14958
(5) The director of health or the director's designee.	14959
(D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term.	14960 14961 14962 14963 14964
Vacancies shall be filled in the manner provided for original appointments.	14965 14966
Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties.	14967 14968 14969

(E) The advisory group shall select from among its members a chairperson and vice-chairperson. The advisory group may select any other officers it considers necessary to conduct its business.

A majority of the members of the advisory group constitutes a quorum for the transaction of official business. A majority of a quorum is necessary for the advisory group to take any action, except that when one or more members of a quorum are required to abstain from voting as provided in division (C)(1)(d) or (C)(2)(c) of section 185.05 of the Revised Code, the number of members necessary for a majority of a quorum shall be reduced accordingly.

The advisory group shall meet as necessary to fulfill its duties. The times and places for the meetings shall be selected by the chairperson.

(F) Sections 101.82 to 101.87 of the Revised Code do not apply to the advisory group.

Sec. 185.06. (A) To be eligible for inclusion in the patient centered medical home education pilot project, a physician practice shall meet all of the following requirements:

(1) Consist of physicians who are board-certified in family medicine, general pediatrics, or internal medicine, as those designations are issued by a medical specialty certifying board recognized by the American board of medical specialties or American osteopathic association;

(2) Be capable of adapting the practice during the period in which the practice receives funding from the patient centered medical home education advisory group in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the advisory group;

(3) ~~Comply with any reporting requirements recommended by the~~

~~health care coverage and quality council under division (A)(12) of~~ 15000
~~section 3923.91 of the Revised Code;~~ 15001

~~(4)~~ Meet any other criteria established by the advisory group 15002
as part of the selection process. 15003

(B) To be eligible for inclusion in the pilot project, an 15004
advanced practice nurse primary care practice shall meet all of 15005
the following requirements: 15006

(1) Consist of advanced practice nurses who meet all of the 15007
following requirements: 15008

(a) Hold a certificate to prescribe issued under section 15009
4723.48 of the Revised Code; 15010

(b) Are board-certified as a family nurse practitioner or 15011
adult nurse practitioner by the American academy of nurse 15012
practitioners or American nurses credentialing center, 15013
board-certified as a geriatric nurse practitioner or women's 15014
health nurse practitioner by the American nurses credentialing 15015
center, or is board-certified as a pediatric nurse practitioner by 15016
the American nurses credentialing center or pediatric nursing 15017
certification board; 15018

(c) Has a collaboration agreement with a physician with board 15019
certification as specified in division (A)(1) of this section and 15020
who is an active participant on the health care team. 15021

(2) Be capable of adapting the primary care practice during 15022
the period in which the practice receives funding from the 15023
advisory group in such a manner that the practice is fully 15024
compliant with the minimum standards for operation of a patient 15025
centered medical home, as those standards are established by the 15026
advisory group; 15027

~~(3) Comply with any reporting requirements recommended by the~~ 15028
~~health care coverage and quality council under division (A)(12) of~~ 15029

~~section 3923.91 of the Revised Code;~~ 15030

(4) Meet any other criteria established by the advisory group 15031
as part of the selection process. 15032

Sec. 185.10. The patient centered medical home education 15033
advisory group shall seek funding sources for the patient centered 15034
medical home education pilot project. In doing so, the advisory 15035
group may apply for grants, seek federal funds, seek private 15036
donations, or seek any other type of funding that may be available 15037
for the pilot project. ~~To ensure that appropriate sources of and 15038~~
~~opportunities for funding are identified and pursued, the advisory 15039~~
~~group may ask for assistance from the health care coverage and 15040~~
~~quality council.~~ 15041

Sec. 301.02. Previous to the presentation of a petition to 15042
the general assembly praying that a new county be erected, or for 15043
the location or relocation of a county seat, notice of the 15044
intention to present such petition shall be given, at least thirty 15045
days before the ensuing session of the general assembly, by 15046
advertisement in a newspaper published of general circulation in 15047
each county from which such new county is intended to be taken. If 15048
no paper newspaper is printed of general circulation within the 15049
county, notice shall be given by advertisement affixed to the door 15050
of the house where courts are held for such county, for such 15051
period of thirty days. The notice shall set forth the boundary 15052
lines of the new county, or the place where it is proposed to 15053
locate such county seat. 15054

Sec. 301.15. Within sixty days after their appointment, the 15055
commissioners provided for by section 301.14 of the Revised Code, 15056
or any two of them, shall assemble at some convenient place in the 15057
new county. Twenty days' notice of the time, place, and purpose of 15058
such meeting shall be given by publication in a newspaper 15059

~~published in and circulated~~ of general circulation in ~~such the~~ 15060
county, or by being posted in three of the most public places in 15061
such county. When assembled, after having taken the oath of office 15062
prescribed by sections 3.22 and 3.23 of the Revised Code, such 15063
commissioners shall proceed to examine and select the most proper 15064
place as a seat of justice, as near the center of the county as 15065
possible, having regard to the situation, extent of population, 15066
quality of land, and the convenience and interest of the 15067
inhabitants. 15068

Sec. 301.28. (A) As used in this section: 15069

(1) "Financial transaction device" includes a credit card, 15070
debit card, charge card, or prepaid or stored value card, or 15071
automated clearinghouse network credit, debit, or e-check entry 15072
that includes, but is not limited to, accounts receivable and 15073
internet-initiated, point of purchase, and telephone-initiated 15074
applications or any other device or method for making an 15075
electronic payment or transfer of funds. 15076

(2) "County expenses" includes fees, costs, taxes, 15077
assessments, fines, penalties, payments, or any other expense a 15078
person owes to a county office under the authority of a county 15079
official other than dog registration and kennel fees required to 15080
be paid under Chapter 955. of the Revised Code. 15081

(3) "County official" includes the county auditor, county 15082
treasurer, county engineer, county recorder, county prosecuting 15083
attorney, county sheriff, county coroner, county park district and 15084
board of county commissioners, the clerk of the probate court, the 15085
clerk of the juvenile court, the clerks of court for all divisions 15086
of the courts of common pleas, and the clerk of the court of 15087
common pleas, the clerk of a county-operated municipal court, and 15088
the clerk of a county court. 15089

The term "county expenses" includes county expenses owed to 15090

the board of health of the general health district or a combined health district in the county. If the board of county commissioners authorizes county expenses to be paid by financial transaction devices under this section, then the board of health and the general health district and the combined health district may accept payments by financial transaction devices under this section as if the board were a "county official" and the district were a county office. However, in the case of a general health district formed by unification of general health districts under section 3709.10 of the Revised Code, this entitlement applies only if all the boards of county commissioners of all counties in the district have authorized payments to be accepted by financial transaction devices.

(B) Notwithstanding any other section of the Revised Code and except as provided in division (D) of this section, a board of county commissioners may adopt a resolution authorizing the acceptance of payments by financial transaction devices for county expenses. The resolution shall include the following:

(1) A specification of those county officials who, and of the county offices under those county officials that, are authorized to accept payments by financial transaction devices;

(2) A list of county expenses that may be paid for through the use of a financial transaction device;

(3) Specific identification of financial transaction devices that the board authorizes as acceptable means of payment for county expenses. Uniform acceptance of financial transaction devices among different types of county expenses is not required.

(4) The amount, if any, authorized as a surcharge or convenience fee under division (E) of this section for persons using a financial transaction device. Uniform application of surcharges or convenience fees among different types of county

expenses is not required. 15122

(5) A specific provision as provided in division (G) of this 15123
section requiring the payment of a penalty if a payment made by 15124
means of a financial transaction device is returned or dishonored 15125
for any reason. 15126

The board's resolution shall also designate the county 15127
treasurer as an administrative agent to solicit proposals, within 15128
guidelines established by the board in the resolution and in 15129
compliance with the procedures provided in division (C) of this 15130
section, from financial institutions, issuers of financial 15131
transaction devices, and processors of financial transaction 15132
devices, to make recommendations about those proposals to the 15133
board, and to assist county offices in implementing the county's 15134
financial transaction devices program. The county treasurer may 15135
decline this responsibility within thirty days after receiving a 15136
copy of the board's resolution by notifying the board in writing 15137
within that period. If the treasurer so notifies the board, the 15138
board shall perform the duties of the administrative agent. 15139

If the county treasurer is the administrative agent and fails 15140
to administer the county financial transaction devices program in 15141
accordance with the guidelines in the board's resolution, the 15142
board shall notify the treasurer in writing of the board's 15143
findings, explain the failures, and give the treasurer six months 15144
to correct the failures. If the treasurer fails to make the 15145
appropriate corrections within that six-month period, the board 15146
may pass a resolution declaring the board to be the administrative 15147
agent. The board may later rescind that resolution at its 15148
discretion. 15149

(C) The county shall follow the procedures provided in this 15150
division whenever it plans to contract with financial 15151
institutions, issuers of financial transaction devices, or 15152
processors of financial transaction devices for the purposes of 15153

this section. The administrative agent shall request proposals 15154
from at least three financial institutions, issuers of financial 15155
transaction devices, or processors of financial transaction 15156
devices, as appropriate in accordance with the resolution adopted 15157
under division (B) of this section. Prior to sending any financial 15158
institution, issuer, or processor a copy of any such request, the 15159
county shall advertise its intent to request proposals in a 15160
newspaper of general circulation in the county once a week for two 15161
consecutive weeks or as provided in section 7.16 of the Revised 15162
Code. The notice shall state that the county intends to request 15163
proposals; specify the purpose of the request; indicate the date, 15164
which shall be at least ten days after the second publication, on 15165
which the request for proposals will be mailed to financial 15166
institutions, issuers, or processors; and require that any 15167
financial institution, issuer, or processor, whichever is 15168
appropriate, interested in receiving the request for proposals 15169
submit written notice of this interest to the county not later 15170
than noon of the day on which the request for proposals will be 15171
mailed. 15172

Upon receiving the proposals, the administrative agent shall 15173
review them and make a recommendation to the board of county 15174
commissioners on which proposals to accept. The board of county 15175
commissioners shall consider the agent's recommendation and review 15176
all proposals submitted, and then may choose to contract with any 15177
or all of the entities submitting proposals, as appropriate. The 15178
board shall provide any financial institution, issuer, or 15179
processor that submitted a proposal, but with which the board does 15180
not enter into a contract, notice that its proposal is rejected. 15181
The notice shall state the reasons for the rejection, indicate 15182
whose proposals were accepted, and provide a copy of the terms and 15183
conditions of the successful bids. 15184

(D) A board of county commissioners adopting a resolution 15185

under this section shall send a copy of the resolution to each 15186
county official in the county who is authorized by the resolution 15187
to accept payments by financial transaction devices. After 15188
receiving the resolution and before accepting payments by 15189
financial transaction devices, a county official shall provide 15190
written notification to the board of county commissioners of the 15191
official's intent to implement the resolution within the 15192
official's office. Each county office subject to the board's 15193
resolution adopted under division (B) of this section may use only 15194
the financial institutions, issuers of financial transaction 15195
devices, and processors of financial transaction devices with 15196
which the board of county commissioners contracts, and each such 15197
office is subject to the terms of those contracts. 15198

If a county office under the authority of a county official 15199
is directly responsible for collecting one or more county expenses 15200
and the county official determines not to accept payments by 15201
financial transaction devices for one or more of those expenses, 15202
the office shall not be required to accept payments by financial 15203
transaction devices, notwithstanding the adoption of a resolution 15204
by the board of county commissioners under this section. 15205

Any office of a clerk of the court of common pleas that 15206
accepts financial transaction devices on or before July 1, 1999, 15207
and any other county office that accepted such devices before 15208
January 1, 1998, may continue to accept such devices without being 15209
subject to any resolution passed by the board of county 15210
commissioners under division (B) of this section, or any other 15211
oversight by the board of the office's financial transaction 15212
devices program. Any such office may use surcharges or convenience 15213
fees in any manner the county official in charge of the office 15214
determines to be appropriate, and, if the county treasurer 15215
consents, may appoint the county treasurer to be the office's 15216
administrative agent for purposes of accepting financial 15217

transaction devices. In order not to be subject to the resolution 15218
of the board of county commissioners adopted under division (B) of 15219
this section, a county office shall notify the board in writing 15220
within thirty days after March 30, 1999, that it accepted 15221
financial transaction devices prior to January 1, 1998, or, in the 15222
case of the office of a clerk of the court of common pleas, the 15223
clerk has accepted or will accept such devices on or before July 15224
1, 1999. Each such notification shall explain how processing costs 15225
associated with financial transaction devices are being paid and 15226
shall indicate whether surcharge or convenience fees are being 15227
passed on to consumers. 15228

(E) A board of county commissioners may establish a surcharge 15229
or convenience fee that may be imposed upon a person making 15230
payment by a financial transaction device. The surcharge or 15231
convenience fee shall not be imposed unless authorized or 15232
otherwise permitted by the rules prescribed by an agreement 15233
governing the use and acceptance of the financial transaction 15234
device. 15235

If a surcharge or convenience fee is imposed, every county 15236
office accepting payment by a financial transaction device, 15237
regardless of whether that office is subject to a resolution 15238
adopted by a board of county commissioners, shall clearly post a 15239
notice in that office and shall notify each person making a 15240
payment by such a device about the surcharge or fee. Notice to 15241
each person making a payment shall be provided regardless of the 15242
medium used to make the payment and in a manner appropriate to 15243
that medium. Each notice shall include all of the following: 15244

(1) A statement that there is a surcharge or convenience fee 15245
for using a financial transaction device; 15246

(2) The total amount of the charge or fee expressed in 15247
dollars and cents for each transaction, or the rate of the charge 15248
or fee expressed as a percentage of the total amount of the 15249

transaction, whichever is applicable; 15250

(3) A clear statement that the surcharge or convenience fee 15251
is nonrefundable. 15252

(F) If a person elects to make a payment to the county by a 15253
financial transaction device and a surcharge or convenience fee is 15254
imposed, the payment of the surcharge or fee shall be considered 15255
voluntary and the surcharge or fee is not refundable. 15256

(G) If a person makes payment by financial transaction device 15257
and the payment is returned or dishonored for any reason, the 15258
person is liable to the county for payment of a penalty over and 15259
above the amount of the expense due. The board of county 15260
commissioners shall determine the amount of the penalty, which may 15261
be either a fee not to exceed twenty dollars or payment of the 15262
amount necessary to reimburse the county for banking charges, 15263
legal fees, or other expenses incurred by the county in collecting 15264
the returned or dishonored payment. The remedies and procedures 15265
provided in this section are in addition to any other available 15266
civil or criminal remedies provided by law. 15267

(H) No person making any payment by financial transaction 15268
device to a county office shall be relieved from liability for the 15269
underlying obligation except to the extent that the county 15270
realizes final payment of the underlying obligation in cash or its 15271
equivalent. If final payment is not made by the financial 15272
transaction device issuer or other guarantor of payment in the 15273
transaction, the underlying obligation shall survive and the 15274
county shall retain all remedies for enforcement that would have 15275
applied if the transaction had not occurred. 15276

(I) A county official or employee who accepts a financial 15277
transaction device payment in accordance with this section and any 15278
applicable state or local policies or rules is immune from 15279
personal liability for the final collection of such payments. 15280

Sec. 305.23. (A) As used in this section, "county office" 15281
means the offices of the county commissioner, county auditor, 15282
county treasurer, county engineer, county recorder, county 15283
prosecuting attorney, county sheriff, county coroner, county park 15284
district, clerk of the juvenile court, clerks of court for all 15285
divisions of the courts of common pleas, including the clerk of 15286
the court of common pleas, clerk of a county-operated municipal 15287
court, and clerk of a county court, and any agency or department 15288
under the authority of, or receiving funding in whole or in part 15289
from, any of those county offices. 15290

(B) A board of county commissioners may adopt a resolution 15291
establishing centralized purchasing, printing, transportation, 15292
vehicle maintenance, human resources, revenue collection, and mail 15293
operation services for a county office. The resolution shall 15294
specify all of the following: 15295

(1) Which county offices are required to use the centralized 15296
services; 15297

(2) If not all of the centralized services, which centralized 15298
service each county office must use; 15299

(3) A list of rates and charges the county office shall pay 15300
for the centralized services; 15301

(4) The date upon which each county office specified in the 15302
resolution shall begin using the centralized services. 15303

Not later than ten days after a resolution is adopted under 15304
this section, the clerk of the board of county commissioners shall 15305
send a copy of the resolution to each county office that is 15306
specified in the resolution. 15307

Sec. 306.322. (A) For any regional transit authority that 15308
levies a property tax and that includes a county having a 15309
population of at least four hundred thousand according to the most 15310

recent federal census, the procedures of this section apply until 15311
November 5, 2013, and are in addition to and an alternative to 15312
those established in sections 306.32 and 306.321 for joining to 15313
the regional transit authority additional counties, municipal 15314
corporations, or townships. 15315

(B) Any county, municipal corporation, or township may adopt 15316
a resolution or ordinance proposing to join a regional transit 15317
authority described in division (A) of this section. In its 15318
resolution or ordinance, the political subdivision may propose 15319
joining the regional transit authority for a limited period of 15320
three years or without a time limit. 15321

(C) The political subdivision proposing to join the regional 15322
transit authority shall submit a copy of its resolution or 15323
ordinance to the board of the county commissioners of each county, 15324
the legislative authority of each municipal corporation, and the 15325
board of trustees of each township comprising the regional transit 15326
authority. Within thirty days of receiving the resolution or 15327
ordinance for inclusion in the regional transit authority, the 15328
board of the county commissioners of each county, the legislative 15329
authority of each municipal corporation, and the board of trustees 15330
of each township shall consider the question of whether to include 15331
the additional subdivision in the regional transit authority, 15332
shall adopt a resolution or ordinance approving or rejecting the 15333
inclusion of the additional subdivision, and shall present its 15334
resolution or ordinance to the board of trustees of the regional 15335
transit authority. 15336

(D) If a majority of the political subdivisions comprising 15337
the regional transit authority approve the inclusion of the 15338
additional political subdivision, the board of trustees of the 15339
regional transit authority, not later than the tenth day following 15340
the day on which the last ordinance or resolution is presented, 15341

shall notify the subdivision proposing to join the regional transit authority that it may certify the proposal to the board of elections for the purpose of having the proposal placed on the ballot at the next general election or at a special election conducted on the day of the next primary election that occurs not less than seventy-five days after the resolution or ordinance is certified to the board of elections. 15342
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(E) Upon certification of a proposal to the board of elections pursuant to this section, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the territory to be included in the regional transit authority qualified to vote on the question, and the election shall be held, canvassed, and certified in the same manner as regular elections for the election of officers of the subdivision proposing to join the regional transit authority, except that, if the resolution proposed the inclusion without a time limitation the question appearing on the ballot shall read: 15349
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"Shall the territory within the
(Name or names of political subdivisions to be joined) be added to (Name) regional transit authority?" and shall a(n) (here insert type of tax or taxes) at a rate of taxation not to exceed (here insert maximum tax rate or rates) be levied for all transit purposes?" 15359
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If the resolution proposed the inclusion with a three-year time limitation, the question appearing on the ballot shall read: 15365
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"Shall the territory within the
(Name or names of political subdivisions to be joined) be added to (Name) regional transit authority?" for three years and shall a(n) (here insert type of tax or taxes) at a rate of taxation not to exceed (here insert maximum tax rate or rates) be levied for all transit purposes for three years?" 15367
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(F) If the question is approved by at least a majority of the electors voting on the question, the addition of the new territory is immediately effective, and the regional transit authority may extend the levy of the tax against all the taxable property within the territory that was added. If the question is approved at a general election or at a special election occurring prior to the general election but after the fifteenth day of July, the regional transit authority may amend its budget and resolution adopted pursuant to section 5705.34 of the Revised Code, and the levy shall be placed on the current tax list and duplicate and collected as other taxes are collected from all taxable property within the territorial boundaries of the regional transit authority, including the territory within the political subdivision added as a result of the election. If the budget of the regional transit authority is amended pursuant to this paragraph, the county auditor shall prepare and deliver an amended certificate of estimated resources to reflect the change in anticipated revenues of the regional transit authority. 15374
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(G) If the question is approved by at least a majority of the electors voting on the question, the board of trustees of the regional transit authority immediately shall amend the resolution or ordinance creating the regional transit authority to include the additional political subdivision. 15392
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(H) If the question approved by a majority of the electors voting on the question added the subdivision for three years, the territory of the additional county, municipal corporation, or township in the regional transit authority shall be removed from the territory of the regional transit authority three years after the date the territory was added, as determined in the effective date of the election, and shall no longer be a part of that authority without any further action by either the political subdivisions that were included in the authority prior to 15397
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submitting the question to the electors or of the political 15406
subdivision added to the authority as a result of the election. 15407
The regional transit authority reduced to its territory as it 15408
existed prior to the inclusion of the additional county, municipal 15409
corporation, or township, shall be entitled to levy and collect 15410
any property taxes that it was authorized to levy and collect 15411
prior to the enlargement of its territory and for which 15412
authorization has not expired, as if the enlargement had not 15413
occurred. 15414

Sec. 306.35. Upon the creation of a regional transit 15415
authority as provided by section 306.32 of the Revised Code, and 15416
upon the qualifying of its board of trustees and the election of a 15417
president and a vice-president, the authority shall exercise in 15418
its own name all the rights, powers, and duties vested in and 15419
conferred upon it by sections 306.30 to 306.53 of the Revised 15420
Code. Subject to any reservations, limitations, and qualifications 15421
that are set forth in those sections, the regional transit 15422
authority: 15423

(A) May sue or be sued in its corporate name; 15424

(B) May make contracts in the exercise of the rights, powers, 15425
and duties conferred upon it; 15426

(C) May adopt and at will alter a seal and use such seal by 15427
causing it to be impressed, affixed, reproduced, or otherwise 15428
used, but failure to affix the seal shall not affect the validity 15429
of any instrument; 15430

(D)(1) May adopt, amend, and repeal bylaws for the 15431
administration of its affairs and rules for the control of the 15432
administration and operation of transit facilities under its 15433
jurisdiction, and for the exercise of all of its rights of 15434
ownership in those transit facilities; 15435

(2) The regional transit authority also may adopt bylaws and rules for the following purposes:	15436 15437
(a) To prohibit selling, giving away, or using any beer or intoxicating liquor on transit vehicles or transit property;	15438 15439
(b) For the preservation of good order within or on transit vehicles or transit property;	15440 15441
(c) To provide for the protection and preservation of all property and life within or on transit vehicles or transit property;	15442 15443 15444
(d) To regulate and enforce the collection of fares.	15445
(3) Before a bylaw or rule adopted under division (D)(2) of this section takes effect, the regional transit authority shall provide for a notice of its adoption to be published once a week for two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, <u>or as provided in section 7.16 of the Revised Code.</u>	15446 15447 15448 15449 15450 15451
(4) No person shall violate any bylaw or rule of a regional transit authority adopted under division (D)(2) of this section.	15452 15453
(E) May fix, alter, and collect fares, rates, and rentals and other charges for the use of transit facilities under its jurisdiction to be determined exclusively by it for the purpose of providing for the payment of the expenses of the regional transit authority, the acquisition, construction, improvement, extension, repair, maintenance, and operation of transit facilities under its jurisdiction, the payment of principal and interest on its obligations, and to fulfill the terms of any agreements made with purchasers or holders of any such obligations, or with any person or political subdivision;	15454 15455 15456 15457 15458 15459 15460 15461 15462 15463
(F) Shall have jurisdiction, control, possession, and supervision of all property, rights, easements, licenses, moneys,	15464 15465

contracts, accounts, liens, books, records, maps, or other	15466
property rights and interests conveyed, delivered, transferred, or	15467
assigned to it;	15468
(G) May acquire, construct, improve, extend, repair, lease,	15469
operate, maintain, or manage transit facilities within or without	15470
its territorial boundaries, considered necessary to accomplish the	15471
purposes of its organization and make charges for the use of	15472
transit facilities;	15473
(H) May levy and collect taxes as provided in sections 306.40	15474
and 306.49 of the Revised Code;	15475
(I) May issue bonds secured by its general credit as provided	15476
in section 306.40 of the Revised Code;	15477
(J) May hold, encumber, control, acquire by donation, by	15478
purchase for cash or by installment payments, by lease-purchase	15479
agreement, by lease with option to purchase, or by condemnation,	15480
and may construct, own, lease as lessee or lessor, use, and sell,	15481
real and personal property, or any interest or right in real and	15482
personal property, within or without its territorial boundaries,	15483
for the location or protection of transit facilities and	15484
improvements and access to transit facilities and improvements,	15485
the relocation of buildings, structures, and improvements situated	15486
on lands acquired by the regional transit authority, or for any	15487
other necessary purpose, or for obtaining or storing materials to	15488
be used in constructing, maintaining, and improving transit	15489
facilities under its jurisdiction;	15490
(K) May exercise the power of eminent domain to acquire	15491
property or any interest in property, within or without its	15492
territorial boundaries, that is necessary or proper for the	15493
construction or efficient operation of any transit facility or	15494
access to any transit facility under its jurisdiction in	15495
accordance with section 306.36 of the Revised Code;	15496

(L) May provide by agreement with any county, including the 15497
counties within its territorial boundaries, or any municipal 15498
corporation or any combination of counties or municipal 15499
corporations for the making of necessary surveys, appraisals, and 15500
examinations preliminary to the acquisition or construction of any 15501
transit facility and the amount of the expense for the surveys, 15502
appraisals, and examinations to be paid by each such county or 15503
municipal corporation; 15504

(M) May provide by agreement with any county, including the 15505
counties within its territorial boundaries, or any municipal 15506
corporation or any combination of those counties or municipal 15507
corporations for the acquisition, construction, improvement, 15508
extension, maintenance, or operation of any transit facility owned 15509
or to be owned and operated by it or owned or to be owned and 15510
operated by any such county or municipal corporation and the terms 15511
on which it shall be acquired, leased, constructed, maintained, or 15512
operated, and the amount of the cost and expense of the 15513
acquisition, lease, construction, maintenance, or operation to be 15514
paid by each such county or municipal corporation; 15515

(N) May issue revenue bonds for the purpose of acquiring, 15516
replacing, improving, extending, enlarging, or constructing any 15517
facility or permanent improvement that it is authorized to 15518
acquire, replace, improve, extend, enlarge, or construct, 15519
including all costs in connection with and incidental to the 15520
acquisition, replacement, improvement, extension, enlargement, or 15521
construction, and their financing, as provided by section 306.37 15522
of the Revised Code; 15523

(O) May enter into and supervise franchise agreements for the 15524
operation of a transit system; 15525

(P) May accept the assignment of and supervise an existing 15526
franchise agreement for the operation of a transit system; 15527

(Q) May exercise a right to purchase a transit system in 15528
accordance with the acquisition terms of an existing franchise 15529
agreement; and in connection with the purchase the regional 15530
transit authority may issue revenue bonds as provided by section 15531
306.37 of the Revised Code or issue bonds secured by its general 15532
credit as provided in section 306.40 of the Revised Code; 15533

(R) May apply for and accept grants or loans from the United 15534
States, the state, or any other public body for the purpose of 15535
providing for the development or improvement of transit 15536
facilities, mass transportation facilities, equipment, techniques, 15537
methods, or services, and grants or loans needed to exercise a 15538
right to purchase a transit system pursuant to agreement with the 15539
owner of those transit facilities, or for providing lawful 15540
financial assistance to existing transit systems; and may provide 15541
any consideration that may be required in order to obtain those 15542
grants or loans from the United States, the state, or other public 15543
body, either of which grants or loans may be evidenced by the 15544
issuance of revenue bonds as provided by section 306.37 of the 15545
Revised Code or general obligation bonds as provided by section 15546
306.40 of the Revised Code; 15547

(S) May employ and fix the compensation of consulting 15548
engineers, superintendents, managers, and such other engineering, 15549
construction, accounting and financial experts, attorneys, and 15550
other employees and agents necessary for the accomplishment of its 15551
purposes; 15552

(T) May procure insurance against loss to it by reason of 15553
damages to its properties resulting from fire, theft, accident, or 15554
other casualties or by reason of its liability for any damages to 15555
persons or property occurring in the construction or operation of 15556
transit facilities under its jurisdiction or the conduct of its 15557
activities; 15558

(U) May maintain funds that it considers necessary for the 15559

efficient performance of its duties; 15560

(V) May direct its agents or employees, when properly 15561
identified in writing, after at least five days' written notice, 15562
to enter upon lands within or without its territorial boundaries 15563
in order to make surveys and examinations preliminary to the 15564
location and construction of transit facilities, without liability 15565
to it or its agents or employees except for actual damage done; 15566

(W) On its own motion, may request the appropriate zoning 15567
board, as defined in section 4563.03 of the Revised Code, to 15568
establish and enforce zoning regulations pertaining to any transit 15569
facility under its jurisdiction in the manner prescribed by 15570
sections 4563.01 to 4563.21 of the Revised Code; 15571

(X) If it acquires any existing transit system, shall assume 15572
all the employer's obligations under any existing labor contract 15573
between the employees and management of the system. If the board 15574
acquires, constructs, controls, or operates any such facilities, 15575
it shall negotiate arrangements to protect the interests of 15576
employees affected by the acquisition, construction, control, or 15577
operation. The arrangements shall include, but are not limited to: 15578

(1) The preservation of rights, privileges, and benefits 15579
under existing collective bargaining agreements or otherwise, the 15580
preservation of rights and benefits under any existing pension 15581
plans covering prior service, and continued participation in 15582
social security in addition to participation in the public 15583
employees retirement system as required in Chapter 145. of the 15584
Revised Code; 15585

(2) The continuation of collective bargaining rights; 15586

(3) The protection of individual employees against a 15587
worsening of their positions with respect to their employment; 15588

(4) Assurances of employment to employees of those transit 15589
systems and priority reemployment of employees terminated or laid 15590

off;	15591
(5) Paid training or retraining programs;	15592
(6) Signed written labor agreements.	15593
The arrangements may include provisions for the submission of	15594
labor disputes to final and binding arbitration.	15595
(Y) May provide for and maintain security operations,	15596
including a transit police department, subject to section 306.352	15597
of the Revised Code. Regional transit authority police officers	15598
shall have the power and duty to act as peace officers within	15599
transit facilities owned, operated, or leased by the transit	15600
authority to protect the transit authority's property and the	15601
person and property of passengers, to preserve the peace, and to	15602
enforce all laws of the state and ordinances and regulations of	15603
political subdivisions in which the transit authority operates.	15604
Regional transit authority police officers also shall have the	15605
power and duty to act as peace officers when they render emergency	15606
assistance outside their jurisdiction to any other peace officer	15607
who is not a regional transit authority police officer and who has	15608
arrest authority under section 2935.03 of the Revised Code.	15609
Regional transit authority police officers may render emergency	15610
assistance if there is a threat of imminent physical danger to the	15611
peace officer, a threat of physical harm to another person, or any	15612
other serious emergency situation and if either the peace officer	15613
who is assisted requests emergency assistance or it appears that	15614
the peace officer who is assisted is unable to request emergency	15615
assistance and the circumstances observed by the regional transit	15616
authority police officer reasonably indicate that emergency	15617
assistance is appropriate.	15618
Before exercising powers of arrest and the other powers and	15619
duties of a peace officer, each regional transit authority police	15620
officer shall take an oath and give bond to the state in a sum	15621

that the board of trustees prescribes for the proper performance 15622
of the officer's duties. 15623

Persons employed as regional transit authority police 15624
officers shall complete training for the position to which they 15625
have been appointed as required by the Ohio peace officer training 15626
commission as authorized in section 109.77 of the Revised Code, or 15627
be otherwise qualified. The cost of the training shall be provided 15628
by the regional transit authority. 15629

(Z) May procure a policy or policies insuring members of its 15630
board of trustees against liability on account of damages or 15631
injury to persons and property resulting from any act or omission 15632
of a member in the member's official capacity as a member of the 15633
board or resulting solely out of the member's membership on the 15634
board; 15635

(AA) May enter into any agreement for the sale and leaseback 15636
or lease and leaseback of transit facilities, which agreement may 15637
contain all necessary covenants for the security and protection of 15638
any lessor or the regional transit authority including, but not 15639
limited to, indemnification of the lessor against the loss of 15640
anticipated tax benefits arising from acts, omissions, or 15641
misrepresentations of the regional transit authority. In 15642
connection with that transaction, the regional transit authority 15643
may contract for insurance and letters of credit and pay any 15644
premiums or other charges for the insurance and letters of credit. 15645
The fiscal officer shall not be required to furnish any 15646
certificate under section 5705.41 of the Revised Code in 15647
connection with the execution of any such agreement. 15648

(BB) In regard to any contract entered into on or after March 15649
19, 1993, for the rendering of services or the supplying of 15650
materials or for the construction, demolition, alteration, repair, 15651
or reconstruction of transit facilities in which a bond is 15652
required for the faithful performance of the contract, may permit 15653

the person awarded the contract to utilize a letter of credit 15654
issued by a bank or other financial institution in lieu of the 15655
bond; 15656

(CC) May enter into agreements with municipal corporations 15657
located within the territorial jurisdiction of the regional 15658
transit authority permitting regional transit authority police 15659
officers employed under division (Y) of this section to exercise 15660
full arrest powers, as provided in section 2935.03 of the Revised 15661
Code, for the purpose of preserving the peace and enforcing all 15662
laws of the state and ordinances and regulations of the municipal 15663
corporation within the areas that may be agreed to by the regional 15664
transit authority and the municipal corporation. 15665

Sec. 306.43. (A) The board of trustees of a regional transit 15666
authority or any officer or employee designated by such board may 15667
make any contract for the purchase of goods or services, the cost 15668
of which does not exceed one hundred thousand dollars. When an 15669
expenditure, other than for the acquisition of real estate, the 15670
discharge of claims, or the acquisition of goods or services under 15671
the circumstances described in division (H) of this section, is 15672
expected to exceed one hundred thousand dollars, such expenditure 15673
shall be made through full and open competition by the use of 15674
competitive procedures. The regional transit authority shall use 15675
the competitive procedure, as set forth in divisions (B), (C), 15676
(D), and (E) of this section, that is most appropriate under the 15677
circumstances of the procurement. 15678

(B) Competitive sealed bidding is the preferred method of 15679
procurement and a regional transit authority shall use that method 15680
if all of the following conditions exist: 15681

(1) A clear, complete and adequate description of the goods, 15682
services, or work is available; 15683

(2) Time permits the solicitation, submission, and evaluation 15684

of sealed bids; 15685

(3) The award will be made on the basis of price and other 15686
price-related factors; 15687

(4) It is not necessary to conduct discussions with 15688
responding offerors about their bids; 15689

(5) There is a reasonable expectation of receiving more than 15690
one sealed bid. 15691

A regional transit authority shall publish a notice calling 15692
for bids once a week for no less than two consecutive weeks in ~~at~~ 15693
~~least one~~ a newspaper of general circulation within the 15694
territorial boundaries of the regional transit authority, or as 15695
provided in section 7.16 of the Revised Code. A regional transit 15696
authority may require that a bidder for any contract other than a 15697
construction contract provide a bid guaranty in the form, quality, 15698
and amount considered appropriate by the regional transit 15699
authority. The board may let the contract to the lowest responsive 15700
and responsible bidder. Where fewer than two responsive bids are 15701
received, a regional transit authority may negotiate price with 15702
the sole responsive bidder or may rescind the solicitation and 15703
procure under division (H)(2) of this section. 15704

(C) A regional transit authority may use two-step competitive 15705
bidding, consisting of a technical proposal and a separate, 15706
subsequent sealed price bid from those submitting acceptable 15707
technical proposals, if both of the following conditions exist: 15708

(1) A clear, complete, and adequate description of the goods, 15709
services, or work is not available, but definite criteria exist 15710
for the evaluation of technical proposals; 15711

(2) It is necessary to conduct discussions with responding 15712
offerors. 15713

A regional transit authority shall publish a notice calling 15714

for technical proposals once a week for no less than two 15715
consecutive weeks in ~~at least one~~ a newspaper of general 15716
circulation within the territorial boundaries of the regional 15717
transit authority, or as provided in section 7.16 of the Revised 15718
Code. A regional transit authority may require a bid guaranty in 15719
the form, quality, and amount the regional transit authority 15720
considers appropriate. The board may let the contract to the 15721
lowest responsive and responsible bidder. Where fewer than two 15722
responsive and responsible bids are received, a regional transit 15723
authority may negotiate price with the sole responsive and 15724
responsible bidder or may rescind the solicitation and procure 15725
under division (H)(2) of this section. 15726

(D) A regional transit authority shall make a procurement by 15727
competitive proposals if competitive sealed bidding or two-step 15728
competitive bidding is not appropriate. 15729

A regional transit authority shall publish a notice calling 15730
for proposals once a week for no less than two consecutive weeks 15731
in ~~at least one~~ a newspaper of general circulation within the 15732
territorial boundaries of the regional transit authority, or as 15733
provided in section 7.16 of the Revised Code. A regional transit 15734
authority may require a proposal guaranty in the form, quality, 15735
and amount considered appropriate by the regional transit 15736
authority. The board may let the contract to the proposer making 15737
the offer considered most advantageous to the authority. Where 15738
fewer than two competent proposals are received, a regional 15739
transit authority may negotiate price and terms with the sole 15740
proposer or may rescind the solicitation and procure under 15741
division (H)(2) of this section. 15742

(E)(1) A regional transit authority shall procure the 15743
services of an architect or engineer in the manner prescribed by 15744
the "Federal Mass Transportation Act of 1987," Public Law No. 15745
100-17, section 316, 101 Stat. 227, 232-234, 49 U.S.C.A. app. 1608 15746

and the services of a construction manager in the manner 15747
prescribed by sections 9.33 to 9.332 of the Revised Code. 15748

(2) A regional transit authority may procure revenue rolling 15749
stock in the manner prescribed by division (B), (C), or (D) of 15750
this section. 15751

(3) All contracts for construction in excess of one hundred 15752
thousand dollars shall be made only after the regional transit 15753
authority has published a notice calling for bids once a week for 15754
two consecutive weeks in ~~at least one~~ a newspaper of general 15755
circulation within the territorial boundaries of the regional 15756
transit authority, or as provided in section 7.16 of the Revised 15757
Code. The board may award a contract to the lowest responsive and 15758
responsible bidder. Where only one responsive and responsible bid 15759
is received, the regional transit authority may negotiate price 15760
with the sole responsive bidder or may rescind the solicitation. 15761
The regional transit authority shall award construction contracts 15762
in accordance with sections 153.12 to 153.14 and 153.54 of the 15763
Revised Code. Divisions (B) and (C) of this section shall not 15764
apply to the award of contracts for construction. 15765

(F) All contracts involving expenditures in excess of one 15766
hundred thousand dollars shall be in writing and shall be 15767
accompanied by or shall refer to plans and specifications for the 15768
work to be done. The plans and specifications shall at all times 15769
be made and considered part of the contract. For all contracts 15770
other than construction contracts, a regional transit authority 15771
may require performance, payment, or maintenance guaranties or any 15772
combination of such guaranties in the form, quality, and amount it 15773
considers appropriate. The contract shall be approved by the board 15774
and signed on behalf of the regional transit authority and by the 15775
contractor. 15776

(G) In making a contract, a regional transit authority may 15777
give preference to goods produced in the United States in 15778

accordance with the Buy America requirements in the "Surface 15779
Transportation Assistance Act of 1982," Public Law No. 97-424, 15780
section 165, 96 Stat. 2097, 23 U.S.C.A. 101 note, as amended, and 15781
the rules adopted thereunder. The regional transit authority also 15782
may give preference to providers of goods produced in and services 15783
provided in labor surplus areas as defined by the United States 15784
department of labor in 41 U.S.C.A. 401 note, Executive Order No. 15785
12073, August 16, 1978, 43 Fed. Reg. 36873, as amended. 15786

(H) Competitive procedures under this section are not 15787
required in any of the following circumstances: 15788

(1) The board of trustees of a regional transit authority, by 15789
a two-thirds affirmative vote of its members, determines that a 15790
real and present emergency exists under any of the following 15791
conditions, and the board enters its determination and the reasons 15792
for it in its proceedings: 15793

(a) Affecting safety, welfare, or the ability to deliver 15794
transportation services; 15795

(b) Arising out of an interruption of contracts essential to 15796
the provision of daily transit services; 15797

(c) Involving actual physical damage to structures, supplies, 15798
equipment, or property. 15799

(2) The purchase consists of goods or services, or any 15800
combination thereof, and after reasonable inquiry the board or any 15801
officer or employee the board designates finds that only one 15802
source of supply is reasonably available. 15803

(3) The expenditure is for a renewal or renegotiation of a 15804
lease or license for telecommunications or electronic data 15805
processing equipment, services, or systems, or for the upgrade of 15806
such equipment, services, or systems, or for the maintenance 15807
thereof as supplied by the original source or its successors or 15808
assigns. 15809

(4) The purchase of goods or services is made from another political subdivision, public agency, public transit system, regional transit authority, the state, or the federal government, or as a third-party beneficiary under a state or federal procurement contract, or as a participant in a department of administrative services contract under division (B) of section 125.04 of the Revised Code.

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(5) The sale and leaseback or lease and leaseback of transit facilities is made as provided in division (AA) of section 306.35 of the Revised Code.

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(6) The purchase substantially involves services of a personal, professional, highly technical, or scientific nature, including but not limited to the services of an attorney, physician, surveyor, appraiser, investigator, court reporter, adjuster, advertising consultant, or licensed broker, or involves the special skills or proprietary knowledge required for the servicing of specialized equipment owned by the regional transit authority.

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(7) Services or supplies are available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code.

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(8) The purchase consists of the product or services of a public utility.

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(9) The purchase is for the services of individuals with disabilities to work in the authority's commissaries or cafeterias, and those individuals are supplied by a nonprofit corporation or association whose purpose is to assist individuals with disabilities, whether or not that corporation or association is funded entirely or in part by the federal government, or the purchase is for services provided by a nonprofit corporation or association whose purpose is to assist individuals with

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disabilities, whether or not that corporation or association is 15841
funded entirely or in part by the federal government. For purposes 15842
of division (H)(9) of this section, "disability" has the same 15843
meaning as in section 4112.01 of the Revised Code. 15844

(I) A regional transit authority may enter into blanket 15845
purchase agreements for purchases of maintenance, operating, or 15846
repair goods or services where the item cost does not exceed five 15847
hundred dollars and the annual expenditure does not exceed one 15848
hundred thousand dollars. 15849

(J) Nothing contained in this section prohibits a regional 15850
transit authority from participating in intergovernmental 15851
cooperative purchasing arrangements. 15852

(K) Except as otherwise provided in this chapter, a regional 15853
transit authority shall make a sale or other disposition of 15854
property through full and open competition. Except as provided in 15855
division (L) of this section, all dispositions of personal 15856
property and all grants of real property for terms exceeding five 15857
years shall be made by public auction or competitive procedure. 15858

(L) The competitive procedures required by division (K) of 15859
this section are not required in any of the following 15860
circumstances: 15861

(1) The grant is a component of a joint development between 15862
public and private entities and is intended to enhance or benefit 15863
public transit. 15864

(2) The grant of a limited use or of a license affecting land 15865
is made to an owner of abutting real property. 15866

(3) The grant of a limited use is made to a public utility. 15867

(4) The grant or disposition is to a department of the 15868
federal or state government, to a political subdivision of the 15869
state, or to any other governmental entity. 15870

(5) Used equipment is traded on the purchase of equipment and 15871
the value of the used equipment is a price-related factor in the 15872
basis for award for the purchase. 15873

(6) The value of the personal property is such that 15874
competitive procedures are not appropriate and the property either 15875
is sold at its fair market value or is disposed of by gift to a 15876
nonprofit entity having the general welfare or education of the 15877
public as one of its principal objects. 15878

(M) The board of trustees of a regional transit authority, 15879
when making a contract funded exclusively by state or local moneys 15880
or any combination thereof, shall make a good faith effort to use 15881
disadvantaged business enterprise participation to the same extent 15882
required under Section 105(f) of the "Surface Transportation 15883
Assistance Act of 1982," Public Law No. 97-424, 96 Stat. 2100, and 15884
Section 106(c) of the "Surface Transportation and Uniform 15885
Relocation Assistance Act of 1987," Public Law No. 100-17, 101 15886
Stat. 145, and the rules adopted thereunder. 15887

(N) As used in this section: 15888

(1) "Goods" means all things, including specially 15889
manufactured goods, that are movable at the time of identification 15890
to the contract for sale other than the money in which the price 15891
is to be paid, investment securities, and things in action. 15892
"Goods" also includes other identified things attached to realty 15893
as described in section 1302.03 of the Revised Code. 15894

(2) "Services" means the furnishing of labor, time, or effort 15895
by a contractor, not involving the delivery of goods or reports 15896
other than goods or reports that are merely incidental to the 15897
required performance, including but not limited to insurance, 15898
bonding, or routine operation, routine repair, or routine 15899
maintenance of existing structures, buildings, real property, or 15900
equipment, but does not include employment agreements, collective 15901

bargaining agreements, or personal services. 15902

(3) "Construction" means the process of building, altering, 15903
repairing, improving, painting, decorating, or demolishing any 15904
structure or building, or other improvements of any kind to any 15905
real property owned or leased by a regional transit authority. 15906

(4) "Full and open competition" has the same meaning as in 15907
the "Office of Federal Procurement Policy Act," Public Law No. 15908
98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403. 15909

(5) A bidder is "responsive" if, applying the criteria of 15910
division (A) of section 9.312 of the Revised Code, the bidder is 15911
"responsive" as described in that section. 15912

(6) A bidder is "responsible" if, applying the criteria of 15913
division (A) of section 9.312 of the Revised Code and of the 15914
"Office of Federal Procurement Policy Act," Public Law No. 98-369, 15915
section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403, the bidder is 15916
"responsible" as described in those sections. 15917

Sec. 306.55. Beginning July 1, 2011 and until November 5, 15918
2013, any county, municipal corporation, or township that has 15919
created or joined a regional transit authority that levies a 15920
property tax and that includes a county having a population of at 15921
least four hundred thousand according to the most recent federal 15922
census, may withdraw from the regional transit authority in the 15923
manner provided in this section. The board of county 15924
commissioners, legislative authority of the municipal corporation, 15925
or board of township trustees of the township proposing to 15926
withdraw shall adopt a resolution to submit the question of 15927
withdrawing from the regional transit authority to the electors of 15928
the territory to be withdrawn and shall certify the proposal to 15929
the board of elections for the purpose of having the proposal 15930
placed on the ballot at the next general election or at a special 15931
election conducted on the day of the next primary election that 15932

occurs not less than seventy-five days after the resolution is certified to the board of elections. 15933
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Upon certification of a proposal to the board of elections pursuant to this section, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the territory to be withdrawn from the regional transit authority qualified to vote on the question, and the election shall be held, canvassed, and certified in the same manner as regular elections for the election of officers of the subdivision proposing to withdraw from the regional transit authority, except that the question appearing on the ballot shall read: 15935
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"Shall the territory within the
(Name of political subdivision to be withdrawn) be withdrawn from (Name) regional transit authority?" 15945
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If the question is approved by at least a majority of the electors voting on the question, the withdrawal is effective one year from the date of the certification of its passage. 15949
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The board of elections to which the resolution was certified shall certify the results of the election to the board or legislative authority of the subdivision that submitted the resolution to withdraw and to the board of trustees of the regional transit authority from which the subdivision proposed to withdraw. 15952
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If the question of withdrawing from the regional transit authority is approved, the power of the regional transit authority to levy a tax on taxable property in the withdrawing subdivision terminates. 15958
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Sec. 306.551. Any county, municipal corporation, or township 15962

that withdraws from a regional transit authority under section 15963
306.55 of the Revised Code may enter into a contract with a 15964
regional transit authority or other provider of transit services 15965
to provide transportation service for handicapped, disabled, or 15966
elderly persons and for any other service the legislative 15967
authority of the county, municipal corporation, or township may 15968
determine to be appropriate. 15969

Sec. 306.70. A tax proposed to be levied by a board of county 15970
commissioners or by the board of trustees of a regional transit 15971
authority pursuant to sections 5739.023 and 5741.022 of the 15972
Revised Code shall not become effective until it is submitted to 15973
the electors residing within the county or within the territorial 15974
boundaries of the regional transit authority and approved by a 15975
majority of the electors voting on it. Such question shall be 15976
submitted at a general election or at a special election on a day 15977
specified in the resolution levying the tax and occurring not less 15978
than ninety days after such resolution is certified to the board 15979
of elections, in accordance with section 3505.071 of the Revised 15980
Code. 15981

The board of elections of the county or of each county in 15982
which any territory of the regional transit authority is located 15983
shall make the necessary arrangements for the submission of such 15984
question to the electors of the county or regional transit 15985
authority, and the election shall be held, canvassed, and 15986
certified in the same manner as regular elections for the election 15987
of county officers. Notice of the election shall be published in 15988
~~one or more newspapers which in the aggregate are a newspaper of~~ 15989
general circulation in the territory of the county or of the 15990
regional transit authority once a week for two consecutive weeks 15991
prior to the election ~~and, if~~ or as provided in section 7.16 of 15992
the Revised Code. If the board of elections operates and maintains 15993
a web site, notice of the election also shall be posted on that 15994

web site for thirty days prior to the election. The notice shall 15995
state the type, rate, and purpose of the tax to be levied, the 15996
length of time during which the tax will be in effect, and the 15997
time and place of the election. 15998

More than one such question may be submitted at the same 15999
election. The form of the ballots cast at such election shall be: 16000

"Shall a(n) (sales and use) 16001
tax be levied for all transit purposes of the 16002
(here insert name of the county or regional transit authority) at 16003
a rate not exceeding (here insert percentage) 16004
per cent for (here insert number of years the tax 16005
is to be in effect, or that it is to be in effect for a continuing 16006
period of time)?" 16007

If the tax proposed to be levied is a continuation of an 16008
existing tax, whether at the same rate or at an increased or 16009
reduced rate, or an increase in the rate of an existing tax, the 16010
notice and ballot form shall so state. 16011

The board of elections to which the resolution was certified 16012
shall certify the results of the election to the county auditor of 16013
the county or secretary-treasurer of the regional transit 16014
authority levying the tax and to the tax commissioner of the 16015
state. 16016

Sec. 307.022. (A) The board of county commissioners of any 16017
county may do both of the following without following the 16018
competitive bidding requirements of section 307.86 of the Revised 16019
Code: 16020

(1) Enter into a lease, including a lease with an option to 16021
purchase, of correctional facilities for a term not in excess of 16022
forty years. Before entering into the lease, the board shall 16023
publish, once a week for three consecutive weeks in a newspaper of 16024

general circulation in the county or as provided in section 7.16 16025
of the Revised Code, a notice that the board is accepting 16026
proposals for a lease pursuant to this division. The notice shall 16027
state the date before which the proposals are required to be 16028
submitted in order to be considered by the board. 16029

(2) Subject to compliance with this section, grant leases, 16030
easements, and licenses with respect to, or sell, real property 16031
owned by the county if the real property is to be leased back by 16032
the county for use as correctional facilities. 16033

The lease under division (A)(1) of this section shall require 16034
the county to contract, in accordance with Chapter 153., sections 16035
307.86 to 307.92, and Chapter 4115. of the Revised Code, for the 16036
construction, improvement, furnishing, and equipping of 16037
correctional facilities to be leased pursuant to this section. 16038
Prior to the board's execution of the lease, it may require the 16039
lessor under the lease to cause sufficient money to be made 16040
available to the county to enable the county to comply with the 16041
certification requirements of division (D) of section 5705.41 of 16042
the Revised Code. 16043

A lease entered into pursuant to division (A)(1) of this 16044
section by a board may provide for the county to maintain and 16045
repair the correctional facility during the term of the leasehold, 16046
may provide for the county to make rental payments prior to or 16047
after occupation of the correctional facilities by the county, and 16048
may provide for the board to obtain and maintain any insurance 16049
that the lessor may require, including, but not limited to, public 16050
liability, casualty, builder's risk, and business interruption 16051
insurance. The obligations incurred under a lease entered into 16052
pursuant to division (A)(1) of this section shall not be 16053
considered to be within the debt limitations of section 133.07 of 16054
the Revised Code. 16055

(B) The correctional facilities leased under division (A)(1) 16056

of this section may include any or all of the following:	16057
(1) Facilities in which one or more other governmental entities are participating or in which other facilities of the county are included;	16058 16059 16060
(2) Facilities acquired, constructed, renovated, or financed by the Ohio building authority and leased to the county pursuant to section 307.021 of the Revised Code;	16061 16062 16063
(3) Correctional facilities that are under construction or have been completed and for which no permanent financing has been arranged.	16064 16065 16066
(C) As used in this section:	16067
(1) "Correctional facilities" includes, but is not limited to, jails, detention facilities, workhouses, community-based correctional facilities, and family court centers.	16068 16069 16070
(2) "Construction" has the same meaning as in division (B) of section 4115.03 of the Revised Code.	16071 16072
Sec. 307.041. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, an existing building, to reduce energy consumption. "Energy conservation measure" includes the following:	16073 16074 16075 16076 16077
(1) Insulation of the building structure and of systems within the building;	16078 16079
(2) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;	16080 16081 16082 16083 16084
(3) Automatic energy control systems;	16085

(4) Heating, ventilating, or air conditioning system	16086
modifications or replacements;	16087
(5) Caulking and weatherstripping;	16088
(6) Replacement or modification of lighting fixtures to	16089
increase the energy efficiency of the system without increasing	16090
the overall illumination of a facility, unless such an increase in	16091
illumination is necessary to conform to the applicable state or	16092
local building code for the proposed lighting system;	16093
(7) Energy recovery systems;	16094
(8) Cogeneration systems that produce steam or forms of	16095
energy such as heat, as well as electricity, for use primarily	16096
within a building or complex of buildings;	16097
(9) Acquiring, constructing, furnishing, equipping, improving	16098
the site of, and otherwise improving a central utility plant to	16099
provide heating and cooling services to a building or buildings	16100
together with distribution piping and ancillary distribution	16101
controls, equipment, and related facilities from the central	16102
utility plant to the building or buildings;	16103
(10) Any other modification, installation, or remodeling	16104
approved by the board of county commissioners as an energy	16105
conservation measure.	16106
(B) For the purpose of evaluating county buildings for energy	16107
conservation measures, a county may contract with an architect,	16108
professional engineer, energy services company, contractor, or	16109
other person experienced in the design and implementation of	16110
energy conservation measures for an energy conservation report.	16111
The report shall include all of the following:	16112
(1) Analyses of the buildings' energy needs and	16113
recommendations for building installations, modifications of	16114
existing installations, or building remodeling that would	16115

significantly reduce energy consumption in the buildings owned by that county;	16116 16117
(2) Estimates of all costs of those installations, those modifications, or that remodeling, including costs of design, engineering, installation, maintenance, and repairs;	16118 16119 16120
(3) Estimates of the amounts by which energy consumption could be reduced;	16121 16122
(4) The interest rate used to estimate the costs of any energy conservation measures that are to be financed;	16123 16124
(5) The average system life of the energy conservation measures;	16125 16126
(6) Estimates of the likely savings that will result from the reduction in energy consumption over the average system life of the energy conservation measure, including the methods used to estimate the savings;	16127 16128 16129 16130
(7) A certification under the seal of a registered professional engineer that the energy conservation report uses reasonable methods of analysis and estimation.	16131 16132 16133
(C)(1) A county desiring to implement energy conservation measures may proceed under either of the following methods:	16134 16135
(a) Using a report or any part of an energy conservation report prepared under division (B) of this section, advertise for bids and, except as otherwise provided in this section, comply with sections 307.86 to 307.92 of the Revised Code;	16136 16137 16138 16139
(b) Notwithstanding sections 307.86 to 307.92 of the Revised Code, request proposals from at least three vendors for the implementation of energy conservation measures. A request for proposals shall require the installer that is awarded a contract under division (C)(2)(b) of this section to prepare an energy conservation report in accordance with division (B) of this	16140 16141 16142 16143 16144 16145

section. Prior to sending any installer of energy conservation 16146
measures a copy of any request for proposals, the county shall 16147
advertise its intent to request proposals for the installation of 16148
energy conservation measures in a newspaper of general circulation 16149
in the county once a week for two consecutive weeks or as provided 16150
in section 7.16 of the Revised Code. The notice shall state that 16151
the county intends to request proposals for the installation of 16152
energy conservation measures; indicate the date, which shall be at 16153
least ten days after the second publication, on which the request 16154
for proposals will be mailed to installers of energy conservation 16155
measures; and state that any installer of energy conservation 16156
measures interested in receiving the request for proposals shall 16157
submit written notice to the county not later than noon of the day 16158
on which the request for proposals will be mailed. 16159

16160

(2)(a) Upon receiving bids under division (C)(1)(a) of this 16161
section, the county shall analyze them and select the lowest and 16162
best bid or bids most likely to result in the greatest energy 16163
savings considering the cost of the project and the county's 16164
ability to pay for the improvements with current revenues or by 16165
financing the improvements. 16166

(b) Upon receiving proposals under division (C)(1)(b) of this 16167
section, the county shall analyze the proposals and the 16168
installers' qualifications and select the most qualified installer 16169
to prepare an energy conservation report in accordance with 16170
division (B) of this section. After receipt and review of the 16171
energy conservation report, the county may award a contract to the 16172
selected installer to install the energy conservation measures 16173
that are most likely to result in the greatest energy savings 16174
considering the cost of the project and the county's ability to 16175
pay for the improvements with current revenues or by financing the 16176
improvements. 16177

(c) The awarding of a contract to install energy conservation measures under division (C)(2)(a) or (b) of this section shall be conditioned upon a finding by the contracting authority that the amount of money spent on the energy conservation measures is not likely to exceed the amount of money the county would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report. In making such a finding, the contracting authority may take into account increased costs due to inflation as shown in the energy conservation report. Nothing in this division prohibits a county from rejecting all bids or proposals under division (C)(1)(a) or (b) of this section or from selecting more than one bid or proposal.

(D) A board of county commissioners may enter into an installment payment contract for the purchase and installation of energy conservation measures. Provisions of installment payment contracts that deal with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 307.86 of the Revised Code, and shall be on the following terms:

(1) Not less than a specified percentage, as determined and approved by the board of county commissioners, of the costs of the contract shall be paid within two years from the date of purchase.

(2) The remaining balance of the costs of the contract shall be paid within the lesser of the average system life of the energy conservation measures as specified in the energy conservation report or thirty years.

(E) The board of county commissioners may issue the notes of the county specifying the terms of a purchase of energy conservation measures under this section and securing any deferred payments provided for in division (D) of this section. The notes shall be payable at the times provided and bear interest at a rate

not exceeding the rate determined as provided in section 9.95 of 16210
the Revised Code. The notes may contain an option for prepayment 16211
and shall not be subject to Chapter 133. of the Revised Code. 16212
Revenues derived from local taxes or otherwise for the purpose of 16213
conserving energy or for defraying the current operating expenses 16214
of the county may be pledged and applied to the payment of 16215
interest and the retirement of the notes. The notes may be sold at 16216
private sale or given to the contractor under an installment 16217
payment contract authorized by division (D) of this section. 16218

(F) Debt incurred under this section shall not be included in 16219
the calculation of the net indebtedness of a county under section 16220
133.07 of the Revised Code. 16221

Sec. 307.10. (A) No sale of real property, or lease of real 16222
property used or to be used for the purpose of airports, landing 16223
fields, or air navigational facilities, or parts thereof, as 16224
provided by section 307.09 of the Revised Code shall be made 16225
unless it is authorized by a resolution adopted by a majority of 16226
the board of county commissioners. When a sale of real property as 16227
provided by section 307.09 of the Revised Code is authorized, the 16228
board may either deed the property to the highest responsible 16229
bidder, after advertisement once a week for four consecutive weeks 16230
in a newspaper of general circulation in the county or as provided 16231
in section 7.16 of the Revised Code, or offer the real property 16232
for sale at a public auction, after giving at least thirty days' 16233
notice of the auction by publication in a newspaper of general 16234
circulation in the county. The board may reject any and all bids. 16235
The board may, as it considers best, sell real property pursuant 16236
to this section as an entire tract or in parcels. The board, by 16237
resolution adopted by a majority of the board, may lease real 16238
property, in accordance with division (A) of section 307.09 of the 16239
Revised Code, without advertising for bids. 16240

(B) The board, by resolution, may transfer real property in fee simple belonging to the county and not needed for public use to the United States government, to the state or any department or agency thereof, to municipal corporations or other political subdivisions of the state, to the county board of developmental disabilities, or to a county land reutilization corporation organized under Chapter 1724. of the Revised Code for public purposes upon the terms and in the manner that it may determine to be in the best interests of the county, without advertising for bids. The board shall execute a deed or other proper instrument when such a transfer is approved.

(C) The board, by resolution adopted by a majority of the board, may grant leases, rights, or easements to the United States government, to the state or any department or agency thereof, or to municipal corporations and other political subdivisions of the state, or to privately owned electric light and power companies, natural gas companies, or telephone or telegraph companies for purposes of rendering their several public utilities services, in accordance with division (B) of section 307.09 of the Revised Code, without advertising for bids. When such grant of lease, right, or easement is authorized, a deed or other proper instrument therefor shall be executed by the board.

Sec. 307.12. (A) Except as otherwise provided in divisions (D), (E), and (G) of this section, when the board of county commissioners finds, by resolution, that the county has personal property, including motor vehicles acquired for the use of county officers and departments, and road machinery, equipment, tools, or supplies, that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, and when the fair market value of the property to be sold or donated under this division is, in the opinion of the board, in excess of two thousand five hundred dollars, the board may do either of the

following: 16273

(1) Sell the property at public auction or by sealed bid to 16274
the highest bidder. Notice of the time, place, and manner of the 16275
sale shall be published in a newspaper of general circulation in 16276
the county at least ten days prior to the sale, and a typewritten 16277
or printed notice of the time, place, and manner of the sale shall 16278
be posted at least ten days before the sale in the offices of the 16279
county auditor and the board of county commissioners. 16280

If a board conducts a sale of property by sealed bid, the 16281
form of the bid shall be as prescribed by the board, and each bid 16282
shall contain the name of the person submitting it. Bids received 16283
shall be opened and tabulated at the time stated in the notice. 16284
The property shall be sold to the highest bidder, except that the 16285
board may reject all bids and hold another sale, by public auction 16286
or sealed bid, in the manner prescribed by this section. 16287

(2) Donate any motor vehicle that does not exceed four 16288
thousand five hundred dollars in value to a nonprofit organization 16289
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 16290
and (c)(3) for the purpose of meeting the transportation needs of 16291
participants in the Ohio works first program established under 16292
Chapter 5107. of the Revised Code and participants in the 16293
prevention, retention, and contingency program established under 16294
Chapter 5108. of the Revised Code. 16295

(B) When the board of county commissioners finds, by 16296
resolution, that the county has personal property, including motor 16297
vehicles acquired for the use of county officers and departments, 16298
and road machinery, equipment, tools, or supplies, that is not 16299
needed for public use, is obsolete, or is unfit for the use for 16300
which it was acquired, and when the fair market value of the 16301
property to be sold or donated under this division is, in the 16302
opinion of the board, two thousand five hundred dollars or less, 16303
the board may do either of the following: 16304

(1) Sell the property by private sale, without advertisement 16305
or public notification; 16306

(2) Donate the property to an eligible nonprofit organization 16307
that is located in this state and is exempt from federal income 16308
taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating 16309
any property under this division, the board shall adopt a 16310
resolution expressing its intent to make unneeded, obsolete, or 16311
unfit-for-use county personal property available to these 16312
organizations. The resolution shall include guidelines and 16313
procedures the board considers necessary to implement a donation 16314
program under this division and shall indicate whether the county 16315
will conduct the donation program or the board will contract with 16316
a representative to conduct it. If a representative is known when 16317
the resolution is adopted, the resolution shall provide contact 16318
information such as the representative's name, address, and 16319
telephone number. 16320

The resolution shall include within its procedures a 16321
requirement that any nonprofit organization desiring to obtain 16322
donated property under this division shall submit a written notice 16323
to the board or its representative. The written notice shall 16324
include evidence that the organization is a nonprofit organization 16325
that is located in this state and is exempt from federal income 16326
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 16327
the organization's primary purpose; a description of the type or 16328
types of property the organization needs; and the name, address, 16329
and telephone number of a person designated by the organization's 16330
governing board to receive donated property and to serve as its 16331
agent. 16332

After adoption of the resolution, the board shall publish, in 16333
a newspaper of general circulation in the county, notice of its 16334
intent to donate unneeded, obsolete, or unfit-for-use county 16335
personal property to eligible nonprofit organizations. The notice 16336

shall include a summary of the information provided in the 16337
resolution and shall be published ~~at least~~ twice or as provided in 16338
section 7.16 of the Revised Code. The second and any subsequent 16339
notice shall be published not less than ten nor more than twenty 16340
days after the previous notice. A similar notice also shall be 16341
posted continually in a conspicuous place in the offices of the 16342
county auditor and the board of county commissioners, ~~and, if~~. If 16343
the county maintains a web site on the internet, the notice shall 16344
be posted continually at that web site. 16345

The board or its representative shall maintain a list of all 16346
nonprofit organizations that notify the board or its 16347
representative of their desire to obtain donated property under 16348
this division and that the board or its representative determines 16349
to be eligible, in accordance with the requirements set forth in 16350
this section and in the donation program's guidelines and 16351
procedures, to receive donated property. 16352

The board or its representatives also shall maintain a list 16353
of all county personal property the board finds to be unneeded, 16354
obsolete, or unfit for use and to be available for donation under 16355
this division. The list shall be posted continually in a 16356
conspicuous location in the offices of the county auditor and the 16357
board of county commissioners, and, if the county maintains a web 16358
site on the internet, the list shall be posted continually at that 16359
web site. An item of property on the list shall be donated to the 16360
eligible nonprofit organization that first declares to the board 16361
or its representative its desire to obtain the item unless the 16362
board previously has established, by resolution, a list of 16363
eligible nonprofit organizations that shall be given priority with 16364
respect to the item's donation. Priority may be given on the basis 16365
that the purposes of a nonprofit organization have a direct 16366
relationship to specific public purposes of programs provided or 16367
administered by the board. A resolution giving priority to certain 16368

nonprofit organizations with respect to the donation of an item of 16369
property shall specify the reasons why the organizations are given 16370
that priority. 16371

(C) Members of the board of county commissioners shall 16372
consult with the Ohio ethics commission, and comply with the 16373
provisions of Chapters 102. and 2921. of the Revised Code, with 16374
respect to any sale or donation under division (A) or (B) of this 16375
section to a nonprofit organization of which a county 16376
commissioner, any member of the county commissioner's family, or 16377
any business associate of the county commissioner is a trustee, 16378
officer, board member, or employee. 16379

(D) Notwithstanding anything to the contrary in division (A), 16380
(B), or (E) of this section and regardless of the property's 16381
value, the board of county commissioners may sell or donate county 16382
personal property, including motor vehicles, to the federal 16383
government, the state, any political subdivision of the state, or 16384
a county land reutilization corporation without advertisement or 16385
public notification. 16386

(E) Notwithstanding anything to the contrary in division (A), 16387
(B), or (G) of this section and regardless of the property's 16388
value, the board of county commissioners may sell personal 16389
property, including motor vehicles acquired for the use of county 16390
officers and departments, and road machinery, equipment, tools, or 16391
supplies, that is not needed for public use, is obsolete, or is 16392
unfit for the use for which it was acquired, by internet auction. 16393
The board shall adopt, during each calendar year, a resolution 16394
expressing its intent to sell that property by internet auction. 16395
The resolution shall include a description of how the auctions 16396
will be conducted and shall specify the number of days for bidding 16397
on the property, which shall be no less than ten days, including 16398
Saturdays, Sundays, and legal holidays. The resolution shall 16399
indicate whether the county will conduct the auction or the board 16400

will contract with a representative to conduct the auction and 16401
shall establish the general terms and conditions of sale. If a 16402
representative is known when the resolution is adopted, the 16403
resolution shall provide contact information such as the 16404
representative's name, address, and telephone number. 16405

After adoption of the resolution, the board shall publish, in 16406
a newspaper of general circulation in the county, notice of its 16407
intent to sell unneeded, obsolete, or unfit-for-use county 16408
personal property by internet auction. The notice shall include a 16409
summary of the information provided in the resolution and shall be 16410
published ~~at least~~ twice or as provided in section 7.16 of the 16411
Revised Code. The second and any subsequent notice shall be 16412
published not less than ten nor more than twenty days after the 16413
previous notice. A similar notice also shall be posted continually 16414
throughout the calendar year in a conspicuous place in the offices 16415
of the county auditor and the board of county commissioners, ~~and,~~ 16416
~~if.~~ If the county maintains a web site on the internet, the notice 16417
shall be posted continually throughout the calendar year at that 16418
web site. 16419

When property is to be sold by internet auction, the board or 16420
its representative may establish a minimum price that will be 16421
accepted for specific items and may establish any other terms and 16422
conditions for the particular sale, including requirements for 16423
pick-up or delivery, method of payment, and sales tax. This type 16424
of information shall be provided on the internet at the time of 16425
the auction and may be provided before that time upon request 16426
after the terms and conditions have been determined by the board 16427
or its representative. 16428

(F) When a county officer or department head determines that 16429
county-owned personal property under the jurisdiction of the 16430
officer or department head, including motor vehicles, road 16431
machinery, equipment, tools, or supplies, is not of immediate 16432

need, the county officer or department head may notify the board 16433
of county commissioners, and the board may lease that personal 16434
property to any municipal corporation, township, other political 16435
subdivision of the state, or to a county land reutilization 16436
corporation. The lease shall require the county to be reimbursed 16437
under terms, conditions, and fees established by the board, or 16438
under contracts executed by the board. 16439

(G) If the board of county commissioners finds, by 16440
resolution, that the county has vehicles, equipment, or machinery 16441
that is not needed, or is unfit for public use, and the board 16442
desires to sell the vehicles, equipment, or machinery to the 16443
person or firm from which it proposes to purchase other vehicles, 16444
equipment, or machinery, the board may offer to sell the vehicles, 16445
equipment, or machinery to that person or firm, and to have the 16446
selling price credited to the person or firm against the purchase 16447
price of other vehicles, equipment, or machinery. 16448

(H) If the board of county commissioners advertises for bids 16449
for the sale of new vehicles, equipment, or machinery to the 16450
county, it may include in the same advertisement a notice of the 16451
willingness of the board to accept bids for the purchase of 16452
county-owned vehicles, equipment, or machinery that is obsolete or 16453
not needed for public use, and to have the amount of those bids 16454
subtracted from the selling price of the other vehicles, 16455
equipment, or machinery as a means of determining the lowest 16456
responsible bidder. 16457

(I) If a board of county commissioners determines that county 16458
personal property is not needed for public use, or is obsolete or 16459
unfit for the use for which it was acquired, and that the property 16460
has no value, the board may discard or salvage that property. 16461

(J) A county engineer, in the engineer's discretion, may 16462
dispose of scrap construction materials on such terms as the 16463
engineer determines reasonable, including disposal without 16464

recovery of costs, if the total value of the materials does not 16465
exceed twenty-five thousand dollars. The engineer shall maintain 16466
records of all dispositions made under this division, including 16467
identification of the origin of the materials, the final 16468
disposition, and copies of all receipts resulting from the 16469
dispositions. 16470

As used in division (I) of this section, "scrap construction 16471
materials" means construction materials that result from a road or 16472
bridge improvement, remain after the improvement is completed, and 16473
are not reusable. Construction material that is metal and that 16474
results from a road or bridge improvement and remains after the 16475
improvement is completed is scrap construction material only if it 16476
cannot be used in any other road or bridge improvement or other 16477
project in its current state. 16478

Sec. 307.676. (A) As used in this section: 16479

(1) "Food and beverages" means any raw, cooked, or processed 16480
edible substance used or intended for use in whole or in part for 16481
human consumption, including ice, water, spirituous liquors, wine, 16482
mixed beverages, beer, soft drinks, soda, and other beverages. 16483

(2) "Convention facilities authority" has the same meaning as 16484
in section 351.01 of the Revised Code. 16485

(3) "Convention center" has the same meaning as in section 16486
307.695 of the Revised Code. 16487

(B) The legislative authority of a county with a population 16488
of one million or more according to the most recent federal 16489
decennial census may, by resolution adopted on or before August 16490
30, 2004, by a majority of the members of the legislative 16491
authority and with the subsequent approval of a majority of the 16492
electors of the county voting upon it, levy a tax of not more than 16493
two per cent on every retail sale in the county of food and 16494

beverages to be consumed on the premises where sold to pay the 16495
expenses of administering the tax and to provide revenues for the 16496
county general fund. Such resolution shall direct the board of 16497
elections to submit the question of levying the tax to the 16498
electors of the county at the next primary or general election in 16499
the county occurring not less than ninety days after the 16500
resolution is certified to the board of elections, and such 16501
resolution may further direct the board of elections to include 16502
upon the ballot submitted to the electors any specific purposes 16503
for which the tax will be used. The legislative authority shall 16504
establish all regulations necessary to provide for the 16505
administration and allocation of the tax. The regulations may 16506
prescribe the time for payment of the tax and may provide for 16507
imposition of a penalty, interest, or both for late payments, 16508
provided that any such penalty may not exceed ten per cent of the 16509
amount of tax due and the rate at which interest accrues may not 16510
exceed the rate per annum required under section 5703.47 of the 16511
Revised Code. 16512

(C) A tax levied under this section shall remain in effect 16513
for the period of time specified in the resolution or ordinance 16514
levying the tax, but in no case for a longer period than forty 16515
years. 16516

(D) A tax levied under this section is in addition to any 16517
other tax levied under Chapter 307., 4301., 4305., 5739., 5741., 16518
or any other chapter of the Revised Code. "Price," as defined in 16519
sections 5739.01 and 5741.01 of the Revised Code, does not include 16520
any tax levied under this section and any tax levied under this 16521
section does not include any tax imposed under Chapter 5739. or 16522
5741. of the Revised Code. 16523

(E)(1) No amount collected from a tax levied under this 16524
section shall be contributed to a convention facilities authority, 16525
corporation, or other entity created after July 1, 2003, for the 16526

principal purpose of constructing, improving, expanding, 16527
equipping, financing, or operating a convention center unless the 16528
mayor of the municipal corporation in which the convention center 16529
is to be operated by that convention facilities authority, 16530
corporation, or other entity has consented to the creation of that 16531
convention facilities authority, corporation, or entity. 16532
Notwithstanding any contrary provision of section 351.04 of the 16533
Revised Code, if a tax is levied by a county under this section, 16534
the board of county commissioners of that county may determine the 16535
manner of selection, the qualifications, the number, and terms of 16536
office of the members of the board of directors of any convention 16537
facilities authority, corporation, or other entity described in 16538
division (E)(1) of this section. 16539

(2)(a) No amount collected from a tax levied under this 16540
section may be used for any purpose other than paying the direct 16541
and indirect costs of constructing, improving, expanding, 16542
equipping, financing, or operating a convention center and for the 16543
real and actual costs of administering the tax, unless, prior to 16544
the adoption of the resolution of the legislative authority of the 16545
county directing the board of elections to submit the question of 16546
the levy, extension, or increase to the electors of the county, 16547
the county and the mayor of the most populous municipal 16548
corporation in that county have entered into an agreement as to 16549
the use of such amounts, provided that such agreement has been 16550
approved by a majority of the mayors of the other municipal 16551
corporations in that county. The agreement shall provide that the 16552
amounts to be used for purposes other than paying the convention 16553
center or administrative costs described in division (E)(2)(a) of 16554
this section be used only for the direct and indirect costs of 16555
capital improvements in accordance with the agreement, including 16556
the financing of capital improvements. Immediately following the 16557
execution of the agreement, the county shall: 16558

(i) In accordance with section 7.12 of the Revised Code, 16559
cause the agreement to be published ~~at least~~ once in a newspaper 16560
of general circulation in that county; or 16561

(ii) Post the agreement in at least five public places in the 16562
county, as determined by the legislative authority, for a period 16563
not less than fifteen days. 16564

(b) If the county in which the tax is levied has an 16565
association of mayors and city managers, the approval of that 16566
association of an agreement described in division (E)(2)(a) of 16567
this section shall be considered to be the approval of the 16568
majority of the mayors of the other municipal corporations for 16569
purposes of that division. 16570

(F) Each year, the auditor of state shall conduct an audit of 16571
the uses of any amounts collected from taxes levied under this 16572
section and shall prepare a report of the auditor of state's 16573
findings. The auditor of state shall submit the report to the 16574
legislative authority of the county that has levied the tax, the 16575
speaker of the house of representatives, the president of the 16576
senate, and the leaders of the minority parties of the house of 16577
representatives and the senate. 16578

(G) The levy of any taxes under Chapter 5739. of the Revised 16579
Code on the same transactions subject to a tax under this section 16580
does not prevent the levy of a tax under this section. 16581

Sec. 307.70. In any county electing a county charter 16582
commission, the board of county commissioners shall appropriate 16583
money for the expenses of such commission in the preparation of a 16584
county charter, or charter amendment, and the study of problems 16585
involved. No appropriation shall be made for the compensation of 16586
members of the commission for their services. The board shall 16587
appropriate money for the printing and mailing or otherwise 16588
distributing to each elector in the county, as far as may be 16589

reasonably possible, a copy of a charter submitted to the electors 16590
of the county by a charter commission or by the board pursuant to 16591
petition as provided by Section 4 of Article X, Ohio Constitution. 16592
The copy of the charter shall be mailed or otherwise distributed 16593
at least thirty days prior to the election. The board shall 16594
appropriate money for the printing and distribution or publication 16595
of proposed amendments to a charter submitted by a charter 16596
commission pursuant to Section 4 of Article X, Ohio Constitution. 16597
Notice of amendments to a county charter shall be given by mailing 16598
or otherwise distributing a copy of each proposed amendment to 16599
each elector in the county, as far as may be reasonably possible, 16600
at least thirty days prior to the election or, if the board so 16601
determines, by publishing the full text of the proposed amendments 16602
once a week for at least two consecutive weeks in a newspaper 16603
~~published in the county. If no newspaper is published in the~~ 16604
~~county or the board is unable to obtain publication in a newspaper~~ 16605
~~published in the county, the proposed amendments may be published~~ 16606
~~in a newspaper~~ of general circulation within the county, or as 16607
provided in section 7.16 of the Revised Code. No public officer is 16608
precluded, because of being a public officer, from also holding 16609
office as a member of a county charter commission, except that not 16610
more than four officeholders may be elected to a county charter 16611
commission at the same time. No member of a county charter 16612
commission, because of charter commission membership, is precluded 16613
from seeking or holding other public office. 16614

Sec. 307.79. (A) The board of county commissioners may adopt, 16615
amend, and rescind rules establishing technically feasible and 16616
economically reasonable standards to achieve a level of management 16617
and conservation practices that will abate wind or water erosion 16618
of the soil or abate the degradation of the waters of the state by 16619
soil sediment in conjunction with land grading, excavating, 16620
filling, or other soil disturbing activities on land used or being 16621

developed for nonfarm commercial, industrial, residential, or 16622
other nonfarm purposes, and establish criteria for determination 16623
of the acceptability of those management and conservation 16624
practices. The rules shall be designed to implement the applicable 16625
areawide waste treatment management plan prepared under section 16626
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 16627
(1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of 16628
the storm water program of the national pollutant discharge 16629
elimination system established in 40 C.F.R. Part 122. The rules to 16630
implement phase II of the storm water program of the national 16631
pollutant discharge elimination system shall not be inconsistent 16632
with, more stringent than, or broader in scope than the rules or 16633
regulations adopted by the environmental protection agency under 16634
40 C.F.R. Part 122. The rules adopted under this section shall not 16635
apply inside the limits of municipal corporations or the limits of 16636
townships with a limited home rule government that have adopted 16637
rules under section 504.21 of the Revised Code, to lands being 16638
used in a strip mine operation as defined in section 1513.01 of 16639
the Revised Code, or to land being used in a surface mine 16640
operation as defined in section 1514.01 of the Revised Code. 16641

16642

The rules adopted under this section may require persons to 16643
file plans governing erosion control, sediment control, and water 16644
management before clearing, grading, excavating, filling, or 16645
otherwise wholly or partially disturbing one or more contiguous 16646
acres of land owned by one person or operated as one development 16647
unit for the construction of nonfarm buildings, structures, 16648
utilities, recreational areas, or other similar nonfarm uses. If 16649
the rules require plans to be filed, the rules shall do all of the 16650
following: 16651

(1) Designate the board itself, its employees, or another 16652
agency or official to review and approve or disapprove the plans; 16653

(2) Establish procedures and criteria for the review and approval or disapproval of the plans;	16654 16655
(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;	16656 16657 16658 16659
(4) Establish procedures for the issuance of the permits;	16660
(5) Establish procedures under which a person may appeal the denial of a permit.	16661 16662
Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.	16663 16664 16665 16666 16667
No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.	16668 16669 16670 16671 16672 16673 16674
(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board. The board of county commissioners shall cause to be published, in a newspaper of general circulation in the county, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings, <u>or as provided in section 7.16 of the Revised Code</u> . The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the	16675 16676 16677 16678 16679 16680 16681 16682 16683 16684

thirty-first day following the date of their adoption. 16685

(C) The board of county commissioners may employ personnel to 16686
assist in the administration of this section and the rules adopted 16687
under it. The board also, if the action does not conflict with the 16688
rules, may delegate duties to review sediment control and water 16689
management plans to its employees, and may enter into agreements 16690
with one or more political subdivisions, other county officials, 16691
or other government agencies, in any combination, in order to 16692
obtain reviews and comments on plans governing erosion control, 16693
sediment control, and water management or to obtain other services 16694
for the administration of the rules adopted under this section. 16695

(D) The board of county commissioners or any duly authorized 16696
representative of the board may, upon identification to the owner 16697
or person in charge, enter any land upon obtaining agreement with 16698
the owner, tenant, or manager of the land in order to determine 16699
whether there is compliance with the rules adopted under this 16700
section. If the board or its duly authorized representative is 16701
unable to obtain such an agreement, the board or representative 16702
may apply for, and a judge of the court of common pleas for the 16703
county where the land is located may issue, an appropriate 16704
inspection warrant as necessary to achieve the purposes of this 16705
chapter. 16706

(E)(1) If the board of county commissioners or its duly 16707
authorized representative determines that a violation of the rules 16708
adopted under this section exists, the board or representative may 16709
issue an immediate stop work order if the violator failed to 16710
obtain any federal, state, or local permit necessary for sediment 16711
and erosion control, earth movement, clearing, or cut and fill 16712
activity. In addition, if the board or representative determines 16713
such a rule violation exists, regardless of whether or not the 16714
violator has obtained the proper permits, the board or 16715
representative may authorize the issuance of a notice of 16716

violation. If, after a period of not less than thirty days has
elapsed following the issuance of the notice of violation, the
violation continues, the board or its duly authorized
representative shall issue a second notice of violation. Except as
provided in division (E)(3) of this section, if, after a period of
not less than fifteen days has elapsed following the issuance of
the second notice of violation, the violation continues, the board
or its duly authorized representative may issue a stop work order
after first obtaining the written approval of the prosecuting
attorney of the county if, in the opinion of the prosecuting
attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly
authorize representative shall request, in writing, the
prosecuting attorney of the county to seek an injunction or other
appropriate relief in the court of common pleas to abate excessive
erosion or sedimentation and secure compliance with the rules
adopted under this section. If the prosecuting attorney seeks an
injunction or other appropriate relief, then, in granting relief,
the court of common pleas may order the construction of sediment
control improvements or implementation of other control measures
and may assess a civil fine of not less than one hundred or more
than five hundred dollars. Each day of violation of a rule or stop
work order issued under this section shall be considered a
separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this
section may appeal the order to the court of common pleas of the
county in which it was issued, seeking any equitable or other
appropriate relief from that order.

(3) No stop work order shall be issued under this section
against any public highway, transportation, or drainage
improvement or maintenance project undertaken by a government
agency or political subdivision in accordance with a statement of

its standard sediment control policies that is approved by the 16749
board or the chief of the division of soil and water resources in 16750
the department of natural resources. 16751

(F) No person shall violate any rule adopted or order issued 16752
under this section. Notwithstanding division (E) of this section, 16753
if the board of county commissioners determines that a violation 16754
of any rule adopted or administrative order issued under this 16755
section exists, the board may request, in writing, the prosecuting 16756
attorney of the county to seek an injunction or other appropriate 16757
relief in the court of common pleas to abate excessive erosion or 16758
sedimentation and secure compliance with the rules or order. In 16759
granting relief, the court of common pleas may order the 16760
construction of sediment control improvements or implementation of 16761
other control measures and may assess a civil fine of not less 16762
than one hundred or more than five hundred dollars. Each day of 16763
violation of a rule adopted or administrative order issued under 16764
this section shall be considered a separate violation subject to a 16765
civil fine. 16766

Sec. 307.791. The question of repeal of a county sediment 16767
control rule adopted under section 307.79 of the Revised Code may 16768
be initiated by filing with the board of elections of the county 16769
not less than ninety days before the general or primary election 16770
in any year a petition requesting that an election be held on such 16771
question. Such petition shall be signed by qualified electors 16772
residing in the county equal in number to ten per cent of those 16773
voting for governor at the most recent gubernatorial election in 16774
the county. 16775

After determination by it that such petition is valid, the 16776
board of elections shall submit the question to the electors of 16777
the county at the next general or primary election. The election 16778
shall be conducted, canvassed, and certified in the same manner as 16779

regular elections for county offices in the county. Notice of the 16780
election shall be published in a newspaper of general circulation 16781
in the county once a week for two consecutive weeks prior to the 16782
election ~~and, if~~ or as provided in section 7.16 of the Revised 16783
Code. If the board of elections operates and maintains a web site, 16784
notice of the election also shall be posted on that web site for 16785
thirty days prior to the election. The notice shall state the 16786
purpose, time, and place of the election and ~~the complete text a~~ 16787
succinct summary of each rule sought to be repealed. The form of 16788
the ballot cast at such election shall be prescribed by the 16789
secretary of state. The question covered by such petition shall be 16790
submitted as a separate proposition, but it may be printed on the 16791
same ballot with any other proposition submitted at the same 16792
election other than the election of officers. If a majority of the 16793
qualified electors voting on the question of repeal approve the 16794
repeal, the result of the election shall be certified immediately 16795
after the canvass by the board of elections to the board of county 16796
commissioners, who shall thereupon rescind the rule. 16797

Sec. 307.81. (A) Where lands have been dedicated to or for 16798
the use of the public for parks or park lands, and where such 16799
lands have remained unimproved and unused by the public and there 16800
appears to be little or no possibility that such lands will be 16801
improved and used by the public, the board of county commissioners 16802
of the county in which the lands are located may, by resolution, 16803
declare such parks or park lands vacated upon the petition of a 16804
majority of the abutting freeholders. No such parks or park lands 16805
shall be vacated unless notice of the pendency and prayer of the 16806
petition is given in a newspaper of general circulation in the 16807
county in which such lands are situated for three consecutive 16808
weeks preceding action on such petition or as provided in section 16809
7.16 of the Revised Code. No such lands shall be vacated prior to 16810
a public hearing had thereon. 16811

(B) Before the board of county commissioners may act on a petition to vacate unimproved and unused parks or park lands under division (A) of this section, the board shall offer such parks or park lands to all political subdivisions described in division (C) of this section. The board shall give notice to those political subdivisions by first class mail that the parks or park lands may be declared vacated unless the board of county commissioners accepts an offer from another political subdivision to buy or lease the lands. The failure of delivery of any such notice does not invalidate any proceedings for the disposition of parks or park lands under this division. Any such political subdivision that wishes to buy or lease the parks or park lands shall make an offer for the lands to the board in writing not later than ninety days after receiving the notice. The board may reject any offer, except that if it receives an offer in which the political subdivision agrees to use the lands for park purposes and in which the board finds all of the other terms acceptable, the board shall accept that offer. No offer shall be accepted until notice of the offer is published for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated or as provided in section 7.16 of the Revised Code, and a public hearing is held. Proceeds from the sale or lease of the lands shall be placed in the general fund of the county and be disbursed as prescribed in section 307.82 of the Revised Code. Any deed conveying the lands shall be executed as provided in that section.

(C) In order to receive a notice or to make an offer regarding parks or park lands under division (B) of this section, a political subdivision must meet both of the following conditions:

(1) Have the authority to acquire, develop, and maintain public parks or recreation areas;

(2) Contain the parks or park lands in question within its

boundaries, or adjoin a political subdivision that contains those 16844
parks or park lands within its boundaries. 16845

Sec. 307.82. Upon the vacation of parks or park lands, the 16846
board of county commissioners shall offer such lands for sale at a 16847
public auction at the courthouse of the county in which such lands 16848
are situated. No lands shall be sold until the board gives notice 16849
of intention to sell such lands. Such notice shall be published 16850
once a week for four consecutive weeks in a newspaper of general 16851
circulation in the county in which sale is to be had or as 16852
provided in section 7.16 of the Revised Code. The board shall sell 16853
such lands to the highest and best bidder, provided, the board may 16854
reject any and all bids made hereunder. 16855

When such sale is made, the auditor of the county in which 16856
sale is had and in which such lands are located, shall enter into 16857
a deed, conveying said lands to the purchaser thereof. At the time 16858
of sale, the auditor shall place the lands sold hereunder on the 16859
tax duplicate of the county at a value to be established by ~~him~~ 16860
the auditor as in cases where ~~he~~ the auditor re-enters property 16861
which has been tax exempt on the taxable list of the county. 16862

The proceeds from the sale of lands sold pursuant to this 16863
section shall be placed in the general fund of the county in which 16864
such lands are located and may be disbursed as other general fund 16865
moneys. 16866

Sec. 307.83. When real estate which has been dedicated to or 16867
for the use of the public for parks or park lands is vacated by 16868
the board of county commissioners pursuant to division (A) of 16869
section 307.81 of the Revised Code or is to be sold or leased for 16870
nonpark use under division (B) of that section, and where 16871
reversionary interests have been set up in the event of the 16872
non-use of such lands for the dedicated purpose, such reversionary 16873

interests shall accelerate and vest in the holders thereof upon 16874
such vacation, or prior to the acceptance of an offer to buy or 16875
lease the land. Thereupon the auditor of the county shall place 16876
the lands on the tax duplicate of the county in the names of such 16877
reversioners as are known to the board of county commissioners. If 16878
the board is unable to establish the names of such reversioners, 16879
it shall fix a date on or before which claims to such real estate 16880
may be asserted and after which such real estate shall be sold or 16881
leased. The board shall give notice of such date and of the sale 16882
or lease to be held thereafter, once each week for four 16883
consecutive weeks in a newspaper of general circulation in the 16884
county wherein such lands are located or as provided in section 16885
7.16 of the Revised Code. In the event that no claims to such 16886
lands are asserted or found to be valid, the lands shall be sold 16887
pursuant to section 307.82 of the Revised Code in the case of a 16888
vacation of the lands pursuant to division (A) of section 307.81 16889
of the Revised Code, or be sold or leased pursuant to division (B) 16890
of section 307.81 of the Revised Code if an agreement with a 16891
political subdivision is entered into under that division, and the 16892
title of any holders of reversionary interests shall be 16893
extinguished. 16894

Sec. 307.86. Anything to be purchased, leased, leased with an 16895
option or agreement to purchase, or constructed, including, but 16896
not limited to, any product, structure, construction, 16897
reconstruction, improvement, maintenance, repair, or service, 16898
except the services of an accountant, architect, attorney at law, 16899
physician, professional engineer, construction project manager, 16900
consultant, surveyor, or appraiser, by or on behalf of the county 16901
or contracting authority, as defined in section 307.92 of the 16902
Revised Code, at a cost in excess of twenty-five thousand dollars, 16903
except as otherwise provided in division (D) of section 713.23 and 16904
in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 16905

307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 16906
5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall 16907
be obtained through competitive bidding. However, competitive 16908
bidding is not required when any of the following applies: 16909

(A) The board of county commissioners, by a unanimous vote of 16910
its members, makes a determination that a real and present 16911
emergency exists, and that determination and the reasons for it 16912
are entered in the minutes of the proceedings of the board, when 16913
either of the following applies: 16914

(1) The estimated cost is less than fifty thousand dollars. 16915

(2) There is actual physical disaster to structures, radio 16916
communications equipment, or computers. 16917

For purposes of this division, "unanimous vote" means all 16918
three members of a board of county commissioners when all three 16919
members are present, or two members of the board if only two 16920
members, constituting a quorum, are present. 16921

Whenever a contract of purchase, lease, or construction is 16922
exempted from competitive bidding under division (A)(1) of this 16923
section because the estimated cost is less than fifty thousand 16924
dollars, but the estimated cost is twenty-five thousand dollars or 16925
more, the county or contracting authority shall solicit informal 16926
estimates from no fewer than three persons who could perform the 16927
contract, before awarding the contract. With regard to each such 16928
contract, the county or contracting authority shall maintain a 16929
record of such estimates, including the name of each person from 16930
whom an estimate is solicited. The county or contracting authority 16931
shall maintain the record for the longer of at least one year 16932
after the contract is awarded or the amount of time the federal 16933
government requires. 16934

(B)(1) The purchase consists of supplies or a replacement or 16935
supplemental part or parts for a product or equipment owned or 16936

leased by the county, and the only source of supply for the 16937
supplies, part, or parts is limited to a single supplier. 16938

(2) The purchase consists of services related to information 16939
technology, such as programming services, that are proprietary or 16940
limited to a single source. 16941

(C) The purchase is from the federal government, the state, 16942
another county or contracting authority of another county, or a 16943
board of education, educational service center, township, or 16944
municipal corporation. 16945

(D) The purchase is made by a county department of job and 16946
family services under section 329.04 of the Revised Code and 16947
consists of family services duties or workforce development 16948
activities or is made by a county board of developmental 16949
disabilities under section 5126.05 of the Revised Code and 16950
consists of program services, such as direct and ancillary client 16951
services, child care, case management services, residential 16952
services, and family resource services. 16953

(E) The purchase consists of criminal justice services, 16954
social services programs, family services, or workforce 16955
development activities by the board of county commissioners from 16956
nonprofit corporations or associations under programs funded by 16957
the federal government or by state grants. 16958

(F) The purchase consists of any form of an insurance policy 16959
or contract authorized to be issued under Title XXXIX of the 16960
Revised Code or any form of health care plan authorized to be 16961
issued under Chapter 1751. of the Revised Code, or any combination 16962
of such policies, contracts, plans, or services that the 16963
contracting authority is authorized to purchase, and the 16964
contracting authority does all of the following: 16965

(1) Determines that compliance with the requirements of this 16966
section would increase, rather than decrease, the cost of the 16967

purchase;	16968
(2) Requests issuers of the policies, contracts, plans, or services to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of the policies, contracts, plans, or services as the contracting authority desires to purchase;	16969 16970 16971 16972 16973
(3) Negotiates with the issuers for the purpose of purchasing the policies, contracts, plans, or services at the best and lowest price reasonably possible.	16974 16975 16976
(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.	16977 16978 16979 16980 16981
(H) Child care services are purchased for provision to county employees.	16982 16983
(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply:	16984 16985 16986
(a) The contracting authority is authorized by the Revised Code to lease the property.	16987 16988
(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property.	16989 16990 16991 16992
(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code.	16993 16994 16995 16996 16997

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.

(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this division.

(J) The purchase is made pursuant to section 5139.34 or sections 5139.41 to 5139.46 of the Revised Code and is of programs or services that provide case management, treatment, or prevention services to any felony or misdemeanor delinquent, unruly youth, or status offender under the supervision of the juvenile court, including, but not limited to, community residential care, day treatment, services to children in their home, or electronic monitoring.

(K) The purchase is made by a public children services agency pursuant to section 307.92 or 5153.16 of the Revised Code and consists of family services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children.

(L) The purchase is to obtain the services of emergency medical service organizations under a contract made by the board of county commissioners pursuant to section 307.05 of the Revised Code with a joint emergency medical services district.

(M) The county contracting authority determines that the use of competitive sealed proposals would be advantageous to the county and the contracting authority complies with section 307.862 of the Revised Code.

Any issuer of policies, contracts, plans, or services listed 17029
in division (F) of this section and any prospective lessor under 17030
division (I) of this section may have the issuer's or prospective 17031
lessor's name and address, or the name and address of an agent, 17032
placed on a special notification list to be kept by the 17033
contracting authority, by sending the contracting authority that 17034
name and address. The contracting authority shall send notice to 17035
all persons listed on the special notification list. Notices shall 17036
state the deadline and place for submitting proposals. The 17037
contracting authority shall mail the notices at least six weeks 17038
prior to the deadline set by the contracting authority for 17039
submitting proposals. Every five years the contracting authority 17040
may review this list and remove any person from the list after 17041
mailing the person notification of that action. 17042

Any contracting authority that negotiates a contract under 17043
division (F) of this section shall request proposals and negotiate 17044
with issuers in accordance with that division at least every three 17045
years from the date of the signing of such a contract, unless the 17046
parties agree upon terms for extensions or renewals of the 17047
contract. Such extension or renewal periods shall not exceed six 17048
years from the date the initial contract is signed. 17049

Any real estate appraiser employed pursuant to division (I) 17050
of this section shall disclose any fees or compensation received 17051
from any source in connection with that employment. 17052

Sec. 308.13. (A) The board of trustees of a regional airport 17053
authority or any officer or employee designated by such board may 17054
make any contract for the purchase of supplies or material or for 17055
labor for any work, under the supervision of the board, the cost 17056
of which shall not exceed fifteen thousand dollars. Except where 17057
the contract is for equipment, materials, or supplies available 17058
from a qualified nonprofit agency pursuant to sections 4115.31 to 17059

4115.35 of the Revised Code, when an expenditure, other than for 17060
the acquisition of real estate, the discharge of noncontractual 17061
claims, personal services, or for the product or services of 17062
public utilities, exceeds fifteen thousand dollars, such 17063
expenditure shall be made only after a notice calling for bids has 17064
been published once a week for three consecutive weeks in ~~at least~~ 17065
~~one~~ a newspaper of general circulation within the territorial 17066
boundaries of the regional airport authority, or as provided in 17067
section 7.16 of the Revised Code. If the bid is for a contract for 17068
the construction, demolition, alteration, repair, or 17069
reconstruction of an improvement, it shall meet the requirements 17070
of section 153.54 of the Revised Code. If the bid is for any other 17071
contract authorized by this section, it shall be accompanied by a 17072
good and approved bond with ample security conditioned on the 17073
carrying out of the contract. The board may let the contract to 17074
the lowest and best bidder. Such contract shall be in writing and 17075
shall be accompanied by or shall refer to plans and specifications 17076
for the work to be done, approved by the board. The plans and 17077
specifications shall at all times be made and considered part of 17078
the contract. Said contract shall be approved by the board and 17079
signed by its chief executive officer and by the contractor, and 17080
shall be executed in duplicate. 17081

(B) Whenever a board of trustees of a regional airport 17082
authority or any officer or employee designated by the board makes 17083
a contract for the purchase of supplies or material or for labor 17084
for any work, the cost of which is greater than one thousand 17085
dollars but no more than fifteen thousand dollars, the board or 17086
designated officer or employee shall solicit informal estimates 17087
from no fewer than three potential suppliers before awarding the 17088
contract. With regard to each such contract, the board shall 17089
maintain a record of such estimates, including the name of each 17090
person from whom an estimate is solicited, for no less than one 17091
year after the contract is awarded. 17092

Sec. 317.20. (A) When, in the opinion of the board of county commissioners, sectional indexes are needed and it so directs, in addition to the alphabetical indexes provided for in section 317.18 of the Revised Code, the board may provide for making, in books prepared for that purpose, sectional indexes to the records of all real estate in the county beginning with some designated year and continuing through the period of years that the board specifies. The sectional indexes shall place under the heads of the original surveyed sections or surveys, parts of a section or survey, squares, subdivisions, permanent parcel numbers provided for under section 319.28 of the Revised Code, or lots, on the left-hand page or on the upper portion of that page of the index book, the name of the grantor, then the name of the grantee, then the number and page of the record in which the instrument is found recorded, then the character of the instrument, and then a pertinent description of the interest in property conveyed by the deed, lease, or assignment of lease and shall place under similar headings on the right-hand page or on the lower portion of that page of the index book, beginning at the bottom, all the mortgages, liens, notices provided for in sections 5301.51, 5301.52, and 5301.56 of the Revised Code, or other encumbrances affecting the real estate.

(B) The compensation for the services rendered under this section shall be paid from the general revenue fund of the county, and no additional levy shall be made in consequence of the services.

(C) If the board of county commissioners decides to have sectional indexes made, it shall advertise for three consecutive weeks in one newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code for sealed proposals to do the work provided for in this section, shall contract with the lowest and best bidder, and shall require the successful

bidder to give a bond for the faithful performance of the contract 17125
in the sum that the board fixes. The work shall be done to the 17126
acceptance of the auditor of state upon allowance by the board. 17127
The board may reject any and all bids for the work, provided that 17128
no more than five cents shall be paid for each entry of each tract 17129
or lot of land. 17130

(D) When the sectional indexes are brought up and completed, 17131
the county recorder shall maintain the indexes and comply with 17132
division (E) of this section in connection with registered land. 17133

(E)(1) As used in division (E) of this section, "housing 17134
accommodations" and "restrictive covenant" have the same meanings 17135
as in section 4112.01 of the Revised Code. 17136

(2) In connection with any transfer of registered land that 17137
occurs on and after ~~the effective date of this amendment~~ March 30, 17138
1999, in accordance with Chapters 5309. and 5310. of the Revised 17139
Code, the county recorder shall delete from the sectional indexes 17140
maintained under this section all references to any restrictive 17141
covenant that appears to apply to the transferred registered land, 17142
if any inclusion of the restrictive covenant in a transfer, 17143
rental, or lease of housing accommodations, any honoring or 17144
exercising of the restrictive covenant, or any attempt to honor or 17145
exercise the restrictive covenant constitutes an unlawful 17146
discriminatory practice under division (H)(9) of section 4112.02 17147
of the Revised Code. 17148

Sec. 319.11. The county auditor shall, on or before ninety 17149
days after the close of the fiscal year, prepare a financial 17150
report of the county for the preceding fiscal year in such form as 17151
prescribed by the auditor of state. Upon completing the report, 17152
the county auditor shall publish notice that the report has been 17153
completed and is available for public inspection at the office of 17154
the county auditor. The notice shall be published once in ~~two~~ 17155

~~newspapers~~ a newspaper of general circulation ~~published~~ in the 17156
county, ~~except that if only one newspaper is published in the~~ 17157
~~county, then publication in only one newspaper is required, and~~ 17158
~~if.~~ If there are is no newspapers newspaper of general circulation 17159
in the county, then publication is required in the newspaper of 17160
general circulation in an adjoining county that has the largest 17161
circulation in ~~the~~ that adjoining county. The report shall contain 17162
at least the information required by section 117.38 of the Revised 17163
Code, and a copy shall be filed with the auditor of state. 17164

No county auditor shall fail or neglect to prepare the report 17165
or publish notice of completion of the report as required by this 17166
section. 17167

Sec. 319.301. (A) The reductions required by division (D) of 17168
this section do not apply to any of the following: 17169

(1) Taxes levied at whatever rate is required to produce a 17170
specified amount of tax money, including a tax levied under 17171
section 5705.199 or 5705.211 of the Revised Code, or an amount to 17172
pay debt charges; 17173

(2) Taxes levied within the one per cent limitation imposed 17174
by Section 2 of Article XII, Ohio Constitution; 17175

(3) Taxes provided for by the charter of a municipal 17176
corporation. 17177

(B) As used in this section: 17178

(1) "Real property" includes real property owned by a 17179
railroad. 17180

(2) "Carryover property" means all real property on the 17181
current year's tax list except: 17182

(a) Land and improvements that were not taxed by the district 17183
in both the preceding year and the current year; 17184

(b) Land and improvements that were not in the same class in both the preceding year and the current year. 17185
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(3) "Effective tax rate" means with respect to each class of property: 17187
17188

(a) The sum of the total taxes that would have been charged and payable for current expenses against real property in that class if each of the district's taxes were reduced for the current year under division (D)(1) of this section without regard to the application of division (E)(3) of this section divided by 17189
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(b) The taxable value of all real property in that class. 17194

(4) "Taxes charged and payable" means the taxes charged and payable prior to any reduction required by section 319.302 of the Revised Code. 17195
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(C) The tax commissioner shall make the determinations required by this section each year, without regard to whether a taxing district has territory in a county to which section 5715.24 of the Revised Code applies for that year. Separate determinations shall be made for each of the two classes established pursuant to section 5713.041 of the Revised Code. 17198
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(D) With respect to each tax authorized to be levied by each taxing district, the tax commissioner, annually, shall do both of the following: 17204
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(1) Determine by what percentage, if any, the sums levied by such tax against the carryover property in each class would have to be reduced for the tax to levy the same number of dollars against such property in that class in the current year as were charged against such property by such tax in the preceding year subsequent to the reduction made under this section but before the reduction made under section 319.302 of the Revised Code. In the case of a tax levied for the first time that is not a renewal of an existing tax, the commissioner shall determine by what 17207
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percentage the sums that would otherwise be levied by such tax 17216
against carryover property in each class would have to be reduced 17217
to equal the amount that would have been levied if the full rate 17218
thereof had been imposed against the total taxable value of such 17219
property in the preceding tax year. A tax or portion of a tax that 17220
is designated a replacement levy under section 5705.192 of the 17221
Revised Code is not a renewal of an existing tax for purposes of 17222
this division. 17223

(2) Certify each percentage determined in division (D)(1) of 17224
this section, as adjusted under division (E) of this section, and 17225
the class of property to which that percentage applies to the 17226
auditor of each county in which the district has territory. The 17227
auditor, after complying with section 319.30 of the Revised Code, 17228
shall reduce the sum to be levied by such tax against each parcel 17229
of real property in the district by the percentage so certified 17230
for its class. Certification shall be made by the first day of 17231
September except in the case of a tax levied for the first time, 17232
in which case certification shall be made within fifteen days of 17233
the date the county auditor submits the information necessary to 17234
make the required determination. 17235

(E)(1) As used in division (E)(2) of this section, "pre-1982 17236
joint vocational taxes" means, with respect to a class of 17237
property, the difference between the following amounts: 17238

(a) The taxes charged and payable in tax year 1981 against 17239
the property in that class for the current expenses of the joint 17240
vocational school district of which the school district is a part 17241
after making all reductions under this section; 17242

(b) The following percentage of the taxable value of all real 17243
property in that class: 17244

(i) In 1987, five one-hundredths of one per cent; 17245

(ii) In 1988, one-tenth of one per cent; 17246

(iii) In 1989, fifteen one-hundredths of one per cent;	17247
(iv) In 1990 and each subsequent year, two-tenths of one per cent.	17248 17249
If the amount in division (E)(1)(b) of this section exceeds the amount in division (E)(1)(a) of this section, the pre-1982 joint vocational taxes shall be zero.	17250 17251 17252
As used in divisions (E)(2) and (3) of this section, "taxes charged and payable" has the same meaning as in division (B)(4) of this section and excludes any tax charged and payable in 1985 or thereafter under sections 5705.194 to 5705.197 or section 5705.199, 5705.213, or 5705.219 of the Revised Code.	17253 17254 17255 17256 17257
(2) If in the case of a school district other than a joint vocational or cooperative education school district any percentage required to be used in division (D)(2) of this section for either class of property could cause the total taxes charged and payable for current expenses to be less than two per cent of the taxable value of all real property in that class that is subject to taxation by the district, the commissioner shall determine what percentages would cause the district's total taxes charged and payable for current expenses against that class, after all reductions that would otherwise be made under this section, to equal, when combined with the pre-1982 joint vocational taxes against that class, the lesser of the following:	17258 17259 17260 17261 17262 17263 17264 17265 17266 17267 17268 17269
(a) The sum of the rates at which those taxes are authorized to be levied;	17270 17271
(b) Two per cent of the taxable value of the property in that class. The auditor shall use such percentages in making the reduction required by this section for that class.	17272 17273 17274
(3)(a) If in the case of a joint vocational school district any percentage required to be used in division (D)(2) of this section for either class of property could cause the total taxes	17275 17276 17277

charged and payable for current expenses for that class to be less 17278
than the designated amount, the commissioner shall determine what 17279
percentages would cause the district's total taxes charged and 17280
payable for current expenses for that class, after all reductions 17281
that would otherwise be made under this section, to equal the 17282
designated amount. The auditor shall use such percentages in 17283
making the reductions required by this section for that class. 17284

(b) As used in division (E)(3)(a) of this section, the 17285
designated amount shall equal the taxable value of all real 17286
property in the class that is subject to taxation by the district 17287
times the lesser of the following: 17288

(i) Two-tenths of one per cent; 17289

(ii) The district's effective rate plus the following 17290
percentage for the year indicated: 17291

WHEN COMPUTING THE	ADD THE FOLLOWING	
TAXES CHARGED FOR	PERCENTAGE:	
1987	0.025%	17294
1988	0.05%	17295
1989	0.075%	17296
1990	0.1%	17297
1991	0.125%	17298
1992	0.15%	17299
1993	0.175%	17300
1994 and thereafter	0.2%	17301

(F) No reduction shall be made under this section in the rate 17302
at which any tax is levied. 17303

(G) The commissioner may order a county auditor to furnish 17304
any information the commissioner needs to make the determinations 17305
required under division (D) or (E) of this section, and the 17306
auditor shall supply the information in the form and by the date 17307
specified in the order. If the auditor fails to comply with an 17308

order issued under this division, except for good cause as 17309
determined by the commissioner, the commissioner shall withhold 17310
from such county or taxing district therein fifty per cent of 17311
state revenues to local governments pursuant to section 5747.50 of 17312
the Revised Code or shall direct the department of education to 17313
withhold therefrom fifty per cent of state revenues to school 17314
districts pursuant to ~~Chapters 3306.~~ and Chapter 3317. of the 17315
Revised Code. The commissioner shall withhold the distribution of 17316
such revenues until the county auditor has complied with this 17317
division, and the department shall withhold the distribution of 17318
such revenues until the commissioner has notified the department 17319
that the county auditor has complied with this division. 17320

(H) If the commissioner is unable to certify a tax reduction 17321
factor for either class of property in a taxing district located 17322
in more than one county by the last day of November because 17323
information required under division (G) of this section is 17324
unavailable, the commissioner may compute and certify an estimated 17325
tax reduction factor for that district for that class. The 17326
estimated factor shall be based upon an estimate of the 17327
unavailable information. Upon receipt of the actual information 17328
for a taxing district that received an estimated tax reduction 17329
factor, the commissioner shall compute the actual tax reduction 17330
factor and use that factor to compute the taxes that should have 17331
been charged and payable against each parcel of property for the 17332
year for which the estimated reduction factor was used. The amount 17333
by which the estimated factor resulted in an overpayment or 17334
underpayment in taxes on any parcel shall be added to or 17335
subtracted from the amount due on that parcel in the ensuing tax 17336
year. 17337

A percentage or a tax reduction factor determined or computed 17338
by the commissioner under this section shall be used solely for 17339
the purpose of reducing the sums to be levied by the tax to which 17340

it applies for the year for which it was determined or computed. 17341
It shall not be used in making any tax computations for any 17342
ensuing tax year. 17343

(I) In making the determinations under division (D)(1) of 17344
this section, the tax commissioner shall take account of changes 17345
in the taxable value of carryover property resulting from 17346
complaints filed under section 5715.19 of the Revised Code for 17347
determinations made for the tax year in which such changes are 17348
reported to the commissioner. Such changes shall be reported to 17349
the commissioner on the first abstract of real property filed with 17350
the commissioner under section 5715.23 of the Revised Code 17351
following the date on which the complaint is finally determined by 17352
the board of revision or by a court or other authority with 17353
jurisdiction on appeal. The tax commissioner shall account for 17354
such changes in making the determinations only for the tax year in 17355
which the change in valuation is reported. Such a valuation change 17356
shall not be used to recompute the percentages determined under 17357
division (D)(1) of this section for any prior tax year. 17358

Sec. 319.54. (A) On all moneys collected by the county 17359
treasurer on any tax duplicate of the county, other than estate 17360
tax duplicates, and on all moneys received as advance payments of 17361
personal property and classified property taxes, the county 17362
auditor, on settlement with the treasurer and tax commissioner, on 17363
or before the date prescribed by law for such settlement or any 17364
lawful extension of such date, shall be allowed as compensation 17365
for the county auditor's services the following percentages: 17366

(1) On the first one hundred thousand dollars, two and 17367
one-half per cent; 17368

(2) On the next two million dollars, eight thousand three 17369
hundred eighteen ten-thousandths of one per cent; 17370

(3) On the next two million dollars, six thousand six hundred 17371

fifty-five ten-thousandths of one per cent; 17372

(4) On all further sums, one thousand six hundred sixty-three 17373
ten-thousandths of one per cent. 17374

If any settlement is not made on or before the date 17375
prescribed by law for such settlement or any lawful extension of 17376
such date, the aggregate compensation allowed to the auditor shall 17377
be reduced one per cent for each day such settlement is delayed 17378
after the prescribed date. No penalty shall apply if the auditor 17379
and treasurer grant all requests for advances up to ninety per 17380
cent of the settlement pursuant to section 321.34 of the Revised 17381
Code. The compensation allowed in accordance with this section on 17382
settlements made before the dates prescribed by law, or the 17383
reduced compensation allowed in accordance with this section on 17384
settlements made after the date prescribed by law or any lawful 17385
extension of such date, shall be apportioned ratably by the 17386
auditor and deducted from the shares or portions of the revenue 17387
payable to the state as well as to the county, townships, 17388
municipal corporations, and school districts. 17389

(B) For the purpose of reimbursing county auditors for the 17390
expenses associated with the increased number of applications for 17391
reductions in real property taxes under sections 323.152 and 17392
4503.065 of the Revised Code that result from the amendment of 17393
those sections by Am. Sub. H.B. 119 of the 127th general assembly, 17394
there shall be paid from the state's general revenue fund to the 17395
county treasury, to the credit of the real estate assessment fund 17396
created by section 325.31 of the Revised Code, an amount equal to 17397
one per cent of the total annual amount of property tax relief 17398
reimbursement paid to that county under sections 323.156 and 17399
4503.068 of the Revised Code for the preceding tax year. Payments 17400
made under this division shall be made at the same times and in 17401
the same manner as payments made under section 323.156 of the 17402
Revised Code. 17403

(C) From all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, there shall be paid into the county treasury to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount to be determined by the county auditor, which shall not exceed the percentages prescribed in divisions (C)(1) and (2) of this section.

(1) For payments made after June 30, 2007, and before 2011, the following percentages:

(a) On the first five hundred thousand dollars, four per cent;

(b) On the next five million dollars, two per cent;

(c) On the next five million dollars, one per cent;

(d) On all further sums not exceeding one hundred fifty million dollars, three-quarters of one per cent;

(e) On amounts exceeding one hundred fifty million dollars, five hundred eighty-five thousandths of one per cent.

(2) For payments made in or after 2011, the following percentages:

(a) On the first five hundred thousand dollars, four per cent;

(b) On the next ten million dollars, two per cent;

(c) On amounts exceeding ten million five hundred thousand dollars, three-fourths of one per cent.

Such compensation shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(D) Each county auditor shall receive four per cent of the amount of tax collected and paid into the county treasury, on property omitted and placed by the county auditor on the tax duplicate.

(E) On all estate tax moneys collected by the county treasurer, the county auditor, on settlement semiannually with the tax commissioner, shall be allowed, as compensation for the auditor's services under Chapter 5731. of the Revised Code, the following percentages:

(1) Four per cent on the first one hundred thousand dollars;

(2) One-half of one per cent on all additional sums.

Such percentages shall be computed upon the amount collected and reported at each semiannual settlement, and shall be for the use of the general fund of the county.

(F) On all cigarette license moneys collected by the county treasurer, the county auditor, on settlement semiannually with the treasurer, shall be allowed as compensation for the auditor's services in the issuing of such licenses one-half of one per cent of such moneys, to be apportioned ratably and deducted from the shares of the revenue payable to the county and subdivisions, for the use of the general fund of the county.

(G) The county auditor shall charge and receive fees as follows:

(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;

(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;

(3) For receiving statements of value and administering	17463
section 319.202 of the Revised Code, one dollar, or ten cents for	17464
each one hundred dollars or fraction of one hundred dollars,	17465
whichever is greater, of the value of the real property	17466
transferred or, for sales occurring on or after January 1, 2000,	17467
the value of the used manufactured home or used mobile home, as	17468
defined in section 5739.0210 of the Revised Code, transferred,	17469
except no fee shall be charged when the transfer is made:	17470
(a) To or from the United States, this state, or any	17471
instrumentality, agency, or political subdivision of the United	17472
States or this state;	17473
(b) Solely in order to provide or release security for a debt	17474
or obligation;	17475
(c) To confirm or correct a deed previously executed and	17476
recorded or when a current owner on any record made available to	17477
the general public on the internet or a publicly accessible	17478
database and the general tax list of real and public utility	17479
property and the general duplicate of real and public utility	17480
property is a peace officer, parole officer, prosecuting attorney,	17481
assistant prosecuting attorney, correctional employee, youth	17482
services employee, firefighter, EMT, or investigator of the bureau	17483
of criminal identification and investigation and is changing the	17484
current owner name listed on any record made available to the	17485
general public on the internet or a publicly accessible database	17486
and the general tax list of real and public utility property and	17487
the general duplicate of real and public utility property to the	17488
initials of the current owner as prescribed in division (B)(1) of	17489
section 319.28 of the Revised Code;	17490
(d) To evidence a gift, in trust or otherwise and whether	17491
revocable or irrevocable, between husband and wife, or parent and	17492
child or the spouse of either;	17493

(e) On sale for delinquent taxes or assessments;	17494
(f) Pursuant to court order, to the extent that such transfer	17495
is not the result of a sale effected or completed pursuant to such	17496
order;	17497
(g) Pursuant to a reorganization of corporations or	17498
unincorporated associations or pursuant to the dissolution of a	17499
corporation, to the extent that the corporation conveys the	17500
property to a stockholder as a distribution in kind of the	17501
corporation's assets in exchange for the stockholder's shares in	17502
the dissolved corporation;	17503
(h) By a subsidiary corporation to its parent corporation for	17504
no consideration, nominal consideration, or in sole consideration	17505
of the cancellation or surrender of the subsidiary's stock;	17506
(i) By lease, whether or not it extends to mineral or mineral	17507
rights, unless the lease is for a term of years renewable forever;	17508
(j) When the value of the real property or the manufactured	17509
or mobile home or the value of the interest that is conveyed does	17510
not exceed one hundred dollars;	17511
(k) Of an occupied residential property, including a	17512
manufactured or mobile home, being transferred to the builder of a	17513
new residence or to the dealer of a new manufactured or mobile	17514
home when the former residence is traded as part of the	17515
consideration for the new residence or new manufactured or mobile	17516
home;	17517
(l) To a grantee other than a dealer in real property or in	17518
manufactured or mobile homes, solely for the purpose of, and as a	17519
step in, the prompt sale of the real property or manufactured or	17520
mobile home to others;	17521
(m) To or from a person when no money or other valuable and	17522
tangible consideration readily convertible into money is paid or	17523

to be paid for the real estate or manufactured or mobile home and 17524
the transaction is not a gift; 17525

(n) Pursuant to division (B) of section 317.22 of the Revised 17526
Code, or section 2113.61 of the Revised Code, between spouses or 17527
to a surviving spouse pursuant to section 5302.17 of the Revised 17528
Code as it existed prior to April 4, 1985, between persons 17529
pursuant to section 5302.17 or 5302.18 of the Revised Code on or 17530
after April 4, 1985, to a person who is a surviving, survivorship 17531
tenant pursuant to section 5302.17 of the Revised Code on or after 17532
April 4, 1985, or pursuant to section 5309.45 of the Revised Code; 17533

(o) To a trustee acting on behalf of minor children of the 17534
deceased; 17535

(p) Of an easement or right-of-way when the value of the 17536
interest conveyed does not exceed one thousand dollars; 17537

(q) Of property sold to a surviving spouse pursuant to 17538
section 2106.16 of the Revised Code; 17539

(r) To or from an organization exempt from federal income 17540
taxation under section 501(c)(3) of the "Internal Revenue Code of 17541
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such 17542
transfer is without consideration and is in furtherance of the 17543
charitable or public purposes of such organization; 17544

(s) Among the heirs at law or devisees, including a surviving 17545
spouse, of a common decedent, when no consideration in money is 17546
paid or to be paid for the real property or manufactured or mobile 17547
home; 17548

(t) To a trustee of a trust, when the grantor of the trust 17549
has reserved an unlimited power to revoke the trust; 17550

(u) To the grantor of a trust by a trustee of the trust, when 17551
the transfer is made to the grantor pursuant to the exercise of 17552
the grantor's power to revoke the trust or to withdraw trust 17553

assets; 17554

(v) To the beneficiaries of a trust if the fee was paid on 17555
the transfer from the grantor of the trust to the trustee or if 17556
the transfer is made pursuant to trust provisions which became 17557
irrevocable at the death of the grantor; 17558

(w) To a corporation for incorporation into a sports facility 17559
constructed pursuant to section 307.696 of the Revised Code; 17560

(x) Between persons pursuant to section 5302.18 of the 17561
Revised Code; 17562

(y) From a county land reutilization corporation organized 17563
under Chapter 1724. of the Revised Code to a third party. 17564

(4) For the cost of publishing the delinquent manufactured 17565
home tax list, the delinquent tax list, and the delinquent vacant 17566
land tax list, a flat fee, as determined by the county auditor, to 17567
be charged to the owner of a home on the delinquent manufactured 17568
home tax list or the property owner of land on the delinquent tax 17569
list or the delinquent vacant land tax list. 17570

The auditor shall compute and collect the fee. The auditor 17571
shall maintain a numbered receipt system, as prescribed by the tax 17572
commissioner, and use such receipt system to provide a receipt to 17573
each person paying a fee. The auditor shall deposit the receipts 17574
of the fees on conveyances in the county treasury daily to the 17575
credit of the general fund of the county, except that fees charged 17576
and received under division (G)(3) of this section for a transfer 17577
of real property to a county land reutilization corporation shall 17578
be credited to the county land reutilization corporation fund 17579
established under section 321.263 of the Revised Code. 17580

The real property transfer fee provided for in division 17581
(G)(3) of this section shall be applicable to any conveyance of 17582
real property presented to the auditor on or after January 1, 17583
1968, regardless of its time of execution or delivery. 17584

The transfer fee for a used manufactured home or used mobile home shall be computed by and paid to the county auditor of the county in which the home is located immediately prior to the transfer.

Sec. 321.18. As soon as sufficient funds are in the county treasury to redeem the warrants drawn on the treasury, and on which interest is accruing, the county treasurer shall give notice in a newspaper ~~published in and circulating~~ of general circulation in ~~his~~ the county that ~~he~~ the treasurer is ready to redeem such warrants, and from the date of the notice the interest on such warrants shall cease.

Sec. 322.02. (A) For the purpose of paying the costs of enforcing and administering the tax and providing additional general revenue for the county, any county may levy and collect a tax to be known as the real property transfer tax on each deed conveying real property or any interest in real property located wholly or partially within the boundaries of the county at a rate not to exceed thirty cents per hundred dollars for each one hundred dollars or fraction thereof of the value of the real property or interest in real property located within the boundaries of the county granted, assigned, transferred, or otherwise conveyed by the deed. The tax shall be levied pursuant to a resolution adopted by the board of county commissioners of the county and, except as provided in division (A) of section 322.07 of the Revised Code, shall be levied at a uniform rate upon all deeds as defined in division (D) of section 322.01 of the Revised Code. Prior to the adoption of any such resolution, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of

general circulation in the county once a week on the same day of 17616
the week for two consecutive weeks, ~~the~~ or as provided in section 17617
7.16 of the Revised Code. The second publication ~~being~~ shall be 17618
not less than ten nor more than thirty days prior to the first 17619
hearing. The tax shall be levied upon the grantor named in the 17620
deed and shall be paid by the grantor for the use of the county to 17621
the county auditor at the time of the delivery of the deed as 17622
provided in section 319.202 of the Revised Code and prior to the 17623
presentation of the deed to the recorder of the county for 17624
recording. 17625

(B) No resolution levying a real property transfer tax 17626
pursuant to this section or a manufactured home transfer tax 17627
pursuant to section 322.06 of the Revised Code shall be effective 17628
sooner than thirty days following its adoption. Such a resolution 17629
is subject to a referendum as provided in sections 305.31 to 17630
305.41 of the Revised Code, unless the resolution is adopted as an 17631
emergency measure necessary for the immediate preservation of the 17632
public peace, health, or safety, in which case it shall go into 17633
immediate effect. An emergency measure must receive an affirmative 17634
vote of all of the members of the board of commissioners, and 17635
shall state the reasons for the necessity. A resolution may direct 17636
the board of elections to submit the question of levying the tax 17637
to the electors of the county at the next primary or general 17638
election in the county occurring not less than ninety days after 17639
the resolution is certified to the board. No such resolution shall 17640
go into effect unless approved by a majority of those voting upon 17641
it. 17642

Sec. 322.021. The question of a repeal of a county permissive 17643
tax adopted as an emergency measure pursuant to division (B) of 17644
section 322.02 of the Revised Code may be initiated by filing with 17645
the board of elections of the county not less than ninety days 17646
before the general election in any year a petition requesting that 17647

an election be held on such question. Such petition shall be 17648
signed by qualified electors residing in the county equal in 17649
number to ten per cent of those voting for governor at the most 17650
recent gubernatorial election. 17651

After determination by it that such petition is valid, the 17652
board of elections shall submit the question to the electors of 17653
the county at the next general election. The election shall be 17654
conducted, canvassed, and certified in the same manner as regular 17655
elections for county offices in the county. Notice of the election 17656
shall be published in a newspaper of general circulation in the 17657
district once a week for two consecutive weeks prior to the 17658
election ~~and, if~~ or as provided in section 7.16 of the Revised 17659
Code. If the board of elections operates and maintains a web site, 17660
notice of the election also shall be posted on that web site for 17661
thirty days prior to the election. The notice shall state the 17662
purpose, time, and place of the election. The form of the ballot 17663
cast at such election shall be prescribed by the secretary of 17664
state. The question covered by such petition shall be submitted as 17665
a separate proposition, but it may be printed on the same ballot 17666
with any other proposition submitted at the same election other 17667
than the election of officers. If a majority of the qualified 17668
electors voting on the question of repeal approve the repeal, the 17669
result of the election shall be certified immediately after the 17670
canvass by the board of elections to the board of county 17671
commissioners, who shall thereupon, after the current year, cease 17672
to levy the tax. 17673

Sec. 323.08. After certifying the tax list and duplicate 17674
pursuant to section 319.28 of the Revised Code, the county auditor 17675
shall deliver a list of the tax rates, tax reduction factors, and 17676
effective tax rates assessed and applied against each of the two 17677
classes of property of the county to the county treasurer, who 17678
shall immediately cause a schedule of such tax rates and effective 17679

rates to be published in a newspaper of ~~the type described in~~ 17680
~~section 5721.01 of the Revised Code having~~ general circulation in 17681
the county or, in lieu of such publication, the county treasurer 17682
may insert a copy of such schedule with each tax bill mailed. Such 17683
schedule shall specify particularly the rates and effective rates 17684
of taxation levied for all purposes on the tax list and duplicate 17685
for the support of the various taxing units within the county, 17686
expressed in dollars and cents for each one thousand dollars of 17687
valuation. The effective tax rates shall be printed in boldface 17688
type. 17689

The county treasurer shall publish notice of the date of the 17690
last date for payment of each installment of taxes once a week for 17691
two successive weeks prior to such date in ~~two newspapers a~~ 17692
newspaper of general circulation within the county or as provided 17693
in section 7.16 of the Revised Code. ~~If only one such newspaper~~ 17694
~~exists, the notice shall be published in it.~~ The notice shall be 17695
inserted in a conspicuous place in ~~each~~ the newspaper and shall 17696
also contain notice that any taxes paid after such date will 17697
accrue a penalty and interest and that failure to receive a tax 17698
bill will not avoid such penalty and interest. The notice shall 17699
contain a telephone number that may be called by taxpayers who 17700
have not received tax bills. 17701

As used in this section and section 323.131 of the Revised 17702
Code, "effective tax rate" means the effective rate after making 17703
the reduction required by section 319.301, but before making the 17704
reduction required by section 319.302 of the Revised Code. 17705

Sec. 323.73. (A) Except as provided in division (G) of this 17706
section or section 323.78 of the Revised Code, a parcel of 17707
abandoned land that is to be disposed of under this section shall 17708
be disposed of at a public auction scheduled and conducted as 17709
described in this section. At least twenty-one days prior to the 17710

date of the public auction, the clerk of court or sheriff of the 17711
county shall advertise the public auction in a newspaper of 17712
general circulation that meets the requirements of section 7.12 of 17713
the Revised Code in the county in which the land is located. The 17714
advertisement shall include the date, time, and place of the 17715
auction, the permanent parcel number of the land if a permanent 17716
parcel number system is in effect in the county as provided in 17717
section 319.28 of the Revised Code or, if a permanent parcel 17718
number system is not in effect, any other means of identifying the 17719
parcel, and a notice stating that the abandoned land is to be sold 17720
subject to the terms of sections 323.65 to 323.79 of the Revised 17721
Code. 17722

(B) The sheriff of the county or a designee of the sheriff 17723
shall conduct the public auction at which the abandoned land will 17724
be offered for sale. To qualify as a bidder, a person shall file 17725
with the sheriff on a form provided by the sheriff a written 17726
acknowledgment that the abandoned land being offered for sale is 17727
to be conveyed in fee simple to the successful bidder. At the 17728
auction, the sheriff of the county or a designee of the sheriff 17729
shall begin the bidding at an amount equal to the total of the 17730
impositions against the abandoned land, plus the costs apportioned 17731
to the land under section 323.75 of the Revised Code. The 17732
abandoned land shall be sold to the highest bidder. The county 17733
sheriff or designee may reject any and all bids not meeting the 17734
minimum bid requirements specified in this division. 17735

(C) Except as otherwise permitted under section 323.74 of the 17736
Revised Code, the successful bidder at a public auction conducted 17737
under this section shall pay the sheriff of the county or a 17738
designee of the sheriff a deposit of at least ten per cent of the 17739
purchase price in cash, or by bank draft or official bank check, 17740
at the time of the public auction, and shall pay the balance of 17741
the purchase price within thirty days after the day on which the 17742

auction was held. Notwithstanding section 321.261 of the Revised Code, with respect to any proceedings initiated pursuant to sections 323.65 to 323.79 of the Revised Code, from the total proceeds arising from the sale, transfer, or redemption of abandoned land, twenty per cent of such proceeds shall be deposited to the credit of the delinquent tax and assessment collection fund to reimburse the fund for costs paid from the fund for the transfer, redemption, or sale of abandoned land at public auction. Not more than one-half of the twenty per cent may be used by the treasurer for community development, nuisance abatement, foreclosure prevention, demolition, and related services or distributed by the treasurer to a land reutilization corporation. The balance of the proceeds, if any, shall be distributed to the appropriate political subdivisions and other taxing units in proportion to their respective claims for taxes, assessments, interest, and penalties on the land. Upon the sale of foreclosed lands, the clerk of court shall hold any surplus proceeds in excess of the impositions until the clerk receives an order of priority and amount of distribution of the surplus that are adjudicated by a court of competent jurisdiction or receives a certified copy of an agreement between the parties entitled to a share of the surplus providing for the priority and distribution of the surplus. Any party to the action claiming a right to distribution of surplus shall have a separate cause of action in the county or municipal court of the jurisdiction in which the land reposes, provided the board confirms the transfer or regularity of the sale. Any dispute over the distribution of the surplus shall not affect or revive the equity of redemption after the board confirms the transfer or sale.

(D) Upon the sale or transfer of abandoned land pursuant to this section, the owner's fee simple interest in the land shall be conveyed to the purchaser. A conveyance under this division is free and clear of any liens and encumbrances of the parties named

in the complaint for foreclosure attaching before the sale or 17776
transfer, and free and clear of any liens for taxes, except for 17777
federal tax liens and covenants and easements of record attaching 17778
before the sale. 17779

(E) The county board of revision shall reject the sale of 17780
abandoned land to any person if it is shown by a preponderance of 17781
the evidence that the person is delinquent in the payment of taxes 17782
levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 17783
5741., or 5743. of the Revised Code or any real property taxing 17784
provision of the Revised Code. The board also shall reject the 17785
sale of abandoned land to any person if it is shown by a 17786
preponderance of the evidence that the person is delinquent in the 17787
payment of property taxes on any parcel in the county, or to a 17788
member of any of the following classes of parties connected to 17789
that person: 17790

(1) A member of that person's immediate family; 17791

(2) Any other person with a power of attorney appointed by 17792
that person; 17793

(3) A sole proprietorship owned by that person or a member of 17794
that person's immediate family; 17795

(4) A partnership, trust, business trust, corporation, 17796
association, or other entity in which that person or a member of 17797
that person's immediate family owns or controls directly or 17798
indirectly any beneficial or legal interest. 17799

(F) If the purchase of abandoned land sold pursuant to this 17800
section or section 323.74 of the Revised Code is for less than the 17801
sum of the impositions against the abandoned land and the costs 17802
apportioned to the land under division (A) of section 323.75 of 17803
the Revised Code, then, upon the sale or transfer, all liens for 17804
taxes due at the time the deed of the property is conveyed to the 17805
purchaser following the sale or transfer, and liens subordinate to 17806

liens for taxes, shall be deemed satisfied and discharged. 17807

(G) If the county board of revision finds that the total of 17808
the impositions against the abandoned land are greater than the 17809
fair market value of the abandoned land as determined by the 17810
auditor's then-current valuation of that land, the board, at any 17811
final hearing under section 323.70 of the Revised Code, may order 17812
the property foreclosed and, without an appraisal or public 17813
auction, order the sheriff to execute a deed to the certificate 17814
holder or county land reutilization corporation that filed a 17815
complaint under section 323.69 of the Revised Code, or to a 17816
community development organization, school district, municipal 17817
corporation, county, or township, whichever is applicable, as 17818
provided in section 323.74 of the Revised Code. Upon a transfer 17819
under this division, all liens for taxes due at the time the deed 17820
of the property is transferred to the certificate holder, 17821
community development organization, school district, municipal 17822
corporation, county, or township following the conveyance, and 17823
liens subordinate to liens for taxes, shall be deemed satisfied 17824
and discharged. 17825

Sec. 323.78. Notwithstanding anything in Chapters 323., 17826
5721., and 5723. of the Revised Code, if the county treasurer of a 17827
county in which a county land reutilization operates, in any 17828
petition for foreclosure of abandoned lands, or for foreclosure as 17829
a result of unpaid community development charges as described in 17830
section 349.17 of the Revised Code, elects to invoke the 17831
alternative redemption period, then upon any adjudication of 17832
foreclosure by any court or the board of revision in any 17833
proceeding under section 323.25, sections 323.65 to 323.79, or 17834
section 5721.18 of the Revised Code, the following apply: 17835

(A) Unless otherwise ordered by a motion of the court or 17836
board of revision, the petition shall assert, and any notice of 17837

final hearing shall include, that upon foreclosure of the parcel, 17838
the equity of redemption in any parcel by its owner shall be 17839
forever terminated after the expiration of the alternative 17840
redemption period, that the parcel thereafter may be sold at 17841
sheriff's sale either by itself or together with other parcels as 17842
permitted by law; or that the parcel may, by order of the court or 17843
board of revision, be transferred directly to a municipal 17844
corporation, township, county, new community authority, school 17845
district, or county land reutilization corporation without 17846
appraisal and without a sale, free and clear of all impositions 17847
and any other liens on the property, which shall be deemed forever 17848
satisfied and discharged. 17849

(B) After the expiration of the alternative redemption period 17850
following an adjudication of foreclosure, by order of the court or 17851
board of revision, any equity of redemption is forever 17852
extinguished, and the parcel may be transferred individually or in 17853
lots with other tax-foreclosed properties to a municipal 17854
corporation, township, county, new community authority, school 17855
district, or county land reutilization corporation without 17856
appraisal and without a sale, upon which all impositions and any 17857
other liens subordinate to liens for impositions due at the time 17858
the deed to the property is conveyed to a purchaser or transferred 17859
to a community development organization, county land reutilization 17860
corporation, municipal corporation, county, new community 17861
authority, township, or school district, shall be deemed satisfied 17862
and discharged. Other than the order of the court or board of 17863
revision so ordering the transfer of the parcel, no further act of 17864
confirmation or other order shall be required for such a transfer, 17865
or for the extinguishment of any right of redemption. 17866

(C) Upon the expiration of the alternative redemption period 17867
in cases to which the alternative redemption period has been 17868
ordered, if no community development organization, county land 17869

reutilization corporation, municipal corporation, county, new 17870
community authority, township, or school district has requested 17871
title to the parcel, the court or board of revision may order the 17872
property sold as otherwise provided in Chapters 323. and 5721. of 17873
the Revised Code, and, failing any bid at any such sale, the 17874
parcel shall be forfeited to the state and otherwise disposed of 17875
pursuant to Chapter 5723. of the Revised Code. 17876

Sec. 324.02. For the purpose of providing additional general 17877
revenues for the county and paying the expense of administering 17878
such levy, any county may levy a county excise tax to be known as 17879
the utilities service tax on the charge for every utility service 17880
to customers within the county at a rate not to exceed two per 17881
cent of such charge. On utility service to customers engaged in 17882
business, the tax shall be imposed at a rate of one hundred fifty 17883
per cent of the rate imposed upon all other consumers within the 17884
county. The tax shall be levied pursuant to a resolution adopted 17885
by the board of county commissioners of the county and shall be 17886
levied at uniform rates required by this section upon all charges 17887
for utility service except as provided in section 324.03 of the 17888
Revised Code. The tax shall be levied upon the customer and shall 17889
be paid by the customer to the utility supplying the service at 17890
the time the customer pays the utility for the service. If the 17891
charge for utility service is billed to a person other than the 17892
customer at the request of such person, the tax commissioner of 17893
the state may, in accordance with section 324.04 of the Revised 17894
Code, provide for the levy of the tax against and the payment of 17895
the tax by such other person. Each utility furnishing a utility 17896
service the charge for which is subject to the tax shall set forth 17897
the tax as a separate item on each bill or statement rendered to 17898
the customer. 17899

Prior to the adoption of any resolution levying a utilities 17900
service tax the board of county commissioners shall conduct two 17901

public hearings thereon, the second hearing to be not less than 17902
three nor more than ten days after the first. Notice of the date, 17903
time, and place of such hearings shall be given by publication in 17904
a newspaper of general circulation in the county once a week on 17905
the same day of the week for two consecutive weeks,~~the~~ or as 17906
provided in section 7.16 of the Revised Code. The second 17907
publication ~~being~~ shall be not less than ten nor more than thirty 17908
days prior to the first hearing. No resolution levying a utilities 17909
service tax pursuant to this section of the Revised Code shall be 17910
effective sooner than thirty days following its adoption and such 17911
resolution is subject to a referendum as provided in sections 17912
305.31 to 305.41 of the Revised Code, unless such resolution is 17913
adopted as an emergency measure necessary for the immediate 17914
preservation of the public peace, health, or safety, in which case 17915
it shall go into immediate effect. Such emergency measure must 17916
receive an affirmative vote of all of the members of the board of 17917
commissioners, and shall state the reasons for such necessity. A 17918
resolution may direct the board of elections to submit the 17919
question of levying the tax to the electors of the county at the 17920
next primary or general election in the county occurring not less 17921
than ninety days after such resolution is certified to the board. 17922
No such resolution shall go into effect unless approved by a 17923
majority of those voting upon it. The tax levied by such 17924
resolution shall apply to all bills rendered subsequent to the 17925
sixtieth day after the effective date of the resolution. No bills 17926
shall be rendered out of the ordinary course of business to avoid 17927
payment of the tax. 17928

Sec. 324.021. The question of repeal of a county permissive 17929
tax adopted as an emergency measure pursuant to section 324.02 of 17930
the Revised Code may be initiated by filing with the board of 17931
elections of the county not less than ninety days before the 17932
general election in any year a petition requesting that an 17933

election be held on such question. Such petition shall be signed 17934
by qualified electors residing in the county equal in number to 17935
ten per cent of those voting for governor at the most recent 17936
gubernatorial election. 17937

After determination by it that such petition is valid, the 17938
board of elections shall submit the question to the electors of 17939
the county at the next general election. The election shall be 17940
conducted, canvassed, and certified in the same manner as regular 17941
elections for county offices in the county. Notice of the election 17942
shall be published in a newspaper of general circulation in the 17943
district once a week for two consecutive weeks prior to the 17944
election ~~and, if~~ or as provided in section 7.16 of the Revised 17945
Code. If the board of elections operates and maintains a web site, 17946
notice of the election also shall be posted on that web site for 17947
thirty days prior to the election. The notice shall state the 17948
purpose, time, and place of the election. The form of the ballot 17949
cast at such election shall be prescribed by the secretary of 17950
state. The question covered by such petition shall be submitted as 17951
a separate proposition, but it may be printed on the same ballot 17952
with any other proposition submitted at the same election other 17953
than the election of officers. If a majority of the qualified 17954
electors voting on the question of repeal approve the repeal, the 17955
result of the election shall be certified immediately after the 17956
canvass by the board of elections to the board of county 17957
commissioners, who shall thereupon, after the current year, cease 17958
to levy the tax. 17959

Sec. 340.02. As used in this section, "mental health 17960
professional" means a person who is qualified to work with 17961
mentally ill persons, pursuant to standards established by the 17962
director of mental health under section 5119.611 of the Revised 17963
Code. 17964

For each alcohol, drug addiction, and mental health service 17965
district, there shall be appointed a board of alcohol, drug 17966
addiction, and mental health services of eighteen members. Nine 17967
members shall be interested in mental health programs and 17968
facilities and nine other members shall be interested in alcohol 17969
or drug addiction programs. All members shall be residents of the 17970
service district. The membership shall, as nearly as possible, 17971
reflect the composition of the population of the service district 17972
as to race and sex. 17973

The director of mental health shall appoint four members of 17974
the board, the director of alcohol and drug addiction services 17975
shall appoint four members, and the board of county commissioners 17976
shall appoint ten members. In a joint-county district, the county 17977
commissioners of each participating county shall appoint members 17978
in as nearly as possible the same proportion as that county's 17979
population bears to the total population of the district, except 17980
that at least one member shall be appointed from each 17981
participating county. 17982

The director of mental health shall ensure that at least one 17983
member of the board is a psychiatrist and one member of the board 17984
is a mental health professional. If the appointment of a 17985
psychiatrist is not possible, as determined under rules adopted by 17986
the director, a licensed physician may be appointed in place of 17987
the psychiatrist. If the appointment of a licensed physician is 17988
not possible, the director of mental health may waive the 17989
requirement that the psychiatrist or licensed physician be a 17990
resident of the service district and appoint a psychiatrist or 17991
licensed physician from a contiguous county. The director of 17992
mental health shall ensure that at least one member of the board 17993
is a person who has received or is receiving mental health 17994
services paid for by public funds and at least one member is a 17995
parent or other relative of such a person. 17996

The director of alcohol and drug addiction services shall 17997
ensure that at least one member of the board is a professional in 17998
the field of alcohol or drug addiction services and one member of 17999
the board is an advocate for persons receiving treatment for 18000
alcohol or drug addiction. Of the members appointed by the 18001
director of alcohol and drug addiction services, at least one 18002
shall be a person who has received or is receiving services for 18003
alcohol or drug addiction, and at least one shall be a parent or 18004
other relative of such a person. 18005

~~No member or employee of a board of alcohol, drug addiction,~~ 18006
~~and mental health services shall serve as a member of the board of~~ 18007
~~any agency with which the board of alcohol, drug addiction, and~~ 18008
~~mental health services has entered into a contract for the~~ 18009
~~provision of services or facilities. No member of a board of~~ 18010
~~alcohol, drug addiction, and mental health services shall be an~~ 18011
~~employee of any agency with which the board has entered into a~~ 18012
~~contract for the provision of services or facilities. No person~~ 18013
~~shall be an employee of a board and such an agency unless the~~ 18014
~~board and agency both agree in writing.~~ 18015

~~No person shall serve as a member of the board of alcohol,~~ 18016
~~drug addiction, and mental health services whose spouse, child,~~ 18017
~~parent, brother, sister, grandchild, stepparent, stepchild,~~ 18018
~~stepbrother, stepsister, father in law, mother in law, son in law,~~ 18019
~~daughter in law, brother in law, or sister in law serves as a~~ 18020
~~member of the board of any agency with which the board of alcohol,~~ 18021
~~drug addiction, and mental health services has entered into a~~ 18022
~~contract for the provision of services or facilities. No person~~ 18023
shall serve as a member or employee of the board whose spouse, 18024
child, parent, brother, sister, stepparent, stepchild, 18025
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 18026
daughter-in-law, brother-in-law, or sister-in-law serves as a 18027
county commissioner of a county or counties in the alcohol, drug 18028

addiction, and mental health service district. 18029

Each year each board member shall attend at least one 18030
inservice training session provided or approved by the department 18031
of mental health or the department of alcohol and drug addiction 18032
services. Such training sessions shall not be considered to be 18033
regularly scheduled meetings of the board. 18034

Each member shall be appointed for a term of four years, 18035
commencing the first day of July, except that one-third of initial 18036
appointments to a newly established board, and to the extent 18037
possible to expanded boards, shall be for terms of two years, 18038
one-third of initial appointments shall be for terms of three 18039
years, and one-third of initial appointments shall be for terms of 18040
four years. No member shall serve more than two consecutive 18041
four-year terms. A member may serve for three consecutive terms 18042
only if one of the terms is for less than two years. A member who 18043
has served two consecutive four-year terms or three consecutive 18044
terms totaling less than ten years is eligible for reappointment 18045
one year following the end of the second or third term, 18046
respectively. 18047

When a vacancy occurs, appointment for the expired or 18048
unexpired term shall be made in the same manner as an original 18049
appointment. The appointing authority shall be notified by 18050
certified mail of any vacancy and shall fill the vacancy within 18051
sixty days following that notice. 18052

Any member of the board may be removed from office by the 18053
appointing authority for neglect of duty, misconduct, or 18054
malfeasance in office, and shall be removed by the appointing 18055
authority if the member's spouse, child, parent, brother, sister, 18056
stepparent, stepchild, stepbrother, stepsister, father-in-law, 18057
mother-in-law, son-in-law, daughter-in-law, brother-in-law, or 18058
sister-in-law serves as a county commissioner of a county or 18059
counties in the service district ~~or serves as a member or employee~~ 18060

~~of the board of an agency with which the board of alcohol, drug
addiction, and mental health services has entered a contract for
the provision of services or facilities.~~ The member shall be
informed in writing of the charges and afforded an opportunity for
a hearing. Upon the absence of a member within one year from
either four board meetings or from two board meetings without
prior notice, the board shall notify the appointing authority,
which may vacate the appointment and appoint another person to
complete the member's term.

Members of the board shall serve without compensation, but
shall be reimbursed for actual and necessary expenses incurred in
the performance of their official duties, as defined by rules of
the departments of mental health and alcohol and drug addiction
services.

Sec. 340.03. (A) Subject to rules issued by the director of
mental health after consultation with relevant constituencies as
required by division ~~(A)(11)~~(L) of section 5119.06 of the Revised
Code, with regard to mental health services, the board of alcohol,
drug addiction, and mental health services shall:

(1) Serve as the community mental health planning agency for
the county or counties under its jurisdiction, and in so doing it
shall:

(a) Evaluate the need for facilities and community mental
health services;

(b) In cooperation with other local and regional planning and
funding bodies and with relevant ethnic organizations, assess the
community mental health needs, set priorities, and develop plans
for the operation of facilities and community mental health
services;

(c) In accordance with guidelines issued by the director of

mental health after consultation with board representatives, 18091
annually develop and submit to the department of mental health, ~~no~~ 18092
~~later than six months prior to the conclusion of the fiscal year~~ 18093
~~in which the board's current plan is scheduled to expire,~~ a 18094
community mental health plan listing community mental health 18095
needs, including the needs of all residents of the district now 18096
residing in state mental institutions and severely mentally 18097
disabled adults, children, and adolescents; all children subject 18098
to a determination made pursuant to section 121.38 of the Revised 18099
Code; and all the facilities and community mental health services 18100
that are or will be in operation or provided during the period for 18101
which the plan will be in operation in the service district to 18102
meet such needs. 18103

The plan shall include, but not be limited to, a statement of 18104
which of the services listed in section 340.09 of the Revised Code 18105
the board intends to make available. The board must include crisis 18106
intervention services for individuals in an emergency situation in 18107
the plan and explain how the board intends to make such services 18108
available. The plan must also include ~~an explanation of how the~~ 18109
~~board intends to make any payments that it may be required to pay~~ 18110
~~under section 5119.62 of the Revised Code,~~ a statement of the 18111
inpatient and community-based services the board proposes that the 18112
department operate, an assessment of the number and types of 18113
residential facilities needed, such other information as the 18114
department requests, and a budget for moneys the board expects to 18115
receive. ~~The board shall also submit an allocation request for~~ 18116
~~state and federal funds. Within sixty days after the department's~~ 18117
~~determination that the plan and allocation request are complete,~~ 18118
~~the~~ department shall approve or disapprove the plan ~~and request,~~ 18119
in whole or in part, according to the criteria developed pursuant 18120
to section 5119.61 of the Revised Code. The department's statement 18121
of approval or disapproval shall specify the inpatient and the 18122
community-based services that the department will operate for the 18123

board. Eligibility for state and federal funding shall be 18124
contingent upon an approved plan or relevant part of a plan. 18125

~~If the director disapproves all or part of any plan, the 18126
director shall inform the board of the reasons for the disapproval 18127
and of the criteria that must be met before the plan may be 18128
approved. The director shall provide the board an opportunity to 18129
present its case on behalf of the plan. The director shall give 18130
the board a reasonable time in which to meet the criteria, and 18131
shall offer the board technical assistance to help it meet the 18132
criteria. 18133~~

~~If the approval of a plan remains in dispute thirty days 18134
prior to the conclusion of the fiscal year in which the board's 18135
current plan is scheduled to expire, the board or the director may 18136
request that the dispute be submitted to a mutually agreed upon 18137
third party mediator with the cost to be shared by the board and 18138
the department. The mediator shall issue to the board and the 18139
department recommendations for resolution of the dispute. Prior to 18140
the conclusion of the fiscal year in which the current plan is 18141
scheduled to expire, the director, taking into consideration the 18142
recommendations of the mediator, shall make a final determination 18143
and approve or disapprove the plan, in whole or in part. 18144~~

If a board determines that it is necessary to amend a plan or 18145
an allocation request that has been approved under division 18146
(A)(1)(c) of this section, the board shall submit a proposed 18147
amendment to the director. The director may approve or disapprove 18148
all or part of the amendment. ~~If the director does not approve all 18149
or part of the amendment within thirty days after it is submitted, 18150
the amendment or part of it shall be considered to have been 18151
approved. The director shall inform the board of the reasons for 18152
disapproval of all or part of an amendment and of the criteria 18153
that must be met before the amendment may be approved. The 18154
director shall provide the board an opportunity to present its 18155~~

case on behalf of the amendment. The director shall give the board 18156
a reasonable time in which to meet the criteria, and shall offer 18157
the board technical assistance to help it meet the criteria. 18158

The board shall implement the plan approved by the 18159
department. 18160

~~(d) Receive, compile, and transmit to the department of 18161
mental health applications for state reimbursement; 18162~~

~~(e) Promote, arrange, and implement working agreements with 18163
social agencies, both public and private, and with judicial 18164
agencies. 18165~~

(2) Investigate, or request another agency to investigate, 18166
any complaint alleging abuse or neglect of any person receiving 18167
services from a community mental health agency as defined in 18168
section 5122.01 of the Revised Code, or from a residential 18169
facility licensed under section 5119.22 of the Revised Code. If 18170
the investigation substantiates the charge of abuse or neglect, 18171
the board shall take whatever action it determines is necessary to 18172
correct the situation, including notification of the appropriate 18173
authorities. Upon request, the board shall provide information 18174
about such investigations to the department. 18175

(3) For the purpose of section 5119.611 of the Revised Code, 18176
cooperate with the director of mental health in visiting and 18177
evaluating whether the services of a community mental health 18178
agency satisfy the certification standards established by rules 18179
adopted under that section; 18180

(4) In accordance with criteria established under division 18181
~~(G)~~(E) of section 5119.61 of the Revised Code, review and evaluate 18182
the quality, effectiveness, and efficiency of services provided 18183
through its community mental health plan and submit its findings 18184
and recommendations to the department of mental health; 18185

(5) In accordance with section 5119.22 of the Revised Code, 18186

review applications for residential facility licenses and 18187
recommend to the department of mental health approval or 18188
disapproval of applications; 18189

(6) Audit, in accordance with rules adopted by the auditor of 18190
state pursuant to section 117.20 of the Revised Code, at least 18191
annually all programs and services provided under contract with 18192
the board. In so doing, the board may contract for or employ the 18193
services of private auditors. A copy of the fiscal audit report 18194
shall be provided to the director of mental health, the auditor of 18195
state, and the county auditor of each county in the board's 18196
district. 18197

(7) Recruit and promote local financial support for mental 18198
health programs from private and public sources; 18199

(8)(a) Enter into contracts with public and private 18200
facilities for the operation of facility services included in the 18201
board's community mental health plan and enter into contracts with 18202
public and private community mental health agencies for the 18203
provision of community mental health services that are listed in 18204
section 340.09 of the Revised Code and included in the board's 18205
community mental health plan. The board may not contract with a 18206
community mental health agency to provide community mental health 18207
services included in the board's community mental health plan 18208
unless the services are certified by the director of mental health 18209
under section 5119.611 of the Revised Code. Section 307.86 of the 18210
Revised Code does not apply to contracts entered into under this 18211
division. In contracting with a community mental health agency, a 18212
board shall consider the cost effectiveness of services provided 18213
by that agency and the quality and continuity of care, and may 18214
review cost elements, including salary costs, of the services to 18215
be provided. A utilization review process shall be established as 18216
part of the contract for services entered into between a board and 18217
a community mental health agency. The board may establish this 18218

process in a way that is most effective and efficient in meeting 18219
local needs. ~~In the case of~~ Until July 1, 2012, a contract with a 18220
community mental health agency or facility, as defined in section 18221
5111.023 of the Revised Code, to provide services listed in 18222
division (B) of that section, ~~the contract~~ shall provide for the 18223
agency or facility to be paid in accordance with the contract 18224
entered into between the departments of job and family services 18225
and mental health under section 5111.91 of the Revised Code and 18226
any rules adopted under division (A) of section 5119.61 of the 18227
Revised Code. 18228

If either the board or a facility or community mental health 18229
agency with which the board contracts under division (A)(8)(a) of 18230
this section proposes not to renew the contract or proposes 18231
substantial changes in contract terms, the other party shall be 18232
given written notice at least one hundred twenty days before the 18233
expiration date of the contract. During the first sixty days of 18234
this one hundred twenty-day period, both parties shall attempt to 18235
resolve any dispute through good faith collaboration and 18236
negotiation in order to continue to provide services to persons in 18237
need. If the dispute has not been resolved sixty days before the 18238
expiration date of the contract, either party may ~~notify the~~ 18239
~~department of mental health of the unresolved dispute. The~~ 18240
~~director may require~~ request that both parties ~~to~~ submit the 18241
dispute to a third party with the cost to be shared by the board 18242
and the facility or community mental health agency. The third 18243
party shall issue to the board, ~~the~~ and facility or agency, ~~and~~ 18244
~~the department~~ recommendations on how the dispute may be resolved 18245
twenty days prior to the expiration date of the contract, unless 18246
both parties agree to a time extension. ~~The director shall adopt~~ 18247
~~rules establishing the procedures of this dispute resolution~~ 18248
~~process.~~ 18249

(b) With the prior approval of the director of mental health, 18250

a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or

community mental health agency. 18282

The director shall not give a board approval to operate a 18283
facility previously operated by a person or other government 18284
entity unless the board has established to the director's 18285
satisfaction that the person or other government entity cannot 18286
effectively operate the facility or that the person or other 18287
government entity has requested the board to take over operation 18288
of the facility. The director shall not give a board approval to 18289
provide a community mental health service previously provided by a 18290
community mental health agency unless the board has established to 18291
the director's satisfaction that the agency cannot effectively 18292
provide the service or that the agency has requested the board 18293
take over providing the service. 18294

The director shall review and evaluate a board's operation of 18295
a facility and provision of community mental health service under 18296
division (A)(8)(b) of this section. 18297

Nothing in division (A)(8)(b) of this section authorizes a 18298
board to administer or direct the daily operation of any facility 18299
or community mental health agency, but a facility or agency may 18300
contract with a board to receive administrative services or staff 18301
direction from the board under the direction of the governing body 18302
of the facility or agency. 18303

(9) Approve fee schedules and related charges or adopt a unit 18304
cost schedule or other methods of payment for contract services 18305
provided by community mental health agencies in accordance with 18306
guidelines issued by the department as necessary to comply with 18307
state and federal laws pertaining to financial assistance; 18308

(10) Submit to the director and the county commissioners of 18309
the county or counties served by the board, and make available to 18310
the public, an annual report of the programs under the 18311
jurisdiction of the board, including a fiscal accounting; 18312

(11) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section 5119.06 of the Revised Code:

(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;

(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;

(d) Emergency services and crisis intervention;

(e) Assistance for clients to obtain vocational services and opportunities for jobs;

(f) The provision of services designed to develop social, community, and personal living skills;

(g) Access to a wide range of housing and the provision of residential treatment and support;

(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;

(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;

(j) Grievance procedures and protection of the rights of

consumers of mental health services; 18343

(k) Case management, which includes continual individualized 18344
assistance and advocacy to ensure that needed services are offered 18345
and procured. 18346

(12) Designate the treatment program, agency, or facility for 18347
each person involuntarily committed to the board pursuant to 18348
Chapter 5122. of the Revised Code and authorize payment for such 18349
treatment. The board shall provide the least restrictive and most 18350
appropriate alternative that is available for any person 18351
involuntarily committed to it and shall assure that the services 18352
listed in section 340.09 of the Revised Code are available to 18353
severely mentally disabled persons residing within its service 18354
district. The board shall establish the procedure for authorizing 18355
payment for services, which may include prior authorization in 18356
appropriate circumstances. The board may provide for services 18357
directly to a severely mentally disabled person when life or 18358
safety is endangered and when no community mental health agency is 18359
available to provide the service. 18360

(13) Establish a method for evaluating referrals for 18361
involuntary commitment and affidavits filed pursuant to section 18362
5122.11 of the Revised Code in order to assist the probate 18363
division of the court of common pleas in determining whether there 18364
is probable cause that a respondent is subject to involuntary 18365
hospitalization and what alternative treatment is available and 18366
appropriate, if any; 18367

(14) Ensure that apartments or rooms built, subsidized, 18368
renovated, rented, owned, or leased by the board or a community 18369
mental health agency have been approved as meeting minimum fire 18370
safety standards and that persons residing in the rooms or 18371
apartments are receiving appropriate and necessary services, 18372
including culturally relevant services, from a community mental 18373
health agency. This division does not apply to residential 18374

facilities licensed pursuant to section 5119.22 of the Revised Code.	18375 18376
(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;	18377 18378 18379 18380
(16) Perform the duties under section 3722.18 <u>5119.88</u> of the Revised Code required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.	18381 18382 18383 18384 18385 18386 18387 18388 18389
(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.	18390 18391 18392 18393
(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.	18394 18395 18396 18397 18398 18399 18400 18401 18402 18403 18404
(D) No board member or employee of a board of alcohol, drug	18405

addiction, and mental health services shall be liable for injury 18406
or damages caused by any action or inaction taken within the scope 18407
of the board member's official duties or the employee's 18408
employment, whether or not such action or inaction is expressly 18409
authorized by this section, section 340.033, or any other section 18410
of the Revised Code, unless such action or inaction constitutes 18411
willful or wanton misconduct. Chapter 2744. of the Revised Code 18412
applies to any action or inaction by a board member or employee of 18413
a board taken within the scope of the board member's official 18414
duties or employee's employment. For the purposes of this 18415
division, the conduct of a board member or employee shall not be 18416
considered willful or wanton misconduct if the board member or 18417
employee acted in good faith and in a manner that the board member 18418
or employee reasonably believed was in or was not opposed to the 18419
best interests of the board and, with respect to any criminal 18420
action or proceeding, had no reasonable cause to believe the 18421
conduct was unlawful. 18422

(E) The meetings held by any committee established by a board 18423
of alcohol, drug addiction, and mental health services shall be 18424
considered to be meetings of a public body subject to section 18425
121.22 of the Revised Code. 18426

Sec. 340.05. A community mental health agency that receives a 18427
complaint under section ~~3722.17~~ 5119.87 of the Revised Code 18428
alleging abuse or neglect of an individual with mental illness or 18429
severe mental disability who resides in an adult care facility 18430
shall report the complaint to the board of alcohol, drug 18431
addiction, and mental health services serving the alcohol, drug 18432
addiction, and mental health service district in which the adult 18433
care facility is located. A board of alcohol, drug addiction, and 18434
mental health services that receives such a complaint or a report 18435
from a community mental health agency of such a complaint shall 18436
report the complaint to the director of mental health for the 18437

purpose of the director conducting an investigation under section 18438
~~3722.17~~ 5119.87 of the Revised Code. The board may enter the adult 18439
care facility with or without the director and, if the health and 18440
safety of a resident is in immediate danger, take any necessary 18441
action to protect the resident. The board's action shall not 18442
violate any resident's rights under section ~~3722.12~~ 5119.81 of the 18443
Revised Code and rules adopted by the ~~public health council~~ 18444
department of mental health under ~~that chapter~~ sections 5119.70 to 18445
5119.88 of the Revised Code. The board shall immediately report to 18446
the director regarding the board's actions under this section. 18447

Sec. 340.091. Each board of alcohol, drug addiction, and 18448
mental health services shall contract with a community mental 18449
health agency under division (A)(8)(a) of section 340.03 of the 18450
Revised Code for the agency to do all of the following in 18451
accordance with rules adopted under section 5119.61 of the Revised 18452
Code for an individual referred to the agency under division 18453
(C)(2) of section ~~173.35~~ 5119.69 of the Revised Code: 18454

(A) Assess the individual to determine whether to recommend 18455
that a ~~PASSPORT~~ residential state supplement administrative agency 18456
designated under section 5119.69 of the Revised Code determine 18457
that the environment in which the individual will be living while 18458
receiving residential state supplement payments is appropriate for 18459
the individual's needs and, if it determines the environment is 18460
appropriate, issue the recommendation to the ~~PASSPORT~~ residential 18461
state supplement administrative agency; 18462

(B) Provide ongoing monitoring to ensure that services 18463
provided under section 340.09 of the Revised Code are available to 18464
the individual; 18465

(C) Provide discharge planning to ensure the individual's 18466
earliest possible transition to a less restrictive environment. 18467

Sec. 340.11. ~~(A)~~ A board of alcohol, drug addiction, and 18468
mental health services may procure a policy or policies of 18469
insurance insuring board members or employees of the board or 18470
agencies with which the board contracts against liability arising 18471
from the performance of their official duties. If the liability 18472
insurance is unavailable or the amount a board has procured or is 18473
able to procure is insufficient to cover the amount of a claim, 18474
the board may indemnify a board member or employee as follows: 18475

~~(1)(A)~~ For any action or inaction in ~~his~~ the capacity ~~as a~~ of 18476
board member or employee or at the request of the board, whether 18477
or not the action or inaction is expressly authorized by this or 18478
any other section of the Revised Code, if: 18479

~~(a)(1)~~ The board member or employee acted in good faith and 18480
in a manner that ~~he~~ the board member or employee reasonably 18481
believed was in or was not opposed to the best interests of the 18482
board; and 18483

~~(b)(2)~~ With respect to any criminal action or proceeding, the 18484
board member or employee had no reason to believe ~~his~~ the board 18485
member's or employee's conduct was unlawful. 18486

~~(2)(B)~~ Against any expenses, including attorneys' fees, the 18487
board member or employee actually and reasonably incurs as a 18488
result of a suit or other proceeding involving the defense of any 18489
action or inaction in ~~his~~ the capacity ~~as a~~ of board member or 18490
employee or at the request of the board, or in defense of any 18491
claim, issue, or matter raised in connection with the defense of 18492
such an action or inaction, to the extent that the board member or 18493
employee is successful on the merits or otherwise. 18494

~~(B)~~ ~~The board may utilize up to that per cent of its budget~~ 18495
~~as approved by the department of mental health to purchase~~ 18496
~~insurance and to pool with funds of other boards of alcohol, drug~~ 18497
~~addiction, and mental health services, as provided in division (E)~~ 18498

~~of section 5119.62 of the Revised Code, to pay expenditures for 18499
utilization of state hospital facilities that exceed the amount 18500
allocated to the board under the formula developed under that 18501
section. 18502~~

Sec. 341.192. (A) As used in this section: 18503

(1) "Jail" means a county jail, or a multicounty, 18504
municipal-county, or multicounty-municipal correctional center. 18505

(2) "Medical assistance program" has the same meaning as in 18506
section 2913.40 of the Revised Code. 18507

~~(2)~~(3) "Medical provider" means a physician, hospital, 18508
laboratory, pharmacy, or other health care provider that is not 18509
employed by or under contract to a county, municipal corporation, 18510
township, the department of youth services, or the department of 18511
rehabilitation and correction to provide medical services to 18512
persons confined in ~~the county~~ a jail or a state correctional 18513
institution, or is in the custody of a law enforcement officer. 18514

~~(3)~~(4) "Necessary care" means medical care of a nonelective 18515
nature that cannot be postponed until after the period of 18516
confinement of a person who is confined in a ~~county~~ jail or a 18517
state correctional institution, or is in the custody of a law 18518
enforcement officer without endangering the life or health of the 18519
person. 18520

(B) If a physician employed by or under contract to a county, 18521
municipal corporation, township, the department of youth services, 18522
or the department of rehabilitation and correction to provide 18523
medical services to persons confined in ~~the county~~ a jail or state 18524
correctional institution determines that a person who is confined 18525
in the ~~county~~ jail or a state correctional institution or who is 18526
in the custody of a law enforcement officer prior to the person's 18527
confinement in ~~the county~~ a jail or a state correctional 18528

institution requires necessary care that the physician cannot 18529
provide, the necessary care shall be provided by a medical 18530
provider. The county, municipal corporation, township, the 18531
department of youth services, or the department of rehabilitation 18532
and correction shall pay a medical provider for necessary care an 18533
amount not exceeding the authorized reimbursement rate for the 18534
same service established by the department of job and family 18535
services under the medical assistance program. 18536

Sec. 343.08. (A) The board of county commissioners of a 18537
county solid waste management district and the board of directors 18538
of a joint solid waste management district may fix reasonable 18539
rates or charges to be paid by every person, municipal 18540
corporation, township, or other political subdivision that owns 18541
premises to which solid waste collection, storage, transfer, 18542
disposal, recycling, processing, or resource recovery service is 18543
provided by the district and may change the rates or charges 18544
whenever it considers it advisable. Charges for collection, 18545
storage, transfer, disposal, recycling, processing, or resource 18546
recovery service shall be made only against lots or parcels that 18547
are improved, or in the process of being improved, with at least 18548
one permanent, portable, or temporary building. The rates or 18549
charges may be collected by either of the following means: 18550

(1) Periodic billings made by the district directly or in 18551
conjunction with billings for public utility rates or charges by a 18552
county water district established under section 6103.02 of the 18553
Revised Code, a county sewer district established under section 18554
6117.02 of the Revised Code, or a municipal corporation or other 18555
political subdivision authorized by law to provide public utility 18556
service. When any such charges that are so billed are not paid, 18557
the board shall certify them to the county auditor of the county 18558
where the lots or parcels are located, who shall place them upon 18559
the real property duplicate against the property served by the 18560

collection, storage, transfer, disposal, recycling, processing, or 18561
resource recovery service. The charges shall be a lien on the 18562
property from the date they are placed upon the real property 18563
duplicate by the auditor and shall be collected in the same manner 18564
as other taxes. 18565

(2) Certifying the rates or charges to the county auditor of 18566
the county where the lots or parcels are located, who shall place 18567
them on the real property duplicate against the lots or parcels. 18568
The rates or charges are a lien on the property from the date they 18569
are placed upon the real property duplicate by the auditor and 18570
shall be collected in the same manner as other taxes. 18571

The county or joint district need not fix a rate or charge 18572
against property if the district does not operate a collection 18573
system. 18574

Where a county or joint district owns or operates a solid 18575
waste facility, either without a collection system or in 18576
conjunction therewith, the board of county commissioners or board 18577
of directors may fix reasonable rates or charges for the use of 18578
the facility by persons, municipal corporations, townships, and 18579
other political subdivisions, may contract with any public 18580
authority or person for the collection of solid wastes in any part 18581
of any district for collection, storage, disposal, transfer, 18582
recycling, processing, or resource recovery in any solid waste 18583
facility, or may lease the facility to any public authority or 18584
person. The cost of collection, storage, transfer, disposal, 18585
recycling, processing, or resource recovery under such contracts 18586
may be paid by rates or charges fixed and collected under this 18587
section or by rates and charges fixed under those contracts and 18588
collected by the contractors. 18589

All moneys collected by or on behalf of a county or joint 18590
district as rates or charges for solid waste collection, storage, 18591
transfer, disposal, recycling, processing, or resource recovery 18592

service in any district shall be paid to the county treasurer in a 18593
county district or to the county treasurer or other official 18594
designated by the board of directors in a joint district and kept 18595
in a separate and distinct fund to the credit of the district. The 18596
fund shall be used for the payment of the cost of the management, 18597
maintenance, and operation of the solid waste collection or other 18598
solid waste facilities of the district and, if applicable, the 18599
payment of the cost of collecting the rates or charges of the 18600
district pursuant to division (A)(1) or (2) of this section. Prior 18601
to the approval of the district's initial solid waste management 18602
plan under section 3734.55 of the Revised Code or the issuance of 18603
an order under that section requiring the district to implement an 18604
initial plan prepared by the director, as appropriate, the fund 18605
also may be used for the purposes of division (G)(1) or (3) of 18606
section 3734.57 of the Revised Code. On and after the approval of 18607
the district's initial plan under section 3734.521 or 3734.55 of 18608
the Revised Code or the issuance of an order under either of those 18609
sections, as appropriate, requiring the district to implement an 18610
initial plan prepared by the director, the fund also may be used 18611
for the purposes of divisions (G)(1) to (10) of section 3734.57 of 18612
the Revised Code. Those uses may include, in accordance with a 18613
cost allocation plan adopted under division (B) of this section, 18614
the payment of all allowable direct and indirect costs of the 18615
district, the sanitary engineer or sanitary engineering 18616
department, or a federal or state grant program, incurred for the 18617
purposes of this chapter and sections 3734.52 to 3734.572 of the 18618
Revised Code. Any surplus remaining after those uses of the fund 18619
may be used for the enlargement, modification, or replacement of 18620
such facilities and for the payment of the interest and principal 18621
on bonds and bond anticipation notes issued pursuant to section 18622
343.07 of the Revised Code. In no case shall money so collected be 18623
expended otherwise than for the use and benefit of the district. 18624

A board of county commissioners or directors, instead of 18625

operating and maintaining solid waste collection or other solid 18626
waste facilities of the district with county or joint district 18627
personnel, may enter into a contract with a municipal corporation 18628
having territory within the district pursuant to which the 18629
operation and maintenance of the facilities will be performed by 18630
the municipal corporation. 18631

The products of any solid waste collection or other solid 18632
waste facility owned under this chapter shall be sold through 18633
competitive bidding in accordance with section 307.12 of the 18634
Revised Code, except when a board of county commissioners or 18635
directors determines by resolution that it is in the public 18636
interest to sell those products in a commercially reasonable 18637
manner without competitive bidding. 18638

(B) A board of county commissioners or directors may adopt a 18639
cost allocation plan that identifies, accumulates, and distributes 18640
allowable direct and indirect costs that may be paid from the fund 18641
of the district created in division (A) of this section and 18642
prescribes methods for allocating those costs. The plan shall 18643
authorize payment from the fund for only those costs incurred by 18644
the district, the sanitary engineer or sanitary engineering 18645
department, or a federal or state grant program, and those costs 18646
incurred by the general and other funds of the county for a common 18647
or joint purpose, that are necessary and reasonable for the proper 18648
and efficient administration of the district under this chapter 18649
and sections 3734.52 to 3734.572 of the Revised Code. The plan 18650
shall not authorize payment from the fund of any general 18651
government expense required to carry out the overall governmental 18652
responsibilities of a county. The plan shall conform to United 18653
States office of management and budget Circular A-87 "Cost 18654
Principles for State and Local Governments," published January 15, 18655
1983. 18656

(C) A board of county commissioners or directors shall fix 18657

rates or charges, or enter into contracts fixing the rates or 18658
charges to be collected by the contractor, for solid waste 18659
collection, storage, transfer, disposal, recycling, processing, or 18660
resource recovery services at a public meeting held in accordance 18661
with section 121.22 of the Revised Code. In addition to fulfilling 18662
the requirements of section 121.22 of the Revised Code, the board, 18663
before fixing or changing rates or charges for solid waste 18664
collection, storage, transfer, disposal, recycling, processing, or 18665
resource recovery services, or before entering into a contract 18666
that fixes rates or charges to be collected by the contractor 18667
providing the services, shall hold at least three public hearings 18668
on the proposed rates, charges, or contract. Prior to the first 18669
public hearing, the board shall publish notice of the public 18670
hearings as provided in section 7.16 of the Revised Code or once a 18671
week for three consecutive weeks in a newspaper of general 18672
circulation in the county or counties that would be affected by 18673
the proposed rates, charges, or contract. The notice shall include 18674
a listing of the proposed rates or charges to be fixed and 18675
collected by the board or fixed pursuant to the contract and 18676
collected by the contractor, and the dates, time, and place of 18677
each of the three hearings thereon. The board shall hear any 18678
person who wishes to testify on the proposed rates, charges, or 18679
contract. 18680

Sec. 345.03. A copy of any resolution adopted under section 18681
345.01 of the Revised Code shall be certified within five days by 18682
the taxing authority and not later than four p. m. of the 18683
ninetieth day before the day of the election, to the county board 18684
of elections, and such board shall submit the proposal to the 18685
electors of the subdivision at the succeeding general election. 18686
The board shall make the necessary arrangements for the submission 18687
of such question to the electors of the subdivision, and the 18688
election shall be conducted, canvassed, and certified in like 18689

manner as regular elections in such subdivision. 18690

Notice of the election shall be published once in a newspaper 18691
of general circulation in the subdivision, ~~at least once~~, not less 18692
than two weeks prior to such election. The notice shall set out 18693
the purpose of the proposed increase in rate, the amount of the 18694
increase expressed in dollars and cents for each one hundred 18695
dollars of valuation as well as in mills for each one dollar of 18696
property valuation, the number of years during which such increase 18697
will be in effect, and the time and place of holding such 18698
election. 18699

Sec. 349.01. As used in this chapter: 18700

(A) "New community" means a community or an addition to an 18701
existing community planned pursuant to this chapter so that it 18702
includes facilities for the conduct of industrial, commercial, 18703
residential, cultural, educational, and recreational activities, 18704
and designed in accordance with planning concepts for the 18705
placement of utility, open space, and other supportive facilities. 18706

~~In the case of a new community authority established on or~~ 18707
~~after the effective date of this amendment and before January 1,~~ 18708
~~2012, "new community" may mean~~ a community or development of 18709
property planned under this chapter in relation to an existing 18710
community so that the community includes facilities for the 18711
conduct of community activities, and is designed in accordance 18712
with planning concepts for the placement of utility, open space, 18713
and other supportive facilities for the community. 18714

(B) "New community development program" means a program for 18715
the development of a new community characterized by well-balanced 18716
and diversified land use patterns and which includes land 18717
acquisition and land development, the acquisition, construction, 18718
operation, and maintenance of community facilities, and the 18719
provision of services authorized in this chapter. 18720

~~In the case of a new community authority established on or~~ 18721
~~after the effective date of this amendment and before January 1,~~ 18722
~~2012,~~ a A new community development program may take into account 18723
any existing community in relation to which a new community is 18724
developed for purposes of being characterized by well-balanced and 18725
diversified land use patterns. 18726

(C) "New community district" means the area of land described 18727
by the developer in the petition as set forth in division (A) of 18728
section 349.03 of the Revised Code for development as a new 18729
community and any lands added to the district by amendment of the 18730
resolution establishing the community authority. 18731

(D) "New community authority" means a body corporate and 18732
politic in this state, established pursuant to section 349.03 of 18733
the Revised Code and governed by a board of trustees as provided 18734
in section 349.04 of the Revised Code. 18735

(E) "Developer" means any person, organized for carrying out 18736
a new community development program who owns or controls, through 18737
leases of at least ~~seventy-five~~ forty years' duration, options, or 18738
contracts to purchase, the land within a new community district, 18739
or any municipal corporation, county, or port authority that owns 18740
the land within a new community district, or has the ability to 18741
acquire such land, either by voluntary acquisition or condemnation 18742
in order to eliminate slum, blighted, and deteriorated or 18743
deteriorating areas and to prevent the recurrence thereof. ~~In the~~ 18744
~~case of a new community authority established on or after the~~ 18745
~~effective date of this amendment and before January 1, 2012,~~ 18746
~~"developer" may mean a person, municipal corporation, county, or~~ 18747
~~port authority that controls land within a new community district~~ 18748
~~through leases of at least forty years' duration.~~ 18749

(F) "Organizational board of commissioners" means, if the new 18750
community district is located in only one county, the board of 18751
county commissioners of such county; if located in more than one 18752

county, a board consisting of the members of the board of county 18753
commissioners of each of the counties in which the district is 18754
located, provided that action of such board shall require a 18755
majority vote of the members of each separate board of county 18756
commissioners; or, if more than half of the new community district 18757
is located within the boundaries of ~~the most populous~~ a municipal 18758
corporation ~~of a county~~, the legislative authority of the 18759
municipal corporation. 18760

(G) "Land acquisition" means the acquisition of real property 18761
and interests in real property as part of a new community 18762
development program. 18763

(H) "Land development" means the process of clearing and 18764
grading land, making, installing, or constructing water 18765
distribution systems, sewers, sewage collection systems, steam, 18766
gas, and electric lines, roads, streets, curbs, gutters, 18767
sidewalks, storm drainage facilities, and other installations or 18768
work, whether within or without the new community district, and 18769
the construction of community facilities. 18770

(I)~~(I)~~ "Community facilities" means all real property, 18771
buildings, structures, or other facilities, including related 18772
fixtures, equipment, and furnishings, to be owned, operated, 18773
financed, constructed, and maintained under this chapter, 18774
including public, community, village, neighborhood, or town 18775
buildings, centers and plazas, auditoriums, day care centers, 18776
recreation halls, educational facilities, hospital facilities as 18777
defined in section 140.01 of the Revised Code, recreational 18778
facilities, natural resource facilities, including parks and other 18779
open space land, lakes and streams, cultural facilities, community 18780
streets, including off-street parking facilities, pathway and 18781
bikeway systems, pedestrian underpasses and overpasses, lighting 18782
facilities, design amenities, or other community facilities, and 18783
buildings needed in connection with water supply or sewage 18784

disposal installations or steam, gas, or electric lines or 18785
installation- 18786

~~(2) In the case of a new community authority established on 18787
or after the effective date of this amendment and before January 1, 2012, "community facilities" may mean, in addition to the 18788
facilities authorized in division (I)(1) of this section, any 18789
other community facilities that are owned, operated, financed, 18790
constructed, or maintained for, relating to, or in furtherance of 18792
community activities, including, but not limited to, town 18793
buildings or other facilities, and health care facilities 18794
including, but limited to, hospital facilities, ~~and off street 18795
parking facilities.~~ 18796~~

(J) "Cost" as applied to a new community development program 18797
means all costs related to land acquisition and land development, 18798
the acquisition, construction, maintenance, and operation of 18799
community facilities and offices of the community authority, and 18800
of providing furnishings and equipment therefor, financing charges 18801
including interest prior to and during construction and for the 18802
duration of the new community development program, planning 18803
expenses, engineering expenses, administrative expenses including 18804
working capital, and all other expenses necessary and incident to 18805
the carrying forward of the new community development program. 18806

(K) "Income source" means any and all sources of income to 18807
the community authority, including community development charges 18808
of which the new community authority is the beneficiary as 18809
provided in section 349.07 of the Revised Code, rentals, user fees 18810
and other charges received by the new community authority, any 18811
gift or grant received, any moneys received from any funds 18812
invested by or on behalf of the new community authority, and 18813
proceeds from the sale or lease of land and community facilities. 18814

(L) "Community development charge" means: 18815

(1) A dollar amount ~~which~~ that shall be determined on the 18816
basis of the assessed valuation of real property or interests in 18817
real property in a new community district sold, leased, or 18818
otherwise conveyed by the developer or the new community 18819
authority, the income of the residents of such property subject to 18820
such charge under section 349.07 of the Revised Code, if such 18821
property is devoted to residential uses or to the profits of any 18822
business, a uniform fee on each parcel of such real property 18823
originally sold, leased, or otherwise conveyed by the developer or 18824
new community authority, or any combination of the foregoing 18825
bases. 18826

(2) ~~For a new community authority that is established on or~~ 18827
~~after the effective date of this amendment and before January 1,~~ 18828
~~2012, "community development charge" includes, in addition to the~~ 18829
~~charges authorized in division (L)(1) of this section, a~~ A charge 18830
determined on the basis of all or a part of the income of the 18831
residents of real property within the new community district if 18832
such property is devoted to residential uses, or all or a part of 18833
the profits, gross receipts, or other revenues of any business 18834
operating in the new community district. 18835

(M) "Proximate city" means, as of the date of filing of the 18836
petition under section 349.03 of the Revised Code, any municipal 18837
corporation in which any portion of the proposed new community 18838
district is located, or if more than one-half of the proposed new 18839
community district is contained within a joint economic 18840
development district under sections 715.70 to 715.83 of the 18841
Revised Code, "proximate city" means the township containing the 18842
greatest portion of such district. Otherwise, "proximate city" 18843
means any city that, as of the date of filing of the petition 18844
under section 349.03 of the Revised Code, is the city with the 18845
greatest population located in the county in which the proposed 18846
new community district is located, is the city with the greatest 18847

population located in an adjoining county if any portion of such 18848
city is within five miles of any part of the boundaries of such 18849
district, or exercises extraterritorial subdivision authority 18850
under section 711.09 of the Revised Code with respect to any part 18851
of such district. 18852

(N) "Community activities" means cultural, educational, 18853
governmental, recreational, residential, industrial, commercial, 18854
distribution and research activities, or any combination thereof 18855
that includes residential activities. 18856

Sec. 349.03. (A) Proceedings for the organization of a new 18857
community authority shall be initiated by a petition filed by the 18858
developer ~~in the office of~~ with the clerk of the organizational 18859
board of ~~county~~ commissioners ~~of one of the counties in which all~~ 18860
~~or part of~~ for the proposed new community district ~~is located~~. 18861
Such petition shall be signed by the developer and may be signed 18862
by each proximate city. The legislative authorities of each such 18863
proximate city shall act in behalf of such proximate city. Such 18864
petition shall contain: 18865

(1) The name of the proposed new community authority; 18866

(2) The address where the principal office of the authority 18867
will be located or the manner in which the location will be 18868
selected; 18869

(3) A map and a full and accurate description of the 18870
boundaries of the new community district together with a 18871
description of the properties within such boundaries, if any, 18872
which will not be included in the new community district. Unless 18873
more than one-half of the proposed new community district is or 18874
was contained within a joint economic development district under 18875
sections 715.70 to 715.83 of the Revised Code or the district is 18876
wholly contained within municipalities, the total acreage included 18877
in such district shall not be less than one thousand acres, all of 18878

which acreage shall be owned by, or under the control through 18879
leases of at least ~~seventy-five~~ forty years' duration, options, or 18880
contracts to purchase, of the developer, if the developer is a 18881
private entity. Such acreage shall be developable as one 18882
functionally interrelated community. ~~In the case of a new~~ 18883
~~community authority established on or after the effective date of~~ 18884
~~this amendment and before January 1, 2012, such leases may be of~~ 18885
~~not less than forty years' duration, and the acreage may be~~ 18886
developable so that the community is one functionally interrelated 18887
community. 18888

(4) A statement setting forth the zoning regulations proposed 18889
for zoning the area within the boundaries of the new community 18890
district for comprehensive development as a new community, and if 18891
the area has been zoned for such development, a certified copy of 18892
the applicable zoning regulations therefor; 18893

(5) A current plan indicating the proposed development 18894
program for the new community district, the land acquisition and 18895
land development activities, community facilities, services 18896
proposed to be undertaken by the new community authority under 18897
such program, the proposed method of financing such activities and 18898
services, including a description of the bases, timing, and manner 18899
of collecting any proposed community development charges, and the 18900
projected total residential population of, and employment within, 18901
the new community; 18902

(6) A suggested number of members, consistent with section 18903
349.04 of the Revised Code, for the board of trustees; 18904

(7) A preliminary economic feasibility analysis, including 18905
the area development pattern and demand, location and proposed new 18906
community district size, present and future socio-economic 18907
conditions, public services provision, financial plan, and the 18908
developer's management capability; 18909

(8) A statement that the development will comply with all applicable environmental laws and regulations.

Upon the filing of such petition, the organizational board of commissioners shall determine whether such petition complies with the requirements of this section as to form and substance. The board in subsequent proceedings may at any time permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the proposed new community district or in any other particular.

Upon the determination of the organizational board of commissioners that a sufficient petition has been filed in accordance with this section, the board shall fix the time and place of a hearing on the petition for the establishment of the proposed new community authority. Such ~~hearing shall be held not less than ninety five nor more than one hundred fifteen days after the petition filing date, except that if the petition has been signed by all proximate cities,~~ such hearing shall be held not less than thirty nor more than forty-five days after the petition filing date. The clerk of the organizational board of ~~county~~ commissioners with which the petition was filed shall give notice thereof by publication once each week for three consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in any county of which a portion is within the proposed new community district. Such clerk shall also give written notice of the date, time, and place of the hearing and furnish a certified copy of the petition to the clerk of the legislative authority of each proximate city which has not signed such petition. In the event that the legislative authority of a proximate city which did not sign the petition ~~does not approve~~ disapproves by ordinance, resolution, or motion the establishment of the proposed new community authority and ~~does not deliver~~ delivers such ordinance, resolution, or motion to the clerk of the

organizational board of ~~county~~ commissioners with which the 18942
petition was filed within ~~ninety~~ twenty-eight days following the 18943
date of the ~~first publication of the~~ notice delivered to the clerk 18944
of the ~~public hearing~~ legislative authority of the proximate city, 18945
the organizational board of commissioners shall cancel such public 18946
hearing and terminate the proceedings for the establishment of the 18947
new community authority. Any disapproval by the proximate city 18948
must be for good cause shown that the proposed new community 18949
district will not be conducive to the public health, safety, 18950
convenience, and welfare, and is not intended to result in the 18951
development of a new community. 18952

Upon the hearing, if the organizational board of 18953
commissioners determines by resolution that the proposed new 18954
community district will be conducive to the public health, safety, 18955
convenience, and welfare, and is intended to result in the 18956
development of a new community, and if at least twenty-eight days 18957
have elapsed following the date of the notice delivered to the 18958
clerk of the legislative authority of each proximate city that has 18959
not signed the petition and no disapproval of a proximate city for 18960
good cause shown has been received by the clerk of the 18961
organizational board of commissioners, the board shall by its 18962
resolution, entered of record in its journal ~~and the journal of~~ 18963
~~the board of county commissioners with which the petition was~~ 18964
~~filed,~~ declare the new community authority to be organized and a 18965
body politic and corporate with the corporate name designated in 18966
the resolution, and define the boundary of the new community 18967
district. In addition, the resolution shall provide the method of 18968
selecting the board of trustees of the new community authority and 18969
fix the surety for their bonds in accordance with section 349.04 18970
of the Revised Code. 18971

If the organizational board of commissioners finds that the 18972
establishment of the district will not be conducive to the public 18973

health, safety, convenience, or welfare, or is not intended to 18974
result in the development of a new community, or if the clerk of 18975
the organizational board of commissioners has received a 18976
disapproval for good cause shown from a proximate city, it shall 18977
reject the petition thereby terminating the proceedings for the 18978
establishment of the new community authority. 18979

(B) At any time after the creation of a new community 18980
authority, the developer may file an application with the ~~clerk of~~ 18981
~~the organizational~~ board of ~~county~~ commissioners ~~of the county in~~ 18982
with which the original petition was filed, setting forth a 18983
general description of territory it desires to add or to delete 18984
from such district, that such change will be conducive to the 18985
public health, safety, convenience, and welfare, and will be 18986
consistent with the development of a new community and will not 18987
jeopardize the plan of the new community. If the developer is not 18988
a municipal corporation, port authority, or county, all of such an 18989
addition to such a district shall be owned by, or under the 18990
control through leases of at least ~~seventy-five~~ forty years' 18991
duration, options, or contracts to purchase, of the developer. ~~In~~ 18992
~~the case of a new community authority established on or after the~~ 18993
~~effective date of this amendment and before January 1, 2012, such~~ 18994
~~leases may be of not less than forty years' duration.~~ Upon the 18995
filing of the application, the organizational board of 18996
commissioners shall follow the same procedure as required by this 18997
section in relation to the petition for the establishment of the 18998
proposed new community. 18999

(C) If all or any part of the new community district is 19000
annexed to one or more existing municipal corporations, their 19001
legislative authorities may appoint persons to replace any 19002
appointed citizen member of the board of trustees. The number of 19003
such trustees to be replaced by the municipal corporation shall be 19004
the number, rounded to the lowest integer, bearing the 19005

proportionate relationship to the number of existing appointed 19006
citizen members as the acreage of the new community district 19007
within such municipal corporation bears to the total acreage of 19008
the new community district. If any such municipal corporation 19009
chooses to replace an appointed citizen member, it shall do so by 19010
ordinance, the term of the trustee being replaced shall terminate 19011
thirty days from the date of passage of such ordinance, and the 19012
trustee to be replaced shall be determined by lot. Each newly 19013
appointed member shall assume the term of the member's 19014
predecessor. 19015

Sec. 349.04. The following method of selecting a board of 19016
trustees is deemed to be a compelling state interest. Within ten 19017
days after the new community authority has been established, as 19018
provided in section 349.03 of the Revised Code, an initial board 19019
of trustees shall be appointed as follows: the organizational 19020
board of commissioners shall appoint by resolution at least three, 19021
but not more than six, citizen members of the board of trustees to 19022
represent the interests of present and future residents and 19023
employers of the new community district and one member to serve as 19024
a representative of local government, and the developer shall 19025
appoint a number of members equal to the number of citizen members 19026
to serve as representatives of the developer. ~~In the case of a new~~ 19027
~~community authority established on or after the effective date of~~ 19028
~~this amendment and before January 1, 2012, the citizen members may~~ 19029
~~represent present and future employers within the new community~~ 19030
~~district and any present or future residents of the district.~~ 19031

Members shall serve two-year overlapping terms, with two of 19032
each of the initial citizen and developer members appointed to 19033
serve initial one year terms. The organizational board of 19034
commissioners shall adopt, by further resolution adopted within 19035
one year of such resolution establishing such initial board of 19036
trustees ~~adopt~~, a method for selection of successor members 19037

thereof which determines the projected total population of the 19038
projected new community and meets the following criteria: 19039

(A) The appointed citizen members shall be replaced by 19040
elected citizen members according to a schedule established by the 19041
organizational board of commissioners calculated to achieve one 19042
such replacement each time the new community district gains a 19043
proportion, having a numerator of one and a denominator of twice 19044
the number of citizen members, of its projected total population 19045
until such time as all of the appointed citizen members are 19046
replaced. 19047

(B) Representatives of the developer shall be replaced by 19048
elected citizen members according to a schedule established by the 19049
organizational board of commissioners calculated to achieve one 19050
such replacement each time the new community district gains a 19051
proportion, having a numerator of one and a denominator equal to 19052
the number of developer members, of its projected total population 19053
until such time as all of the developer's representatives are 19054
replaced. 19055

(C) The representative of local government shall be replaced 19056
by an elected citizen member at the time the new community 19057
district gains three-quarters of its projected total population. 19058

Elected citizen members of the board of trustees shall be 19059
elected by a majority of the residents of the new community 19060
district voting at elections held on the first Tuesday after the 19061
first Monday in December of each year. Each citizen member except 19062
an appointed citizen member shall be a qualified elector who 19063
resides within the new community district. ~~In the case of a new~~ 19064
~~community authority established on or after the effective date of~~ 19065
~~this amendment and before January 1, 2012, The petition or the~~ 19066
organizational board of ~~directors~~ commissioners, by resolution, 19067
may adopt an alternative method of selection or election of 19068
successor members of the board of trustees. If the alternative 19069

method provides for the election of citizen members, the elections 19070
may be held at the times and in the manner provided in a the 19071
petition or resolution of the organizational board of 19072
commissioners, and ~~the~~ any elected citizen members shall be 19073
qualified electors who ~~resides~~ reside in the new community 19074
district. 19075

Citizen members shall not be employees of or have financial 19076
interest in the developer. If a vacancy occurs in the office of a 19077
member other than a member appointed by the developer, the 19078
organizational board of commissioners may appoint a successor 19079
member for the remainder of the unexpired term. Any appointed 19080
member of the board of trustees may at any time be removed by the 19081
organizational board of commissioners for misfeasance, 19082
nonfeasance, or malfeasance in office. Members appointed by the 19083
developer may also at any time be removed by the developer without 19084
a showing of cause. 19085

Each member of the board of trustees, before entering upon 19086
official duties, shall take and subscribe to an oath before an 19087
officer authorized to administer oaths in Ohio that the member 19088
will honestly and faithfully perform the duties of the member's 19089
office. Such oath shall be filed in the office of the clerk of the 19090
organizational board of ~~county~~ commissioners ~~in which the petition~~ 19091
~~was filed~~. Upon taking the oath, the board of trustees shall elect 19092
one of its number as chairperson and another as vice-chairperson, 19093
and shall appoint suitable persons as secretary and treasurer who 19094
need not be members of the board. The treasurer shall be the 19095
fiscal officer of the authority. The board shall adopt by-laws 19096
governing the administration of the affairs of the new community 19097
authority. Each member of the board shall post a bond for the 19098
faithful performance of official duties and give surety therefor 19099
in such amount, but not less than ten thousand dollars, as the 19100
resolution creating such board shall prescribe. 19101

All of the powers of the new community authority shall be exercised by its board of trustees, but without relief of such responsibility, such powers may be delegated to committees of the board or its officers and employees in accordance with its by-laws. A majority of the board shall constitute a quorum, and a concurrence of a majority of a quorum in any matter within the board's duties is sufficient for its determination, provided a quorum is present when such concurrence is had and a majority of those members constituting such quorum are trustees not appointed by the developer. All trustees shall be empowered to vote on all matters within the authority of the board of trustees, and no vote by a member appointed by the developer shall be construed to give rise to civil or criminal liability for conflict of interest on the part of public officials.

Sec. 349.06. In furtherance of the purposes of this chapter, a new community authority may:

(A) Acquire by purchase, lease, gift, or otherwise, on such terms and in such manner as it considers proper, real and personal property or any estate, interest, or right therein, within or without the new community district;

(B) Improve, maintain, sell, lease or otherwise dispose of real and personal property and community facilities, on such terms and in such manner as it considers proper;

(C) Landscape and otherwise aesthetically improve areas within the new community district, including but not limited to maintenance, landscaping and other community improvement services;

(D) Provide, engage in, or otherwise sponsor recreational, educational, health, social, vocational, cultural, beautification, and amusement activities and related services primarily for ~~residents of the district. In the case of a new community authority established on or after the effective date of this~~

~~amendment and before January 1, 2012, such activities and services~~ 19133
~~may be for~~ residents of, visitors to, employees working within, or 19134
employers operating businesses in the district, or any combination 19135
thereof. 19136

(E) Fix, alter, impose, collect and receive service and user 19137
fees, rentals, and other charges to cover all costs in carrying 19138
out the new community development program; 19139

(F) Adopt, modify, and enforce reasonable rules and 19140
regulations governing the use of community facilities; 19141

(G) Employ such managers, administrative officers, agents, 19142
engineers, architects, attorneys, contractors, sub-contractors, 19143
and employees as may be appropriate in the exercise of the rights, 19144
powers and duties conferred upon it, prescribe the duties and 19145
compensation for such persons, require bonds to be given by any 19146
such persons and by officers of the authority for the faithful 19147
performance of their duties, and fix the amount and surety 19148
therefor; and pay the same; 19149

(H) Sue and be sued in its corporate name; 19150

(I) Make and enter into all contracts and agreements and 19151
execute all instruments relating to a new community development 19152
program, including contracts with the developer and other persons 19153
or entities related thereto for land acquisition and land 19154
development; acquisition, construction, and maintenance of 19155
community facilities; the provision of community services and 19156
management and coordinating services; with federal, state, 19157
interstate, regional, and local agencies and political 19158
subdivisions or combinations thereof in connection with the 19159
financing of such program, and with any municipal corporation or 19160
other public body, or combination thereof, providing for the 19161
acquisition, construction, improvement, extension, maintenance or 19162
operation of joint lands or facilities or for the provision of any 19163

services or activities relating to and in furtherance of a new 19164
community development program, including the creation of or 19165
participation in a regional transit authority created pursuant to 19166
the Revised Code; 19167

(J) Apply for and accept grants, loans or commitments of 19168
guarantee or insurance including any guarantees of community 19169
authority bonds and notes, from the United States, the state, or 19170
other public body or other sources, and provide any consideration 19171
which may be required in order to obtain such grants, loans or 19172
contracts of guarantee or insurance. Such loans or contracts of 19173
guarantee or insurance may be evidenced by the issuance of bonds 19174
as provided in section 349.08 of the Revised Code; 19175

(K) Procure insurance against loss to it by reason of damage 19176
to its properties resulting from fire, theft, accident, or other 19177
casualties, or by reason of its liability for any damages to 19178
persons or property occurring in the construction or operation of 19179
facilities or areas under its jurisdiction or the conduct of its 19180
activities; 19181

(L) Maintain such funds or reserves as it considers necessary 19182
for the efficient performance of its duties; 19183

(M) Enter agreements with the boards of education of any 19184
school districts in which all or part of the new community 19185
district lies, whereby the community authority may acquire 19186
property for, may construct and equip, and may sell, lease, 19187
dedicate, with or without consideration, or otherwise transfer 19188
lands, schools, classrooms, or other facilities, whether or not 19189
within the new community district, from the authority to the 19190
school district for school and related purposes; 19191

(N) Prepare plans for acquisition and development of lands 19192
and facilities, and enter into agreements with city, county, or 19193
regional planning commissions to perform or obtain all or any part 19194

of planning services for the new community district; 19195

(O) Engage in planning for the new community district, which 19196
may be predominantly residential and open space, and prepare or 19197
approve a development plan or plans therefor, and engage in land 19198
acquisitions and land development in accordance with such plan or 19199
plans; 19200

(P) Issue new community authority bonds and notes and 19201
community authority refunding bonds, payable solely from the 19202
income source provided in section 349.08 of the Revised Code, 19203
unless the bonds are refunded by refunding bonds, for the purpose 19204
of paying any part of the cost as applied to the new community 19205
development program or parts thereof; 19206

(Q) Enforce any covenants running with the land of which the 19207
new community authority is the beneficiary, including but not 19208
limited to the collection by any and all appropriate means of any 19209
community development charge deemed to be a covenant running with 19210
the land and enforceable by the new community authority pursuant 19211
to section 349.07 of the Revised Code; and to waive, reduce, or 19212
terminate any community development charge of which it is the 19213
beneficiary to the extent not needed for any of the purposes 19214
provided in section 349.07 of the Revised Code, the procedure for 19215
which shall be provided in such covenants, and if new community 19216
authority bonds have been issued pledging any such community 19217
development charge, to the extent not prohibited in the resolution 19218
authorizing the issuance of such new community authority bonds or 19219
the trust agreement or indenture of mortgage securing the bonds; 19220

(R) Appropriate for its use, under sections 163.01 to 163.22 19221
of the Revised Code, any land, easement, rights, rights-of-way, 19222
franchises, or other property in the new community district 19223
required by the authority for community facilities. The authority 19224
may not so appropriate any land, easement, rights, rights-of-way, 19225
franchises, or other property that is not included in the new 19226

community district. 19227

~~(S) In the case of a new community authority established on~~ 19228
~~or after the effective date of this amendment and before January~~ 19229
~~1, 2012, enter~~ Enter into any agreements as may be necessary, 19230
appropriate, or useful to support a new community development 19231
program, including, but not limited to, cooperative agreements or 19232
other agreements with political subdivisions for services, 19233
materials, or products; for the administration, calculation, or 19234
collection of community development charges; or for sharing of 19235
revenue derived from community development charges, community 19236
facilities, or other sources. The agreements may be made with or 19237
without consideration as the parties determine. 19238

Sec. 349.07. (A) Notwithstanding any other rule of law, any 19239
covenant or agreement in deeds, land contracts, leases and any 19240
other instruments or conveyance by which real estate or any 19241
interest in real estate is conveyed by or to the developer or by 19242
the new community authority to any person or entity, including the 19243
developer, whereby such person or entity agrees, by acceptance of 19244
any such instrument of conveyance containing said covenant of 19245
agreement, to pay annually or semiannually a community development 19246
charge for the benefit and use of the new community authority to 19247
cover all or part of the cost of the acquisition, construction, 19248
operation and maintenance of land, land development and community 19249
facilities, the debt service thereof and any other cost incurred 19250
by the authority in the exercise of the powers granted by Chapter 19251
349. of the Revised Code shall be deemed to be a covenant running 19252
with the land and shall, in any event and without regard to 19253
technical classification, after such instrument has been duly 19254
recorded in the land records of the county, be fully binding on 19255
behalf of and enforceable by the new community authority against 19256
each such person or entity and all successors and assigns of the 19257
property conveyed by such instrument of conveyance. 19258

(B) No purchase agreement for any real estate or interest in 19259
real estate upon which a community development charge exists by 19260
reason of a covenant running with the land shall be enforceable by 19261
the seller or binding upon the purchaser unless such purchase 19262
agreement specifically refers to such community development charge 19263
and identifies the volume and page number of the deed records of 19264
the county in which the covenant running with the land 19265
establishing such community development charge is recorded, 19266
provided that in the event a conveyance of such real estate or 19267
interest in real estate is made pursuant to a purchase agreement 19268
which does not make such reference and identification, the 19269
covenant shall continue to be deemed to be a covenant running with 19270
the land fully binding on behalf of and enforceable by the 19271
community authority against such person or entity accepting the 19272
conveyance pursuant to such purchase agreement. 19273

(C) When any community development charge is not paid when 19274
due, in addition to any other remedies the new community authority 19275
shall have with respect to collection of such charges, the new 19276
community authority may certify the charge to the county auditor, 19277
who shall enter the unpaid charge on the tax list and duplicates 19278
of real property opposite the parcel against which it is charged, 19279
and certify the charge to the county treasurer. An unpaid 19280
community development charge is a lien on property against which 19281
it is charged from the date the charge is entered on the tax list, 19282
and shall be collected in the manner provided for the collection 19283
of real property taxes. Once the charge is collected, it shall be 19284
paid immediately to the new community district. 19285

(D) No community development charge established pursuant to 19286
this chapter shall be construed as prohibiting or limiting the 19287
taxing power of municipal corporations. 19288

Sec. 349.09. The issuance of new community authority bonds 19289

and notes or new community authority refunding bonds under this 19290
chapter need not comply with any other law applicable to the 19291
issuance of bonds or notes; however, sections 9.98 and 9.981 to 19292
9.983 and division (A) of section 133.03 of the Revised Code apply 19293
to such bonds and notes. 19294

Sec. 349.14. Except as provided in section 349.03 of the 19295
Revised Code, or as otherwise provided in a resolution adopted by 19296
the organizational board of commissioners, ~~of a new community~~ 19297
~~authority established on or after the effective date of this~~ 19298
~~amendment and before January 1, 2012,~~ a new community authority 19299
organized under this chapter may be dissolved only on the vote of 19300
a majority of the voters of the new community district at a 19301
special election called by the board of trustees on the question 19302
of dissolution. Such an election may be called only after the 19303
board has determined that the new community development program 19304
has been completed, when no community authority bonds or notes are 19305
outstanding, and other legal indebtedness of the authority has 19306
been discharged or provided for, and only after there has been 19307
filed with the board of trustees a petition requesting such 19308
election, signed by a number of qualified electors residing in the 19309
new community district equal to not less than eight per cent of 19310
the total vote cast for all candidates for governor in the new 19311
community district at the most recent general election at which a 19312
governor was elected. If a majority of the votes cast favor 19313
dissolution, the board of trustees shall, by resolution, declare 19314
the authority dissolved and thereupon the community authority 19315
shall be dissolved. A certified copy of the resolution shall, 19316
within fifteen days after its adoption, be filed with the clerk of 19317
the organizational board of ~~county~~ commissioners ~~of the county in~~ 19318
with which the petition for the organization of the new community 19319
authority was filed. 19320

Upon dissolution of a new community authority, the powers 19321

thereof shall cease to exist. Any property of the new community authority ~~which~~ that is located within the corporate limits of a municipality shall vest in that municipal corporation and all other property of the community authority shall vest in the county or township in which said property is located, as provided in the resolution or petition providing for dissolution. Any vesting of property in a township shall be subject to acceptance of the property by resolution of the board of township trustees. Any funds of the community authority at the time of dissolution shall be transferred to the municipal corporation and county or township, as provided in the resolution or petition providing for dissolution, in which the new community district is located in the proportion to the assessed valuation of taxable real property of the new community authority within such municipal corporation and county or township as said valuation appears on the current assessment rolls.

Sec. 349.17. (A) Any county, notwithstanding any other provision of law, may enter into an agreement with a new community authority within its boundaries for the purpose of designating the new community authority to act on behalf of the county in exercising the powers and performing the duties described in Chapter 5721. of the Revised Code with respect to delinquent property within the boundaries of the new community authority and the county, in the case that all or a portion of the community development charges related to the property are not paid when due.

(B) An agreement as described in division (A) of this section may permit a new community authority to, on behalf of the county, elect that the alternative redemption period following an adjudication of foreclosure as set forth in section 323.78 of the Revised Code apply to foreclosures of property within the new community district as a result of nonpayment of community development charges, taxes, or other charges.

(C) The powers extended to a community authority in this section shall not be construed as a limitation on the powers granted to a community authority under Chapter 349. of the Revised Code, but shall be construed as additional powers.

Sec. 501.07. Lands described in division (A) of section 501.06 of the Revised Code shall continue to be leased under the terms granted until such time as the lease may expire. At the time of expiration, subject to section 501.04 of the Revised Code, the land may be leased again by the board of education of the school district for whose benefit the land has been allocated or be offered for sale by public auction or by the receipt of sealed bids with the sale awarded by the school board to the highest bidder. Prior to the offering of these lands for sale, the school board shall have an appraisal made of these lands by at least two disinterested appraisers. Notification of the sale of these lands, including the minerals in or on these or other lands, shall be advertised ~~at least~~ once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in the county in which the land is located. No bids shall be accepted for less than the appraised value of the land.

Sec. 503.05. When a boundary line between townships is in dispute, the board of county commissioners, upon application of the board of township trustees of one of such townships, and upon notice in writing to the board of township trustees of such civil township, and on thirty days' public notice printed in a newspaper published of general circulation within the county, shall establish such boundary line and make a record thereof as provided by section 503.04 of the Revised Code.

Sec. 503.162. (A) After certification of a resolution as

provided in section 503.161 of the Revised Code, the board of 19384
elections shall submit the question of whether the township's name 19385
shall be changed to the electors of the unincorporated area of the 19386
township in accordance with division (C) of that section, and the 19387
ballot language shall be substantially as follows: 19388

"Shall the township of (name) change its name to 19389
..... (proposed name)? 19390

..... For name change 19391

..... Against name change" 19392

(B)(1) At least forty-five days before the election on this 19393
question, the board of township trustees shall provide notice of 19394
the election and an explanation of the proposed name change in a 19395
newspaper of general circulation in the township once a week for 19396
two consecutive weeks ~~and~~ or as provided in section 7.16 of the 19397
Revised Code. The board of township trustees shall post the notice 19398
and explanation in five conspicuous places in the unincorporated 19399
area of the township. 19400

(2) If the board of elections operates and maintains a web 19401
site, notice of the election and an explanation of the proposed 19402
name change shall be posted on that web site for at least thirty 19403
days before the election on this question. 19404

(C) If a majority of the votes cast on the proposition of 19405
changing the township's name is in the affirmative, the name 19406
change is adopted and becomes effective ninety days after the 19407
board of elections certifies the election results to the fiscal 19408
officer of the township. Upon receipt of the certification of the 19409
election results from the board of elections, the fiscal officer 19410
of the township shall send a copy of that certification to the 19411
secretary of state. 19412

(D) A change in the name of a township shall not alter the 19413
rights or liabilities of the township as previously named. 19414

Sec. 503.41. (A) A board of township trustees, by resolution, 19415
may regulate and require the registration of massage 19416
establishments and their employees within the unincorporated 19417
territory of the township. In accordance with sections 503.40 to 19418
503.49 of the Revised Code, for that purpose, the board, by a 19419
majority vote of all members, may adopt, amend, administer, and 19420
enforce regulations within the unincorporated territory of the 19421
township. 19422

(B) A board may adopt regulations and amendments under this 19423
section only after public hearing at not fewer than two regular 19424
sessions of the board. The board shall cause to be published in ~~at~~ 19425
~~least one~~ a newspaper of general circulation in the township, or 19426
as provided in section 7.16 of the Revised Code, notice of the 19427
public hearings, including the time, date, and place, once a week 19428
for two weeks immediately preceding the hearings. The board shall 19429
make available proposed regulations or amendments to the public at 19430
the office of the board. 19431

(C) Regulations or amendments adopted by the board are 19432
effective thirty days after the date of adoption unless, within 19433
thirty days after the adoption of the regulations or amendments, 19434
the township fiscal officer receives a petition, signed by a 19435
number of qualified electors residing in the unincorporated area 19436
of the township equal to not less than ten per cent of the total 19437
vote cast for all candidates for governor in the area at the most 19438
recent general election at which a governor was elected, 19439
requesting the board to submit the regulations or amendments to 19440
the electors of the area for approval or rejection at the next 19441
primary or general election occurring at least ninety days after 19442
the board receives the petition. 19443

No regulation or amendment for which the referendum vote has 19444
been requested is effective unless a majority of the votes cast on 19445

the issue is in favor of the regulation or amendment. Upon 19446
certification by the board of elections that a majority of the 19447
votes cast on the issue was in favor of the regulation or 19448
amendment, the regulation or amendment takes immediate effect. 19449

(D) The board shall make available regulations it adopts or 19450
amends to the public at the office of the board and shall cause to 19451
be published once a notice of the availability of the regulations 19452
in ~~at least one~~ a newspaper of general circulation in the township 19453
within ten days after their adoption or amendment. 19454

(E) Nothing in sections 503.40 to 503.49 of the Revised Code 19455
shall be construed to allow a board of township trustees to 19456
regulate the practice of any limited branch of medicine specified 19457
in section 4731.15 of the Revised Code or the practice of 19458
providing therapeutic massage by a licensed physician, a licensed 19459
chiropractor, a licensed podiatrist, a licensed nurse, or any 19460
other licensed health professional. As used in this division, 19461
"licensed" means licensed, certified, or registered to practice in 19462
this state. 19463

Sec. 504.02. (A) After certification of a resolution as 19464
provided in division (A) of section 504.01 of the Revised Code, 19465
the board of elections shall submit the question of whether to 19466
adopt a limited home rule government to the electors of the 19467
unincorporated area of the township, and the ballot language shall 19468
be substantially as follows: 19469

"Shall the township of (name) adopt a limited 19470
home rule government, under which government the board of township 19471
trustees, by resolution, may exercise limited powers of local 19472
self-government and limited police powers? 19473

..... For adoption of a limited home rule government 19474

..... Against adoption of a limited home rule government" 19475

(B)(1) At least forty-five days before the election on this 19476

question, the board of township trustees shall have notice of the 19477
election and a description of the proposed limited home rule 19478
government published in a newspaper of general circulation in the 19479
township once a week for two consecutive weeks or as provided in 19480
section 7.16 of the Revised Code, and shall have the notice and 19481
description posted in five conspicuous places in the 19482
unincorporated area of the township. 19483

(2) If a board of elections operates and maintains a web 19484
site, notice of the election and a description of the proposed 19485
limited home rule government shall be posted on that web site for 19486
at least thirty days before the election on this question. 19487

(C) If a majority of the votes cast on the proposition of 19488
adopting a limited home rule government is in the affirmative, 19489
that government is adopted and becomes the government of the 19490
township on the first day of January immediately following the 19491
election. 19492

Sec. 504.03. (A)(1) If a limited home rule government is 19493
adopted pursuant to section 504.02 of the Revised Code, it shall 19494
remain in effect for at least three years except as otherwise 19495
provided in division (B) of this section. At the end of that 19496
period, if the board of township trustees determines that that 19497
government is not in the best interests of the township, it may 19498
adopt a resolution causing the board of elections to submit to the 19499
electors of the unincorporated area of the township the question 19500
of whether the township should continue the limited home rule 19501
government. The question shall be voted upon at the next general 19502
election occurring at least ninety days after the certification of 19503
the resolution to the board of elections. After certification of 19504
the resolution, the board of elections shall submit the question 19505
to the electors of the unincorporated area of the township, and 19506
the ballot language shall be substantially as follows: 19507

"Shall the township of (name) continue the limited home rule government under which it is operating? For continuation of the limited home rule government Against continuation of the limited home rule government" (2)(a) At least forty-five days before the election on the question of continuing the limited home rule government, the board of township trustees shall have notice of the election published in a newspaper of general circulation in the township once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and shall have the notice posted in five conspicuous places in the unincorporated area of the township. (b) If a board of elections operates and maintains a web site, notice of the election shall be posted on that web site for at least thirty days before the election on the question of continuing the limited home rule government. (B) The electors of a township that has adopted a limited home rule government may propose at any time by initiative petition, in accordance with section 504.14 of the Revised Code, a resolution submitting to the electors in the unincorporated area of the township, in an election, the question set forth in division (A)(1) of this section. (C) If a majority of the votes cast under division (A) or (B) of this section on the proposition of continuing the limited home rule government is in the negative, that government is terminated effective on the first day of January immediately following the election, and a limited home rule government shall not be adopted in the unincorporated area of the township pursuant to section 504.02 of the Revised Code for at least three years after that date. (D) If a limited home rule government is terminated under this section, the board of township trustees immediately shall

adopt a resolution repealing all resolutions adopted pursuant to 19539
this chapter that are not authorized by any other section of the 19540
Revised Code outside this chapter, effective on the first day of 19541
January immediately following the election described in division 19542
(A) or (B) of this section. However, no resolution adopted under 19543
this division shall affect or impair the obligations of the 19544
township under any security issued or contracts entered into by 19545
the township in connection with the financing of any water supply 19546
facility or sewer improvement under sections 504.18 to 504.20 of 19547
the Revised Code or the authority of the township to collect or 19548
enforce any assessments or other revenues constituting security 19549
for or source of payments of debt service charges of those 19550
securities. 19551

(E) Upon the termination of a limited home rule government 19552
under this section, if the township had converted its board of 19553
township trustees to a five-member board before September 26, 19554
2003, the current board member who received the lowest number of 19555
votes of the current board members who were elected at the most 19556
recent election for township trustees, and the current board 19557
member who received the lowest number of votes of the current 19558
board members who were elected at the second most recent election 19559
for township trustees, shall cease to be township trustees on the 19560
date that the limited home rule government terminates. Their 19561
offices likewise shall cease to exist at that time, and the board 19562
shall continue as a three-member board as provided in section 19563
505.01 of the Revised Code. 19564

Sec. 504.12. No resolution and no section or numbered or 19565
lettered division of a section shall be revised or amended unless 19566
the new resolution contains the entire resolution, section, or 19567
division as revised or amended, and the resolution, section, or 19568
division so amended shall be repealed. This requirement does not 19569
prevent the amendment of a resolution by the addition of a new 19570

section, or division, and in this case the full text of the former 19571
resolution need not be set forth, nor does this section prevent 19572
repeals by implication. Except in the case of a codification or 19573
recodification of resolutions, a separate vote shall be taken on 19574
each resolution proposed to be amended. Resolutions that have been 19575
introduced and have received their first reading or their first 19576
and second readings, but have not been voted on for passage, may 19577
be amended or revised by a majority vote of the members of the 19578
board of township trustees, and the amended or revised resolution 19579
need not receive additional readings. 19580

The board of township trustees of a limited home rule 19581
township may revise, codify, and publish in book form the 19582
resolutions of the township in the same manner as provided in 19583
section 731.23 of the Revised Code for municipal corporations. 19584
Resolutions adopted by the board shall be published in the same 19585
manner as provided by sections 731.21, 731.22, 731.24, 731.25, and 19586
731.26 of the Revised Code for municipal corporations, except that 19587
they shall be published in ~~newspapers circulating~~ a newspaper of 19588
general circulation within the township. The fiscal officer of the 19589
township shall perform the duties that the clerk of the 19590
legislative authority of a municipal corporation is required to 19591
perform under those sections. 19592

The procedures provided in this section apply only to 19593
resolutions adopted pursuant to a township's limited home rule 19594
powers as authorized by this chapter. 19595

Sec. 504.21. (A) The board of township trustees of a township 19596
that has adopted a limited home rule government may, for the 19597
unincorporated territory in the township, adopt, amend, and 19598
rescind rules establishing technically feasible and economically 19599
reasonable standards to achieve a level of management and 19600
conservation practices that will abate wind or water erosion of 19601

the soil or abate the degradation of the waters of the state by 19602
soil sediment in conjunction with land grading, excavating, 19603
filling, or other soil disturbing activities on land used or being 19604
developed in the township for nonfarm commercial, industrial, 19605
residential, or other nonfarm purposes, and establish criteria for 19606
determination of the acceptability of those management and 19607
conservation practices. The rules shall be designed to implement 19608
the applicable areawide waste treatment management plan prepared 19609
under section 208 of the "Federal Water Pollution Control Act," 86 19610
Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement 19611
phase II of the storm water program of the national pollutant 19612
discharge elimination system established in 40 C.F.R. Part 122. 19613
The rules to implement phase II of the storm water program of the 19614
national pollutant discharge elimination system shall not be 19615
inconsistent with, more stringent than, or broader in scope than 19616
the rules or regulations adopted by the environmental protection 19617
agency under 40 C.F.R. Part 122. The rules adopted under this 19618
section shall not apply inside the limits of municipal 19619
corporations, to lands being used in a strip mine operation as 19620
defined in section 1513.01 of the Revised Code, or to land being 19621
used in a surface mine operation as defined in section 1514.01 of 19622
the Revised Code. 19623

The rules adopted under this section may require persons to 19624
file plans governing erosion control, sediment control, and water 19625
management before clearing, grading, excavating, filling, or 19626
otherwise wholly or partially disturbing one or more contiguous 19627
acres of land owned by one person or operated as one development 19628
unit for the construction of nonfarm buildings, structures, 19629
utilities, recreational areas, or other similar nonfarm uses. If 19630
the rules require plans to be filed, the rules shall do all of the 19631
following: 19632

(1) Designate the board itself, its employees, or another 19633

agency or official to review and approve or disapprove the plans; 19634

(2) Establish procedures and criteria for the review and 19635
approval or disapproval of the plans; 19636

(3) Require the designated entity to issue a permit to a 19637
person for the clearing, grading, excavating, filling, or other 19638
project for which plans are approved and to deny a permit to a 19639
person whose plans have been disapproved; 19640

(4) Establish procedures for the issuance of the permits; 19641

(5) Establish procedures under which a person may appeal the 19642
denial of a permit. 19643

Areas of less than one contiguous acre shall not be exempt 19644
from compliance with other provisions of this section or rules 19645
adopted under this section. The rules adopted under this section 19646
may impose reasonable filing fees for plan review, permit 19647
processing, and field inspections. 19648

No permit or plan shall be required for a public highway, 19649
transportation, or drainage improvement or maintenance project 19650
undertaken by a government agency or political subdivision in 19651
accordance with a statement of its standard sediment control 19652
policies that is approved by the board or the chief of the 19653
division of soil and water resources in the department of natural 19654
resources. 19655

(B) Rules or amendments may be adopted under this section 19656
only after public hearings at not fewer than two regular sessions 19657
of the board of township trustees. The board shall cause to be 19658
published, in a newspaper of general circulation in the township, 19659
notice of the public hearings, including time, date, and place, 19660
once a week for two weeks immediately preceding the hearings, or 19661
as provided in section 7.16 of the Revised Code. The proposed 19662
rules or amendments shall be made available by the board to the 19663
public at the board office or other location indicated in the 19664

notice. The rules or amendments shall take effect on the 19665
thirty-first day following the date of their adoption. 19666

(C) The board of township trustees may employ personnel to 19667
assist in the administration of this section and the rules adopted 19668
under it. The board also, if the action does not conflict with the 19669
rules, may delegate duties to review sediment control and water 19670
management plans to its employees, and may enter into agreements 19671
with one or more political subdivisions, other township officials, 19672
or other government agencies, in any combination, in order to 19673
obtain reviews and comments on plans governing erosion control, 19674
sediment control, and water management or to obtain other services 19675
for the administration of the rules adopted under this section. 19676

(D) The board of township trustees or any duly authorized 19677
representative of the board may, upon identification to the owner 19678
or person in charge, enter any land upon obtaining agreement with 19679
the owner, tenant, or manager of the land in order to determine 19680
whether there is compliance with the rules adopted under this 19681
section. If the board or its duly authorized representative is 19682
unable to obtain such an agreement, the board or representative 19683
may apply for, and a judge of the court of common pleas for the 19684
county where the land is located may issue, an appropriate 19685
inspection warrant as necessary to achieve the purposes of this 19686
section. 19687

(E)(1) If the board of township trustees or its duly 19688
authorized representative determines that a violation of the rules 19689
adopted under this section exists, the board or representative may 19690
issue an immediate stop work order if the violator failed to 19691
obtain any federal, state, or local permit necessary for sediment 19692
and erosion control, earth movement, clearing, or cut and fill 19693
activity. In addition, if the board or representative determines 19694
such a rule violation exists, regardless of whether or not the 19695
violator has obtained the proper permits, the board or 19696

representative may authorize the issuance of a notice of 19697
violation. If, after a period of not less than thirty days has 19698
elapsed following the issuance of the notice of violation, the 19699
violation continues, the board or its duly authorized 19700
representative shall issue a second notice of violation. Except as 19701
provided in division (E)(3) of this section, if, after a period of 19702
not less than fifteen days has elapsed following the issuance of 19703
the second notice of violation, the violation continues, the board 19704
or its duly authorized representative may issue a stop work order 19705
after first obtaining the written approval of the prosecuting 19706
attorney of the county in which the township is located if, in the 19707
opinion of the prosecuting attorney, the violation is egregious. 19708

Once a stop work order is issued, the board or its duly 19709
authorized representative shall request, in writing, the 19710
prosecuting attorney to seek an injunction or other appropriate 19711
relief in the court of common pleas to abate excessive erosion or 19712
sedimentation and secure compliance with the rules adopted under 19713
this section. If the prosecuting attorney seeks an injunction or 19714
other appropriate relief, then, in granting relief, the court of 19715
common pleas may order the construction of sediment control 19716
improvements or implementation of other control measures and may 19717
assess a civil fine of not less than one hundred or more than five 19718
hundred dollars. Each day of violation of a rule or stop work 19719
order issued under this section shall be considered a separate 19720
violation subject to a civil fine. 19721

(2) The person to whom a stop work order is issued under this 19722
section may appeal the order to the court of common pleas of the 19723
county in which it was issued, seeking any equitable or other 19724
appropriate relief from that order. 19725

(3) No stop work order shall be issued under this section 19726
against any public highway, transportation, or drainage 19727
improvement or maintenance project undertaken by a government 19728

agency or political subdivision in accordance with a statement of 19729
its standard sediment control policies that is approved by the 19730
board or the chief of the division of soil and water resources in 19731
the department of natural resources. 19732

(F) No person shall violate any rule adopted or order issued 19733
under this section. Notwithstanding division (E) of this section, 19734
if the board of township trustees determines that a violation of 19735
any rule adopted or administrative order issued under this section 19736
exists, the board may request, in writing, the prosecuting 19737
attorney of the county in which the township is located, to seek 19738
an injunction or other appropriate relief in the court of common 19739
pleas to abate excessive erosion or sedimentation and secure 19740
compliance with the rules or order. In granting relief, the court 19741
of common pleas may order the construction of sediment control 19742
improvements or implementation of other control measures and may 19743
assess a civil fine of not less than one hundred or more than five 19744
hundred dollars. Each day of violation of a rule adopted or 19745
administrative order issued under this section shall be considered 19746
a separate violation subject to a civil fine. 19747

Sec. 505.101. The board of township trustees of any township 19748
may, by resolution, enter into a contract, without advertising or 19749
bidding, for the purchase or sale of materials, equipment, or 19750
supplies from or to any department, agency, or political 19751
subdivision of the state, for the purchase of services with a soil 19752
and water conservation district established under Chapter 1515. of 19753
the Revised Code, ~~or~~ for the purchase of supplies, services, 19754
materials, and equipment with a regional planning commission 19755
pursuant to division (D) of section 713.23 of the Revised Code, or 19756
for the purchase of services from an educational service center 19757
under section 3313.846 of the Revised Code. The resolution shall: 19758

(A) Set forth the maximum amount to be paid as the purchase 19759

price for the materials, equipment, supplies, or services; 19760

(B) Describe the type of materials, equipment, supplies, or 19761
services that are to be purchased; 19762

(C) Appropriate sufficient funds to pay the purchase price 19763
for the materials, equipment, supplies, or services, except that 19764
no such appropriation is necessary if funds have been previously 19765
appropriated for the purpose and remain unencumbered at the time 19766
the resolution is adopted. 19767

Sec. 505.108. Except as otherwise provided in this section 19768
and unless the property involved is required to be disposed of 19769
pursuant to another section of the Revised Code, property that is 19770
unclaimed for ninety days or more shall be sold by the chief of 19771
police or other head of the organized police department of the 19772
township, township police district, joint township police 19773
district, or office of a township constable at public auction, 19774
after notice of the sale has been provided by publication once a 19775
week for three successive weeks in a newspaper of general 19776
circulation, or as provided in section 7.16 of the Revised Code, 19777
in the county, or counties, if appropriate, in the case of a joint 19778
township police district. The proceeds of the sale shall be paid 19779
to the fiscal officer of the township and credited to the township 19780
general fund, except that, in the case of a joint township police 19781
district, the proceeds of a sale shall be paid to the fiscal 19782
officer of the most populous participating township and credited 19783
to the appropriate township general fund or funds according to 19784
agreement of the participating townships. 19785

If authorized to do so by a resolution adopted by the board 19786
of township trustees or, in the case of a joint township police 19787
district, each participating board of township trustees, and if 19788
the property involved is not required to be disposed of pursuant 19789
to another section of the Revised Code, the head of the 19790

department, district, or office may contribute property that is 19791
unclaimed for ninety days or more to one or more public agencies, 19792
to one or more nonprofit organizations no part of the net income 19793
of which inures to the benefit of any private shareholder or 19794
individual and no substantial part of the activities of which 19795
consists of carrying on propaganda or otherwise attempting to 19796
influence legislation, or to one or more organizations satisfying 19797
section 501(c)(3) or (c)(19) of the Internal Revenue Code of 1986. 19798

Sec. 505.17. (A) Except in a township or portion of a 19799
township that is within the limits of a municipal corporation, the 19800
board of township trustees may make regulations and orders as are 19801
necessary to control passenger car, motorcycle, and internal 19802
combustion engine noise, as permitted under section 4513.221 of 19803
the Revised Code, and all vehicle parking in the township. This 19804
authorization includes, among other powers, the power to regulate 19805
parking on established roadways proximate to buildings on private 19806
property as necessary to provide access to the property by public 19807
safety vehicles and equipment, if the property is used for 19808
commercial purposes, the public is permitted to use the parking 19809
area, and accommodation for more than ten motor vehicles is 19810
provided, and the power to authorize the issuance of orders 19811
limiting or prohibiting parking on any township street or highway 19812
during a snow emergency declared pursuant to a snow-emergency 19813
authorization adopted under this division. All such regulations 19814
and orders shall be subject to the limitations, restrictions, and 19815
exceptions in sections 4511.01 to 4511.76 and 4513.02 to 4513.37 19816
of the Revised Code. 19817

A board of township trustees may adopt a general 19818
snow-emergency authorization, which becomes effective under 19819
division (B)(1) of this section, allowing the president of the 19820
board or some other person specified in the authorization to issue 19821
an order declaring a snow emergency and limiting or prohibiting 19822

parking on any township street or highway during the snow 19823
emergency. Any such order becomes effective under division (B)(2) 19824
of this section. Each general snow-emergency authorization adopted 19825
under this division shall specify the weather conditions under 19826
which a snow emergency may be declared in that township. 19827

(B)(1) All regulations and orders, including any 19828
snow-emergency authorization established by the board under this 19829
section, except for an order declaring a snow emergency as 19830
provided in division (B)(2) of this section, shall be posted by 19831
the township fiscal officer in five conspicuous public places in 19832
the township for thirty days before becoming effective, and shall 19833
be published in a newspaper of general circulation in the township 19834
for three consecutive weeks or as provided in section 7.16 of the 19835
Revised Code. In addition to these requirements, no general 19836
snow-emergency authorization shall become effective until 19837
permanent signs giving notice that parking is limited or 19838
prohibited during a snow emergency are properly posted, in 19839
accordance with any applicable standards adopted by the department 19840
of transportation, along streets or highways specified in the 19841
authorization. 19842

(2) Pursuant to the adoption of a snow-emergency 19843
authorization under this section, an order declaring a snow 19844
emergency becomes effective two hours after the president of the 19845
board or the other person specified in the general snow-emergency 19846
authorization makes an announcement of a snow emergency to the 19847
local news media. The president or other specified person shall 19848
request the local news media to announce that a snow emergency has 19849
been declared, the time the declaration will go into effect, and 19850
whether the snow emergency will remain in effect for a specified 19851
period of time or indefinitely until canceled by a subsequent 19852
announcement to the local news media by the president or other 19853
specified person. 19854

(C) Such regulations and orders may be enforced where traffic control devices conforming to section 4511.09 of the Revised Code are prominently displayed. Parking regulations authorized by this section do not apply to any state highway unless the parking regulations are approved by the director of transportation.

(D) A board of township trustees or its designated agent may order into storage any vehicle parked in violation of a township parking regulation or order, if the violation is not one that is required to be handled pursuant to Chapter 4521. of the Revised Code. The owner or any lienholder of a vehicle ordered into storage may claim the vehicle upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, and payment of all expenses, charges, and fines incurred as a result of the parking violation and removal and storage of the vehicle.

(E) Whoever violates any regulation or order adopted pursuant to this section is guilty of a minor misdemeanor, unless the township has enacted a regulation pursuant to division (A) of section 4521.02 of the Revised Code, that specifies that the violation shall not be considered a criminal offense and shall be handled pursuant to Chapter 4521. of the Revised Code. Fines levied and collected under this section shall be paid into the township general revenue fund.

Sec. 505.264. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, an existing building, to reduce energy consumption. It includes the following:

(1) Insulation of the building structure and of systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and

door systems, additional glazing, reductions in glass area, and	19886
other window and door system modifications that reduce energy	19887
consumption;	19888
(3) Automatic energy control systems;	19889
(4) Heating, ventilating, or air conditioning system	19890
modifications or replacements;	19891
(5) Caulking and weatherstripping;	19892
(6) Replacement or modification of lighting fixtures to	19893
increase the energy efficiency of the system without increasing	19894
the overall illumination of a facility, unless an increase in	19895
illumination is necessary to conform to the applicable state or	19896
local building code for the proposed lighting system;	19897
(7) Energy recovery systems;	19898
(8) Cogeneration systems that produce steam or forms of	19899
energy such as heat, as well as electricity, for use primarily	19900
within a building or complex of buildings;	19901
(9) Any other modification, installation, or remodeling	19902
approved by the board of township trustees as an energy	19903
conservation measure.	19904
(B) For the purpose of evaluating township buildings for	19905
energy conservation measures, a township may contract with an	19906
architect, professional engineer, energy services company,	19907
contractor, or other person experienced in the design and	19908
implementation of energy conservation measures for a report that	19909
analyzes the buildings' energy needs and presents recommendations	19910
for building installations, modifications of existing	19911
installations, or building remodeling that would significantly	19912
reduce energy consumption in the buildings owned by that township.	19913
The report shall include estimates of all costs of the	19914
installations, modifications, or remodeling, including costs of	19915

design, engineering, installation, maintenance, and repairs, and 19916
estimates of the amounts by which energy consumption could be 19917
reduced. 19918

(C) A township desiring to implement energy conservation 19919
measures may proceed under either of the following methods: 19920

(1) Using a report or any part of a report prepared under 19921
division (B) of this section, advertise for bids and comply with 19922
the bidding procedures set forth in sections 307.86 to 307.92 of 19923
the Revised Code; 19924

(2) Request proposals from at least three vendors for the 19925
implementation of energy conservation measures. Prior to sending 19926
any installer of energy conservation measures a copy of any such 19927
request, the township shall advertise its intent to request 19928
proposals for the installation of energy conservation measures in 19929
a newspaper of general circulation in the township once a week for 19930
two consecutive weeks or as provided in section 7.16 of the 19931
Revised Code. The notice shall state that the township intends to 19932
request proposals for the installation of energy conservation 19933
measures; indicate the date, which shall be at least ten days 19934
after the second publication, on which the request for proposals 19935
will be mailed to installers of energy conservation measures; and 19936
state that any installer of energy conservation measures 19937
interested in receiving the request for proposal shall submit 19938
written notice to the township not later than noon of the day on 19939
which the request for proposal will be mailed. 19940

Upon receiving the proposals, the township shall analyze them 19941
and select the proposal or proposals most likely to result in the 19942
greatest energy savings considering the cost of the project and 19943
the township's ability to pay for the improvements with current 19944
revenues or by financing the improvements. The awarding of a 19945
contract to install energy conservation measures under division 19946
(C)(2) of this section shall be conditioned upon a finding by the 19947

township that the amount of money spent on energy savings measures 19948
is not likely to exceed the amount of money the township would 19949
save in energy and operating costs over ten years or a lesser 19950
period as determined by the township or, in the case of contracts 19951
for cogeneration systems, over five years or a lesser period as 19952
determined by the township. Nothing in this section prohibits a 19953
township from rejecting all proposals or from selecting more than 19954
one proposal. 19955

(D) A board of township trustees may enter into an 19956
installment payment contract for the purchase and installation of 19957
energy conservation measures. Any provisions of those installment 19958
payment contracts that deal with interest charges and financing 19959
terms shall not be subject to the competitive bidding procedures 19960
of section 307.86 of the Revised Code. Unless otherwise approved 19961
by a resolution of the board, an installment payment contract 19962
entered into by a board of township trustees under this section 19963
shall require the board to contract in accordance with the 19964
procedures set forth in section 307.86 of the Revised Code for the 19965
installation, modification, or remodeling of energy conservation 19966
measures pursuant to this section. 19967

(E) The board may issue securities of the township specifying 19968
the terms of the purchase and securing the deferred payments, 19969
payable at the times provided and bearing interest at a rate not 19970
exceeding the rate determined as provided in section 9.95 of the 19971
Revised Code. The maximum maturity of the securities shall be as 19972
provided in division (B)(7)(g) of section 133.20 of the Revised 19973
Code. The securities may contain an option for prepayment and 19974
shall not be subject to Chapter 133. of the Revised Code. Revenues 19975
derived from local taxes or otherwise, for the purpose of 19976
conserving energy or for defraying the current operating expenses 19977
of the township, may be applied to the payment of interest and the 19978
retirement of the securities. The securities may be sold at 19979

private sale or given to the contractor under the installment 19980
payment contract authorized by division (D) of this section. 19981

(F) Debt incurred under this section shall not be included in 19982
the calculation of the net indebtedness of a township under 19983
section 133.09 of the Revised Code. 19984

Sec. 505.28. The board of township trustees may create a 19985
waste disposal district under sections 505.27 to 505.33 of the 19986
Revised Code, by a unanimous vote of the board and give notice 19987
thereof by a publication in ~~two newspapers~~ a newspaper of general 19988
circulation in the township. If, within thirty days after such 19989
publication, a protest petition is filed with the board, signed by 19990
at least fifty per cent of the electors residing in the district, 19991
the act of the board in creating such district shall be void. If a 19992
petition is filed with the board asking for the creation of such a 19993
district in the township, accompanied by a map clearly showing the 19994
boundaries of such district, and signed by at least sixty-five per 19995
cent of the electors residing therein, with addresses of such 19996
signers, the board shall, within sixty days, create such a 19997
district. 19998

Each district shall be given a name, and the entire cost of 19999
any necessary equipment and labor shall be apportioned against 20000
each district by the respective boards. 20001

Sec. 505.373. The board of township trustees may, by 20002
resolution, adopt by incorporation by reference a standard code 20003
pertaining to fire, fire hazards, and fire prevention prepared and 20004
promulgated by the state or any department, board, or other agency 20005
of the state, or any such code prepared and promulgated by a 20006
public or private organization that publishes a model or standard 20007
code. 20008

After the adoption of the code by the board, a notice clearly 20009

identifying the code, stating the purpose of the code, and stating 20010
that a complete copy of the code is on file with the township 20011
fiscal officer for inspection by the public and also on file in 20012
the law library of the county in which the township is located and 20013
that the fiscal officer has copies available for distribution to 20014
the public at cost, shall be posted by the fiscal officer in five 20015
conspicuous places in the township for thirty days before becoming 20016
effective. The notice required by this section shall also be 20017
published in a newspaper of general circulation in the township 20018
once a week for three consecutive weeks or as provided in section 20019
7.16 of the Revised Code. If the adopting township amends or 20020
deletes any provision of the code, the notice shall contain a 20021
brief summary of the deletion or amendment. 20022

If the agency that originally promulgated or published the 20023
code thereafter amends the code, any township that has adopted the 20024
code pursuant to this section may adopt the amendment or change by 20025
incorporation by reference in the same manner as provided for 20026
adoption of the original code. 20027

Sec. 505.55. In the event that need for a township police 20028
district ceases to exist, the township trustees by a two-thirds 20029
vote of the board shall adopt a resolution specifying the date 20030
that the township police district shall cease to exist and provide 20031
for the disposal of all property belonging to the district by 20032
public sale. Such sale must be by public auction and upon notice 20033
thereof being published once a week for three weeks in a newspaper 20034
~~published, or~~ of general circulation in such township, the or as 20035
provided in section 7.16 of the Revised Code. The last of such 20036
publications ~~to~~ shall be made at least five days before the date 20037
of the sale. Any moneys remaining after the dissolution of the 20038
district or received from the public sale of property shall be 20039
paid into the treasury of the township and may be expended for any 20040
public purpose when duly authorized by the township board of 20041

trustees. 20042

Sec. 505.73. (A) The board of township trustees may, by 20043
resolution, adopt by incorporation by reference, administer, and 20044
enforce within the unincorporated area of the township an existing 20045
structures code pertaining to the repair and continued maintenance 20046
of structures and the premises of those structures. For that 20047
purpose, the board shall adopt any model or standard code prepared 20048
and promulgated by this state, any department, board, or agency of 20049
this state, or any public or private organization that publishes a 20050
recognized model or standard code on the subject. The board shall 20051
ensure that the code adopted governs subject matter not addressed 20052
by the state residential building code and that it is fully 20053
compatible with the state residential and nonresidential building 20054
codes the board of building standards adopts pursuant to section 20055
3781.10 of the Revised Code. 20056

(B) The board shall assign the duties of administering and 20057
enforcing the existing structures code to a township officer or 20058
employee who is trained and qualified for those duties and shall 20059
establish by resolution the minimum qualifications necessary to 20060
perform those duties. 20061

(C)(1) After the board adopts an existing structures code, 20062
the township fiscal officer shall post a notice that clearly 20063
identifies the code, states the code's purpose, and states that a 20064
complete copy of the code is on file for inspection by the public 20065
with the fiscal officer and in the county law library and that the 20066
fiscal officer has copies available for distribution to the public 20067
at cost. 20068

(2) The township fiscal officer shall post the notice in five 20069
conspicuous places in the township for thirty days before the code 20070
becomes effective and shall publish the notice in a newspaper of 20071
general circulation in the township for three consecutive weeks or 20072

as provided in section 7.16 of the Revised Code. If the adopting township amends or deletes any provision of the code, the notice shall contain a brief summary of the deletion or amendment.

(D) If the agency that originally promulgated or published the existing structures code amends the code, the board may adopt the amendment or change by incorporation by reference in the manner provided for the adoption of the original code.

Sec. 507.09. (A) Except as otherwise provided in division (D) of this section, the township fiscal officer shall be entitled to compensation as follows:

(1) In townships having a budget of fifty thousand dollars or less, three thousand five hundred dollars;

(2) In townships having a budget of more than fifty thousand but not more than one hundred thousand dollars, five thousand five hundred dollars;

(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars, seven thousand seven hundred dollars;

(4) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, nine thousand nine hundred dollars;

(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, eleven thousand dollars;

(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, thirteen thousand two hundred dollars;

(7) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, fifteen thousand four hundred dollars;

(8) In townships having a budget of more than three million 20103
five hundred thousand dollars but not more than six million 20104
dollars, sixteen thousand five hundred dollars; 20105

(9) In townships having a budget of more than six million 20106
dollars, seventeen thousand six hundred dollars. 20107

(B) Any township fiscal officer may elect to receive less 20108
than the compensation the fiscal officer is entitled to under 20109
division (A) of this section. Any township fiscal officer electing 20110
to do this shall so notify the board of township trustees in 20111
writing, and the board shall include this notice in the minutes of 20112
its next board meeting. 20113

(C) The compensation of the township fiscal officer shall be 20114
paid in equal monthly payments. If the office of township fiscal 20115
officer is held by more than one person during any calendar year, 20116
each person holding the office shall receive payments for only 20117
those months, and any fractions of those months, during which the 20118
person holds the office. 20119

The board of township trustees may establish, by resolution, 20120
a method of compensating the township fiscal officer from the 20121
township general fund or from other township funds based on the 20122
proportion of time the township fiscal officer spends providing 20123
services related to each fund. If the board adopts such a 20124
resolution, the board shall require the township fiscal officer to 20125
document and to notify the board periodically of the amount of 20126
time the township fiscal officer spends providing services related 20127
to each fund. 20128

(D) Beginning in calendar year 1999, the township fiscal 20129
officer shall be entitled to compensation as follows: 20130

(1) In calendar year 1999, the compensation specified in 20131
division (A) of this section increased by three per cent; 20132

(2) In calendar year 2000, the compensation determined under 20133

division (D)(1) of this section increased by three per cent;	20134
(3) In calendar year 2001, the compensation determined under division (D)(2) of this section increased by three per cent;	20135 20136
(4) In calendar year 2002, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(3) of this section increased by three per cent; in townships having a budget of more than six million but not more than ten million dollars, nineteen thousand eight hundred ten dollars; and in townships having a budget of more than ten million dollars, twenty thousand nine hundred dollars;	20137 20138 20139 20140 20141 20142 20143 20144
(5) In calendar year 2003, the compensation determined under division (D)(4) of this section increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower;	20145 20146 20147 20148
(6) In calendar year 2004, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(5) of this section for the calendar year 2003 increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower; in townships having a budget of more than six million but not more than ten million dollars, twenty-two thousand eighty-seven dollars; and in townships having a budget of more than ten million dollars, twenty-five thousand five hundred fifty-three dollars;	20149 20150 20151 20152 20153 20154 20155 20156 20157 20158
(7) In calendar years 2005 through 2008, the compensation determined under division (D) of this section for the immediately preceding calendar year increased by the lesser of the following:	20159 20160 20161
(a) Three per cent;	20162
(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day	20163 20164

of September of the immediately preceding calendar year, rounded 20165
to the nearest one-tenth of one per cent; 20166

(8) In calendar year 2009 and thereafter, the amount 20167
determined under division (D) of this section for calendar year 20168
2008. 20169

As used in this division, "consumer price index" has the same 20170
meaning as in section 325.18 of the Revised Code. 20171

Sec. 511.23. (A) When the vote under section 511.22 of the 20172
Revised Code is in favor of establishing one or more public parks, 20173
the board of park commissioners shall constitute a board, to be 20174
called the board of park commissioners of that township park 20175
district, and they shall be a body politic and corporate. Their 20176
office is not a township office within the meaning of section 20177
703.22 of the Revised Code but is an office of the township park 20178
district. The members of the board shall serve without 20179
compensation but shall be allowed their actual and necessary 20180
expenses incurred in the performance of their duties. 20181

(B) The board may locate, establish, improve, maintain, and 20182
operate a public park or parks in accordance with division (B) of 20183
section 511.18 of the Revised Code, with or without recreational 20184
facilities. Any township park district that contains only 20185
unincorporated territory and that operated a public park or parks 20186
outside the township immediately prior to July 18, 1990, may 20187
continue to improve, maintain, and operate these parks outside the 20188
township, but further acquisitions of land shall not affect the 20189
boundaries of the park district itself or the appointing authority 20190
for the board of park commissioners. 20191

The board may lease, accept a conveyance of, or purchase 20192
suitable lands for cash, by purchase by installment payments with 20193
or without a mortgage, by lease or lease-purchase agreements, or 20194
by lease with option to purchase, may acquire suitable lands 20195

through an exchange under section 511.241 of the Revised Code, or 20196
may appropriate suitable lands and materials for park district 20197
purposes. The board also may lease facilities from other political 20198
subdivisions or private sources. The board shall have careful 20199
surveys and plats made of the lands acquired for park district 20200
purposes and shall establish permanent monuments on the boundaries 20201
of the lands. Those plats, when executed according to sections 20202
711.01 to 711.38 of the Revised Code, shall be recorded in the 20203
office of the county recorder, and those records shall be 20204
admissible in evidence for the purpose of locating and 20205
ascertaining the true boundaries of the park or parks. 20206

(C) In furtherance of the use and enjoyment of the lands 20207
controlled by it, the board may accept donations of money or other 20208
property or act as trustees of land, money, or other property, and 20209
may use and administer the land, money, or other property as 20210
stipulated by the donor or as provided in the trust agreement. 20211

The board may receive and expend grants for park purposes 20212
from agencies and instrumentalities of the United States and this 20213
state and may enter into contracts or agreements with those 20214
agencies and instrumentalities to carry out the purposes for which 20215
the grants were furnished. 20216

(D) In exercising any powers conferred upon the board under 20217
divisions (B) and (C) of this section and for other types of 20218
assistance that the board finds necessary in carrying out its 20219
duties, the board may hire and contract for professional, 20220
technical, consulting, and other special services and may purchase 20221
goods and award contracts. The procuring of goods and awarding of 20222
contracts shall be done in accordance with the procedures 20223
established for the board of county commissioners by sections 20224
307.86 to 307.91 of the Revised Code. 20225

(E) The board may appoint an executive for the park or parks 20226
and may designate the executive or another person as the clerk of 20227

the board. It may appoint all other necessary officers and 20228
employees, fix their compensation, and prescribe their duties, or 20229
it may require the executive to appoint all other necessary 20230
officers and employees, and to fix their compensation and 20231
prescribe their duties, in accordance with guidelines and policies 20232
adopted by the board. 20233

(F) The board may adopt bylaws and rules that it considers 20234
advisable for the following purposes: 20235

(1) To prohibit selling, giving away, or using any 20236
intoxicating liquors in the park or parks; 20237

(2) For the government and control of the park or parks and 20238
the operation of motor vehicles in the park or parks; 20239

(3) To provide for the protection and preservation of all 20240
property and natural life within its jurisdiction. 20241

Before the bylaws and rules take effect, the board shall 20242
provide for a notice of their adoption to be published once a week 20243
for two consecutive weeks or as provided in section 7.16 of the 20244
Revised Code, in a newspaper of general circulation in the county 20245
within which the park district is located. 20246

No person shall violate any of the bylaws or rules. Fines 20247
levied and collected for violations shall be paid into the 20248
treasury of the township park district. The board may use moneys 20249
collected from those fines for any purpose that is not 20250
inconsistent with sections 511.18 to 511.37 of the Revised Code. 20251

(G) The board may do either of the following: 20252

(1) Establish and charge fees for the use of any facilities 20253
and services of the park or parks regardless of whether the park 20254
or parks were acquired before, on, or after ~~the effective date of~~ 20255
~~this amendment~~ September 21, 2000; 20256

(2) Enter into a lease agreement with an individual or 20257

organization that provides for the exclusive use of a specified 20258
portion of the park or parks within the township park district by 20259
that individual or organization for the duration of an event 20260
produced by the individual or organization. The board, for the 20261
specific portion of the park or parks covered by the lease 20262
agreement, may charge a fee to, or permit the individual or 20263
organization to charge a fee to, participants in and spectators at 20264
the event covered by the agreement. 20265

(H) If the board finds that real or personal property owned 20266
by the township park district is not currently needed for park 20267
purposes, the board may lease that property to other persons or 20268
organizations during any period of time the board determines the 20269
property will not be needed. If the board finds that competitive 20270
bidding on a lease is not feasible, it may lease the property 20271
without taking bids. 20272

(I) The board may exchange property owned by the township 20273
park district for property owned by the state, another political 20274
subdivision, or the federal government on terms that it considers 20275
desirable, without the necessity of competitive bidding. 20276

(J) Any rights or duties established under this section may 20277
be modified, shared, or assigned by an agreement pursuant to 20278
section 755.16 of the Revised Code. 20279

Sec. 511.25. If the board of park commissioners of a township 20280
park district finds that any lands that the board has acquired are 20281
not necessary for the purposes for which they were acquired, it 20282
may sell and dispose of those lands upon terms that the board 20283
considers advisable and may reject any purchase bid received under 20284
this section that the board determines does not meet its terms for 20285
sale. 20286

Except as otherwise provided in this section, no lands shall 20287
be sold without first giving notice of the board's intention to 20288

sell the lands by publication once a week for four consecutive 20289
weeks in a newspaper of general circulation in the township or as 20290
provided in section 7.16 of the Revised Code. The notice shall 20291
contain an accurate description of the lands being offered for 20292
sale and shall state the time and place at which sealed bids for 20293
the lands will be received. If the board rejects all of the 20294
purchase bids, it may reoffer the lands for sale in accordance 20295
with this section. 20296

The board also may sell park lands not necessary for district 20297
purposes to another political subdivision, the state, or the 20298
federal government without giving the notices or taking bids as 20299
otherwise required by this section. 20300

No lands acquired by a township park district may be sold 20301
without the approval of the court of common pleas of the county in 20302
which the park district is located, if the court appointed the 20303
board under section 511.18 of the Revised Code, or the approval of 20304
the board of township trustees, if the board of township trustees 20305
appointed the board of park commissioners under section 511.18 of 20306
the Revised Code. 20307

Sec. 511.28. A copy of any resolution for a tax levy adopted 20308
by the township board of park commissioners as provided in section 20309
511.27 of the Revised Code shall be certified by the clerk of the 20310
board of park commissioners to the board of elections of the 20311
proper county, together with a certified copy of the resolution 20312
approving the levy, passed by the board of township trustees if 20313
such a resolution is required by division (C) of section 511.27 of 20314
the Revised Code, not less than ninety days before a general or 20315
primary election in any year. The board of elections shall submit 20316
the proposal to the electors as provided in section 511.27 of the 20317
Revised Code at the succeeding general or primary election. A 20318
resolution to renew an existing levy may not be placed on the 20319

ballot unless the question is submitted at the general election 20320
held during the last year the tax to be renewed may be extended on 20321
the real and public utility property tax list and duplicate, or at 20322
any election held in the ensuing year. The board of park 20323
commissioners shall cause notice that the vote will be taken to be 20324
published once a week for two consecutive weeks prior to the 20325
election in a newspaper of general circulation, or as provided in 20326
section 7.16 of the Revised Code, in the county within which the 20327
park district is located. Additionally, if the board of elections 20328
operates and maintains a web site, the board of elections shall 20329
post that notice on its web site for thirty days prior to the 20330
election. The notice shall state the purpose of the proposed levy, 20331
the annual rate proposed expressed in dollars and cents for each 20332
one hundred dollars of valuation as well as in mills for each one 20333
dollar of valuation, the number of consecutive years during which 20334
the levy shall be in effect, and the time and place of the 20335
election. 20336

The form of the ballots cast at the election shall be: "An 20337
additional tax for the benefit of (name of township park district) 20338
..... for the purpose of (purpose stated in the order of the 20339
board) at a rate not exceeding mills for 20340
each one dollar of valuation, which amounts to (rate expressed in 20341
dollars and cents)for each one hundred dollars of 20342
valuation, for (number of years the levy is to run)" 20343

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

If the levy submitted is a proposal to renew, increase, or 20348
decrease an existing levy, the form of the ballot specified in 20349
this section may be changed by substituting for the words "An 20350
additional" at the beginning of the form, the words "A renewal of 20351

a" in the case of a proposal to renew an existing levy in the same amount; the words "A renewal of mills and an increase of mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of mills, to constitute a" in the case of a decrease in the rate of the existing levy.

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)."

The question covered by the order shall be submitted as a separate proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

Sec. 511.34. In townships composed of islands, and on one of which islands lands have been conveyed in trust for the benefit of the inhabitants of the island for use as a park, and a board of park trustees has been provided for the control of the park, the board of township trustees may create a tax district of the island to raise funds by taxation as provided under divisions (A) and (B) of this section.

(A) For the care and maintenance of parks on the island, the board of township trustees annually may levy a tax, not to exceed one mill, upon all the taxable property in the district. The tax shall be in addition to all other levies authorized by law, and subject to no limitation on tax rates except as provided in this division.

The proceeds of the tax levy shall be expended by the board

of township trustees for the purpose of the care and maintenance 20383
of the parks, and shall be paid out of the township treasury upon 20384
the orders of the board of park trustees. 20385

(B) For the purpose of acquiring additional land for use as a 20386
park, the board of township trustees may levy a tax in excess of 20387
the ten-mill limitation on all taxable property in the district. 20388
The tax shall be proposed by resolution adopted by two-thirds of 20389
the members of the board of township trustees. The resolution 20390
shall specify the purpose and rate of the tax and the number of 20391
years the tax will be levied, which shall not exceed five years, 20392
and which may include a levy on the current tax list and 20393
duplicate. The resolution shall go into immediate effect upon its 20394
passage, and no publication of the resolution is necessary other 20395
than that provided for in the notice of election. The board of 20396
township trustees shall certify a copy of the resolution to the 20397
proper board of elections not later than ninety days before the 20398
primary or general election in the township, and the board of 20399
elections shall submit the question of the tax to the voters of 20400
the district at the succeeding primary or general election. The 20401
board of elections shall make the necessary arrangements for the 20402
submission of the question to the electors of the district, and 20403
the election shall be conducted, canvassed, and certified in the 20404
same manner as regular elections in the township for the election 20405
of officers. Notice of the election shall be published in a 20406
newspaper of general circulation in the township once a week for 20407
two consecutive weeks, or as provided in section 7.16 of the 20408
Revised Code prior to the election ~~and, if.~~ If the board of 20409
elections operates and maintains a web site, notice of the 20410
election also shall be posted on that web site for thirty days 20411
prior to the election. The notice shall state the purpose of the 20412
tax, the proposed rate of the tax expressed in dollars and cents 20413
for each one hundred dollars of valuation and mills for each one 20414
dollar of valuation, the number of years the tax will be in 20415

effect, the first year the tax will be levied, and the time and place of the election. 20416
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The form of the ballots cast at an election held under this division shall be as follows: 20418
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"An additional tax for the benefit of (name of the township) for the purpose of acquiring additional park land at a rate of mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (number of years the levy is to run) beginning in (first year the tax will be levied). 20420
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	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

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The question shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. More than one such question may be submitted at the same election. 20431
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If the levy is approved by a majority of electors voting on the question, the board of elections shall certify the result of the election to the tax commissioner. In the first year of the levy, the tax shall be extended on the tax lists after the February settlement following the election. If the tax is to be placed on the tax lists of the current year as specified in the resolution, the board of elections shall certify the result of the election immediately after the canvass to the board of township trustees, which shall forthwith make the necessary levy and certify the levy to the county auditor, who shall extend the levy on the tax lists for collection. After the first year of the levy, 20436
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the levy shall be included in the annual tax budget that is 20447
certified to the county budget commission. 20448

Sec. 513.14. The board of elections shall advertise the 20449
proposed tax levy question mentioned in section 513.13 of the 20450
Revised Code in ~~two newspapers of opposite political faith, if two~~ 20451
~~such newspapers are published in the joint township hospital~~ 20452
~~district, or otherwise in one a newspaper, published or of general~~ 20453
circulation in the proposed township hospital district, once a 20454
week for two consecutive weeks, or as provided in section 7.16 of 20455
the Revised Code, prior to the election ~~and, if.~~ If the board 20456
operates and maintains a web site, the board also shall advertise 20457
that proposed tax levy question on its web site for thirty days 20458
prior to the election. 20459

Sec. 515.04. The township fiscal officer shall fix a day, not 20460
more than thirty days from the date of notice to the board of 20461
township trustees, for the hearing of the petition authorized by 20462
section 515.02 or 515.16 of the Revised Code. The township fiscal 20463
officer or the fiscal officer's designee shall prepare and deliver 20464
to any of the petitioners a notice in writing directed to the lot 20465
and land owners and to the corporations, either public or private, 20466
affected by the improvement. The notice shall set forth the 20467
substance, pendency, and prayer of the petition and the time and 20468
place of the hearing on it. 20469

A copy of the notice shall be served upon each lot or land 20470
owner or left at the lot or land owner's usual place of residence, 20471
and upon an officer or agent of each corporation having its place 20472
of business in the district or area, at least fifteen days before 20473
the date set for the hearing. On or before the day of the hearing, 20474
the person serving the notice shall make return on it, under oath, 20475
of the time and manner of service and shall file the return with 20476
the township fiscal officer. 20477

The township fiscal officer or the fiscal officer's designee 20478
shall give the notice to each nonresident lot or land owner, by 20479
publication once, in a newspaper ~~published in and~~ of general 20480
circulation in the county in which the district or area is 20481
situated, at least two weeks before the day set for hearing. The 20482
notice shall be verified by affidavit of the printer or other 20483
person knowing the fact and shall be filed with the township 20484
fiscal officer or the fiscal officer's designee on or before the 20485
day of hearing. No further notice of the petition or the 20486
proceedings under it shall thereafter be required. 20487

Sec. 517.12. The board of township trustees may make rules 20488
specifying the times when cemeteries under its control shall be 20489
closed to the public. The board shall cause the rules to be 20490
published once a week for two consecutive weeks in a newspaper of 20491
general circulation within the township or as provided in section 20492
7.16 of the Revised Code, and may post appropriate notice in the 20493
township as considered necessary. 20494

The purposes of such rules shall be to assure a reasonable 20495
time of access to the cemeteries in view of the differences in 20496
attendance anticipated from past experience as to each, to exclude 20497
attendance at times when no proper purposes could normally be 20498
expected, to permit exceptions to the normal hours of access on 20499
reasonable request with adequate reason provided, and to 20500
facilitate the task of protecting the premises from vandalism, 20501
desecration, and other improper usage. 20502

Whoever violates these rules is guilty of a minor 20503
misdemeanor. 20504

Sec. 517.22. The board of township trustees or the trustees 20505
or directors of a cemetery association, after notice has first 20506
been given in ~~two newspapers~~ a newspaper of general circulation in 20507

the county, may dispose of, at public sale, and convey any 20508
cemetery under their control that they have determined to 20509
discontinue as burial grounds, but possession of the cemetery 20510
shall not be given to a grantee until after the remains buried in 20511
that cemetery, together with stones and monuments, have been 20512
removed as provided by section 517.21 of the Revised Code. 20513

Sec. 521.03. On receiving a petition filed under section 20514
521.02 of the Revised Code, or at the request of the board of 20515
township trustees, the township fiscal officer shall fix a time, 20516
not more than thirty days after the date of giving notice of the 20517
filing to the board or the date of receiving the request from the 20518
board, and place for a hearing on the issue of repair or 20519
maintenance of the tiles. The township fiscal officer shall 20520
prepare a notice in writing directed to the lot and land owners 20521
and to the corporations, either public or private, affected by the 20522
improvement. The notice shall set forth the substance of the 20523
petition or board request, and the time and place of the hearing 20524
on it. 20525

If the hearing is to be held in response to a petition, the 20526
township fiscal officer shall deliver a copy of the notice to any 20527
of the petitioners, who shall see that the notice is served on 20528
each lot or land owner or left at the lot or land owner's usual 20529
place of residence, and served on an officer or agent of each 20530
corporation affected by the improvement, at least fifteen days 20531
before the date set for the hearing. If the hearing is to be held 20532
at the request of the board, the board shall see that the notice 20533
is so served. On or before the day of the hearing, the person 20534
serving the notice shall certify, under oath, the time and manner 20535
of service, and shall file this certification with the township 20536
fiscal officer. 20537

The township fiscal officer shall give notice of the hearing 20538

to each nonresident lot or land owner, by publication once, in a newspaper ~~published in and~~ of general circulation in the county in which the township is situated, at least two weeks before the day set for the hearing. This notice shall be verified by affidavit of the printer or other person knowing the fact, and shall be filed with the township fiscal officer on or before the day of the hearing. No further notice of the petition or the proceedings under it shall thereafter be required.

Sec. 523.01. The territory of one or more townships may be merged with that of a contiguous township to create a new township, in the manner provided under this chapter. The new township shall have all of, and only, the rights, powers, and responsibilities afforded by law to townships.

Sec. 523.02. (A) The boards of township trustees of two or more townships may propose a merger under section 523.01 of the Revised Code by adopting resolutions, by a majority vote of each board of township trustees of each township proposed for merger. Resolutions adopted under this section shall state all of the following:

(1) The necessity for merger;

(2) The townships that are to merge;

(3) The official name by which the new township shall be known;

(4) The boundaries of the new township created as the result of the merger.

(B) A copy of each resolution adopted under this section shall be filed with the respective township fiscal officer of each township that is subject to the merger. The merger shall become effective on the sixtieth day after the last such filing is accomplished, unless prior to the expiration of the sixty-day

period, a referendum petition is filed under section 523.03 of the 20569
Revised Code. 20570

Sec. 523.03. (A) A qualified elector of a township proposed 20571
for merger, not later than sixty days after the filing of a 20572
resolution under division (B) of section 523.02 of the Revised 20573
Code regarding that township, may present to the board of township 20574
trustees of that township a referendum petition, signed by a 20575
number of qualified electors residing in the township, equal in 20576
number to not less than ten per cent of the total vote cast in the 20577
township for governor at the most recent general election at which 20578
a governor was elected, requesting the board to submit the 20579
question of the merger to the electors of the township for 20580
approval or rejection at a special election to be held on the day 20581
of the next primary or general election occurring at least ninety 20582
days after the petition is submitted. The referendum petition 20583
shall be governed by section 3501.38 of the Revised Code. 20584

(B) The referendum petition shall be filed at the office of 20585
the township fiscal officer of the township that is the subject of 20586
the petition. The person presenting the petition shall be given a 20587
receipt containing on it the time of the day, the date, and the 20588
purpose of the petition. The township fiscal officer shall cause 20589
the appropriate board of elections to check the sufficiency of 20590
signatures on the referendum petition and if the signatures are 20591
found to be sufficient, shall present the petition to the board of 20592
township trustees at a meeting of the board that occurs not later 20593
than thirty days following the filing of the petition. Upon 20594
presentation to the board of township trustees of a referendum 20595
petition, the board shall promptly certify the petition to the 20596
board of elections for the purpose of having the question of the 20597
merger placed on the ballot at a special election to be held on 20598
the day of the next general or primary election that occurs not 20599
less than ninety days after the date of the meeting of the board, 20600

the date of which shall be specified in the certification. 20601

(C) Signatures on a referendum petition may be withdrawn up to and including the meeting of the board of township trustees certifying the proposal to the appropriate board of elections. 20602
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(D) Upon certification of the referendum petition to the appropriate board of elections, the board of elections shall make the necessary arrangements for the submission of the question of merger to the qualified electors of the township proposed for merger that is the subject of the petition. The election shall be conducted, canvassed, and certified in the same manner as regular elections in the township for the election of township officers. Notice of the election shall be published in a newspaper of general circulation in the township once a week for two consecutive weeks prior to the election. If the board of elections operates and maintains a web site, the board shall post notice of the election on the web site for thirty days prior to the election. The notice shall state the necessity for merger, the townships that are proposed for merger, the official name by which the new township shall be known, the boundaries of the new township created as the result of the merger, and the time and place of the election. The form of the ballots cast at the election shall read as follows: 20605
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"Shall the townships of (Names of all of the townships to be merged) be merged to create the new township of (Name of new township)?" 20623
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(E) No merger for which a referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue in the township that is the subject of the referendum petition is in favor of the merger. The merger shall take effect sixty days after certification by the board of elections that the merger has been approved by the electors. 20626
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Sec. 523.04. (A) A resolution for a merger under this chapter 20632
may be proposed by initiative petition by the electors of each 20633
township being proposed for merger, and adopted by election by 20634
these electors under the same circumstances, in the same manner, 20635
and subject to the same penalties as provided by sections 731.28 20636
to 731.40 and 731.99 of the Revised Code for municipal 20637
corporations, except that all of the following apply: 20638

(1) Each board of township trustees shall perform the duties 20639
imposed on the legislative authority of the municipal corporation 20640
under those sections; 20641

(2) Initiative petitions shall be filed with the township 20642
fiscal officer of each township proposed for merger, who shall 20643
perform the duties imposed under those sections upon the city 20644
auditor or village clerk; 20645

(3) Initiative petitions shall contain the signatures of not 20646
less than ten per cent of the total number of electors in a 20647
township proposed for merger who voted for the office of governor 20648
at the most recent general election in the township for that 20649
office; 20650

(4) Each signer of an initiative petition shall be an elector 20651
of the township in which the election on the proposed resolution 20652
is to be held. 20653

(B) The merger shall take effect sixty days after 20654
certification by the board or boards of elections that the merger 20655
has been approved by the electors of each township proposed for 20656
merger. 20657

Sec. 523.05. (A) The boards of township trustees of two or 20658
more townships, by adopting resolutions by unanimous vote of the 20659
board of township trustees of each township, may cause the 20660
appropriate board of elections for each township to submit to the 20661

electors of each township the question of merger under section 20662
523.01 of the Revised Code. The question shall be voted upon at 20663
the next general election occurring not less than ninety days 20664
after the certification of the resolutions to the appropriate 20665
board of elections. 20666

(B) In submitting to the electors of each township the 20667
question of merger, the board of elections shall submit the 20668
question in language substantially as follows: 20669

"Shall the townships of (Names of all of the 20670
townships to be merged) be merged to create the new township of 20671
..... (Name of the new township)?" 20672

(C) The merger shall take effect sixty days after 20673
certification by the board or boards of elections that the merger 20674
has been approved by the electors of each township proposed for 20675
merger. 20676

Sec. 523.06. (A) Within sixty days after a merger takes 20677
effect under division (B) of section 523.02 of the Revised Code, 20678
or after approval of the merger by the electors under section 20679
523.04 or 523.05 of the Revised Code, each board of township 20680
trustees of the townships merged, by adopting a joint resolution 20681
approved by a majority of the members of each board, shall enter 20682
into a merger agreement that contains the specific terms and 20683
conditions of the merger. At a minimum, the merger agreement shall 20684
set forth all of the following: 20685

(1) The names of the former townships that were merged; 20686

(2) The name of the new township; 20687

(3) The place in which the principal office of the new 20688
township will be located or the manner in which it may be 20689
selected; 20690

<u>(4) The territorial boundaries of the new township;</u>	20691
<u>(5) The date on which the merger took effect;</u>	20692
<u>(6) The governmental organization for the new township,</u>	20693
<u>including a plan for electing officers at the next general</u>	20694
<u>election that is held not later than ninety days after the merger</u>	20695
<u>agreement is finalized;</u>	20696
<u>(7) A procedure for the efficient and timely transition of</u>	20697
<u>specific services, functions, and responsibilities from each</u>	20698
<u>township and its respective offices to the new township;</u>	20699
<u>(8) Terms for the disposition of the assets and property of</u>	20700
<u>each township, if necessary;</u>	20701
<u>(9) The liquidation of existing indebtedness for each</u>	20702
<u>township, if necessary;</u>	20703
<u>(10) A plan for the common administration and enforcement of</u>	20704
<u>resolutions of the townships merged, and of ordinances, if a</u>	20705
<u>township is located in a municipal corporation, to be enforced</u>	20706
<u>uniformly within the new township;</u>	20707
<u>(11) A provision that specifies whether there will be any</u>	20708
<u>zoning changes as a result of the merger, if applicable;</u>	20709
<u>(12) A plan to conform the boundaries of an existing special</u>	20710
<u>purpose district with the new township, to dissolve the special</u>	20711
<u>purpose district, or to absorb the special purpose district into</u>	20712
<u>the new township. As used in this division, "special purpose</u>	20713
<u>district" has the meaning in division (F) of section 523.08 of the</u>	20714
<u>Revised Code.</u>	20715
<u>(B) A copy of the joint resolution and the merger agreement</u>	20716
<u>adopted under this section shall be filed with the township fiscal</u>	20717
<u>officer of the new township. The merger agreement shall take</u>	20718
<u>effect on the day on which such filing is made.</u>	20719
<u>(C) If no merger agreement, or if only a partial merger</u>	20720

agreement, is entered into within the time period prescribed by 20721
division (A) of this section, the new township shall comply with 20722
and operate under a merger agreement that contains the terms and 20723
conditions required by section 523.08 of the Revised Code. 20724

Sec. 523.07. (A) A new township created by merger under this 20725
chapter shall succeed to the following interests of each township 20726
merged: 20727

(1) All money, taxes, and special assessments, whether in the 20728
township treasury or in the process of collection; 20729

(2) All property and interests in property, whether real or 20730
personal; 20731

(3) All rights and interests in contracts, or in securities, 20732
bonds, notes, or other instruments; 20733

(4) All accounts receivable and rights of action; 20734

(5) All other matters not included in this section that are 20735
not addressed in the merger agreement. 20736

(B) A new township created by merger under this chapter is 20737
liable for all outstanding franchises, contracts, debts, and other 20738
legal claims, actions, and obligations of each township merged. 20739

Sec. 523.08. If a merger agreement is entered into as 20740
required by section 523.06 of the Revised Code, this section does 20741
not apply. If a merger agreement is not entered into under section 20742
523.05 of the Revised Code, the merger agreement shall contain all 20743
of the terms and conditions specified in this section. If a 20744
partial merger agreement is entered into under section 523.05 of 20745
the Revised Code, this section applies only to the extent any term 20746
or condition that is required by section 523.05 of the Revised 20747
Code to be addressed in the merger agreement is not addressed 20748
therein. 20749

The terms and conditions of a merger agreement to which this 20750
section applies shall be as follows: 20751

(A) All members of each board of township trustees shall 20752
serve as board members of the new township. At the first general 20753
election held after a merger is approved, the electors of the new 20754
township shall elect three township trustees for an even number of 20755
years not to exceed four, with staggered terms of office. 20756

(B) The township fiscal officer of the largest township, by 20757
population, shall be the township fiscal officer for the new 20758
township. At the second election held after the merger, the 20759
electors shall elect a township fiscal officer, whose first term 20760
of office shall be modified to an even number of years not to 20761
exceed four to allow subsequent elections for that office to be 20762
held in the same year as other township fiscal officers. 20763

(C) Voted property tax levies shall remain in effect for the 20764
parcels of real property to which they applied prior to the 20765
merger, and the merger shall not affect the proceeds of a tax levy 20766
pledged for the retirement of any debt obligation. Upon expiration 20767
of a property tax levy, the levy may only be replaced or renewed 20768
by vote of the electors in the manner provided by law, to apply to 20769
real property within the boundaries of the new township. If the 20770
millage levied inside the ten-mill limitation of each township 20771
merged is different, the board of township trustees of the new 20772
township shall immediately equalize the millage for the entire new 20773
township. 20774

(D) For purposes of the retirement of all debt obligations of 20775
each township merged, the township fiscal officer shall continue 20776
to track parcels of real property and the tax revenue generated on 20777
those parcels by the tax districts that were in place prior to the 20778
merger, and shall provide that information on an annual basis to 20779
the board of township trustees of the new township. Debt 20780
obligations that existed at the time of the merger shall be 20781

retired from the revenue generated from the parcels of real 20782
property that made up the township that incurred the debt before 20783
the merger. 20784

(E)(1) With respect to any agreement entered into under 20785
Chapter 4117. of the Revised Code that covers any of the employees 20786
of the townships merged under this chapter, the state employment 20787
relations board, within sixty days after the date the merger is 20788
approved, shall designate the appropriate bargaining units for the 20789
employees of the new township in accordance with section 4117.06 20790
of the Revised Code. Notwithstanding the recognition procedures 20791
prescribed in section 4117.05 and division (A) of section 4117.07 20792
of the Revised Code, the board shall conduct a representation 20793
election with respect to each bargaining unit designated under 20794
this division in accordance with divisions (B) and (C) of section 20795
4117.07 of the Revised Code. If an exclusive representative is 20796
selected through this election, the exclusive representative shall 20797
negotiate and enter into an agreement with the new township in 20798
accordance with Chapter 4117. of the Revised Code. Until the 20799
parties reach an agreement, any agreement in effect on the date of 20800
the merger shall apply to the employees that were in the 20801
bargaining unit that is covered by the agreement. An agreement in 20802
existence on the date of the merger is terminated on the effective 20803
date of an agreement negotiated under this division. 20804

(2) If an exclusive representative is not selected, any 20805
agreement in effect on the date of the merger shall apply to the 20806
employees that were in the bargaining unit that is covered by the 20807
agreement and shall expire on its terms. 20808

(3) Each agreement entered into under Chapter 4117. of the 20809
Revised Code on or after the effective date of this section 20810
involving a new township shall contain a provision regarding the 20811
designation of an exclusive representative and bargaining units 20812
for the new township as described in division (E) of this section. 20813

(4) In addition to the laws listed in division (A) of section 4117.10 of the Revised Code that prevail over conflicting agreements between employee organizations and public employers, division (E) of this section prevails over any conflicting provisions of agreements between employee organizations and public employers that are entered into on or after the effective date of this section pursuant to Chapter 4117. of the Revised Code.

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(5) As used in division (E) of this section, "employee organization" and "exclusive representative" have the same meanings as in section 4117.01 of the Revised Code.

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(F)(1) If the boundaries of the new township are coextensive with a special purpose district that existed at the time of the merger, the special purpose district shall be dissolved into the new township. If the boundaries of the new township are not coextensive with a special purpose district, the new township shall remain in the existing special purpose district as a successor to the original township, unless the special purpose district is dissolved. The board of township trustees of the new township may place a question on the ballot at the next general election held after the merger to conform the boundaries, dissolve the special purpose district, or absorb the special purpose district into the new township on the terms specified in the resolution that places the question on the ballot for approval of the electors of the new township.

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(2) As used in division (F) of this section, "special purpose district" means any geographic or political jurisdiction that is created under law by a township merged.

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(G) Zoning codes that existed at the time of the merger shall remain in effect after the merger, and the townships that existed before the merger shall be treated as administrative districts within the new township for the purposes of zoning.

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Sec. 705.16. (A) All ordinances or resolutions shall be in 20845
effect after thirty days from the date of their passage, except as 20846
provided in section 705.75 of the Revised Code. 20847

(B) ~~Notwithstanding any conflicting provision of section 7.12~~ 20848
~~of the Revised Code, A succinct summary of~~ each ordinance and 20849
resolution of a general nature, or providing for public 20850
improvements, or assessing property, ~~or a succinct summary of each~~ 20851
~~such ordinance or resolution,~~ shall, upon passage of the ordinance 20852
or resolution, be promptly published one time in ~~not more than two~~ 20853
~~newspapers~~ a newspaper of general circulation in the municipal 20854
corporation. Such publication shall be made in the body type of 20855
the paper under headlines in eighteen point type, which headlines 20856
shall specify the nature of such legislation. ~~If a summary of an~~ 20857
~~ordinance or resolution is published, the~~ The publication shall 20858
contain notice that the complete text of each such ordinance or 20859
resolution may be obtained or viewed at the office of the clerk of 20860
the legislative authority of the municipal corporation and may be 20861
viewed at any other location designated by the legislative 20862
authority of the municipal corporation. The city director of law, 20863
village solicitor, or other chief legal officer of the municipal 20864
corporation shall review ~~any~~ the summary of an ordinance or 20865
resolution published under this section prior to forwarding it to 20866
the clerk for publication, to ensure that the summary is legally 20867
accurate and sufficient. 20868

(C) Upon publication of a summary of an ordinance or 20869
resolution in accordance with this section, the clerk of the 20870
legislative authority shall supply a copy of the complete text of 20871
each such ordinance or resolution to any person, upon request, and 20872
may charge a reasonable fee, set by the legislative authority, for 20873
each copy supplied. The clerk shall post a copy of the text at ~~his~~ 20874
the clerk's office and at every other location designated by the 20875
legislative authority. 20876

(D) No newspaper shall be paid a higher price for the 20877
publication of summaries of ordinances than its ~~maximum bona fide~~ 20878
~~commercial~~ government rate established under section 7.10 of the 20879
Revised Code. 20880

Sec. 711.35. Upon the filing of the application provided for 20881
in section 711.34 of the Revised Code, the county auditor shall 20882
give notice of the filing, by publication, for two consecutive 20883
weeks in a newspaper ~~published and~~ of general circulation in the 20884
county, ~~of the filing thereof, and~~ or as provided in section 7.16 20885
of the Revised Code. The county auditor shall also notify the 20886
board of county commissioners of such filing. 20887

Sec. 715.011. Each municipal corporation may lease for a 20888
period not to exceed forty years, pursuant to a contract providing 20889
for the construction thereof under a lease-purchase plan, 20890
buildings, structures, and other improvements for any authorized 20891
municipal purpose, and in conjunction therewith, may grant leases, 20892
easements, or licenses for lands under the control of the 20893
municipal corporation for a period not to exceed forty years. The 20894
lease shall provide that at the end of the lease period the 20895
buildings, structures, and related improvements together with the 20896
land on which they are situate shall become the property of the 20897
municipal corporation without cost. 20898

Whenever any building, structure, or other improvement is to 20899
be so leased by a municipal corporation, the appropriate 20900
contracting officer of the municipal corporation shall file with 20901
the clerk of the council such basic plans, specifications, bills 20902
of materials, and estimates of cost with sufficient detail to 20903
afford bidders all needed information, or alternatively, shall 20904
file the following plans, details, bills of materials, and 20905
specifications: 20906

(A) Full and accurate plans, suitable for the use of mechanics and other builders in such construction, addition, alteration, or installation;

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

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

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

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

The council of the municipal corporation shall give public notice, in ~~the~~ a newspaper of general circulation in the municipal corporation, and in the form and with the phraseology as the council orders, published once each week for four consecutive weeks or as provided in section 7.16 of the Revised Code, of the time and place, when and where bids will be received for entering into an agreement to lease to the municipal corporation a building, structure, or other improvement, the last publication to be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the municipal corporation. The form of the bid approved by the council of the municipal corporation shall be used and a bid shall be invalid and not considered unless such form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall have complied with sections 153.50 to 153.52 of the Revised Code.

On the day and at the place named for receiving bids for

entering into lease agreements with the municipal corporation, the 20938
appropriate contracting officer of the municipal corporation shall 20939
open the bids, and shall publicly proceed immediately to tabulate 20940
the bids upon triplicate sheets, one of each of which sheets shall 20941
be filed with the clerk of the council. No lease agreement shall 20942
be entered into until the bureau of workers' compensation has 20943
certified that the corporation, partnership, or person to be 20944
awarded the lease agreement has complied with Chapter 4123. of the 20945
Revised Code, and until, if the builder submitting the lowest and 20946
best bid is a foreign corporation, the secretary of state has 20947
certified that the corporation is authorized to do business in 20948
this state, and until, if the builder submitting the lowest and 20949
best bid is a person or partnership nonresident of this state, the 20950
person or partnership has filed with the secretary of state a 20951
power of attorney designating the secretary of state as its agent 20952
for the purpose of accepting service of summons in any action 20953
brought under Chapter 4123. of the Revised Code, and until the 20954
agreement is submitted to the village solicitor or city director 20955
of law of the municipal corporation and ~~his~~ the solicitor's or 20956
director's approval is certified thereon. Within thirty days after 20957
the day on which the bids are received, the council shall 20958
investigate the bids received and shall determine that the bureau 20959
and the secretary of state have made the certifications required 20960
by this section of the builder who has submitted the lowest and 20961
best bid. Within ten days of the completion of the investigation 20962
of the bids the council may award the lease agreement to the 20963
builder who has submitted the lowest and best bid and who has been 20964
certified by the bureau and secretary of state as required by this 20965
section. If bidding for the lease agreement has been conducted 20966
upon the basis of basic plans, specifications, bills of materials, 20967
and estimates of costs, upon the award to the builder, the 20968
council, or the builder with the approval of the council, shall 20969
appoint an architect or engineer licensed in this state to prepare 20970

such further detailed plans, specifications, and bills of 20971
materials as are required to construct the building, structure, or 20972
improvement. 20973

The council may reject any bid. Where there is reason to 20974
believe there is collusion or combination among bidders, the bids 20975
of those concerned therein shall be rejected. 20976

Sec. 715.47. A municipal corporation may fill or drain any 20977
lot or land within its limits on which water at any time becomes 20978
stagnant, remove all putrid substances from any lot, and remove 20979
all obstructions from culverts, covered drains, or private 20980
property, laid in any natural watercourse, creek, brook, or 20981
branch, which obstruct the water naturally flowing therein, 20982
causing it to flow back or become stagnant, in a way prejudicial 20983
to the health, comfort, or convenience of any of the citizens of 20984
the neighborhood. If such culverts or drains are of insufficient 20985
capacity, the municipal corporation may make them of such capacity 20986
as reasonably to accommodate the flow of such water at all times. 20987
The legislative authority of such municipal corporation may, by 20988
resolution, direct the owner to fill or drain such lot, remove 20989
such putrid substance or such obstructions, and if necessary, 20990
enlarge such culverts or covered drains to meet the requirements 20991
thereof. 20992

After service of a copy of such resolution, or after a 20993
publication thereof, in a newspaper of general circulation in such 20994
municipal corporation or as provided in section 7.16 of the 20995
Revised Code, for two consecutive weeks, such owner, or ~~his~~ such 20996
owner's agent or attorney, shall comply with the directions of the 20997
resolution within the time therein specified. 20998

In case of the failure or refusal of such owner to comply 20999
with the resolution, the work required thereby may be done at the 21000
expense of the municipal corporation, and the amount of money so 21001

expended shall be recovered from the owner before any court of 21002
competent jurisdiction. Such expense from the time of the adoption 21003
of the resolution shall be a lien on such lot, which may be 21004
enforced by suit in the court of common pleas, and like 21005
proceedings may be had as directed in relation to the improvement 21006
of streets. 21007

The officers connected with the health department of every 21008
such municipal corporation shall see that this section is strictly 21009
and promptly enforced. 21010

Sec. 717.08. The largest municipal corporation located in the 21011
Southwestern portion of the state that has a retirement system for 21012
its employees may enter into an agreement with the board of 21013
trustees of the retirement system for a single payment by the 21014
municipal corporation of all or a portion of the municipal 21015
corporation's accrued liability to the retirement system. The 21016
agreement may provide for a reduction in the amount of the accrued 21017
liability based on the value to the retirement system of receiving 21018
a single payment. 21019

The legislative authority of the municipal corporation may 21020
issue securities under Section 3 of Article XVIII, Ohio 21021
Constitution, or under Chapter 133. of the Revised Code, including 21022
Chapter 133. special obligation securities that pledge taxes, 21023
other than ad valorem property taxes, or other revenues for the 21024
purpose of providing some or all of the funds required to satisfy 21025
the municipal corporation's obligation under the agreement. 21026

Sec. 718.01. (A) As used in this chapter: 21027

(1) "Adjusted federal taxable income" means a C corporation's 21028
federal taxable income before net operating losses and special 21029
deductions as determined under the Internal Revenue Code, adjusted 21030
as follows: 21031

(a) Deduct intangible income to the extent included in 21032
federal taxable income. The deduction shall be allowed regardless 21033
of whether the intangible income relates to assets used in a trade 21034
or business or assets held for the production of income. 21035

(b) Add an amount equal to five per cent of intangible income 21036
deducted under division (A)(1)(a) of this section, but excluding 21037
that portion of intangible income directly related to the sale, 21038
exchange, or other disposition of property described in section 21039
1221 of the Internal Revenue Code; 21040

(c) Add any losses allowed as a deduction in the computation 21041
of federal taxable income if the losses directly relate to the 21042
sale, exchange, or other disposition of an asset described in 21043
section 1221 or 1231 of the Internal Revenue Code; 21044

(d)(i) Except as provided in division (A)(1)(d)(ii) of this 21045
section, deduct income and gain included in federal taxable income 21046
to the extent the income and gain directly relate to the sale, 21047
exchange, or other disposition of an asset described in section 21048
1221 or 1231 of the Internal Revenue Code; 21049

(ii) Division (A)(1)(d)(i) of this section does not apply to 21050
the extent the income or gain is income or gain described in 21051
section 1245 or 1250 of the Internal Revenue Code. 21052

(e) Add taxes on or measured by net income allowed as a 21053
deduction in the computation of federal taxable income; 21054

(f) In the case of a real estate investment trust and 21055
regulated investment company, add all amounts with respect to 21056
dividends to, distributions to, or amounts set aside for or 21057
credited to the benefit of investors and allowed as a deduction in 21058
the computation of federal taxable income; 21059

(g) ~~If~~ Deduct, to the extent not otherwise deducted or 21060
excluded in computing federal taxable income, any income derived 21061
from providing public services under a contract through a project 21062

owned by the state, as described in section 126.604 of the Revised Code or derived from a contract entered into under section 9.06 of the Revised Code and described in division (J) of that section, or derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except+ guaranteed

~~(i) Guaranteed~~ payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; ~~and~~ amounts

~~(ii) Amounts~~ paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

- (4) "Form 2106" means internal revenue service form 2106 21093
filed by a taxpayer pursuant to the Internal Revenue Code. 21094
- (5) "Intangible income" means income of any of the following 21095
types: income yield, interest, capital gains, dividends, or other 21096
income arising from the ownership, sale, exchange, or other 21097
disposition of intangible property including, but not limited to, 21098
investments, deposits, money, or credits as those terms are 21099
defined in Chapter 5701. of the Revised Code, and patents, 21100
copyrights, trademarks, tradenames, investments in real estate 21101
investment trusts, investments in regulated investment companies, 21102
and appreciation on deferred compensation. "Intangible income" 21103
does not include prizes, awards, or other income associated with 21104
any lottery winnings or other similar games of chance. 21105
- (6) "S corporation" means a corporation that has made an 21106
election under subchapter S of Chapter 1 of Subtitle A of the 21107
Internal Revenue Code for its taxable year. 21108
- (7) For taxable years beginning on or after January 1, 2004, 21109
"net profit" for a taxpayer other than an individual means 21110
adjusted federal taxable income and "net profit" for a taxpayer 21111
who is an individual means the individual's profit required to be 21112
reported on schedule C, schedule E, or schedule F, other than any 21113
amount allowed as a deduction under division (E)(2) or (3) of this 21114
section or amounts described in division (H) of this section. 21115
- (8) "Taxpayer" means a person subject to a tax on income 21116
levied by a municipal corporation. Except as provided in division 21117
(L) of this section, "taxpayer" does not include any person that 21118
is a disregarded entity or a qualifying subchapter S subsidiary 21119
for federal income tax purposes, but "taxpayer" includes any other 21120
person who owns the disregarded entity or qualifying subchapter S 21121
subsidiary. 21122
- (9) "Taxable year" means the corresponding tax reporting 21123

period as prescribed for the taxpayer under the Internal Revenue Code.	21124 21125
(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes:	21126 21127 21128
(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;	21129 21130 21131 21132
(b) A municipal corporation acting as the agent of another municipal corporation; and	21133 21134
(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis.	21135 21136 21137 21138
(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.	21139 21140 21141 21142
(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.	21143 21144
(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.	21145 21146
(B) No municipal corporation shall tax income at other than a uniform rate.	21147 21148
(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal	21149 21150 21151 21152 21153

corporation shall file with the board of elections at least ninety 21154
 days before the day of the election a copy of the ordinance 21155
 together with a resolution specifying the date the election is to 21156
 be held and directing the board of elections to conduct the 21157
 election. The ballot shall be in the following form: "Shall the 21158
 Ordinance providing for a ... per cent levy on income for (Brief 21159
 description of the purpose of the proposed levy) be passed? 21160

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

21161
 21162
 21163
 21164

In the event of an affirmative vote, the proceeds of the levy 21165
 may be used only for the specified purpose. 21166

(D)(1) Except as otherwise provided in this section, no 21167
 municipal corporation shall exempt from a tax on income 21168
 compensation for personal services of individuals over eighteen 21169
 years of age or the net profit from a business or profession. 21170

(2)(a) For taxable years beginning on or after January 1, 21171
 2004, no municipal corporation shall tax the net profit from a 21172
 business or profession using any base other than the taxpayer's 21173
 adjusted federal taxable income. 21174

(b) Division (D)(2)(a) of this section does not apply to any 21175
 taxpayer required to file a return under section 5745.03 of the 21176
 Revised Code or to the net profit from a sole proprietorship. 21177

(E)(1) The legislative authority of a municipal corporation 21178
 may, by ordinance or resolution, exempt from withholding and from 21179
 a tax on income the following: 21180

(a) Compensation arising from the sale, exchange, or other 21181
 disposition of a stock option, the exercise of a stock option, or 21182
 the sale, exchange, or other disposition of stock purchased under 21183

a stock option; or	21184
(b) Compensation attributable to a nonqualified deferred	21185
compensation plan or program described in section 3121(v)(2)(C) of	21186
the Internal Revenue Code.	21187
(2) The legislative authority of a municipal corporation may	21188
adopt an ordinance or resolution that allows a taxpayer who is an	21189
individual to deduct, in computing the taxpayer's municipal income	21190
tax liability, an amount equal to the aggregate amount the	21191
taxpayer paid in cash during the taxable year to a health savings	21192
account of the taxpayer, to the extent the taxpayer is entitled to	21193
deduct that amount on internal revenue service form 1040.	21194
(3) The legislative authority of a municipal corporation may	21195
adopt an ordinance or resolution that allows a taxpayer who has a	21196
net profit from a business or profession that is operated as a	21197
sole proprietorship to deduct from that net profit the amount that	21198
the taxpayer paid during the taxable year for medical care	21199
insurance premiums for the taxpayer, the taxpayer's spouse, and	21200
dependents as defined in section 5747.01 of the Revised Code. The	21201
deduction shall be allowed to the same extent the taxpayer is	21202
entitled to deduct the premiums on internal revenue service form	21203
1040. The deduction allowed under this division shall be net of	21204
any related premium refunds, related premium reimbursements, or	21205
related insurance premium dividends received by the taxpayer	21206
during the taxable year.	21207
(F) If an individual's taxable income includes income against	21208
which the taxpayer has taken a deduction for federal income tax	21209
purposes as reportable on the taxpayer's form 2106, and against	21210
which a like deduction has not been allowed by the municipal	21211
corporation, the municipal corporation shall deduct from the	21212
taxpayer's taxable income an amount equal to the deduction shown	21213
on such form allowable against such income, to the extent not	21214
otherwise so allowed as a deduction by the municipal corporation.	21215

(G)(1) In the case of a taxpayer who has a net profit from a 21216
business or profession that is operated as a sole proprietorship, 21217
no municipal corporation may tax or use as the base for 21218
determining the amount of the net profit that shall be considered 21219
as having a taxable situs in the municipal corporation, an amount 21220
other than the net profit required to be reported by the taxpayer 21221
on schedule C or F from such sole proprietorship for the taxable 21222
year. 21223

(2) In the case of a taxpayer who has a net profit from 21224
rental activity required to be reported on schedule E, no 21225
municipal corporation may tax or use as the base for determining 21226
the amount of the net profit that shall be considered as having a 21227
taxable situs in the municipal corporation, an amount other than 21228
the net profit from rental activities required to be reported by 21229
the taxpayer on schedule E for the taxable year. 21230

(H) A municipal corporation shall not tax any of the 21231
following: 21232

(1) The military pay or allowances of members of the armed 21233
forces of the United States and of members of their reserve 21234
components, including the Ohio national guard; 21235

(2) The income of religious, fraternal, charitable, 21236
scientific, literary, or educational institutions to the extent 21237
that such income is derived from tax-exempt real estate, 21238
tax-exempt tangible or intangible property, or tax-exempt 21239
activities; 21240

(3) Except as otherwise provided in division (I) of this 21241
section, intangible income; 21242

(4) Compensation paid under section 3501.28 or 3501.36 of the 21243
Revised Code to a person serving as a precinct election official, 21244
to the extent that such compensation does not exceed one thousand 21245
dollars annually. Such compensation in excess of one thousand 21246

dollars may be subjected to taxation by a municipal corporation. A 21247
municipal corporation shall not require the payer of such 21248
compensation to withhold any tax from that compensation. 21249

(5) Compensation paid to an employee of a transit authority, 21250
regional transit authority, or regional transit commission created 21251
under Chapter 306. of the Revised Code for operating a transit bus 21252
or other motor vehicle for the authority or commission in or 21253
through the municipal corporation, unless the bus or vehicle is 21254
operated on a regularly scheduled route, the operator is subject 21255
to such a tax by reason of residence or domicile in the municipal 21256
corporation, or the headquarters of the authority or commission is 21257
located within the municipal corporation; 21258

(6) The income of a public utility, when that public utility 21259
is subject to the tax levied under section 5727.24 or 5727.30 of 21260
the Revised Code, except a municipal corporation may tax the 21261
following, subject to Chapter 5745. of the Revised Code: 21262

(a) Beginning January 1, 2002, the income of an electric 21263
company or combined company; 21264

(b) Beginning January 1, 2004, the income of a telephone 21265
company. 21266

As used in division (H)(6) of this section, "combined 21267
company," "electric company," and "telephone company" have the 21268
same meanings as in section 5727.01 of the Revised Code. 21269

(7) On and after January 1, 2003, items excluded from federal 21270
gross income pursuant to section 107 of the Internal Revenue Code; 21271

(8) On and after January 1, 2001, compensation paid to a 21272
nonresident individual to the extent prohibited under section 21273
718.011 of the Revised Code; 21274

(9)(a) Except as provided in division (H)(9)(b) and (c) of 21275
this section, an S corporation shareholder's distributive share of 21276

net profits of the S corporation, other than any part of the 21277
distributive share of net profits that represents wages as defined 21278
in section 3121(a) of the Internal Revenue Code or net earnings 21279
from self-employment as defined in section 1402(a) of the Internal 21280
Revenue Code. 21281

(b) If, pursuant to division (H) of former section 718.01 of 21282
the Revised Code as it existed before March 11, 2004, a majority 21283
of the electors of a municipal corporation voted in favor of the 21284
question at an election held on November 4, 2003, the municipal 21285
corporation may continue after 2002 to tax an S corporation 21286
shareholder's distributive share of net profits of an S 21287
corporation. 21288

(c) If, on December 6, 2002, a municipal corporation was 21289
imposing, assessing, and collecting a tax on an S corporation 21290
shareholder's distributive share of net profits of the S 21291
corporation to the extent the distributive share would be 21292
allocated or apportioned to this state under divisions (B)(1) and 21293
(2) of section 5733.05 of the Revised Code if the S corporation 21294
were a corporation subject to taxes imposed under Chapter 5733. of 21295
the Revised Code, the municipal corporation may continue to impose 21296
the tax on such distributive shares to the extent such shares 21297
would be so allocated or apportioned to this state only until 21298
December 31, 2004, unless a majority of the electors of the 21299
municipal corporation voting on the question of continuing to tax 21300
such shares after that date vote in favor of that question at an 21301
election held November 2, 2004. If a majority of those electors 21302
vote in favor of the question, the municipal corporation may 21303
continue after December 31, 2004, to impose the tax on such 21304
distributive shares only to the extent such shares would be so 21305
allocated or apportioned to this state. 21306

(d) For the purposes of division (D) of section 718.14 of the 21307
Revised Code, a municipal corporation shall be deemed to have 21308

elected to tax S corporation shareholders' distributive shares of 21309
net profits of the S corporation in the hands of the shareholders 21310
if a majority of the electors of a municipal corporation vote in 21311
favor of a question at an election held under division (H)(9)(b) 21312
or (c) of this section. The municipal corporation shall specify by 21313
ordinance or rule that the tax applies to the distributive share 21314
of a shareholder of an S corporation in the hands of the 21315
shareholder of the S corporation. 21316

(10) Employee compensation that is not "qualifying wages" as 21317
defined in section 718.03 of the Revised Code; 21318

(11) Beginning August 1, 2007, compensation paid to a person 21319
employed within the boundaries of a United States air force base 21320
under the jurisdiction of the United States air force that is used 21321
for the housing of members of the United States air force and is a 21322
center for air force operations, unless the person is subject to 21323
taxation because of residence or domicile. If the compensation is 21324
subject to taxation because of residence or domicile, municipal 21325
income tax shall be payable only to the municipal corporation of 21326
residence or domicile. 21327

(I) Any municipal corporation that taxes any type of 21328
intangible income on March 29, 1988, pursuant to Section 3 of 21329
Amended Substitute Senate Bill No. 238 of the 116th general 21330
assembly, may continue to tax that type of income after 1988 if a 21331
majority of the electors of the municipal corporation voting on 21332
the question of whether to permit the taxation of that type of 21333
intangible income after 1988 vote in favor thereof at an election 21334
held on November 8, 1988. 21335

(J) Nothing in this section or section 718.02 of the Revised 21336
Code shall authorize the levy of any tax on income that a 21337
municipal corporation is not authorized to levy under existing 21338
laws or shall require a municipal corporation to allow a deduction 21339
from taxable income for losses incurred from a sole proprietorship 21340

or partnership. 21341

(K)(1) Nothing in this chapter prohibits a municipal 21342
corporation from allowing, by resolution or ordinance, a net 21343
operating loss carryforward. 21344

(2) Nothing in this chapter requires a municipal corporation 21345
to allow a net operating loss carryforward. 21346

(L)(1) A single member limited liability company that is a 21347
disregarded entity for federal tax purposes may elect to be a 21348
separate taxpayer from its single member in all Ohio municipal 21349
corporations in which it either filed as a separate taxpayer or 21350
did not file for its taxable year ending in 2003, if all of the 21351
following conditions are met: 21352

(a) The limited liability company's single member is also a 21353
limited liability company; 21354

(b) The limited liability company and its single member were 21355
formed and doing business in one or more Ohio municipal 21356
corporations for at least five years before January 1, 2004; 21357

(c) Not later than December 31, 2004, the limited liability 21358
company and its single member each make an election to be treated 21359
as a separate taxpayer under division (L) of this section; 21360

(d) The limited liability company was not formed for the 21361
purpose of evading or reducing Ohio municipal corporation income 21362
tax liability of the limited liability company or its single 21363
member; 21364

(e) The Ohio municipal corporation that is the primary place 21365
of business of the sole member of the limited liability company 21366
consents to the election. 21367

(2) For purposes of division (L)(1)(e) of this section, a 21368
municipal corporation is the primary place of business of a 21369
limited liability company if, for the limited liability company's 21370

taxable year ending in 2003, its income tax liability is greater 21371
in that municipal corporation than in any other municipal 21372
corporation in Ohio, and that tax liability to that municipal 21373
corporation for its taxable year ending in 2003 is at least four 21374
hundred thousand dollars. 21375

Sec. 718.09. (A) This section applies to either of the 21376
following: 21377

(1) A municipal corporation that shares the same territory as 21378
a city, local, or exempted village school district, to the extent 21379
that not more than five per cent of the territory of the municipal 21380
corporation is located outside the school district and not more 21381
than five per cent of the territory of the school district is 21382
located outside the municipal corporation; 21383

(2) A municipal corporation that shares the same territory as 21384
a city, local, or exempted village school district, to the extent 21385
that not more than five per cent of the territory of the municipal 21386
corporation is located outside the school district, more than five 21387
per cent but not more than ten per cent of the territory of the 21388
school district is located outside the municipal corporation, and 21389
that portion of the territory of the school district that is 21390
located outside the municipal corporation is located entirely 21391
within another municipal corporation having a population of four 21392
hundred thousand or more according to the federal decennial census 21393
most recently completed before the agreement is entered into under 21394
division (B) of this section. 21395

(B) The legislative authority of a municipal corporation to 21396
which this section applies may propose to the electors an income 21397
tax, one of the purposes of which shall be to provide financial 21398
assistance to the school district through payment to the district 21399
of not less than twenty-five per cent of the revenue generated by 21400
the tax, except that the legislative authority may not propose to 21401

levy the income tax on the incomes of nonresident individuals. 21402
Prior to proposing the tax, the legislative authority shall 21403
negotiate and enter into a written agreement with the board of 21404
education of the school district specifying the tax rate, the 21405
percentage of tax revenue to be paid to the school district, the 21406
purpose for which the school district will use the money, the 21407
first year the tax will be levied, the date of the special 21408
election on the question of the tax, and the method and schedule 21409
by which the municipal corporation will make payments to the 21410
school district. The special election shall be held on a day 21411
specified in division (D) of section 3501.01 of the Revised Code, 21412
except that the special election may not be held on the day for 21413
holding a primary election as authorized by the municipal 21414
corporation's charter unless the municipal corporation is to have 21415
a primary election on that day. 21416

After the legislative authority and board of education have 21417
entered into the agreement, the legislative authority shall 21418
provide for levying the tax by ordinance. The ordinance shall 21419
state the tax rate, the percentage of tax revenue to be paid to 21420
the school district, the purpose for which the municipal 21421
corporation will use its share of the tax revenue, the first year 21422
the tax will be levied, and that the question of the income tax 21423
will be submitted to the electors of the municipal corporation. 21424
The legislative authority also shall adopt a resolution specifying 21425
the regular or special election date the election will be held and 21426
directing the board of elections to conduct the election. At least 21427
ninety days before the date of the election, the legislative 21428
authority shall file certified copies of the ordinance and 21429
resolution with the board of elections. 21430

(C) The board of elections shall make the necessary 21431
arrangements for the submission of the question to the electors of 21432
the municipal corporation, and shall conduct the election in the 21433

same manner as any other municipal income tax election. Notice of 21434
the election shall be published in a newspaper of general 21435
circulation in the municipal corporation once a week for four 21436
consecutive weeks, or as provided in section 7.16 of the Revised 21437
Code, prior to the election, and shall include statements of the 21438
rate and municipal corporation and school district purposes of the 21439
income tax, the percentage of tax revenue that will be paid to the 21440
school district, and the first year the tax will be levied. The 21441
ballot shall be in the following form: 21442

"Shall the ordinance providing for a per cent levy on 21443
income for (brief description of the municipal corporation and 21444
school district purposes of the levy, including a statement of the 21445
percentage of tax revenue that will be paid to the school 21446
district) be passed? The income tax, if approved, will not be 21447
levied on the incomes of individuals who do not reside in (the 21448
name of the municipal corporation). 21449

	For the income tax	
	Against the income tax	"

21450
21451
21452
21453

(D) If the question is approved by a majority of the 21454
electors, the municipal corporation shall impose the income tax 21455
beginning in the year specified in the ordinance. The proceeds of 21456
the levy may be used only for the specified purposes, including 21457
payment of the specified percentage to the school district. 21458

Sec. 718.10. (A) This section applies to a group of two or 21459
more municipal corporations that, taken together, share the same 21460
territory as a single city, local, or exempted village school 21461
district, to the extent that not more than five per cent of the 21462
territory of the municipal corporations as a group is located 21463
outside the school district and not more than five per cent of the 21464

territory of the school district is located outside the municipal 21465
corporations as a group. 21466

(B) The legislative authorities of the municipal corporations 21467
in a group of municipal corporations to which this section applies 21468
each may propose to the electors an income tax, to be levied in 21469
concert with income taxes in the other municipal corporations of 21470
the group, except that a legislative authority may not propose to 21471
levy the income tax on the incomes of individuals who do not 21472
reside in the municipal corporation. One of the purposes of such a 21473
tax shall be to provide financial assistance to the school 21474
district through payment to the district of not less than 21475
twenty-five per cent of the revenue generated by the tax. Prior to 21476
proposing the taxes, the legislative authorities shall negotiate 21477
and enter into a written agreement with each other and with the 21478
board of education of the school district specifying the tax rate, 21479
the percentage of the tax revenue to be paid to the school 21480
district, the first year the tax will be levied, and the date of 21481
the election on the question of the tax, all of which shall be the 21482
same for each municipal corporation. The agreement also shall 21483
state the purpose for which the school district will use the 21484
money, and specify the method and schedule by which each municipal 21485
corporation will make payments to the school district. The special 21486
election shall be held on a day specified in division (D) of 21487
section 3501.01 of the Revised Code, including a day on which all 21488
of the municipal corporations are to have a primary election. 21489

After the legislative authorities and board of education have 21490
entered into the agreement, each legislative authority shall 21491
provide for levying its tax by ordinance. Each ordinance shall 21492
state the rate of the tax, the percentage of tax revenue to be 21493
paid to the school district, the purpose for which the municipal 21494
corporation will use its share of the tax revenue, and the first 21495
year the tax will be levied. Each ordinance also shall state that 21496

the question of the income tax will be submitted to the electors 21497
of the municipal corporation on the same date as the submission of 21498
questions of an identical tax to the electors of each of the other 21499
municipal corporations in the group, and that unless the electors 21500
of all of the municipal corporations in the group approve the tax 21501
in their respective municipal corporations, none of the municipal 21502
corporations in the group shall levy the tax. Each legislative 21503
authority also shall adopt a resolution specifying the regular or 21504
special election date the election will be held and directing the 21505
board of elections to conduct the election. At least ninety days 21506
before the date of the election, each legislative authority shall 21507
file certified copies of the ordinance and resolution with the 21508
board of elections. 21509

(C) For each of the municipal corporations, the board of 21510
elections shall make the necessary arrangements for the submission 21511
of the question to the electors, and shall conduct the election in 21512
the same manner as any other municipal income tax election. For 21513
each of the municipal corporations, notice of the election shall 21514
be published in a newspaper of general circulation in the 21515
municipal corporation once a week for four consecutive weeks, or 21516
as provided in section 7.16 of the Revised Code, prior to the 21517
election. The notice shall include a statement of the rate and 21518
municipal corporation and school district purposes of the income 21519
tax, the percentage of tax revenue that will be paid to the school 21520
district, and the first year the tax will be levied, and an 21521
explanation that the tax will not be levied unless an identical 21522
tax is approved by the electors of each of the other municipal 21523
corporations in the group. The ballot shall be in the following 21524
form: 21525

"Shall the ordinance providing for a ... per cent levy on 21526
income for (brief description of the municipal corporation and 21527
school district purposes of the levy, including a statement of the 21528

percentage of income tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation). In order for the income tax to be levied, the voters of (the other municipal corporations in the group), which are also in the (name of the school district) school district, must approve an identical income tax and agree to pay the same percentage of the tax revenue to the school district.

	For the income tax
	Against the income tax

"

(D) If the question is approved by a majority of the electors and identical taxes are approved by a majority of the electors in each of the other municipal corporations in the group, the municipal corporation shall impose the tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 719.012. In order to rehabilitate a building or structure that a municipal corporation determines to be a blighted property as defined in section 1.08 of the Revised Code, a municipal corporation may appropriate, in the manner provided in sections 163.01 to 163.22 of the Revised Code, any such building or structure and the real property of which it is a part. The municipal corporation shall rehabilitate the building or structure or cause it to be rehabilitated within two years after the appropriation, so that the building or structure is no longer a public nuisance, insecure, unsafe, structurally defective, unhealthful, or unsanitary, or a threat to the public health, safety, or welfare, or in violation of a building code or

ordinance adopted under section 731.231 of the Revised Code. Any 21560
building or structure appropriated pursuant to this section which 21561
is not rehabilitated within two years shall be demolished. 21562

If during the rehabilitation process the municipal 21563
corporation retains title to the building or structure and the 21564
real property of which it is a part, then within one hundred 21565
eighty days after the rehabilitation is complete, the municipal 21566
corporation shall appraise the rehabilitated building or structure 21567
and the real property of which it is a part, and shall sell the 21568
building or structure and property at public auction. The 21569
municipal corporation shall advertise the public auction in a 21570
newspaper of general circulation in the municipal corporation once 21571
a week for three consecutive weeks, or as provided in section 7.16 21572
of the Revised Code, prior to the date of sale. The municipal 21573
corporation shall sell the building or structure and real property 21574
to the highest and best bidder. No property that a municipal 21575
corporation acquires pursuant to this section shall be leased. 21576

Sec. 719.05. The mayor of a municipal corporation shall, 21577
immediately upon the passage of a resolution under section 719.04 21578
of the Revised Code, declaring an intent to appropriate property, 21579
for which but one reading is necessary, cause written notice to be 21580
given to the owner of, person in possession of, or person having 21581
an interest of record in, every piece of property sought to be 21582
appropriated, or to ~~his~~ the authorized agent of the owner or other 21583
such person. Such notice shall be served by a person designated 21584
for the purpose and return made in the manner provided for the 21585
service and return of summons in civil actions. If such owner, 21586
person, or agent cannot be found, notice shall be given by 21587
publication once a week for three consecutive weeks in a newspaper 21588
of general circulation in the municipal corporation or as provided 21589
in section 7.16 of the Revised Code, and the legislative authority 21590
may thereupon pass an ordinance by a two-thirds vote of all 21591

members elected thereto, directing such appropriation to proceed. 21592

Sec. 721.03. No contract, except as provided in section 21593
721.28 of the Revised Code, for the sale or lease of real estate 21594
belonging to a municipal corporation shall be made unless 21595
authorized by an ordinance, approved by a two-thirds vote of the 21596
members of the legislative authority of such municipal 21597
corporation, and by the board or officer having supervision or 21598
management of such real estate. When the contract is so 21599
authorized, it shall be made in writing by such board or officer, 21600
and, except as provided in section 721.27 of the Revised Code, 21601
only with the highest bidder, after advertisement once a week for 21602
five consecutive weeks in a newspaper of general circulation 21603
within the municipal corporation or as provided in section 7.16 of 21604
the Revised Code. Such board or officer may reject any bids and 21605
readvertise until all such real estate is sold or leased. 21606

Sec. 721.15. (A) Personal property not needed for municipal 21607
purposes, the estimated value of which is less than one thousand 21608
dollars, may be sold by the board or officer having supervision or 21609
management of that property. If the estimated value of that 21610
property is one thousand dollars or more, it shall be sold only 21611
when authorized by an ordinance of the legislative authority of 21612
the municipal corporation and approved by the board, officer, or 21613
director having supervision or management of that property. When 21614
so authorized, the board, officer, or director shall make a 21615
written contract with the highest and best bidder after 21616
advertisement for not less than two ~~or~~ nor more than four 21617
consecutive weeks in a newspaper of general circulation within the 21618
municipal corporation or as provided in section 7.16 of the 21619
Revised Code, or with a board of county commissioners upon such 21620
lawful terms as are agreed upon, as provided by division (B)(1) of 21621
section 721.27 of the Revised Code. 21622

(B) When the legislative authority finds, by resolution, that 21623
the municipal corporation has vehicles, equipment, or machinery 21624
which is obsolete, or is not needed or is unfit for public use, 21625
that the municipal corporation has need of other vehicles, 21626
equipment, or machinery of the same type, and that it will be in 21627
the best interest of the municipal corporation that the sale of 21628
obsolete, unneeded, or unfit vehicles, equipment, or machinery be 21629
made simultaneously with the purchase of the new vehicles, 21630
equipment, or machinery of the same type, the legislative 21631
authority may offer to sell, or authorize a board, officer, or 21632
director of the municipal corporation having supervision or 21633
management of the property to offer to sell, those vehicles, 21634
equipment, or machinery and to have the selling price credited 21635
against the purchase price of other vehicles, equipment, or 21636
machinery and to consummate the sale and purchase by a single 21637
contract with the lowest and best bidder to be determined by 21638
subtracting from the selling price of the vehicles, equipment, or 21639
machinery to be purchased by the municipal corporation the 21640
purchase price offered for the municipally-owned vehicles, 21641
equipment, or machinery. When the legislative authority or the 21642
authorized board, officer, or director of a municipal corporation 21643
advertises for bids for the sale of new vehicles, equipment, or 21644
machinery to the municipal corporation, they may include in the 21645
same advertisement a notice of willingness to accept bids for the 21646
purchase of municipally-owned vehicles, equipment, or machinery 21647
which is obsolete, or is not needed or is unfit for public use, 21648
and to have the amount of those bids subtracted from the selling 21649
price as a means of determining the lowest and best bidder. 21650

(C) If the legislative authority of the municipal corporation 21651
determines that municipal personal property is not needed for 21652
public use, or is obsolete or unfit for the use for which it was 21653
acquired, and that the property has no value, the legislative 21654
authority may discard or salvage that property. 21655

(D) Notwithstanding anything to the contrary in division (A) 21656
or (B) of this section and regardless of the property's value, the 21657
legislative authority of a municipal corporation may sell personal 21658
property, including motor vehicles acquired for the use of 21659
municipal officers and departments, and road machinery, equipment, 21660
tools, or supplies, which is not needed for public use, or is 21661
obsolete or unfit for the use for which it was acquired, by 21662
internet auction. The legislative authority shall adopt, during 21663
each calendar year, a resolution expressing its intent to sell 21664
that property by internet auction. The resolution shall include a 21665
description of how the auctions will be conducted and shall 21666
specify the number of days for bidding on the property, which 21667
shall be no less than ten days, including Saturdays, Sundays, and 21668
legal holidays. The resolution shall indicate whether the 21669
municipal corporation will conduct the auction or the legislative 21670
authority will contract with a representative to conduct the 21671
auction and shall establish the general terms and conditions of 21672
sale. If a representative is known when the resolution is adopted, 21673
the resolution shall provide contact information such as the 21674
representative's name, address, and telephone number. 21675

After adoption of the resolution, the legislative authority 21676
shall publish, in a newspaper of general circulation in the 21677
municipal corporation or as provided in section 7.16 of the 21678
Revised Code, notice of its intent to sell unneeded, obsolete, or 21679
unfit municipal personal property by internet auction. The notice 21680
shall include a summary of the information provided in the 21681
resolution and shall be published ~~at least~~ twice. The second ~~and~~ 21682
~~any subsequent~~ notice shall be published not less than ten nor 21683
more than twenty days after the previous notice. A similar notice 21684
also shall be posted continually throughout the calendar year in a 21685
conspicuous place in the offices of the village clerk or city 21686
auditor, and the legislative authority, ~~and, if.~~ If the municipal 21687
corporation maintains a ~~website~~ web site on the internet, the 21688

notice shall be posted continually throughout the calendar year at 21689
that ~~website~~ web site. 21690

When the property is to be sold by internet auction, the 21691
legislative authority or its representative may establish a 21692
minimum price that will be accepted for specific items and may 21693
establish any other terms and conditions for the particular sale, 21694
including requirements for pick-up or delivery, method of payment, 21695
and sales tax. This type of information shall be provided on the 21696
internet at the time of the auction and may be provided before 21697
that time upon request after the terms and conditions have been 21698
determined by the legislative authority or its representative. 21699

Sec. 721.20. Notice of the filing, pendency, and prayer of 21700
the petition provided for by section 721.19 of the Revised Code 21701
shall be published for four consecutive weeks or as provided in 21702
section 7.16 of the Revised Code, prior to the day of hearing, in 21703
a newspaper ~~published in the municipal corporation, or if there is~~ 21704
~~none, then in a newspaper published in the county, and~~ of general 21705
circulation in such municipal corporation. 21706

Sec. 723.07. No street or alley shall be vacated or narrowed 21707
unless notice of the pendency and prayer of the petition under 21708
section 723.04 of the Revised Code is given by publishing, in a 21709
newspaper ~~published or~~ of general circulation in such municipal 21710
corporation, for six consecutive weeks preceding action on such 21711
petition, or, ~~where~~ as provided in section 7.16 of the Revised 21712
Code preceding action on the petition. Where no newspaper is 21713
~~published~~ of general circulation in the municipal corporation, 21714
notice shall be given by posting the notice in three public places 21715
therein six weeks preceding such action. Action thereon shall take 21716
place within three months after the completion of the notice. 21717

Sec. 727.011. For the purpose of controlling the blight and 21718

disease of shade trees within public rights-of-way, and for 21719
planting, maintaining, trimming, and removing shade trees in and 21720
along the streets of a municipality, the legislative authority of 21721
such municipal corporation may establish one or more districts in 21722
the municipality designating the boundaries thereof, and may each 21723
year thereafter, by ordinance, designate the district in which 21724
such control, planting, care, and maintenance shall be effected, 21725
setting forth an estimate of the cost and providing for the levy 21726
of a special assessment upon all the real property in the 21727
district, in the amount and in the manner provided in section 21728
727.01 of the Revised Code, for planting, maintaining, trimming, 21729
and removing shade trees. The ordinance shall be adopted ~~and~~ 21730
~~published~~ as other ordinances and a succinct summary of the 21731
ordinance shall be published in the manner provided in section 21732
731.21 of the Revised Code. Bonds and anticipatory notes may be 21733
issued in anticipation of the collection of such special 21734
assessments, under section 133.17 of the Revised Code. 21735

Sec. 727.012. For the purpose of constructing, maintaining, 21736
repairing, cleaning, and enclosing ditches, the legislative 21737
authority of such municipal corporation may establish one or more 21738
districts in the municipality designating the boundaries thereof, 21739
and may each year thereafter, by ordinance, designate the district 21740
in which such constructing, maintaining, repairing, cleaning, and 21741
enclosing of ditches shall be effected, setting forth an estimate 21742
of the cost and providing for the levying of a special assessment 21743
upon all the real property in the district, in the amount and in 21744
the manner provided in section 727.01 of the Revised Code, for 21745
constructing, maintaining, repairing, cleaning, and enclosing 21746
ditches. The ordinance shall be adopted ~~and published~~ as other 21747
ordinances and a succinct summary of the ordinance shall be 21748
published in the manner provided in section 731.21 of the Revised 21749
Code. Bonds and anticipatory notes may be issued in anticipation 21750

of the collection of such special assessments, under section 21751
133.17 of the Revised Code. 21752

Sec. 727.08. The cost of any public improvement to be paid 21753
for directly or indirectly, in whole or in part, by funds derived 21754
from special assessments may include but not be limited to: 21755

(A) The purchase price of real estate or any interest therein 21756
when acquired by purchase, or not more than fifty per cent of the 21757
cost of acquiring such real estate or any interest therein when 21758
acquired by appropriation; 21759

(B) The cost of preliminary and other surveys; 21760

(C) The cost of preparing plans, specifications, profiles, 21761
and estimates except, to the extent that costs of plans, 21762
specifications, and estimates of cost have been paid for by the 21763
levy of assessments under section 729.11 of the Revised Code, such 21764
costs shall not be included in determining the cost of the 21765
improvement under this section; 21766

(D) The cost of printing, serving, and publishing notices, ~~and~~ 21767
and summaries of resolutions, ~~and~~ ordinances; 21768

(E) The cost of all special proceedings; 21769

(F) The cost of labor and material, whether furnished by 21770
contract or otherwise; 21771

(G) Interest on securities issued in anticipation of the levy 21772
and collection of the special assessments or, if securities in 21773
anticipation of the levy of the special assessments are not 21774
issued, interest, at a rate to be determined by the legislative 21775
authority in the resolution of necessity adopted pursuant to 21776
section 727.12 of the Revised Code, on moneys advanced by the 21777
municipal corporation for the cost of the public improvement in 21778
anticipation of the levy of the special assessments; 21779

(H) The total amount of damages, resulting from the 21780

improvement, assessed in favor of any owner of lands affected by 21781
the improvement, and interest thereon; 21782

(I) The cost incurred in connection with the preparation, 21783
levy, and collection of the special assessments, including legal 21784
expenses incurred by reason of the improvement; 21785

(J) Incidental costs directly connected with the improvement. 21786

Sec. 727.14. In lieu of the procedure provided in section 21787
727.13 of the Revised Code, the legislative authority may provide 21788
for notice of the passage of a resolution of necessity providing 21789
for the lighting, sprinkling, sweeping, or cleaning of any street, 21790
alley, public road, or place, or parts thereof or for treating the 21791
surface of the same with dust-laying or preservative substances, 21792
or for the planting, maintaining, and removing of shade trees, or 21793
for the constructing, maintaining, repairing, cleaning, and 21794
enclosing of ditches, and the filing of the estimated assessment 21795
under section 727.12 of the Revised Code, to be given by 21796
publication of such notice once a week for two consecutive weeks 21797
in a newspaper of general circulation in the municipal corporation 21798
or as provided in section 7.16 of the Revised Code. When it 21799
appears from the estimated assessment filed as provided by section 21800
727.12 of the Revised Code, that the assessment against the owner 21801
of any lot or parcel of land will exceed two hundred fifty 21802
dollars, such owner shall be notified of the assessment in the 21803
manner provided in section 727.13 of the Revised Code. 21804

Sec. 727.46. When a general plan has been prepared under 21805
section 727.44 of the Revised Code and reported to the legislative 21806
authority, it shall be filed with the clerk of the legislative 21807
authority and the legislative authority shall cause its clerk to 21808
publish, once a week for two consecutive weeks in a newspaper of 21809
general circulation in the municipal corporation or as provided in 21810

section 7.16 of the Revised Code, a notice stating that such 21811
general plan has been prepared and is on file in the office of the 21812
clerk of the legislative authority for examination by interested 21813
persons and that written objections to such plan may be filed in 21814
the office of such clerk before the date specified in the notice, 21815
which shall not be earlier than the seventeenth day following the 21816
date of the first publication in said newspaper. Any person having 21817
an objection to the general plan shall file such objection in 21818
writing, with the clerk of the legislative authority within the 21819
time specified. 21820

Sec. 729.08. The legislative authority of the municipal 21821
corporation shall cause a notice to be published for three 21822
consecutive weeks in a newspaper of general circulation in the 21823
municipal corporation or as provided in section 7.16 of the 21824
Revised Code, stating that such list of estimated assessments has 21825
been made and is on file in the office of the clerk of the 21826
legislative authority for the inspection and examination of 21827
persons interested therein. 21828

If any person objects to an assessment on such list, ~~he~~ the 21829
person shall file ~~his~~ the objection in writing with the clerk of 21830
the legislative authority within two weeks after the expiration of 21831
the notice provided in this section. 21832

Sec. 729.11. In addition to the power conferred upon 21833
municipal corporations under section 727.01 of the Revised Code to 21834
levy and collect special assessments, the legislative authority of 21835
a municipal corporation may, whenever it has determined by 21836
ordinance that it is necessary to construct, enlarge, or improve a 21837
system of storm or sanitary sewerage for the municipal corporation 21838
or any part thereof, including sewage disposal works, treatment 21839
plants, and sewage pumping stations, or a water supply system for 21840
the municipal corporation or any part thereof including mains, 21841

dams, reservoirs, wells, intakes, purification works, and pumping 21842
stations, and that any such improvement shall be constructed, 21843
enlarged, or improved, may levy upon property to be benefited in 21844
the municipal corporation or any designated part thereof, which 21845
property shall be described in the ordinance, a preliminary 21846
assessment upon the benefited lots and lands within the 21847
corporation or such part thereof, apportioned according to 21848
benefits or to the tax valuation or partly by one method and 21849
partly by the other, as the legislative authority determines for 21850
the purpose of paying the costs of general and detailed plans, 21851
specifications, estimates, preparation of the tentative 21852
assessment, financing, and legal services incident to the 21853
preparation of such plans, and a plan for financing the proposed 21854
improvements. 21855

Prior to the adoption of such ordinance, the legislative 21856
authority of such municipal corporation shall give notice of the 21857
pendency thereof and of the proposed determination of the 21858
necessity of the improvement therein generally described, which 21859
notice shall set forth the description of the benefited property 21860
as designated in the ordinance and the time and place of hearing 21861
of objections to and endorsements of the improvement. Such notice 21862
shall be given by publication in a newspaper of general 21863
circulation in the municipal corporation once a week for two 21864
consecutive weeks or as provided in section 7.16 of the Revised 21865
Code, the first publication to be at least two weeks prior to the 21866
date set for the hearing. At such hearing, or at any adjournment 21867
thereof, of which no further published notice need be given, the 21868
legislative authority shall hear all persons whose properties are 21869
proposed to be assessed, and such evidence as is deemed to be 21870
necessary, and shall then determine the necessity of the proposed 21871
improvement and in addition shall determine whether the 21872
improvement shall be made by the municipal corporation, and shall 21873
direct the preparation of tentative assessments upon the benefited 21874

properties and by whom they shall be prepared. 21875

Such assessments shall be in the amount determined to be 21876
necessary by the legislative authority to pay the costs of general 21877
and detailed plans, specifications, estimates of cost, preparation 21878
of the tentative assessment, financing and legal services incident 21879
to the preparation of such plans, and a plan of financing the 21880
proposed improvements, and shall be payable in such number of 21881
years as the legislative authority determines, not to exceed 21882
twenty, together with interest on any notes which may be issued in 21883
anticipation of the collection of such assessments. 21884

The legislative authority may at any time levy additional 21885
assessments according to benefits or to tax valuation or partly by 21886
one method and partly by the other as the legislative authority 21887
determines for such purposes upon such properties to complete the 21888
payment of such costs or to pay the cost of any additional plans, 21889
specifications, estimates of cost, tentative assessments, and the 21890
cost of financing and legal services incident to the preparation 21891
of such plans and such plan of financing, which additional 21892
assessments shall be payable in such number of years as the 21893
legislative authority determines, not to exceed twenty years, 21894
together with interest on any notes and bonds which may be issued 21895
in anticipation of the collection thereof. 21896

Upon completion of the tentative assessments or any 21897
additional assessments, they shall be filed with the clerk of the 21898
legislative authority and shall be and remain open to public 21899
inspection, and thereupon, the legislative authority shall give at 21900
least ten days' notice of the filing thereof in one newspaper of 21901
general circulation in the municipal corporation, or shall give 21902
notice as provided in section 7.16 of the Revised Code, which 21903
notice shall state the time and place when and where such 21904
tentative assessments shall be taken up for consideration. At such 21905
time and place or at any adjournment thereof, of which no further 21906

published notice need be given, the legislative authority shall 21907
hear all persons whose properties are proposed to be assessed, 21908
shall correct any errors and make any revisions that appear to be 21909
necessary or just, and may then pass an ordinance levying upon the 21910
properties determined to be benefited such assessments as so 21911
corrected and revised. 21912

The assessments levied by such ordinance shall be certified 21913
to the county auditor for collection as other taxes in the year or 21914
years in which they are payable; provided any such assessment in 21915
the amount of five dollars or less, or any unpaid balance of any 21916
such assessment which is five dollars or less, shall be paid in 21917
full, and not in installments, at the time the first or next 21918
installment would otherwise become due and payable. 21919

Upon the adoption of such ordinance levying assessments the 21920
legislative authority may authorize contracts to carry out the 21921
purposes for which such assessments have been levied without the 21922
prior issuance of notes and bonds; provided that the payments due 21923
by the municipal corporation do not fall due prior to the times in 21924
which such assessments shall be collected. The municipal 21925
corporation may also issue and sell its bonds with a maximum 21926
maturity of twenty years in anticipation of the collection of such 21927
assessments and may issue its notes in anticipation of the 21928
issuance of such bonds, which notes and bonds shall be issued and 21929
sold as provided in Chapter 133. of the Revised Code. 21930

Sec. 731.141. In those villages that have established the 21931
position of village administrator, as provided by section 735.271 21932
of the Revised Code, the village administrator shall make 21933
contracts, purchase supplies and materials, and provide labor for 21934
any work under the administrator's supervision involving not more 21935
than twenty-five thousand dollars. When an expenditure, other than 21936
the compensation of persons employed by the village, exceeds 21937

twenty-five thousand dollars, the expenditure shall first be 21938
authorized and directed by ordinance of the legislative authority 21939
of the village. When so authorized and directed, except where the 21940
contract is for equipment, services, materials, or supplies to be 21941
purchased under division (D) of section 713.23 or section 125.04 21942
or 5513.01 of the Revised Code, available from a qualified 21943
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 21944
Revised Code, or required to be purchased from a qualified 21945
nonprofit agency under sections 125.60 to 125.6012 of the Revised 21946
Code, the village administrator shall make a written contract with 21947
the lowest and best bidder after advertisement for not less than 21948
two nor more than four consecutive weeks in a newspaper of general 21949
circulation within the village or as provided in section 7.16 of 21950
the Revised Code. The bids shall be opened and shall be publicly 21951
read by the village administrator or a person designated by the 21952
village administrator at the time, date, and place as specified in 21953
the advertisement to bidders or specifications. The time, date, 21954
and place of bid openings may be extended to a later date by the 21955
village administrator, provided that written or oral notice of the 21956
change shall be given to all persons who have received or 21957
requested specifications no later than ninety-six hours prior to 21958
the original time and date fixed for the opening. All contracts 21959
shall be executed in the name of the village and signed on its 21960
behalf by the village administrator and the clerk. 21961

The legislative authority of a village may provide, by 21962
ordinance, for central purchasing for all offices, departments, 21963
divisions, boards, and commissions of the village, under the 21964
direction of the village administrator, who shall make contracts, 21965
purchase supplies or materials, and provide labor for any work of 21966
the village in the manner provided by this section. 21967

Sec. 731.20. Ordinances, resolutions, and bylaws shall be 21968
authenticated by the signature of the presiding officer and clerk 21969

of the legislative authority of the municipal corporation. 21970
~~Ordinances~~ A succinct summary of ordinances of a general nature or 21971
providing for improvements shall be published as provided by 21972
sections 731.21 and 731.22 of the Revised Code before going into 21973
operation. No ordinance shall take effect until the expiration of 21974
ten days after the first publication of such notice. As soon as a 21975
bylaw, resolution, or ordinance is passed and signed, it shall be 21976
recorded by the clerk in a book furnished by the legislative 21977
authority for that purpose. 21978

Sec. 731.21. (A) ~~Notwithstanding any conflicting provision of~~ 21979
~~section 7.12 of the Revised Code,~~ A succinct summary of each 21980
~~municipal ordinance or resolution, or a succinct summary of each~~ 21981
~~municipal ordinance and resolution,~~ and all statements, orders, 21982
proclamations, notices, and reports required by law or ordinance 21983
to be published shall be published ~~as follows:~~ 21984

~~(1) In two English language newspapers of opposite politics,~~ 21985
~~published and~~ in a newspaper of general circulation in the 21986
municipal corporation, ~~if there are any such newspapers;~~ 21987

~~(2) If two English language newspapers of opposite politics~~ 21988
~~are not published and of general circulation in the municipal~~ 21989
~~corporation, then in one such political newspaper and one other~~ 21990
~~English language newspaper published and of general circulation~~ 21991
~~therein;~~ 21992

~~(3) If only one english language newspaper is published and~~ 21993
~~of general circulation in the municipal corporation, then in that~~ 21994
~~newspaper;~~ 21995

~~(4) If no english language newspaper is published and of~~ 21996
~~general circulation in the municipal corporation, then in any~~ 21997
~~English language newspaper of general circulation therein or by~~ 21998
~~posting as provided in section 731.25 of the Revised Code, at the~~ 21999
~~option of the legislative authority of such municipal corporation.~~ 22000

Proof of the publication and required circulation of any newspaper 22001
used as a medium of publication as provided by this section shall 22002
be made by affidavit of the proprietor of ~~either of such~~ 22003
~~newspapers~~ the newspaper, and shall be filed with the clerk of the 22004
legislative authority. 22005

~~(B) If a summary of an ordinance or resolution is published~~ 22006
~~under division (A) of this section, the~~ The publication shall 22007
contain notice that the complete text of each such ordinance or 22008
resolution may be obtained or viewed at the office of the clerk of 22009
the legislative authority of the municipal corporation and may be 22010
viewed at any other location designated by the legislative 22011
authority of the municipal corporation. The city director of law, 22012
village solicitor, or other chief legal officer of the municipal 22013
corporation shall review ~~any~~ the summary of an ordinance or 22014
resolution published under this section prior to forwarding it to 22015
the clerk for publication, to ensure that the summary is legally 22016
accurate and sufficient. 22017

(C) Upon publication of a summary of an ordinance or 22018
resolution in accordance with this section, the clerk of the 22019
legislative authority shall supply a copy of the complete text of 22020
each such ordinance or resolution to any person, upon request, and 22021
may charge a reasonable fee, set by the legislative authority, for 22022
each copy supplied. The clerk shall post a copy of the text at ~~his~~ 22023
the clerk's office and at every other location designated by the 22024
legislative authority. 22025

Sec. 731.211. In accordance with Section 9 of Article XVIII, 22026
Ohio Constitution, notice of proposed amendments to municipal 22027
charters shall be given in one of the following ways: 22028

(A) Not less than thirty days prior to the election at which 22029
the amendment is to be submitted to the electors, the clerk of the 22030
municipality shall mail a copy of the proposed charter amendment 22031

to each elector whose name appears upon the poll or registration 22032
books of the last regular or general election held therein. 22033

(B) The full text of the proposed charter amendment shall be 22034
published once a week for not less than two consecutive weeks in a 22035
newspaper ~~published of general circulation~~ in the municipal 22036
corporation or as provided in section 7.16 of the Revised Code, 22037
with the first publication being at least fifteen days prior to 22038
the election at which the amendment is to be submitted to the 22039
electors. ~~If no newspaper is published in the municipal~~ 22040
~~corporation, then such publication shall be made in a newspaper of~~ 22041
~~general circulation within the municipal corporation.~~ 22042

Sec. 731.22. The publication required in section 731.21 of 22043
the Revised Code shall be for the following times: 22044

(A) ~~Ordinances and resolutions, or summaries~~ Summaries of 22045
ordinances or resolutions, and proclamations of elections, once a 22046
week for two consecutive weeks or as provided in section 7.16 of 22047
the Revised Code; 22048

(B) Notices, not less than two nor more than four consecutive 22049
weeks or as provided in section 7.16 of the Revised Code; 22050

(C) All other matters shall be published once. 22051

Sec. 731.23. When ordinances are revised, codified, 22052
rearranged, published in book form, and certified as correct by 22053
the clerk of the legislative authority of a municipal corporation 22054
and the mayor, such publication shall be a sufficient publication, 22055
and the ordinances so published, under appropriate titles, 22056
chapters, and sections, shall be held the same in law as though 22057
they had been published in a newspaper. A new ordinance so 22058
published in book form, a summary of which has not been published 22059
as required by sections 731.21 and 731.22 of the Revised Code, and 22060
which contains entirely new matter, shall be published as required 22061

by such sections. If such revision or codification is made by a 22062
municipal corporation and contains new matter, it shall be a 22063
sufficient publication of such codification, including the new 22064
matter, to publish, in the manner required by such sections, a 22065
notice of the enactment of such codifying ordinance, containing 22066
the title of the ordinance and a summary of the new matters 22067
covered by it. Such revision and codification may be made under 22068
appropriate titles, chapters, and sections and in one ordinance 22069
containing one or more subjects. 22070

Except as provided by this section, a succinct summary of all 22071
ordinances, including emergency ordinances, shall be published in 22072
accordance with section 731.21 of the Revised Code. 22073

Sec. 731.24. Immediately after the expiration of the period 22074
of publication ~~for ordinances or of~~ summaries of ordinances 22075
required by section 731.22 of the Revised Code, the clerk of the 22076
legislative authority of a municipal corporation shall enter on 22077
the record of ordinances, in a blank to be left for such purpose 22078
under the recorded ordinance, a certificate stating in which 22079
newspaper and on what dates such publication was made, and shall 22080
sign ~~his~~ the clerk's name thereto officially. Such certificate 22081
shall be prima-facie evidence that legal publication of the 22082
~~ordinance or~~ summary of the ordinance was made. 22083

Sec. 731.25. ~~Notwithstanding any conflicting provision of~~ 22084
~~section 7.12 of the Revised Code, in~~ In municipal corporations in 22085
which no newspaper is ~~published~~ generally circulated, publication 22086
of ~~ordinances and resolutions, or~~ summaries of ordinances and 22087
resolutions, and publication of all statements, orders, 22088
proclamations, notices, and reports, required by law or ordinance 22089
to be published, shall be accomplished ~~in either of the following~~ 22090
~~methods, as determined by the legislative authority:~~ 22091

~~(A) By~~ by posting copies in not less than five of the most 22092
public places in the municipal corporation, as determined by the 22093
legislative authority, for a period of not less than fifteen days 22094
prior to the effective date thereof. 22095

~~(B) By publication in any newspaper printed in this state and 22096
of general circulation in such municipal corporation. 22097~~

Notices to bidders for the construction of public 22098
improvements and notices of the sale of bonds shall be published 22099
in ~~not more than two newspapers, printed in this state and a~~ 22100
newspaper of general circulation in such municipal corporation, 22101
for the time prescribed in section 731.22 of the Revised Code. 22102

Where such publication is by posting, the clerk shall make a 22103
certificate as to such posting, and as to the times when and the 22104
places where such posting is done, in the manner provided in 22105
section 731.24 of the Revised Code, and such certificate shall be 22106
prima-facie evidence that the copies were posted as required. 22107

Sec. 735.05. The director of public service may make any 22108
contract, purchase supplies or material, or provide labor for any 22109
work under the supervision of the department of public service 22110
involving not more than twenty-five thousand dollars. When an 22111
expenditure within the department, other than the compensation of 22112
persons employed in the department, exceeds twenty-five thousand 22113
dollars, the expenditure shall first be authorized and directed by 22114
ordinance of the city legislative authority. When so authorized 22115
and directed, except where the contract is for equipment, 22116
services, materials, or supplies to be purchased under division 22117
(D) of section 713.23 or section 125.04 or 5513.01 of the Revised 22118
Code or available from a qualified nonprofit agency pursuant to 22119
sections 4115.31 to 4115.35 of the Revised Code, the director 22120
shall make a written contract with the lowest and best bidder 22121
after advertisement for not less than two nor more than four 22122

consecutive weeks in a newspaper of general circulation within the city or as provided in section 7.16 of the Revised Code.

Sec. 735.20. When a whole plan, or any portion thereof, as provided in section 735.19 of the Revised Code is completed, or when the location of any avenue, street, roadway, or alley has been finally determined by the platting commissioner of a city, a plat of the plan, avenue, street, roadway, or alley shall be placed in the office of the city engineer for the inspection of persons interested, and notice that it is ready for inspection shall be published in ~~one or more newspapers,~~ a newspaper of general circulation within the city, for six consecutive weeks, or as provided in section 7.16 of the Revised Code.

Sec. 737.32. Except as otherwise provided in this section and unless the property involved is required to be disposed of pursuant to another section of the Revised Code, property that is unclaimed for ninety days or more shall be sold by the chief of police of the municipal corporation, marshal of the village, or licensed auctioneer at public auction, after notice of the sale has been provided by publication once a week for three successive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The proceeds of the sale shall be paid to the treasurer of the municipal corporation and shall be credited to the general fund of the municipal corporation.

If authorized to do so by an ordinance adopted by the legislative authority of the municipal corporation and if the property involved is not required to be disposed of pursuant to another section of the Revised Code, the chief of police or marshal may contribute property that is unclaimed for ninety days or more to one or more public agencies, to one or more nonprofit organizations no part of the net income of which inures to the

benefit of any private shareholder or individual and no 22154
substantial part of the activities of which consists of carrying 22155
on propaganda or otherwise attempting to influence legislation, or 22156
to one or more organizations satisfying section 501(c)(3) or 22157
(c)(19) of the Internal Revenue Code of 1986. 22158

Sec. 742.41. (A) As used in this section: 22159

(1) "Other system retirant" has the same meaning as in 22160
section 742.26 of the Revised Code. 22161

(2) "Personal history record" includes a member's, former 22162
member's, or other system retirant's name, address, telephone 22163
number, social security number, record of contributions, 22164
correspondence with the Ohio police and fire pension fund, status 22165
of any application for benefits, and any other information deemed 22166
confidential by the trustees of the fund. 22167

(B) The treasurer of state shall furnish annually to the 22168
board of trustees of the fund a sworn statement of the amount of 22169
the funds in the treasurer of state's custody belonging to the 22170
Ohio police and fire pension fund. The records of the fund shall 22171
be open for public inspection except for the following, which 22172
shall be excluded, except with the written authorization of the 22173
individual concerned: 22174

(1) The individual's personal history record; 22175

(2) Any information identifying, by name and address, the 22176
amount of a monthly allowance or benefit paid to the individual. 22177

(C) All medical reports and recommendations required are 22178
privileged, except that copies of such medical reports or 22179
recommendations shall be made available to the personal physician, 22180
attorney, or authorized agent of the individual concerned upon 22181
written release received from the individual or the individual's 22182
agent or, when necessary for the proper administration of the 22183

fund, to the board-assigned physician. 22184

(D) Any person who is a member of the fund or an other system 22185
retirant shall be furnished with a statement of the amount to the 22186
credit of the person's individual account upon the person's 22187
written request. The fund need not answer more than one such 22188
request of a person in any one year. 22189

(E) Notwithstanding the exceptions to public inspection in 22190
division (B) of this section, the fund may furnish the following 22191
information: 22192

(1) If a member, former member, or other system retirant is 22193
subject to an order issued under section 2907.15 of the Revised 22194
Code or an order issued under division (A) or (B) of section 22195
2929.192 of the Revised Code or is convicted of or pleads guilty 22196
to a violation of section 2921.41 of the Revised Code, on written 22197
request of a prosecutor as defined in section 2935.01 of the 22198
Revised Code, the fund shall furnish to the prosecutor the 22199
information requested from the individual's personal history 22200
record. 22201

(2) Pursuant to a court order issued pursuant to Chapter 22202
3119., 3121., 3123., or 3125. of the Revised Code, the fund shall 22203
furnish to a court or child support enforcement agency the 22204
information required under that section. 22205

(3) At the request of any organization or association of 22206
members of the fund, the fund shall provide a list of the names 22207
and addresses of members of the fund and other system retirants. 22208
The fund shall comply with the request of such organization or 22209
association at least once a year and may impose a reasonable 22210
charge for the list. 22211

(4) Within fourteen days after receiving from the director of 22212
job and family services a list of the names and social security 22213
numbers of recipients of public assistance pursuant to section 22214

5101.181 of the Revised Code, the fund shall inform the auditor of 22215
state of the name, current or most recent employer address, and 22216
social security number of each member or other system retirant 22217
whose name and social security number are the same as that of a 22218
person whose name or social security number was submitted by the 22219
director. The fund and its employees shall, except for purposes of 22220
furnishing the auditor of state with information required by this 22221
section, preserve the confidentiality of recipients of public 22222
assistance in compliance with ~~division (A)~~ of section 5101.181 of 22223
the Revised Code. 22224

(5) The fund shall comply with orders issued under section 22225
3105.87 of the Revised Code. 22226

On the written request of an alternate payee, as defined in 22227
section 3105.80 of the Revised Code, the fund shall furnish to the 22228
alternate payee information on the amount and status of any 22229
amounts payable to the alternate payee under an order issued under 22230
section 3105.171 or 3105.65 of the Revised Code. 22231

(6) At the request of any person, the fund shall make 22232
available to the person copies of all documents, including 22233
resumes, in the fund's possession regarding filling a vacancy of a 22234
police officer employee member, firefighter employee member, 22235
police retirant member, or firefighter retirant member of the 22236
board of trustees. The person who made the request shall pay the 22237
cost of compiling, copying, and mailing the documents. The 22238
information described in this division is a public record. 22239

(F) A statement that contains information obtained from the 22240
fund's records that is signed by the secretary of the board of 22241
trustees of the Ohio police and fire pension fund and to which the 22242
board's official seal is affixed, or copies of the fund's records 22243
to which the signature and seal are attached, shall be received as 22244
true copies of the fund's records in any court or before any 22245
officer of this state. 22246

Sec. 745.07. An ordinance passed pursuant to section 745.06 22247
of the Revised Code shall not take effect until submitted to the 22248
electors of the municipal corporation, at a special or general 22249
election held in the municipal corporation at such time as the 22250
legislative authority determines, and approved by a majority of 22251
the electors voting on it. The ordinance shall be passed by an 22252
affirmative vote of not less than a majority of the members of the 22253
legislative authority and shall be subject to the approval of the 22254
mayor as provided by law. The ordinance shall specify the form or 22255
phrasing of the question to be placed upon the ballot. Thirty 22256
days' notice of the election shall be given by publication once a 22257
week for two consecutive weeks in ~~two daily or weekly newspapers~~ 22258
~~published or circulated~~ a newspaper of general circulation in the 22259
municipal corporation ~~and, if~~ or as provided in section 7.16 of 22260
the Revised Code. If the board of elections operates and maintains 22261
a web site, notice of the election also shall be posted on that 22262
web site for thirty days prior to the election. The notice shall 22263
contain the full form or phrasing of the question to be submitted. 22264
The clerk of the legislative authority shall certify the passage 22265
of the ordinance to the officers having control of elections in 22266
the municipal corporation, who shall cause the question to be 22267
voted on at the general or special election as specified in the 22268
ordinance. 22269

Sec. 747.05. The board of rapid transit commissioners shall 22270
have control of the expenditure of all moneys appropriated by the 22271
legislative authority of the city, received from the sale of bonds 22272
provided for in sections 747.01 to 747.13, ~~inclusive,~~ of the 22273
Revised Code, or from any other source, for the purchase, 22274
construction, improvement, maintenance, equipment, or enjoyment of 22275
all such rapid transit property, but no liability shall be 22276
incurred or expenditure made unless the money required therefor is 22277

in the city treasury to the credit of the board of rapid transit 22278
commissioners' fund and not appropriated for any other purpose. 22279
Moneys to be derived from the sale of bonds, the issue of which 22280
has been authorized, shall be deemed to be in the treasury to the 22281
credit of such fund. 22282

All moneys expended for the construction and acquisition of 22283
parkways or boulevards, as authorized by such sections, shall be 22284
provided for partly by special appropriation or bond issue and 22285
partly by assessments, as specified in section 747.06 of the 22286
Revised Code, and such funds shall be separately accounted for, 22287
and such expenditure shall not be considered a part of the rapid 22288
transit expenditure authorized by this section. The board may let 22289
contracts for any part of the work to the lowest and best bidder 22290
after three weeks' advertisement in ~~two newspapers~~ a newspaper of 22291
general circulation in the city or as provided in section 7.16 of 22292
the Revised Code. 22293

The board may reject any bid, and the proceedings for such 22294
contracts and payment therefor shall be the same as provided for 22295
the director of public service except the requirement of the 22296
approval of the board of control. 22297

Sec. 747.11. The board of rapid transit commissioners may 22298
grant to any corporation organized for street or interurban 22299
railway purposes the right to operate, by lease or otherwise, the 22300
depots, terminals, and railways mentioned in section 747.08 of the 22301
Revised Code upon such terms as the board is authorized by 22302
ordinance to agree upon with such corporation, subject to the 22303
approval of a majority of the electors of the city voting on the 22304
question. 22305

The board of rapid transit commissioners shall certify such 22306
lease or agreement to the board of elections, which shall then 22307
submit the question of the approval of such lease or agreement to 22308

the qualified electors of the city at either a special or general 22309
election as the ordinance specifies. Thirty days' notice of the 22310
election shall be given by publication in ~~one or more of the~~ 22311
~~newspapers published~~ a newspaper of general circulation in the 22312
city once a week for two consecutive weeks prior to the election, 22313
~~and, if~~ or as provided in section 7.16 of the Revised Code. If the 22314
board of elections operates and maintains a web site, the board of 22315
elections shall post notice of the election for thirty days prior 22316
to the election on its web site. The notice shall set forth the 22317
terms of the lease or agreement and the time of holding the 22318
election. On the approval by a majority of the voters voting at 22319
the election, the corporation may operate such depots, terminals, 22320
and railways as provided in the lease or agreement, and 22321
corporations organized under the laws of this state for street or 22322
interurban railway purposes may lease and operate such depots, 22323
terminals, and railways. 22324

Sec. 747.12. Whenever the board of rapid transit 22325
commissioners of a city declares by resolution that real estate of 22326
the city acquired for rapid transit purposes is not needed for the 22327
proper conduct and maintenance of such rapid transit system, such 22328
real estate may be sold or leased by the board to the highest 22329
bidder after advertisement once a week for three consecutive weeks 22330
in a newspaper of general circulation within the city or as 22331
provided in section 7.16 of the Revised Code. The board may reject 22332
any bid and readvertise until all such property is sold or leased. 22333
When the board has twice so offered to sell or lease such 22334
property, and it is not sold or leased, the board may privately 22335
sell or lease it. 22336

Moneys arising from such sales or leases shall be deposited 22337
in the treasury of the city to the credit of the board of rapid 22338
transit commissioners' fund, and may be expended for the purchase, 22339
construction, improvement, maintenance, equipment, and enjoyment 22340

of the city's rapid transit property, as such board directs. 22341

Contracts, leases, deeds, bills of sale, or other instruments 22342
in writing pertaining to such sales or leases shall be executed on 22343
behalf of the city by the board, by its president and secretary. 22344

Sec. 755.16. (A) Any ~~municipal corporation, township,~~ 22345
~~township park district, county, or school district~~ contracting 22346
subdivision, jointly with one or more other ~~municipal~~ 22347
~~corporations, townships, township park districts, counties, or~~ 22348
~~school districts or with an educational service center~~ contracting 22349
subdivisions, in any combination, ~~and a joint recreation district,~~ 22350
may acquire property for, construct, operate, and maintain any 22351
parks, playgrounds, playfields, gymnasiums, public baths, swimming 22352
pools, indoor recreation centers, educational facilities, or 22353
community centers. Any school district ~~or~~ educational service 22354
~~center, or state institution of higher education~~ may provide by 22355
the erection of any school ~~or~~ educational service center, or 22356
state institution of higher education building or premises, or by 22357
the enlargement of, addition to, or reconstruction or improvement 22358
of any school ~~or~~ educational service center, or state institution 22359
of higher education building or premises, for the inclusion of any 22360
such parks, recreational facilities, educational facilities, and 22361
community centers to be jointly acquired, constructed, operated, 22362
and maintained. Any ~~municipal corporation, township, township park~~ 22363
~~district, county, or school district~~ contracting subdivision, 22364
jointly with one or more other ~~municipal corporations, townships,~~ 22365
~~township park districts, counties, or school districts or with an~~ 22366
~~educational service center~~ contracting subdivisions, in any 22367
combination, ~~and a joint recreation district,~~ may equip, operate, 22368
and maintain those parks, recreational facilities, educational 22369
facilities, and community centers and may appropriate money for 22370
them those purposes. ~~An educational service center also may~~ 22371
~~appropriate money for purposes of equipping, operating, and~~ 22372

~~maintaining those parks, recreational facilities, and community~~ 22373
~~centers.~~ 22374

~~Any municipal corporation, township, township park district,~~ 22375
~~county, school district, or educational service center~~ contracting 22376
subdivision agreeing to jointly acquire, construct, operate, or 22377
maintain parks, recreational facilities, educational facilities, 22378
and community centers pursuant to this section may contribute 22379
lands, money, other personal property, or services to the joint 22380
venture, as may be agreed upon. Any agreement shall specify the 22381
rights of the parties in any lands or personal property 22382
contributed. 22383

Any lands acquired by a township park district pursuant to 22384
Chapter 511. of the Revised Code and established as a public park 22385
or parks may be contributed to a joint venture authorized by this 22386
section. Fees may be charged in connection with the use of any 22387
recreational facilities, educational facilities, and community 22388
centers that may be constructed on those lands. 22389

(B) Any township may, jointly with a private land owner, 22390
construct, operate, equip, and maintain free public playgrounds 22391
and playfields. Any equipment provided by a township pursuant to 22392
this division shall remain township property and shall be used 22393
subject to a right of removal by the township. 22394

(C) As used in this section and in sections 755.17 and 755.18 22395
of the Revised Code: 22396

(1) "Community centers" means facilities characterized by all 22397
of the following: 22398

(a) They are acquired, constructed, operated, or maintained 22399
by ~~political~~ contracting subdivisions ~~or an educational service~~ 22400
~~center~~ pursuant to division (A) of this section. 22401

(b) They may be used for governmental, civic, or educational 22402
operations or purposes, or recreational activities. 22403

(c) They may be used only by the ~~entities~~ contracting subdivisions that acquire, construct, operate, or maintain them or by any other person upon terms and conditions determined by those ~~entities~~ contracting subdivisions. 22404
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(2) "Educational service center" has the same meaning as in division (A) of section 3311.05 of the Revised Code. 22408
22409

(3) "Contracting subdivision" means a municipal corporation, township, joint recreation district, township park district, county, school district, educational service center, or state institution of higher education. 22410
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(4) "School district" means any of the school districts or joint vocational school districts referred to in section 3311.01 of the Revised Code. 22414
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(5) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code. 22417
22418

Sec. 755.29. The board of park trustees, before entering into any contract for the performance of any work, the cost of which exceeds ~~ten~~ twenty-five thousand dollars, shall cause plans and specifications and forms of bids to be prepared, and when adopted by the board, ~~it~~ shall have them printed for distribution among bidders. 22419
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Sec. 755.41. When lands lying within the limits of a municipal corporation have been dedicated to or for the use of the public for parks or park lands, and where such lands have remained unimproved and unused by the public for a period of twenty-one years and there appears to be little or no possibility that such lands will be improved and used by the public, the legislative authority of a municipal corporation in which said lands are located may, by ordinance, declare such parks or park lands vacated upon the petition of a majority of the abutting 22425
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freeholders. No such parks or park lands shall be vacated unless 22434
notice of the pendency and prayer of the petition is given, in a 22435
newspaper of general circulation in the municipal corporation in 22436
which such lands are situated for three consecutive weeks, or as 22437
provided in section 7.16 of the Revised Code, preceding action on 22438
such petition. No such lands shall be vacated prior to a public 22439
hearing had thereon. 22440

Sec. 755.42. Upon the vacation of parks or park lands as 22441
provided by section 755.41 of the Revised Code, the legislative 22442
authority of a municipal corporation shall offer such lands for 22443
sale at a public auction. No lands shall be sold until the 22444
legislative authority of such municipal corporation gives notice 22445
of intention to sell such lands. Such notice shall be published as 22446
provided in section 7.16 of the Revised Code or once a week for 22447
four consecutive weeks in a newspaper of general circulation in a 22448
municipal corporation in which the sale is to be had. The 22449
legislative authority of such municipal corporation or the board 22450
or officer having supervision or management of such real estate 22451
shall sell such lands to the highest and best bidder, provided 22452
that any and all bids made hereunder may be rejected. 22453

When such sale is made, the mayor or other officer of a 22454
municipal corporation in which sale is had and in which such lands 22455
are located, shall enter into a deed, conveying said lands to the 22456
purchaser thereof. At or after the time of sale, the auditor of 22457
the county shall place the lands sold hereunder on the tax 22458
duplicate of the county at a value to be established by ~~him~~ the 22459
auditor as in cases where ~~he~~ the auditor re-enters property which 22460
has been tax exempt on the taxable list of the county. 22461

The proceeds from the sale of lands sold pursuant to this 22462
section shall be placed in the general fund of the treasury of the 22463
municipal corporation in which such lands are located and may be 22464

disbursed as other general fund moneys. 22465

Sec. 755.43. When real estate ~~which~~ that has been dedicated 22466
to or for the use of the public for parks or park lands is vacated 22467
by the legislative authority of a municipal corporation pursuant 22468
to section 755.41 of the Revised Code, and where reversionary 22469
interests have been set up in the event of the non-use of such 22470
lands for the dedicated purpose, such reversionary interests shall 22471
accelerate and vest in the holders thereof upon such vacation. 22472
Thereupon, the auditor of the county shall place the lands on the 22473
tax duplicate of the county in the names of such reversionaries as 22474
are known to and supplied by the legislative authority of the 22475
municipal corporation or the board or officer having supervision 22476
or management of such real estate. If the legislative authority of 22477
such board or officer is unable to furnish the names of such 22478
reversioners, the legislative authority of a municipal corporation 22479
shall fix a date on or before which claims to such real estate may 22480
be asserted and after which such real estate shall be sold. Notice 22481
shall be given of such date and of the sale to be held thereafter, 22482
as provided in section 7.16 of the Revised Code or once each week 22483
for four consecutive weeks in a newspaper of general circulation 22484
in the municipal corporation wherein such lands are located. In 22485
the event that no claims to such lands are asserted or found to be 22486
valid, the lands shall be sold pursuant to section 755.42 of the 22487
Revised Code, and the title of any holders of reversionary 22488
interests shall be extinguished. 22489

Nothing contained in sections 755.41, 755.42, or 755.43 of 22490
the Revised Code shall be construed as limiting any of the home 22491
rule powers conferred upon municipalities by Article XVIII of the 22492
Constitution of the State of Ohio. 22493

Sec. 759.47. Land belonging to a public cemetery and used for 22494
an approach thereto, and which is, in the judgment of a majority 22495

of the officers having control or management thereof, unnecessary 22496
for cemetery purposes, may be sold by them at public sale to the 22497
highest bidder after advertisement as provided in section 7.16 of 22498
the Revised Code or once a week for five consecutive weeks in a 22499
newspaper of general circulation within the county in which the 22500
cemetery is situated. The board of township trustees or board of 22501
cemetery trustees of a municipal corporation making such sale 22502
shall execute in the name of the township or municipal corporation 22503
owning such cemetery proper conveyances for the land so sold. 22504
22505

Sec. 901.09. (A) The director of agriculture may employ and 22506
establish a compensation rate for seasonal produce graders and 22507
seasonal gypsy mothtrap tenders, who shall be in the unclassified 22508
civil service. 22509

(B) In lieu of employing seasonal gypsy moth tenders as 22510
provided in division (A) of this section, the director may 22511
contract with qualified individuals or entities to perform gypsy 22512
moth trapping. 22513

Sec. 924.52. (A) The Ohio grape industries committee may: 22514

(1) Conduct, and contract with others to conduct, research, 22515
including the study, analysis, dissemination, and accumulation of 22516
information obtained from the research or elsewhere, concerning 22517
the marketing and distribution of grapes and grape products, the 22518
storage, refrigeration, processing, and transportation of them, 22519
and the production and product development of grapes and grape 22520
products. The committee shall expend for these activities ~~no less~~ 22521
~~than thirty per cent~~ and no more than seventy per cent of all 22522
money it receives from the Ohio grape industries fund created 22523
under section 924.54 of the Revised Code. 22524

(2) Provide the wholesale and retail trade with information 22525

relative to proper methods of handling and selling grapes and 22526
grape products; 22527

(3) Make or contract for market surveys and analyses, 22528
undertake any other similar activities that it determines are 22529
appropriate for the maintenance and expansion of present markets 22530
and the creation of new and larger markets for grapes and grape 22531
products, and make, in the name of the committee, contracts to 22532
render service in formulating and conducting plans and programs 22533
and such other contracts or agreements as the committee considers 22534
necessary for the promotion of the sale of grapes and grape 22535
products. The committee shall expend for these activities ~~no less~~ 22536
~~than thirty per cent and~~ no more than seventy per cent of all 22537
money it receives from the fund. 22538

(4) Publish and distribute to producers and others 22539
information relating to the grape and grape product industries; 22540

(5) Propose to the director of agriculture for adoption, 22541
rescission, or amendment, pursuant to Chapter 119. of the Revised 22542
Code, rules necessary for the exercise of its powers and the 22543
performance of its duties; 22544

(6) Advertise for, post notices seeking, or otherwise solicit 22545
applicants to serve in administrative positions in the department 22546
of agriculture as employees who support the administrative 22547
functions of the committee. Applications shall be submitted to the 22548
committee. The committee shall select applicants that it wishes to 22549
recommend for employment and shall submit a list of the 22550
recommended applicants to the director. 22551

(B) The committee shall: 22552

(1) Promote the sale of grapes and grape products for the 22553
purpose of maintaining and expanding present markets and creating 22554
new and larger intrastate, interstate, and foreign markets for 22555
grapes and grape products, and inform the public of the uses and 22556

benefits of grapes and grape products;	22557
(2) Perform all acts and exercise all powers incidental to,	22558
in connection with, or considered reasonably necessary, proper, or	22559
advisable to effectuate the purposes of this section.	22560
Sec. 927.69. To effect the purpose of sections 927.51 to	22561
927.73 of the Revised Code, the director of agriculture or the	22562
director's authorized representative may:	22563
(A) Make reasonable inspection of any premises in this state	22564
and any property therein or thereon;	22565
(B) Stop and inspect in a reasonable manner, any means of	22566
conveyance moving within this state upon probable cause to believe	22567
it contains or carries any pest, host, commodity, or other article	22568
that is subject to sections 927.51 to 927.72 of the Revised Code;	22569
(C) Conduct inspections of agricultural products that are	22570
required by other states, the United States department of	22571
agriculture, other federal agencies, or foreign countries to	22572
determine whether the products are infested. If, upon making such	22573
an inspection, the director or the director's authorized	22574
representative determines that an agricultural product is not	22575
infested, the director or the director's authorized representative	22576
may issue a certificate, as required by other states, the United	22577
States department of agriculture, other federal agencies, or	22578
foreign countries, indicating that the product is not infested.	22579
If the director charges fees for any of the certificates,	22580
agreements, or inspections specified in this section, the fees	22581
shall be as follows:	22582
(1) Phyto sanitary <u>Phytopsanitary</u> certificates, twenty-five	22583
dollars for those collectors or dealers that are licensed under	22584
section 927.53 of the Revised Code <u>shipments comprised exclusively</u>	22585
<u>of nursery stock;</u>	22586

(2) Phyto-sanitary <u>Phytosanitary</u> certificates, one hundred dollars for all others;	22587 22588
(3) <u>Phytosanitary certificates, twenty-five dollars for replacement of an issued certificate because of a mistake on the certificate or a change made by the shipper if no additional inspection is required;</u>	22589 22590 22591 22592
<u>(4)</u> Compliance agreements, forty dollars;	22593
(4) <u>(5)</u> Agricultural products and their conveyances inspections, an amount equal to the hourly rate of pay in the highest step in the pay range, including fringe benefits, of a plant pest control specialist multiplied by the number of hours worked by such a specialist in conducting an inspection.	22594 22595 22596 22597 22598
The director may adopt rules under section 927.52 of the Revised Code that define the certificates, agreements, and inspections.	22599 22600 22601
The fees shall be credited to the plant pest program fund created in section 927.54 of the Revised Code.	22602 22603
Sec. 951.11. A person finding an animal at large in violation of section 951.01 or 951.02 of the Revised Code, may, and a law enforcement officer of a county, township, city, or village, on view or information, shall, take and confine such animal, forthwith giving notice thereof to the owner or keeper, if known, and, if not known, by publishing a notice describing such animal at least once in a newspaper of general circulation in the county, township, city, or village wherein the animal was found. If the owner or keeper does not appear and claim the animal and pay the compensation prescribed in section 951.13 of the Revised Code for so taking, advertising, and keeping it within ten days from the date of such notice, such person or the county shall have a lien therefor and the animal may be sold at public auction as provided	22604 22605 22606 22607 22608 22609 22610 22611 22612 22613 22614 22615 22616

in section 1311.49 of the Revised Code, and the residue of the 22617
proceeds of sale shall be paid and deposited by the treasurer in 22618
the general fund of the county. 22619

Sec. 1309.528. ~~(A)~~ All fees collected by the secretary of 22620
state for filings under Title XIII or XVII of the Revised Code 22621
shall be deposited into the state treasury to the credit of the 22622
corporate and uniform commercial code filing fund, which is hereby 22623
created. All moneys credited to the fund, ~~subject to division (B)~~ 22624
~~of this section,~~ shall be used for the purpose of paying for the 22625
operations of the office of the secretary of state and for the 22626
purpose of paying for expenses relating to the processing of 22627
filings under Title XIII or XVII of the Revised Code. 22628

~~(B) There is hereby created in the state treasury the 22629
secretary of state business technology fund. One per cent of the 22630
money credited to the corporate and uniform commercial code filing 22631
fund created in division (A) of this section shall be transferred 22632
to the credit of this fund. All moneys credited to this fund shall 22633
be used only for the upkeep, improvement, or replacement of 22634
equipment, or for the purpose of training employees in the use of 22635
equipment, used to conduct business of the secretary of state's 22636
office under Title XIII or XVII of the Revised Code. 22637~~

Sec. 1327.46. ~~(A)~~ As used in sections 1327.46 to 1327.61 of 22638
the Revised Code: 22639

(A) "Weights and measures" means all weights and measures of 22640
every kind, instruments and devices for weighing and measuring, 22641
and any appliances and accessories associated with any such 22642
instruments and devices, except that ~~the term~~ "weights and 22643
measures" shall not be construed to include meters for the 22644
measurement of electricity, gas, whether natural or manufactured, 22645
or water when the same are operated in a public utility system. 22646

Such electricity, gas, and water meters, and appliances or 22647
accessories associated therewith, are specifically excluded from 22648
the purview of the weights and measures laws. 22649

(B) "Intrastate commerce" means all commerce or trade that is 22650
begun, carried on, and completed wholly within the limits of this 22651
state, and "introduced into intrastate commerce" defines the time 22652
and place in which the first sale and delivery of a commodity is 22653
made within the state, the delivery being made either directly to 22654
the purchaser or to a common carrier for shipment to the 22655
purchaser. 22656

(C) "Package" means any commodity put up or packaged in any 22657
manner in advance of sale in units suitable for either wholesale 22658
or retail sale. 22659

(D) "Consumer package" means a package that is customarily 22660
produced or distributed for sale through a retail sales agency for 22661
consumption by an individual or use by an individual. 22662

(E) "Weight" as used in connection with any commodity means 22663
net weight. 22664

(F) "Correct" as used in connection with weights and measures 22665
means conformity with all applicable requirements of sections 22666
1327.46 to 1327.61 of the Revised Code and rules adopted pursuant 22667
to those sections. 22668

(G) "Primary standards" means the physical standards of the 22669
state that serve as the legal reference from which all other 22670
standards and weights and measures are derived. 22671

(H) "Secondary standards" means the physical standards that 22672
are traceable to the primary standards through comparisons, using 22673
acceptable laboratory procedures, and used in the enforcement of 22674
weights and measures laws and rules. 22675

(I) "Sale from bulk" means the sale of commodities when the 22676

quantity is determined at the time of sale. 22677

(J) "Net weight" means the weight of a commodity, excluding 22678
any materials, substances, or items not considered to be a part of 22679
the commodity. Materials, substances, or items not considered to 22680
be part of the commodity include, but are not limited to, 22681
containers, conveyances, bags, wrappers, packaging materials, 22682
labels, individual piece coverings, decorative accompaniments, and 22683
coupons. 22684

(K) "Random weight package" means a package that is one of a 22685
lot, shipment, or delivery of packages of the same commodity with 22686
no fixed pattern of weights. 22687

(L) "Sold" includes keeping, offering, or exposing for sale. 22688

(M) "Commercially used weighing and measuring device" means a 22689
device described in the national institute of standards and 22690
technology handbook 44 or its supplements and revisions and any 22691
other weighing and measuring device designated by rules adopted 22692
under division (C) of section 1327.50 of the Revised Code. 22693
"Commercially used weighing and measuring device" includes, but is 22694
not limited to, a livestock scale, vehicle scale, railway scale, 22695
vehicle tank meter, bulk rack meter, and LPG meter. 22696

(N) "Livestock scale" means a scale equipped with stock racks 22697
and gates that is adapted to weighing livestock standing on the 22698
scale platform. 22699

(O) "Vehicle scale" means a scale that is adapted to weighing 22700
highway, farm, or other large industrial vehicles other than 22701
railroad cars. 22702

(P) "Railway scale" means a rail scale that is designed to 22703
weigh railroad cars. 22704

(Q) "Vehicle tank meter" means a vehicle mounted device that 22705
is designed for the measurement and delivery of liquid products 22706

<u>from a tank.</u>	22707
<u>(R) "Bulk rack meter" means a wholesale device, usually</u>	22708
<u>mounted on a rack, that is designed for the measurement and</u>	22709
<u>delivery of liquid products.</u>	22710
<u>(S) "LPG meter" means a system, including a mechanism or</u>	22711
<u>machine of the meter type, that is designed to measure and deliver</u>	22712
<u>liquefied petroleum gas in the liquid state by a definite quantity</u>	22713
<u>whether installed in a permanent location or mounted on a vehicle.</u>	22714
Sec. 1327.50. The director of agriculture shall:	22715
(A) Maintain traceability of the state standards to those of	22716
the national institute of standards and technology;	22717
(B) Enforce sections 1327.46 to 1327.61 of the Revised Code;	22718
(C) Issue reasonable rules for the uniform enforcement of	22719
sections 1327.46 to 1327.61 of the Revised Code, which rules shall	22720
have the force and effect of law;	22721
(D) Establish standards of weight, measure, or count,	22722
reasonable standards of fill, and standards for the voluntary	22723
presentation of cost per unit information for any package;	22724
(E) Grant any exemptions from sections 1327.46 to 1327.61 of	22725
the Revised Code, or any rules adopted under those sections, when	22726
appropriate to the maintenance of good commercial practices in the	22727
state;	22728
(F) Conduct investigations to ensure compliance with sections	22729
1327.46 to 1327.61 of the Revised Code;	22730
(G) Delegate to appropriate personnel any of these	22731
responsibilities for the proper administration of the director's	22732
office;	22733
(H) Test as often as is prescribed by rule the standards of	22734
weight and measure used by any municipal corporation or county	22735

within the state, and approve the same when found to be correct;	22736
(I) Inspect and test weights and measures kept, offered, or	22737
exposed for sale <u>that are sold</u> ;	22738
(J) Inspect and test to ascertain if they are correct,	22739
weights and measures commercially used either:	22740
(1) In determining the weight, measure, or count of	22741
commodities or things sold, or offered or exposed for sale, on the	22742
basis of weight, measure, or count;	22743
(2) In computing the basic charge or payment for goods or	22744
services rendered on the basis of weight, measure, or count.	22745
(K) Test all weights and measures used in checking the	22746
receipt or disbursement of supplies in every institution, for the	22747
maintenance of which funds are appropriated by the general	22748
assembly;	22749
(L) Approve for use, and may mark, such weights and measures	22750
as the director finds to be correct, and shall reject and mark as	22751
rejected such weights and measures as the director finds to be	22752
incorrect. Weights and measures that have been rejected may be	22753
seized if not corrected within the time specified or if used or	22754
disposed of in a manner not specifically authorized, and may be	22755
condemned and seized if found to be incorrect and not capable of	22756
being made correct.	22757
(M) Weigh, measure, or inspect packaged commodities kept,	22758
offered, or exposed for sale, <u>that are sold,</u> or in the process of	22759
delivery to determine whether they contain the amounts represented	22760
and whether they are kept, offered, or exposed for sale <u>sold</u> in	22761
accordance with sections 1327.46 to 1327.61 of the Revised Code or	22762
rules adopted under those sections. In carrying out this section,	22763
the director shall employ recognized sampling procedures, such as	22764
those designated in the national institute of standards and	22765
technology handbook 133 "checking the net contents of packaged	22766

goods." 22767

(N) Prescribe by rule the appropriate term or unit of weight 22768
or measure to be used, whenever the director determines in the 22769
case of a specific commodity that an existing practice of 22770
declaring the quantity by weight, measure, numerical count, or 22771
combination thereof, does not facilitate value comparisons by 22772
consumers, or offers an opportunity for consumer confusion; 22773

(O) Allow reasonable variations from the stated quantity of 22774
contents, which shall include those caused by unavoidable 22775
deviations in good manufacturing practice and by loss or gain of 22776
moisture during the course of good distribution practice, only 22777
after the commodity has entered intrastate commerce; 22778

(P) Provide for the weights and measures training of 22779
inspector personnel and establish minimum training requirements, 22780
which shall be met by all inspector personnel, whether county, 22781
municipal, or state; 22782

(Q) Prescribe the methods of tests and inspections to be 22783
employed in the enforcement of sections 1327.46 to 1327.61 of the 22784
Revised Code. The director may prescribe the official test and 22785
inspection forms to be used. 22786

(R) Provide by rule for voluntary registration with the 22787
director of private weighing and measuring device servicing 22788
agencies, and personnel; 22789

(S) In conjunction with the national institute of standards 22790
and technology, operate a type evaluation program for 22791
certification of weighing and measuring devices as part of the 22792
national type evaluation program. The director shall establish a 22793
schedule of fees for services rendered by the department of 22794
agriculture for type evaluation services. The director may require 22795
any weighing or measuring instrument or device to be traceable to 22796
a national type evaluation program certificate of conformance 22797

prior to use for commercial or law enforcement purposes. 22798

Sec. 1327.501. (A) No person shall operate in this state a 22799
commercially used weighing and measuring device, for which a fee 22800
is established in division (G) of this section unless the operator 22801
of the device obtains a permit issued by the director of 22802
agriculture or the director's designee. 22803

(B) An application for a permit shall be submitted to the 22804
director on a form that the director prescribes and provides. The 22805
applicant shall include with the application any information that 22806
is specified on the application form as well as the application 22807
fee established in this section. 22808

(C) Upon receipt of a completed application and the required 22809
fee from an applicant, the director or the director's designee 22810
shall issue or deny the permit to operate the commercially used 22811
weighing and measuring device that was the subject of the 22812
application. 22813

(D) A permit issued under this section expires on the 22814
thirtieth day of June of the year following its issuance and may 22815
be renewed annually on or before the first day of July of that 22816
year upon payment of a permit renewal fee established in this 22817
section. 22818

(E) If a permit renewal fee is more than sixty days past due, 22819
the director may assess a late penalty in an amount established 22820
under this section. 22821

(F) The director shall do both of the following: 22822

(1) Establish procedures and requirements governing the 22823
issuance or denial of permits under this section; 22824

(2) Establish late penalties to be assessed for the late 22825
payment of a permit renewal fee and fees for the replacement of 22826
lost or destroyed permits. 22827

<u>(G) An applicant for a permit to operate under this section</u>	22828
<u>shall pay an application fee in the following applicable amount:</u>	22829
<u>(1) Seventy-five dollars for a livestock scale;</u>	22830
<u>(2) Seventy-five dollars for a vehicle scale;</u>	22831
<u>(3) Seventy-five dollars for a railway scale;</u>	22832
<u>(4) Seventy-five dollars for a vehicle tank meter;</u>	22833
<u>(5) Seventy-five dollars for a bulk rack meter;</u>	22834
<u>(6) Seventy-five dollars for a LPG meter.</u>	22835
<u>A person who is issued a permit under this section and who</u>	22836
<u>seeks to renew that permit shall pay an annual permit renewal fee.</u>	22837
<u>The amount of a permit renewal fee shall be equal to the</u>	22838
<u>application fee for that permit established in this division.</u>	22839
<u>(H) All money collected through the payment of fees and the</u>	22840
<u>imposition of penalties under this section shall be credited to</u>	22841
<u>the metrology and scale certification and device permitting fund</u>	22842
<u>created in section 1327.511 of the Revised Code.</u>	22843
Sec. 1327.51. (A) When necessary for the enforcement of	22844
sections 1327.46 to 1327.61 of the Revised Code or rules adopted	22845
pursuant thereto, the director of agriculture and any weights and	22846
measures official acting under the authority of section 1327.52 of	22847
the Revised Code may do any of the following:	22848
(1) Enter any commercial premises during normal business	22849
hours, except that in the event such premises are not open to the	22850
public, he <u>the director or official</u> shall first present his <u>the</u>	22851
<u>director's or official's</u> credentials and obtain consent before	22852
making entry thereto, unless a search warrant previously has been	22853
obtained;	22854
(2) Issue stop-use, hold, and removal orders with respect to	22855
any weights and measures commercially used, and stop-sale, hold,	22856

and removal orders with respect to any packaged commodities or 22857
bulk commodity observed to be or believed to be ~~kept, offered, or~~ 22858
~~exposed for sale~~ sold; 22859

(3) Seize for use as evidence any incorrect or unapproved 22860
weight or measure or any package or commodity found to be used, 22861
retained, ~~offered or exposed for sale,~~ or sold in violation of 22862
sections 1327.46 to 1327.61 of the Revised Code or rules 22863
~~promulgated~~ adopted pursuant thereto. 22864

(B) The director shall afford an opportunity for a hearing in 22865
accordance with Chapter 119. of the Revised Code to any owner or 22866
operator whose property is seized by the ~~Ohio~~ department of 22867
agriculture. 22868

Sec. 1327.511. All money collected under ~~section~~ sections 22869
1327.50 and 1327.501 of the Revised Code from fees and for 22870
services rendered by the department of agriculture in operating 22871
the type evaluation program, a metrology laboratory program, and 22872
the device permitting program shall be deposited in the state 22873
treasury to the credit of the metrology and scale certification 22874
and device permitting fund, which is hereby created. Money 22875
credited to the fund shall be used to pay operating costs incurred 22876
by the department in administering the ~~program~~ programs. 22877

Sec. 1327.54. No person shall misrepresent the price of any 22878
commodity or service sold, ~~offered, exposed,~~ or advertised for 22879
sale by weight, measure, or count, nor represent the price in any 22880
manner calculated or tending to mislead or in any way deceive a 22881
person. 22882

Sec. 1327.57. (A) Except as otherwise provided by law, any 22883
consumer package or commodity in package form introduced or 22884
delivered for introduction into or received in intrastate 22885
commerce, ~~kept for the purpose of sale, or offered or exposed for~~ 22886

~~sale~~ sold in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration, as may be prescribed by rule adopted by the director of agriculture, of any of the following, as applicable:

(1) The identity of the commodity in the package unless the same can easily be identified through the wrapper or container;

(2) The net quantity of the contents in terms of weight, measure, or count;

(3) In the case of any package ~~kept, or offered or exposed for sale, or~~ sold at any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor.

This section does not apply to beer or intoxicating liquor as defined in section 4301.01 of the Revised Code, or packages thereof, or to malt or brewer's wort, or packages thereof.

(B) Under division (A)(2) of this section, neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity in a package, shall be used.

(C) In addition to the declarations required by division (A) of this section, any package or commodity in package form, if the package is one of a lot containing random weights, measures, or counts of the same commodity and bears the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

(D) No package or commodity in package form shall be so wrapped, nor shall it be in a container so made, formed, or filled, as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below any reasonable standard of fill that may have been

prescribed for the commodity in question by the director. 22918

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ 22919
the director's designee, has cause to believe that any person has 22920
violated, or is violating, ~~section~~ any provision of sections 22921
~~1327.54 or~~ 1327.46 to 1327.61 of the Revised Code or a rule 22922
adopted under them, he the director, or ~~his~~ the director's 22923
designee, may conduct a hearing in accordance with Chapter 119. of 22924
the Revised Code to determine whether a violation has occurred. If 22925
the director or ~~his~~ the director's designee determines that the 22926
person has violated or is violating ~~section 1327.54 or~~ any 22927
provision of sections 1327.46 to 1327.61 of the Revised Code or a 22928
rule adopted under it, he the director or the director's designee 22929
may assess a civil penalty against the person. The person is 22930
liable for a civil penalty of not more than five hundred dollars 22931
for a first violation; for a second violation the person is liable 22932
for a civil penalty of not more than two thousand five hundred 22933
dollars; for each subsequent violation that occurs within five 22934
years after the second violation, the person is liable for a civil 22935
penalty of not more than ten thousand dollars. 22936

Any person assessed a civil penalty under this section shall 22937
pay the amount prescribed to the department of agriculture. The 22938
department shall remit all moneys collected under this section to 22939
the treasurer of state for deposit in the general revenue fund. 22940

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 or 22941
division (A), (B), (C), or (D) of section 1327.61 of the Revised 22942
Code or a rule adopted under sections 1327.46 to 1327.61 of the 22943
Revised Code is guilty of a misdemeanor of the second degree on a 22944
first offense; on each subsequent offense within seven years after 22945
the first offense, such person is guilty of a misdemeanor of the 22946
first degree. 22947

Sec. 1329.04. Registration of a trade name or report of a fictitious name, under sections 1329.01 to 1329.10 of the Revised Code, shall be effective for a term of five years from the date of registration or report. Upon application filed within six months prior to the expiration of such term, on a form furnished by the secretary of state, the registration or report may be renewed at the end of each five-year period for a like term, provided that a general partnership shall renew its registration or report whenever any partner named on its registration or report ceases to be a partner. Such a renewal shall extend the registration or report for five years, unless further changes occur in the interim. The renewal fee specified in division (S)(3) of section 111.16 of the Revised Code, payable to the secretary of state, shall accompany the application for renewal of the registration or report.

The secretary of state shall notify persons who have registered trade names or reported fictitious names, within the six months next preceding the expiration of the five years from the date of registration or report, of the necessity of renewal by writing ordinary or electronic mail to the last known physical or electronic mail address of such persons.

Sec. 1329.42. A person who uses in this state a name, mark, or device to indicate ownership of articles or supplies may file in the office of the secretary of state, on a form to be prescribed by the secretary of state, a verified statement setting forth, but not limited to, the following information:

(A) The name and business address of the person filing the statement; and, if a corporation, the state of incorporation;

(B) The nature of the business of the applicant;

(C) The type of articles or supplies in connection with which

the name, mark, or device is used. 22978

The statement shall include or be accompanied by a specimen 22979
evidencing actual use of the name, mark, or device, together with 22980
the filing fee specified in division (U)(1) of section 111.16 of 22981
the Revised Code. The registration of a name, mark, or device 22982
pursuant to this section is effective for a ten-year period 22983
beginning on the date of registration. If an application for 22984
renewal is filed within six months prior to the expiration of the 22985
ten-year period on a form prescribed by the secretary of state, 22986
the registration may be renewed at the end of each ten-year period 22987
for an additional ten-year period. The renewal fee specified in 22988
division (U)(2) of section 111.16 of the Revised Code shall 22989
accompany the application for renewal. The secretary of state 22990
shall notify a registrant within the six months next preceding the 22991
expiration of ten years from the date of registration of the 22992
necessity of renewal by ~~writing~~ ordinary or electronic mail to the 22993
last known physical or electronic mail address of the registrant. 22994

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of 22995
the Revised Code, the director of commerce may issue to any 22996
person, or renew, a video service authorization, which 22997
authorization confers on the person the authority, subject to 22998
sections 1332.21 to 1332.34 of the Revised Code, to provide video 22999
service in its video service area; construct and operate a video 23000
service network in, along, across, or on public rights-of-way for 23001
the provision of video service; and, when necessary to provide 23002
that service, exercise the power of a telephone company under 23003
section 4931.04 of the Revised Code. The term of a video service 23004
authorization or authorization renewal shall be ten years. 23005

(2) For the purposes of the "Cable Communications Policy Act 23006
of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et 23007
seq., a video service authorization shall constitute a franchise 23008

under that law, and the director shall be the sole franchising 23009
authority under that law for video service authorizations in this 23010
state. 23011

(3) The director may impose upon and collect an annual 23012
assessment on video service providers. All money collected under 23013
division (A)(3) of this section shall be deposited in the state 23014
treasury to the credit of the ~~division of administration video~~ 23015
service authorization fund created under section ~~121.08~~ 1332.25 of 23016
the Revised Code. The total amount assessed in a fiscal year shall 23017
not exceed the lesser of four hundred fifty thousand dollars or, 23018
as shall be determined annually by the director, the department's 23019
actual, current fiscal year administrative costs in carrying out 23020
its duties under sections 1332.21 to 1332.34 of the Revised Code. 23021
The director shall allocate that total amount proportionately 23022
among the video service providers to be assessed, using a formula 23023
based on subscriber counts as of the thirty-first day of December 23024
of the preceding calendar year, which counts shall be submitted to 23025
the director not later than the thirty-first day of January of 23026
each year, via a notarized statement signed by an authorized 23027
officer. Any information submitted by a video service provider to 23028
the director for the purpose of determining subscriber counts 23029
shall be considered trade secret information, shall not be 23030
disclosed except by court order, and shall not constitute a public 23031
record under section 149.43 of the Revised Code. On or about the 23032
first day of June of each year, the director shall send to each 23033
video service provider to be assessed written notice of its 23034
proportional amount of the total assessment. The provider shall 23035
pay that amount on a quarterly basis not later than forty-five 23036
days after the end of each calendar quarter. After the initial 23037
assessment, the director annually shall reconcile the amount 23038
collected with the total, current amount assessed pursuant to this 23039
section, and either shall charge each assessed video service 23040
provider its respective proportion of any insufficiency or 23041

proportionately credit the provider's next assessment for any 23042
excess collected. 23043

(B)(1) The director may investigate alleged violations of or 23044
failures to comply with division (A) of section 1332.23, division 23045
(A) of this section, division (C) of section 1332.25, division (C) 23046
or (D) of section 1332.26, division (A), (B), or (C) of section 23047
1332.27, division (A) of section 1332.28, division (A) or (B) of 23048
section 1332.29, or section 1332.30 or 1332.31 of the Revised 23049
Code, or complaints concerning any such violation or failure. 23050
Except as provided in this section, the director has no authority 23051
to regulate video service in this state, including, but not 23052
limited to, the rates, terms, or conditions of that service. 23053

(2) In conducting an investigation under division (B)(1) of 23054
this section, the director, by subpoena, may compel witnesses to 23055
testify in relation to any matter over which the director has 23056
jurisdiction and may require the production of any book, record, 23057
or other document pertaining to that matter. If a person fails to 23058
file any statement or report, obey any subpoena, give testimony, 23059
produce any book, record, or other document as required by a 23060
subpoena, or permit photocopying of any book, record, or other 23061
document subpoenaed, the court of common pleas of any county in 23062
this state, upon application made to it by the director, shall 23063
compel obedience by attachment proceedings for contempt, as in the 23064
case of disobedience of the requirements of a subpoena issued from 23065
the court or a refusal to testify. 23066

(C)(1) If the director finds that a person has violated or 23067
failed to comply with division (A) of section 1332.23, division 23068
(A) of this section, division (C) of section 1332.25, division (C) 23069
or (D) of section 1332.26, division (A), (B), or (C) of section 23070
1332.27, division (A) of section 1332.28, division (A) or (B) of 23071
section 1332.29, or section 1332.30 or 1332.31 of the Revised 23072
Code, and the person has failed to cure the violation or failure 23073

after reasonable, written notice and reasonable time to cure, the 23074
director may do any of the following: 23075

(a) Apply to the court of common pleas of any county in this 23076
state for an order enjoining the activity or requiring compliance. 23077
Such an action shall be commenced not later than three years after 23078
the date the alleged violation or failure occurred or was 23079
reasonably discovered. Upon a showing by the director that the 23080
person has engaged in a violation or failure to comply, the court 23081
shall grant an injunction, restraining order, or other appropriate 23082
relief. 23083

(b) Enter into a written assurance of voluntary compliance 23084
with the person; 23085

(c) Pursuant to an adjudication under Chapter 119. of the 23086
Revised Code, assess a civil penalty in an amount determined by 23087
the director, including for any failure to comply with an 23088
assurance of voluntary compliance under division (C)(1)(b) of this 23089
section. The amount shall be not more than one thousand dollars 23090
for each day of violation or noncompliance, not to exceed a total 23091
of ten thousand dollars, counting all subscriber impacts as a 23092
single violation or act of noncompliance. In determining whether a 23093
civil penalty is appropriate under division (C)(1)(c) of this 23094
section, the director shall consider all of the following factors: 23095

(i) The seriousness of the noncompliance; 23096

(ii) The good faith efforts of the person to comply; 23097

(iii) The person's history of noncompliance; 23098

(iv) The financial resources of the person; 23099

(v) Any other matter that justice requires. 23100

Civil penalties collected pursuant to division (C)(1)(c) of 23101
this section shall be deposited to the credit of the video service 23102
enforcement fund in the state treasury, which is hereby created, 23103

to be used by the department of commerce in carrying out its 23104
duties under this section. 23105

(2) Pursuant to an adjudication under Chapter 119. of the 23106
Revised Code, the director may revoke, in whole or in part, the 23107
video service authorization of any person that has repeatedly and 23108
knowingly violated or failed to comply with division (A) of 23109
section 1332.23, division (A) of this section, division (C) of 23110
section 1332.25, division (C) or (D) of section 1332.26, division 23111
(A), (B), or (C) of section 1332.27, division (A) of section 23112
1332.28, division (A) or (B) of section 1332.29, or section 23113
1332.30 or 1332.31 of the Revised Code and that has failed to cure 23114
the violations or noncompliances after reasonable written notice 23115
and reasonable time to cure. Such person acts knowingly, 23116
regardless of the person's purpose, when the person is aware that 23117
the person's conduct will probably cause a certain result or will 23118
probably be of a certain nature. A person has knowledge of 23119
circumstances when the person is aware that such circumstances 23120
probably exist. 23121

(3) The court shall conduct a de novo review in any appeal 23122
from an adjudication under division (C)(1)(c) or (C)(2) of this 23123
section. 23124

(D) The public utilities commission has no authority over a 23125
video service provider in its offering of video service or a cable 23126
operator in its offering of cable or video service, or over any 23127
person in its offering of video service pursuant to a competitive 23128
video service agreement. 23129

Sec. 1501.022. There is hereby created in the state treasury 23130
the injection well review fund consisting of moneys transferred to 23131
it under section 6111.046 of the Revised Code. Moneys in the fund 23132
shall be used by the chiefs of the divisions of mineral resources 23133
management, oil and gas resources management, geological survey, 23134

and soil and water resources in the department of natural 23135
resources exclusively for the purpose of executing their duties 23136
under sections 6111.043 to 6111.047 of the Revised Code. 23137

Sec. 1501.40. The department of natural resources is the 23138
designated state agency responsible for the coordination and 23139
administration of sections 120 to 136 of the "National and 23140
Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 23141
12401 to 12456, as amended. With the assistance of the Ohio 23142
community commission on service council and volunteerism created 23143
in section 121.40 of the Revised Code, the director of natural 23144
resources shall coordinate with other state agencies to apply for 23145
funding under the act when appropriate and shall administer any 23146
federal funds the state receives under sections 120 to 136 of the 23147
act. 23148

Sec. 1503.05. (A) The chief of the division of forestry may 23149
sell timber and other forest products from the state forest and 23150
state forest nurseries whenever the chief considers such a sale 23151
desirable and, with the approval of the attorney general and the 23152
director of natural resources, may sell portions of the state 23153
forest lands when such a sale is advantageous to the state. 23154

(B) Except as otherwise provided in this section, a timber 23155
sale agreement shall not be executed unless the person or 23156
governmental entity bidding on the sale executes and files a 23157
surety bond conditioned on completion of the timber sale in 23158
accordance with the terms of the agreement in an amount equal to 23159
twenty-five per cent of the highest value cutting section. All 23160
bonds shall be given in a form prescribed by the chief and shall 23161
run to the state as obligee. 23162

The chief shall not approve any bond until it is personally 23163
signed and acknowledged by both principal and surety, or as to 23164

either by the attorney in fact thereof, with a certified copy of 23165
the power of attorney attached. The chief shall not approve the 23166
bond unless there is attached a certificate of the superintendent 23167
of insurance that the company is authorized to transact a fidelity 23168
and surety business in this state. 23169

In lieu of a bond, the bidder may deposit any of the 23170
following: 23171

(1) Cash in an amount equal to the amount of the bond; 23172

(2) United States government securities having a par value 23173
equal to or greater than the amount of the bond; 23174

(3) Negotiable certificates of deposit or irrevocable letters 23175
of credit issued by any bank organized or transacting business in 23176
this state having a par value equal to or greater than the amount 23177
of the bond. 23178

The cash or securities shall be deposited on the same terms 23179
as bonds. If one or more certificates of deposit are deposited in 23180
lieu of a bond, the chief shall require the bank that issued any 23181
of the certificates to pledge securities of the aggregate market 23182
value equal to the amount of the certificate or certificates that 23183
is in excess of the amount insured by the federal deposit 23184
insurance corporation. The securities to be pledged shall be those 23185
designated as eligible under section 135.18 of the Revised Code. 23186
The securities shall be security for the repayment of the 23187
certificate or certificates of deposit. 23188

Immediately upon a deposit of cash, securities, certificates 23189
of deposit, or letters of credit, the chief shall deliver them to 23190
the treasurer of state, who shall hold them in trust for the 23191
purposes for which they have been deposited. The treasurer of 23192
state is responsible for the safekeeping of the deposits. A bidder 23193
making a deposit of cash, securities, certificates of deposit, or 23194
letters of credit may withdraw and receive from the treasurer of 23195

state, on the written order of the chief, all or any portion of 23196
the cash, securities, certificates of deposit, or letters of 23197
credit upon depositing with the treasurer of state cash, other 23198
United States government securities, or other negotiable 23199
certificates of deposit or irrevocable letters of credit issued by 23200
any bank organized or transacting business in this state, equal in 23201
par value to the par value of the cash, securities, certificates 23202
of deposit, or letters of credit withdrawn. 23203

A bidder may demand and receive from the treasurer of state 23204
all interest or other income from any such securities or 23205
certificates as it becomes due. If securities so deposited with 23206
and in the possession of the treasurer of state mature or are 23207
called for payment by their issuer, the treasurer of state, at the 23208
request of the bidder who deposited them, shall convert the 23209
proceeds of the redemption or payment of the securities into other 23210
United States government securities, negotiable certificates of 23211
deposit, or cash as the bidder designates. 23212

When the chief finds that a person or governmental agency has 23213
failed to comply with the conditions of the person's or 23214
governmental agency's bond, the chief shall make a finding of that 23215
fact and declare the bond, cash, securities, certificates, or 23216
letters of credit forfeited. The chief thereupon shall certify the 23217
total forfeiture to the attorney general, who shall proceed to 23218
collect the amount of the bond, cash, securities, certificates, or 23219
letters of credit. 23220

In lieu of total forfeiture, the surety, at its option, may 23221
cause the timber sale to be completed or pay to the treasurer of 23222
state the cost thereof. 23223

All moneys collected as a result of forfeitures of bonds, 23224
cash, securities, certificates, and letters of credit under this 23225
section shall be credited to the state forest fund created in this 23226
section. 23227

(C) The chief may grant easements and leases on portions of 23228
the state forest lands and state forest nurseries under terms that 23229
are advantageous to the state, and the chief may grant mineral 23230
rights on a royalty basis on those lands and nurseries, with the 23231
approval of the attorney general and the director. 23232

(D) All moneys received from the sale of state forest lands, 23233
or in payment for easements or leases on or as rents from those 23234
lands or from state forest nurseries, shall be paid into the state 23235
treasury to the credit of the state forest fund, which is hereby 23236
created. In addition, all moneys received from federal grants, 23237
payments, and reimbursements, from the sale of reforestation tree 23238
stock, from the sale of forest products, other than standing 23239
timber, and from the sale of minerals taken from the state forest 23240
lands and state forest nurseries, together with royalties from 23241
mineral rights, shall be paid into the state treasury to the 23242
credit of the state forest fund. Any other revenues derived from 23243
the operation of the state forests and related facilities or 23244
equipment also shall be paid into the state treasury to the credit 23245
of the state forest fund, as shall contributions received for the 23246
issuance of Smokey Bear license plates under section 4503.574 of 23247
the Revised Code and any other moneys required by law to be 23248
deposited in the fund. 23249

The state forest fund shall not be expended for any purpose 23250
other than the administration, operation, maintenance, 23251
development, or utilization of the state forests, forest 23252
nurseries, and forest programs, for facilities or equipment 23253
incident to them, or for the further purchase of lands for state 23254
forest or forest nursery purposes and, in the case of 23255
contributions received pursuant to section 4503.574 of the Revised 23256
Code, for fire prevention purposes. 23257

All moneys received from the sale of standing timber taken 23258
from state forest lands and state forest nurseries shall be 23259

deposited into the state treasury to the credit of the forestry 23260
holding account redistribution fund, which is hereby created. The 23261
moneys shall remain in the fund until they are redistributed in 23262
accordance with this division. 23263

The redistribution shall occur at least once each year. To 23264
begin the redistribution, the chief first shall determine the 23265
amount of all standing timber sold from state forest lands and 23266
state forest nurseries, together with the amount of the total sale 23267
proceeds, in each county, in each township within the county, and 23268
in each school district within the county. The chief next shall 23269
determine the amount of the direct costs that the division of 23270
forestry incurred in association with the sale of that standing 23271
timber. The amount of the direct costs shall be subtracted from 23272
the amount of the total sale proceeds and shall be transferred 23273
from the forestry holding account redistribution fund to the state 23274
forest fund. 23275

The remaining amount of the total sale proceeds equals the 23276
net value of the standing timber that was sold. The chief shall 23277
determine the net value of standing timber sold from state forest 23278
lands and state forest nurseries in each county, in each township 23279
within the county, and in each school district within the county 23280
and shall send to each county treasurer a copy of the 23281
determination at the time that moneys are paid to the county 23282
treasurer under this division. 23283

Twenty-five per cent of the net value of standing timber sold 23284
from state forest lands and state forest nurseries located in a 23285
county shall be transferred from the forestry holding account 23286
redistribution fund to the state forest fund. Ten per cent of that 23287
net value shall be transferred from the forestry holding account 23288
redistribution fund to the general revenue fund. The remaining 23289
sixty-five per cent of the net value shall be transferred from the 23290
forestry holding account redistribution fund and paid to the 23291

county treasurer for the use of the general fund of that county. 23292

The county auditor shall do all of the following: 23293

(1) Retain for the use of the general fund of the county 23294
one-fourth of the amount received by the county under division (D) 23295
of this section; 23296

(2) Pay into the general fund of any township located within 23297
the county and containing such lands and nurseries one-fourth of 23298
the amount received by the county from standing timber sold from 23299
lands and nurseries located in the township; 23300

(3) Request the board of education of any school district 23301
located within the county and containing such lands and nurseries 23302
to identify which fund or funds of the district should receive the 23303
moneys available to the school district under division (D)(3) of 23304
this section. After receiving notice from the board, the county 23305
auditor shall pay into the fund or funds so identified one-half of 23306
the amount received by the county from standing timber sold from 23307
lands and nurseries located in the school district, distributed 23308
proportionately as identified by the board. 23309

The division of forestry shall not supply logs, lumber, or 23310
other forest products or minerals, taken from the state forest 23311
lands or state forest nurseries, to any other agency or 23312
subdivision of the state unless payment is made therefor in the 23313
amount of the actual prevailing value thereof. This section is 23314
applicable to the moneys so received. 23315

(E) The chief may enter into a personal service contract for 23316
consulting services to assist the chief with the sale of timber or 23317
other forest products and related inventory. Compensation for 23318
consulting services shall be paid from the proceeds of the sale of 23319
timber or other forest products and related inventory that are the 23320
subject of the personal service contract. 23321

Sec. 1505.01. The division of geological survey: 23322

(A) Shall collect, study, and interpret all available 23323
information pertaining to the geomorphology, stratigraphy, 23324
paleontology, mineralogy, and geologic structure of the state and 23325
shall publish reports on the same; 23326

(B) Shall collect, study, and interpret all available data 23327
pertaining to the origin, distribution, extent, use, and valuation 23328
of mineralogical and geological raw materials and natural 23329
resources such as: clays, coals, building stones, gypsum, salt, 23330
limestones and, dolomite, aggregates, sand, gravel, shales ~~for~~ 23331
~~cement and other uses, petroleum, oil, natural~~ gas, brines, ~~saline~~ 23332
~~deposits,~~ molding sands, and other natural substances of use and 23333
value, excluding only those pertaining to water usable as such for 23334
agricultural, industrial, commercial, and domestic purposes, but 23335
not excluding other rock fluids such as natural and artificial 23336
brines and oil-well fluids; 23337

(C) Shall make special studies and reports of resources of 23338
geological nature within the state ~~which~~ that in its discretion 23339
are of current or potential economic, environmental, or 23340
educational significance or of significance to the health, 23341
welfare, and safety of the public; 23342

(D) May examine the technological processes by which mining, 23343
quarrying, or other extracting processes may be improved, or by 23344
which materials now uneconomical to exploit may be extracted and 23345
used commercially for the public welfare; 23346

(E) Shall make, store, catalog, and have available ~~for~~ 23347
~~distribution in perpetuity~~ data, maps, diagrams, records, rock 23348
cores, samples, profiles, and geologic sections portraying the 23349
geological characteristics and topography of the state, both of 23350
general nature and of specific localities; 23351

(F) ~~May, or at the request of other agencies of the state~~ 23352
~~government shall, advise and, consult, or collaborate with~~ 23353
~~representatives of these agencies of the state, other state~~ 23354
~~governments, or the United States government on problems or issues~~ 23355
~~of a geological nature;~~ 23356

(G) Shall advise, consult, or collaborate with 23357
representatives of agencies of the state, other state governments, 23358
or the United States government on problems or issues of a 23359
geological nature when requested by such an agency or government; 23360

(H) May create custom maps, custom data sets, or other custom 23361
products for government agencies, colleges and universities, and 23362
persons; 23363

(I) May provide information on the geological nature of the 23364
state to government agencies, colleges and universities, and 23365
persons. 23366

Sec. 1505.011. (A) Custom maps, custom data sets, and other 23367
custom products created and information provided pursuant to 23368
divisions (H) and (I) of section 1505.01 of the Revised Code for 23369
use by governmental agencies and colleges and universities are 23370
intellectual property records as defined in section 149.43 of the 23371
Revised Code and may be held confidential pursuant to a contract. 23372

(B) Custom maps, custom data sets, and other custom products 23373
created and information provided pursuant to divisions (H) and (I) 23374
of section 1505.01 of the Revised Code for use by persons are 23375
intellectual property records as defined in section 149.43 of the 23376
Revised Code and shall be held confidential pursuant to a 23377
contract. 23378

Sec. 1505.04. (A) Any person, firm, government agency, or 23379
corporation who, for hire, or by its own forces for economic use 23380
or exploration, drills, bores, or digs within the state a well for 23381

the production or extraction of any gas or liquid, excluding only 23382
water to be used as such, but including natural or artificial 23383
brines and oil-filled waters, or who drills wells, bores, or digs 23384
within the state a well to explore geological formations, shall 23385
keep a careful and accurate log of ~~such~~ the activity and report 23386
the same together with the results of any rock or fluid analyses 23387
or of any production test results or pressure tests in such form 23388
as is designated by the division of geological survey to the chief 23389
of the division of geological survey. 23390

(B) The division may file such well logs and establish and 23391
observe such regulations regarding their availability and use as 23392
will meet the legitimate requirements of the owner or lessee of 23393
the well. Personnel of the division ~~of~~ may examine any such well 23394
during its construction to confirm the accuracy of the log and to 23395
collect samples of the cores, chips, fluids, gases, or sludge. 23396

(C) No person, firm, agency, or corporation shall fail to 23397
keep an accurate log or file a report as required in division (A) 23398
of this section. 23399

Sec. 1505.05. (A) Notwithstanding any other provision of the 23400
Revised Code to the contrary, the chief of the division of 23401
geological survey shall adopt rules under Chapter 119. of the 23402
Revised Code that establish a fee schedule for requests for 23403
manipulated, interpreted, or analyzed data from the geologic 23404
records, data, maps, rock cores, and samples archived by the 23405
division. The fee schedule may include the cost of specialized 23406
storage requirements, programming, labor, research, retrieval, 23407
data manipulation, and copying and mailing of records requested 23408
from the archives. In addition, the rules shall establish 23409
procedures for the levying and collection of the fees in the fee 23410
schedule. 23411

(B) For purposes of divisions (H) and (I) of section 1505.01 23412

of the Revised Code, the chief shall adopt rules under Chapter 23413
119. of the Revised Code that establish a fee schedule to be paid 23414
for creating custom maps, custom data sets, and other custom 23415
products and for providing geological information of the state. 23416
The fee schedule may include the costs of labor, research, 23417
analysis, equipment, and technology. In addition, the rules shall 23418
establish procedures for the levying and collection of the fees in 23419
the fee schedule. 23420

(C) The chief may reduce or waive a fee in a fee schedule 23421
established in rules adopted under division (A) or (B) of this 23422
section for a student that is enrolled in an institution of higher 23423
education. 23424

(D) Any revision to a fee schedule established in rules 23425
adopted under division (A) or (B) of this section shall be 23426
established in rules adopted under Chapter 119. of the Revised 23427
Code. A revision to a fee schedule is subject to review by the 23428
Ohio geology advisory council created in section 1505.11 of the 23429
Revised Code and to approval by the director of natural resources. 23430

(E) All fees collected under this section shall be credited 23431
to the geological mapping fund created in section 1505.09 of the 23432
Revised Code. 23433

Sec. 1505.06. The chief of the division of geological survey 23434
in the discharge of ~~his~~ official duties under ~~section~~ sections 23435
1505.01 to 1505.08, ~~inclusive,~~ of the Revised Code, may call to 23436
~~his~~ the chief's assistance, temporarily, any engineers or other 23437
employees in any state department, or in the Ohio state 23438
university, or other educational institutions financed wholly or 23439
in part by the state, for the purpose of making studies, surveys, 23440
maps, and plans for ~~erosion~~ economic development or geologic 23441
hazards projects. 23442

Such engineers and employees shall not receive any additional 23443

compensation over that which they receive from the departments by 23444
which they are employed, but they shall be reimbursed for their 23445
actual necessary expenses incurred while working under the 23446
direction of the chief on ~~erosion~~ the projects. 23447

Sec. 1505.09. There is hereby created in the state treasury 23448
the geological mapping fund, to be administered by the chief of 23449
the division of geological survey. The fund shall be used 23450
~~exclusively~~ for the purposes of performing the necessary field, 23451
laboratory, and administrative tasks to map and make public 23452
reports on the geology, geologic hazards, and energy and mineral 23453
resources ~~of each county~~ of the state. The source of moneys for 23454
the fund shall include, but not be limited to, the mineral 23455
severance tax as specified in section 5749.02 of the Revised Code 23456
and the fees collected under rules adopted under section 1505.05 23457
of the Revised Code. The chief may seek federal or other moneys in 23458
addition to the mineral severance tax and fees to carry out the 23459
purposes of this section. If the chief receives federal moneys for 23460
the purposes of this section, ~~he~~ the chief shall deposit those 23461
moneys into the state treasury to the credit of a fund ~~which shall~~ 23462
~~be created at that time~~ by the controlling board to carry out 23463
those purposes. Other moneys received by the chief for the 23464
purposes of this section in addition to the mineral severance tax, 23465
fees, and federal moneys shall be credited to the geological 23466
mapping fund. 23467

Sec. 1505.11. There is hereby created in the department of 23468
natural resources the Ohio geology advisory council consisting of 23469
seven members to be appointed by the governor with the advice and 23470
consent of the senate. No more than four of the members shall be 23471
of the same political party. Members shall be persons who have a 23472
demonstrated interest in ~~Ohio~~ the geology and mineral resources of 23473
this state and whose expertise reflects the various 23474

responsibilities of the division of geological survey. The council 23475
shall include at least one representative from each of the 23476
following: the oil and gas industry, the industrial minerals 23477
industry, the coal industry, hydrogeology interests, environmental 23478
geology interests, and an institution of higher education in this 23479
state. The chief of the division of geological survey may 23480
participate in the deliberations of the council, but shall not 23481
vote. 23482

Within ninety days after ~~the effective date of this section~~ 23483
May 3, 1990, the governor shall make initial appointments to the 23484
council. Of the initial appointments, three shall be for a term 23485
ending one year after ~~the effective date of this section~~ May 3, 23486
1990, three shall be for a term ending two years after ~~the~~ 23487
~~effective date of this section~~ May 3, 1990, and one shall be for a 23488
term ending three years after ~~the effective date of this section~~ 23489
May 3, 1990. Thereafter, terms of office shall be for three years, 23490
with each term ending on the same day of the same month as did the 23491
term that it succeeds. Members may be reappointed. The governor 23492
may remove any member at any time for inefficiency, neglect of 23493
duty, or malfeasance in office. Vacancies shall be filled in the 23494
manner provided for original appointments. Any member appointed to 23495
fill a vacancy prior to the expiration date of the term for which 23496
~~his~~ the member's predecessor was appointed shall hold office as a 23497
member for the remainder of that term. A member shall continue in 23498
office subsequent to the expiration date of ~~his~~ the member's term 23499
until ~~his~~ the member's successor takes office or until a period of 23500
sixty days has elapsed, whichever occurs first. 23501

Serving as an appointed member on the council does not 23502
constitute holding a public office or position of employment under 23503
the laws of this state and does not constitute grounds for removal 23504
of public officers or employees from their offices or positions of 23505
employment. 23506

Members shall serve without compensation, but shall be 23507
reimbursed for their actual and necessary expenses incurred in the 23508
performance of their official duties from moneys appropriated to 23509
the division. 23510

The council annually shall select from its members a ~~chairman~~ 23511
chairperson and a ~~vice-chairman~~ vice-chairperson. The council 23512
shall hold at least one meeting each calendar quarter and shall 23513
keep a record of its proceedings, which shall be open to public 23514
inspection. Special meetings may be called by the ~~chairman~~ 23515
chairperson and shall be called upon the written request of two or 23516
more members. A majority of the members constitutes a quorum. The 23517
division shall furnish clerical, technical, legal, and other 23518
services required by the council in the performance of its duties. 23519

The council shall do all of the following: 23520

(A) Advise the chief ~~of the division of geological survey~~ in 23521
carrying out the duties of the division under this chapter; 23522

(B) Recommend policy and legislation with respect to geology, 23523
resource analysis, and management that will promote the economic 23524
and industrial development of the state while minimizing threats 23525
to the natural environment of the state; 23526

(C) Review and make recommendations on the development of 23527
plans and programs for long-term, comprehensive geologic mapping 23528
and analysis throughout the state; 23529

(D) Recommend ways to enhance cooperation among governmental 23530
agencies having an interest in ~~Ohio~~ the geology of the state to 23531
encourage wise use and management of the geology and mineral 23532
resources of the state. To this end, the council shall request 23533
nonvoting representation from appropriate governmental agencies. 23534

(E) Review and make recommendations with respect to changes 23535
in the fee schedules established in rules adopted under section 23536
1505.05 of the Revised Code. 23537

Sec. 1505.99. (A) Whoever violates section 1505.07 of the Revised Code shall be fined not less than one thousand nor more than two thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than two thousand nor more than five thousand dollars.

(B) Whoever violates section 1505.04 or 1505.10 of the Revised Code shall be fined not less than one hundred nor more than one thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than one thousand nor more than two thousand dollars. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under this division shall be paid into the geological mapping fund created in section 1505.09 of the Revised Code.

Sec. 1509.01. As used in this chapter:

(A) "Well" means any borehole, whether drilled or bored, within the state for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.

(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not oil, including condensate.

(D) "Condensate" means liquid hydrocarbons that were originally in the gaseous phase in the reservoir.

(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas

storage reservoir. Each zone of a geological structure that is 23568
completely separated from any other zone in the same structure may 23569
contain a separate pool. 23570

(F) "Field" means the general area underlaid by one or more 23571
pools. 23572

(G) "Drilling unit" means the minimum acreage on which one 23573
well may be drilled, but does not apply to a well for injecting 23574
gas into or removing gas from a gas storage reservoir. 23575

(H) "Waste" includes all of the following: 23576

(1) Physical waste, as that term generally is understood in 23577
the oil and gas industry; 23578

(2) Inefficient, excessive, or improper use, or the 23579
unnecessary dissipation, of reservoir energy; 23580

(3) Inefficient storing of oil or gas; 23581

(4) Locating, drilling, equipping, operating, or producing an 23582
oil or gas well in a manner that reduces or tends to reduce the 23583
quantity of oil or gas ultimately recoverable under prudent and 23584
proper operations from the pool into which it is drilled or that 23585
causes or tends to cause unnecessary or excessive surface loss or 23586
destruction of oil or gas; 23587

(5) Other underground or surface waste in the production or 23588
storage of oil, gas, or condensate, however caused. 23589

(I) "Correlative rights" means the reasonable opportunity to 23590
every person entitled thereto to recover and receive the oil and 23591
gas in and under the person's tract or tracts, or the equivalent 23592
thereof, without having to drill unnecessary wells or incur other 23593
unnecessary expense. 23594

(J) "Tract" means a single, individually taxed parcel of land 23595
appearing on the tax list. 23596

(K) "Owner," unless referring to a mine, means the person who 23597

has the right to drill on a tract or drilling unit, to drill into 23598
and produce from a pool, and to appropriate the oil or gas 23599
produced therefrom either for the person or for others, except 23600
that a person ceases to be an owner with respect to a well when 23601
the well has been plugged in accordance with applicable rules 23602
adopted and orders issued under this chapter. "Owner" does not 23603
include a person who obtains a lease of the mineral rights for oil 23604
and gas on a parcel of land if the person does not attempt to 23605
produce or produce oil or gas from a well or obtain a permit under 23606
this chapter for a well or if the entire interest of a well is 23607
transferred to the person in accordance with division (B) of 23608
section 1509.31 of the Revised Code. 23609

(L) "Royalty interest" means the fee holder's share in the 23610
production from a well. 23611

(M) "Discovery well" means the first well capable of 23612
producing oil or gas in commercial quantities from a pool. 23613

(N) "Prepared clay" means a clay that is plastic and is 23614
thoroughly saturated with fresh water to a weight and consistency 23615
great enough to settle through saltwater in the well in which it 23616
is to be used, except as otherwise approved by the chief of the 23617
division of ~~mineral~~ oil and gas resources management. 23618

(O) "Rock sediment" means the combined cutting and residue 23619
from drilling sedimentary rocks and formation. 23620

(P) "Excavations and workings," "mine," and "pillar" have the 23621
same meanings as in section 1561.01 of the Revised Code. 23622

(Q) "Coal bearing township" means a township designated as 23623
such by the chief of the division of mineral resources management 23624
under section 1561.06 of the Revised Code. 23625

(R) "Gas storage reservoir" means a continuous area of a 23626
subterranean porous sand or rock stratum or strata into which gas 23627
is or may be injected for the purpose of storing it therein and 23628

removing it therefrom and includes a gas storage reservoir as 23629
defined in section 1571.01 of the Revised Code. 23630

(S) "Safe Drinking Water Act" means the "Safe Drinking Water 23631
Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the 23632
"Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 23633
U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 23634
100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water 23635
Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and 23636
regulations adopted under those acts. 23637

(T) "Person" includes any political subdivision, department, 23638
agency, or instrumentality of this state; the United States and 23639
any department, agency, or instrumentality thereof; and any legal 23640
entity defined as a person under section 1.59 of the Revised Code. 23641

(U) "Brine" means all saline geological formation water 23642
resulting from, obtained from, or produced in connection with 23643
exploration, drilling, well stimulation, production of oil or gas, 23644
or plugging of a well. 23645

(V) "Waters of the state" means all streams, lakes, ponds, 23646
marshes, watercourses, waterways, springs, irrigation systems, 23647
drainage systems, and other bodies of water, surface or 23648
underground, natural or artificial, that are situated wholly or 23649
partially within this state or within its jurisdiction, except 23650
those private waters that do not combine or effect a junction with 23651
natural surface or underground waters. 23652

(W) "Exempt Mississippian well" means a well that meets all 23653
of the following criteria: 23654

(1) Was drilled and completed before January 1, 1980; 23655

(2) Is located in an unglaciated part of the state; 23656

(3) Was completed in a reservoir no deeper than the 23657
Mississippian Big Injun sandstone in areas underlain by 23658

Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy;	23659 23660
(4) Is used primarily to provide oil or gas for domestic use.	23661
(X) "Exempt domestic well" means a well that meets all of the following criteria:	23662 23663
(1) Is owned by the owner of the surface estate of the tract on which the well is located;	23664 23665
(2) Is used primarily to provide gas for the owner's domestic use;	23666 23667
(3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house other than an inhabited private dwelling house located on the tract on which the well is located;	23668 23669 23670 23671
(4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.	23672 23673 23674 23675
(Y) "Urbanized area" means an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities.	23676 23677 23678 23679 23680 23681
(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations.	23682 23683 23684
(AA) "Production operation" means <u>all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are</u>	23685 23686 23687 23688

<u>regulated under this chapter, including operations and activities</u>	23689
<u>associated with site preparation, site construction, access roads</u>	23690
<u>road construction, well</u> drilling, well completion, well	23691
stimulation, well operation <u>site activities</u> , site reclamation, and	23692
well plugging. "Production operation" also includes all of the	23693
following:	23694
(1) The piping and , <u>equipment, and facilities</u> used for the	23695
production and preparation of hydrocarbon gas or liquids for	23696
transportation or delivery;	23697
(2) The processes of extraction and recovery, lifting,	23698
stabilization, treatment, separation, production processing,	23699
storage, <u>waste disposal</u> , and measurement of hydrocarbon gas and	23700
liquids, <u>including related equipment and facilities</u> ;	23701
(3) The processes <u>and related equipment and facilities</u>	23702
associated with production compression, gas lift, gas injection,	23703
and fuel gas supply, <u>well drilling, well stimulation, and well</u>	23704
<u>completion activities, including dikes, pits, and earthen and</u>	23705
<u>other impoundments used for the temporary storage of fluids and</u>	23706
<u>waste substances associated with well drilling, well stimulation,</u>	23707
<u>and well completion activities.</u>	23708
(BB) "Annular overpressurization" means the accumulation of	23709
fluids within an annulus with sufficient pressure to allow	23710
migration of annular fluids into underground sources of drinking	23711
water.	23712
(CC) "Idle and orphaned well" means a well for which a bond	23713
has been forfeited or an abandoned well for which no money is	23714
available to plug the well in accordance with this chapter and	23715
rules adopted under it.	23716
(DD) "Temporarily inactive well" means a well that has been	23717
granted temporary inactive status under section 1509.062 of the	23718
Revised Code.	23719

(EE) "Material and substantial violation" means any of the following:	23720
	23721
(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;	23722
	23723
(2) Failure to obtain or maintain insurance coverage that is required under this chapter;	23724
	23725
(3) Failure to obtain or maintain a surety bond that is required under this chapter;	23726
	23727
(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief <u>of the division of oil and gas resources management</u> has approved another option concerning the abandoned well or idle and orphaned well;	23728
	23729
	23730
	23731
	23732
(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;	23733
	23734
(6) Failure to reimburse the oil and gas <u>well</u> fund pursuant to a final order issued under section 1509.071 of the Revised Code;	23735
	23736
	23737
(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code.	23738
	23739
(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.	23740
	23741
Sec. 1509.02. There is hereby created in the department of natural resources the division of mineral <u>oil and gas</u> resources management, which shall be administered by the chief of the division of mineral <u>oil and gas</u> resources management. The division has sole and exclusive authority to regulate the permitting, location, and spacing of oil and gas wells and production operations within the state. The regulation of oil and gas activities is a matter of general statewide interest that requires	23742
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uniform statewide regulation, and this chapter and rules adopted 23750
under it constitute a comprehensive plan with respect to all 23751
aspects of the locating, drilling, well stimulation, completing, 23752
and operating of oil and gas wells within this state, including 23753
site construction and restoration, the permitting of discharges 23754
related to those activities, and the disposal of wastes from those 23755
wells. Nothing in this section affects the authority granted to 23756
the director of transportation and local authorities in section 23757
723.01 or 4513.34 of the Revised Code, provided that the authority 23758
granted under those sections shall not be exercised in a manner 23759
that discriminates against, unfairly impedes, or obstructs oil and 23760
gas activities and operations regulated under this chapter. 23761
23762

The chief shall not hold any other public office, nor shall 23763
the chief be engaged in any occupation or business that might 23764
interfere with or be inconsistent with the duties as chief. 23765

All moneys collected by the chief pursuant to sections 23766
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.221, 23767
1509.222, 1509.34, and 1509.50 of the Revised Code, ninety per 23768
cent of moneys received by the treasurer of state from the tax 23769
levied in divisions (A)(5) and (6) of section 5749.02 of the 23770
Revised Code, all civil penalties paid under section 1509.33 of 23771
the Revised Code, and, notwithstanding any section of the Revised 23772
Code relating to the distribution or crediting of fines for 23773
violations of the Revised Code, all fines imposed under divisions 23774
(A) and (B) of section 1509.99 of the Revised Code and fines 23775
imposed under divisions (C) and (D) of section 1509.99 of the 23776
Revised Code for all violations prosecuted by the attorney general 23777
and for violations prosecuted by prosecuting attorneys that do not 23778
involve the transportation of brine by vehicle shall be deposited 23779
into the state treasury to the credit of the oil and gas well 23780
fund, which is hereby created. Fines imposed under divisions (C) 23781

and (D) of section 1509.99 of the Revised Code for violations 23782
prosecuted by prosecuting attorneys that involve the 23783
transportation of brine by vehicle and penalties associated with a 23784
compliance agreement entered into pursuant to this chapter shall 23785
be paid to the county treasury of the county where the violation 23786
occurred. 23787

The fund shall be used solely and exclusively for the 23788
purposes enumerated in division (B) of section 1509.071 of the 23789
Revised Code, for the expenses of the division associated with the 23790
administration of this chapter and Chapter 1571. of the Revised 23791
Code and rules adopted under them, and for expenses that are 23792
critical and necessary for the protection of human health and 23793
safety and the environment related to oil and gas production in 23794
this state. The expenses of the division in excess of the moneys 23795
available in the fund shall be paid from general revenue fund 23796
appropriations to the department. 23797

Sec. 1509.021. On and after ~~the effective date of this~~ 23798
~~section~~ June 30, 2010, all of the following apply: 23799

(A) The surface location of a new well or a tank battery of a 23800
well shall not be within one hundred fifty feet of an occupied 23801
dwelling that is located in an urbanized area unless the owner of 23802
the land on which the occupied dwelling is located consents in 23803
writing to the surface location of the well or tank battery of a 23804
well less than one hundred fifty feet from the occupied dwelling 23805
and the chief of the division of ~~mineral~~ oil and gas resources 23806
management approves the written consent of that owner. However, 23807
the chief shall not approve the written consent of such an owner 23808
when the surface location of a new well or a tank battery of a 23809
well will be within one hundred feet of an occupied dwelling that 23810
is located in an urbanized area. 23811

(B) The surface location of a new well shall not be within 23812

one hundred fifty feet from the property line of a parcel of land 23813
that is not in the drilling unit of the well if the parcel of land 23814
is located in an urbanized area and directional drilling will be 23815
used to drill the new well unless the owner of the parcel of land 23816
consents in writing to the surface location of the well less than 23817
one hundred fifty feet from the property line of the parcel of 23818
land and the chief approves the written consent of that owner. 23819
However, the chief shall not approve the written consent of such 23820
an owner when the surface location of a new well will be less than 23821
one hundred feet from the property line of the owner's parcel of 23822
land that is not in the drilling unit of the well if the parcel of 23823
land is located in an urbanized area and directional drilling will 23824
be used. 23825

(C) The surface location of a new well shall not be within 23826
two hundred feet of an occupied dwelling that is located in an 23827
urbanized area and that is located on land that has become part of 23828
the drilling unit of the well pursuant to a mandatory pooling 23829
order issued under section 1509.27 of the Revised Code unless the 23830
owner of the land on which the occupied dwelling is located 23831
consents in writing to the surface location of the well at a 23832
distance that is less than two hundred feet from the occupied 23833
dwelling. However, if the owner of the land on which the occupied 23834
dwelling is located provides such written consent, the surface 23835
location of the well shall not be within one hundred feet of the 23836
occupied dwelling. 23837

If an applicant cannot identify an owner of land or if an 23838
owner of land is not responsive to attempts by the applicant to 23839
contact the owner, the applicant may submit an affidavit to the 23840
chief attesting to such an unidentifiable owner or to such 23841
unresponsiveness of an owner and attempts by the applicant to 23842
contact the owner and include a written request to reduce the 23843
distance of the location of the well from the occupied dwelling to 23844

less than two hundred feet. If the chief receives such an 23845
affidavit and written request, the chief shall reduce the distance 23846
of the location of the well from the occupied dwelling to a 23847
distance of not less than one hundred feet. 23848

(D) Except as otherwise provided in division (L) of this 23849
section, the surface location of a new well shall not be within 23850
one hundred fifty feet of the property line of a parcel of land 23851
that is located in an urbanized area and that has become part of 23852
the drilling unit of the well pursuant to a mandatory pooling 23853
order issued under section 1509.27 of the Revised Code unless the 23854
owner of the land consents in writing to the surface location of 23855
the well at a distance that is less than one hundred fifty feet 23856
from the owner's property line. However, if the owner of the land 23857
provides such written consent, the surface location of the well 23858
shall not be within seventy-five feet of the property line of the 23859
owner's parcel of land. 23860

If an applicant cannot identify an owner of land or if an 23861
owner of land is not responsive to attempts by the applicant to 23862
contact the owner, the applicant may submit an affidavit to the 23863
chief attesting to such an unidentifiable owner or to such 23864
unresponsiveness of an owner and attempts by the applicant to 23865
contact the owner and include a written request to reduce the 23866
distance of the location of the well from the property line of the 23867
owner's parcel of land to less than one hundred fifty feet. If the 23868
chief receives such an affidavit and written request, the chief 23869
shall reduce the distance of the location of the well from the 23870
property line to a distance of not less than seventy-five feet. 23871

(E) The surface location of a new tank battery of a well 23872
shall not be within one hundred fifty feet of an occupied dwelling 23873
that is located in an urbanized area and that is located on land 23874
that has become part of the drilling unit of the well pursuant to 23875
a mandatory pooling order issued under section 1509.27 of the 23876

Revised Code unless the owner of the land on which the occupied dwelling is located consents in writing to the location of the tank battery at a distance that is less than one hundred fifty feet from the occupied dwelling. However, if the owner of the land on which the occupied dwelling is located provides such written consent, the location of the tank battery shall not be within one hundred feet of the occupied dwelling.

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the applicant may submit an affidavit to the chief attesting to such an unidentifiable owner or to such unresponsiveness of an owner and attempts by the applicant to contact the owner and include a written request to reduce the distance of the location of the tank battery from the occupied dwelling to less than one hundred fifty feet. If the chief receives such an affidavit and written request, the chief shall reduce the distance of the location of the tank battery from the occupied dwelling to a distance of not less than one hundred feet.

(F) Except as otherwise provided in division (L) of this section, the location of a new tank battery of a well shall not be within seventy-five feet of the property line of a parcel of land that is located in an urbanized area and that has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code unless the owner of the land consents in writing to the location of the tank battery at a distance that is less than seventy-five feet from the owner's property line. However, if the owner of the land provides such written consent, the location of the tank battery shall not be within the property line of the owner's parcel of land.

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the applicant may submit an affidavit to the

chief attesting to such an unidentifiable owner or to such 23909
unresponsiveness of an owner and attempts by the applicant to 23910
contact the owner and include a written request to reduce the 23911
distance of the location of the tank battery from the property 23912
line of the owner's parcel of land to less than seventy-five feet. 23913
If the chief receives such an affidavit and written request, the 23914
chief shall reduce the distance of the location of the tank 23915
battery from the property line, provided that the tank battery 23916
shall not be within the property line of the owner's parcel of 23917
land. 23918

(G) For purposes of divisions (C) to (F) of this section, 23919
written consent of an owner of land may be provided by any of the 23920
following: 23921

(1) A copy of an original lease agreement as recorded in the 23922
office of the county recorder of the county in which the occupied 23923
dwelling or property is located that expressly provides for the 23924
reduction of the distance of the location of a well or a tank 23925
battery, as applicable, from an occupied dwelling or a property 23926
line; 23927

(2) A copy of a deed severing the oil or gas mineral rights, 23928
as applicable, from the owner's parcel of land as recorded in the 23929
office of the county recorder of the county in which the property 23930
is located that expressly provides for the reduction of the 23931
distance of the location of a well or a tank battery, as 23932
applicable, from an occupied dwelling or a property line; 23933

(3) A written statement that consents to the proposed 23934
location of a well or a tank battery, as applicable, and that is 23935
approved by the chief. For purposes of division (G)(3) of this 23936
section, an applicant shall submit a copy of a written statement 23937
to the chief. 23938

(H) For areas that are not urbanized areas, the surface 23939

location of a new well shall not be within one hundred feet of an 23940
occupied private dwelling or of a public building that may be used 23941
as a place of assembly, education, entertainment, lodging, trade, 23942
manufacture, repair, storage, or occupancy by the public. This 23943
division does not apply to a building or other structure that is 23944
incidental to agricultural use of the land on which the building 23945
or other structure is located unless the building or other 23946
structure is used as an occupied private dwelling or for retail 23947
trade. 23948

(I) The surface location of a new well shall not be within 23949
one hundred feet of any other well. However, an applicant may 23950
submit a written statement to request the chief to authorize a new 23951
well to be located at a distance that is less than one hundred 23952
feet from another well. If the chief receives such a written 23953
statement, the chief may authorize a new well to be located within 23954
one hundred feet of another well if the chief determines that the 23955
applicant satisfactorily has demonstrated that the location of the 23956
new well at a distance that is less than one hundred feet from 23957
another well is necessary to reduce impacts to the owner of the 23958
land on which the well is to be located or to the surface of the 23959
land on which the well is to be located. 23960

(J) For areas that are not urbanized areas, the location of a 23961
new tank battery of a well shall not be within one hundred feet of 23962
an existing inhabited structure. 23963

(K) The location of a new tank battery of a well shall not be 23964
within fifty feet of any other well. 23965

(L) The location of a new well or a new tank battery of a 23966
well shall not be within fifty feet of a stream, river, 23967
watercourse, water well, pond, lake, or other body of water. 23968
However, the chief may authorize a new well or a new tank battery 23969
of a well to be located at a distance that is less than fifty feet 23970
from a stream, river, watercourse, water well, pond, lake, or 23971

other body of water if the chief determines that the reduction in 23972
the distance is necessary to reduce impacts to the owner of the 23973
land on which the well or tank battery of a well is to be located 23974
or to protect public safety or the environment. 23975

(M) The surface location of a new well or a new tank battery 23976
of a well shall not be within fifty feet of a railroad track or of 23977
the traveled portion of a public street, road, or highway. This 23978
division applies regardless of whether the public street, road, or 23979
highway has become part of the drilling unit of the well pursuant 23980
to a mandatory pooling order issued under section 1509.27 of the 23981
Revised Code. 23982

~~(M)~~(N) A new oil tank shall not be within three feet of 23983
another oil tank. 23984

~~(N)~~(O) The surface location of a mechanical separator shall 23985
not be within any of the following: 23986

(1) Fifty feet of a well; 23987

(2) Ten feet of an oil tank; 23988

(3) One hundred feet of an existing inhabited structure. 23989

~~(O)~~(P) A vessel that is equipped in such a manner that the 23990
contents of the vessel may be heated shall not be within any of 23991
the following: 23992

(1) Fifty feet of an oil production tank; 23993

(2) Fifty feet of a well; 23994

(3) One hundred feet of an existing inhabited structure; 23995

(4) If the contents of the vessel are heated by a direct fire 23996
heater, fifty feet of a mechanical separator. 23997

Sec. 1509.022. Except as provided in section 1509.021 of the 23998
Revised Code, the surface location of a new well that will be 23999
drilled using directional drilling may be located on a parcel of 24000

land that is not in the drilling unit of the well. 24001

Sec. 1509.03. (A) The chief of the division of ~~mineral oil~~ oil 24002
and gas resources management shall adopt, rescind, and amend, in 24003
accordance with Chapter 119. of the Revised Code, rules for the 24004
administration, implementation, and enforcement of this chapter. 24005
The rules shall include an identification of the subjects that the 24006
chief shall address when attaching terms and conditions to a 24007
permit with respect to a well and production facilities of a well 24008
that are located within an urbanized area. The subjects shall 24009
include all of the following: 24010

(1) Safety concerning the drilling or operation of a well; 24011

(2) Protection of the public and private water supply; 24012

(3) Fencing and screening of surface facilities of a well; 24013

(4) Containment and disposal of drilling and production 24014
wastes; 24015

(5) Construction of access roads for purposes of the drilling 24016
and operation of a well; 24017

(6) Noise mitigation for purposes of the drilling of a well 24018
and the operation of a well, excluding safety and maintenance 24019
operations. 24020

No person shall violate any rule of the chief adopted under 24021
this chapter. 24022

(B) Any order issuing, denying, or modifying a permit or 24023
notices required to be made by the chief pursuant to this chapter 24024
shall be made in compliance with Chapter 119. of the Revised Code, 24025
except that personal service may be used in lieu of service by 24026
mail. Every order issuing, denying, or modifying a permit under 24027
this chapter and described as such shall be considered an 24028
adjudication order for purposes of Chapter 119. of the Revised 24029

Code. 24030

Where notice to the owners is required by this chapter, the 24031
notice shall be given as prescribed by a rule adopted by the chief 24032
to govern the giving of notices. The rule shall provide for notice 24033
by publication except in those cases where other types of notice 24034
are necessary in order to meet the requirements of the law. 24035

(C) The chief or the chief's authorized representative may at 24036
any time enter upon lands, public or private, for the purpose of 24037
administration or enforcement of this chapter, the rules adopted 24038
or orders made thereunder, or terms or conditions of permits or 24039
registration certificates issued thereunder and may examine and 24040
copy records pertaining to the drilling, conversion, or operation 24041
of a well for injection of fluids and logs required by division 24042
(C) of section 1509.223 of the Revised Code. No person shall 24043
prevent or hinder the chief or the chief's authorized 24044
representative in the performance of official duties. If entry is 24045
prevented or hindered, the chief or the chief's authorized 24046
representative may apply for, and the court of common pleas may 24047
issue, an appropriate inspection warrant necessary to achieve the 24048
purposes of this chapter within the court's territorial 24049
jurisdiction. 24050

(D) The chief may issue orders to enforce this chapter, rules 24051
adopted thereunder, and terms or conditions of permits issued 24052
thereunder. Any such order shall be considered an adjudication 24053
order for the purposes of Chapter 119. of the Revised Code. No 24054
person shall violate any order of the chief issued under this 24055
chapter. No person shall violate a term or condition of a permit 24056
or registration certificate issued under this chapter. 24057

(E) Orders of the chief denying, suspending, or revoking a 24058
registration certificate; approving or denying approval of an 24059
application for revision of a registered transporter's plan for 24060
disposal; or to implement, administer, or enforce division (A) of 24061

section 1509.224 and sections 1509.22, 1509.222, 1509.223,
1509.225, and 1509.226 of the Revised Code pertaining to the
transportation of brine by vehicle and the disposal of brine so
transported are not adjudication orders for purposes of Chapter
119. of the Revised Code. The chief shall issue such orders under
division (A) or (B) of section 1509.224 of the Revised Code, as
appropriate.

Sec. 1509.04. (A) The chief of the division of ~~mineral oil~~
and gas resources management, or the chief's authorized
representatives, shall enforce this chapter and the rules, terms
and conditions of permits and registration certificates, and
orders adopted or issued pursuant thereto, except that any peace
officer, as defined in section 2935.01 of the Revised Code, may
arrest for violations of this chapter involving transportation of
brine by vehicle. The enforcement authority of the chief includes
the authority to issue compliance notices and to enter into
compliance agreements.

(B)(1) The chief or the chief's authorized representative may
issue an administrative order to an owner for a violation of this
chapter or rules adopted under it, terms and conditions of a
permit issued under it, a registration certificate that is
required under this chapter, or orders issued under this chapter.

(2) The chief may issue an order finding that an owner has
committed a material and substantial violation.

(C) The chief, by order, immediately may suspend drilling,
operating, or plugging activities that are related to a material
and substantial violation and suspend and revoke an unused permit
after finding either of the following:

(1) An owner has failed to comply with an order issued under
division (B)(2) of this section that is final and nonappealable.

(2) An owner is causing, engaging in, or maintaining a condition or activity that the chief determines presents an imminent danger to the health or safety of the public or that results in or is likely to result in immediate substantial damage to the natural resources of this state.

(D)(1) The chief may issue an order under division (C) of this section without prior notification if reasonable attempts to notify the owner have failed or if the owner is currently in material breach of a prior order, but in such an event notification shall be given as soon thereafter as practical.

(2) Not later than five days after the issuance of an order under division (C) of this section, the chief shall provide the owner an opportunity to be heard and to present evidence that one of the following applies:

(a) The condition or activity does not present an imminent danger to the public health or safety or is not likely to result in immediate substantial damage to natural resources.

(b) Required records, reports, or logs have been submitted.

(3) If the chief, after considering evidence presented by the owner under division (D)(2)(a) of this section, determines that the activities do not present such a threat or that the required records, reports, or logs have been submitted under division (D)(2)(b) of this section, the chief shall revoke the order. The owner may appeal an order to the court of common pleas of the county in which the activity that is the subject of the order is located.

(E) The chief may issue a bond forfeiture order pursuant to section 1509.071 of the Revised Code for failure to comply with a final nonappealable order issued or compliance agreement entered into under this section.

(F) The chief may notify drilling contractors, transporters,

service companies, or other similar entities of the compliance 24123
status of an owner. 24124

If the owner fails to comply with a prior enforcement action 24125
of the chief, the chief may issue a suspension order without prior 24126
notification, but in such an event the chief shall give notice as 24127
soon thereafter as practical. Not later than five calendar days 24128
after the issuance of an order, the chief shall provide the owner 24129
an opportunity to be heard and to present evidence that required 24130
records, reports, or logs have been submitted. If the chief, after 24131
considering the evidence presented by the owner, determines that 24132
the requirements have been satisfied, the chief shall revoke the 24133
suspension order. The owner may appeal a suspension order to the 24134
court of common pleas of the county in which the activity that is 24135
the subject of the suspension order is located. 24136

(G) The prosecuting attorney of the county or the attorney 24137
general, upon the request of the chief, may apply to the court of 24138
common pleas in the county in which any of the provisions of this 24139
chapter or any rules, terms or conditions of a permit or 24140
registration certificate, or orders adopted or issued pursuant to 24141
this chapter are being violated for a temporary restraining order, 24142
preliminary injunction, or permanent injunction restraining any 24143
person from such violation. 24144

Sec. 1509.041. The chief of the division of ~~mineral oil and~~ 24145
~~gas~~ resources management shall maintain a database on the division 24146
of ~~mineral oil and gas~~ resources management's web site that is 24147
accessible to the public. The database shall list each final 24148
nonappealable order issued for a material and substantial 24149
violation under this chapter. The list shall identify the 24150
violator, the date on which the violation occurred, and the date 24151
on which the violation was corrected. 24152

Sec. 1509.05. No person shall drill a new well, drill an existing well any deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a source of supply different from the existing pool, without having a permit to do so issued by the chief of the division of ~~mineral oil~~ and gas resources management, and until the original permit or a photostatic copy thereof is posted or displayed in a conspicuous and easily accessible place at the well site, with the name, current address, and telephone number of the permit holder and the telephone numbers for fire and emergency medical services maintained on the posted permit or copy. The permit or a copy shall be continuously displayed in that manner at all times during the work authorized by the permit.

Sec. 1509.06. (A) An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply, including associated production operations, shall be filed with the chief of the division of ~~mineral oil~~ and gas resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:

(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.

(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

(4) The location of the tract or drilling unit on which the

well is located or is to be drilled identified by section or lot	24183
number, city, village, township, and county;	24184
(5) Designation of the well by name and number;	24185
(6) The geological formation to be tested or used and the	24186
proposed total depth of the well;	24187
(7) The type of drilling equipment to be used;	24188
(8) If the well is for the injection of a liquid, identity of	24189
the geological formation to be used as the injection zone and the	24190
composition of the liquid to be injected;	24191
(9) For an application for a permit to drill a new well	24192
within an urbanized area, a sworn statement that the applicant has	24193
provided notice by regular mail of the application to the owner of	24194
each parcel of real property that is located within five hundred	24195
feet of the surface location of the well and to the executive	24196
authority of the municipal corporation or the board of township	24197
trustees of the township, as applicable, in which the well is to	24198
be located. In addition, the notice shall contain a statement that	24199
informs an owner of real property who is required to receive the	24200
notice under division (A)(9) of this section that within five days	24201
of receipt of the notice, the owner is required to provide notice	24202
under section 1509.60 of the Revised Code to each residence in an	24203
occupied dwelling that is located on the owner's parcel of real	24204
property. The notice shall contain a statement that an application	24205
has been filed with the division of mineral <u>oil and gas</u> resources	24206
management, identify the name of the applicant and the proposed	24207
well location, include the name and address of the division, and	24208
contain a statement that comments regarding the application may be	24209
sent to the division. The notice may be provided by hand delivery	24210
or regular mail. The identity of the owners of parcels of real	24211
property shall be determined using the tax records of the	24212
municipal corporation or county in which a parcel of real property	24213

is located as of the date of the notice. 24214

(10) A plan for restoration of the land surface disturbed by 24215
drilling operations. The plan shall provide for compliance with 24216
the restoration requirements of division (A) of section 1509.072 24217
of the Revised Code and any rules adopted by the chief pertaining 24218
to that restoration. 24219

(11) A description by name or number of the county, township, 24220
and municipal corporation roads, streets, and highways that the 24221
applicant anticipates will be used for access to and egress from 24222
the well site; 24223

(12) Such other relevant information as the chief prescribes 24224
by rule. 24225

Each application shall be accompanied by a map, on a scale 24226
not smaller than four hundred feet to the inch, prepared by an 24227
Ohio registered surveyor, showing the location of the well and 24228
containing such other data as may be prescribed by the chief. If 24229
the well is or is to be located within the excavations and 24230
workings of a mine, the map also shall include the location of the 24231
mine, the name of the mine, and the name of the person operating 24232
the mine. 24233

(B) The chief shall cause a copy of the weekly circular 24234
prepared by the division to be provided to the county engineer of 24235
each county that contains active or proposed drilling activity. 24236
The weekly circular shall contain, in the manner prescribed by the 24237
chief, the names of all applicants for permits, the location of 24238
each well or proposed well, the information required by division 24239
(A)(11) of this section, and any additional information the chief 24240
prescribes. In addition, the chief promptly shall transfer an 24241
electronic copy or facsimile, or if those methods are not 24242
available to a municipal corporation or township, a copy via 24243
regular mail, of a drilling permit application to the clerk of the 24244

legislative authority of the municipal corporation or to the clerk 24245
of the township in which the well or proposed well is or is to be 24246
located if the legislative authority of the municipal corporation 24247
or the board of township trustees has asked to receive copies of 24248
such applications and the appropriate clerk has provided the chief 24249
an accurate, current electronic mailing address or facsimile 24250
number, as applicable. 24251

(C)(1) Except as provided in division (C)(2) of this section, 24252
the chief shall not issue a permit for at least ten days after the 24253
date of filing of the application for the permit unless, upon 24254
reasonable cause shown, the chief waives that period or a request 24255
for expedited review is filed under this section. However, the 24256
chief shall issue a permit within twenty-one days of the filing of 24257
the application unless the chief denies the application by order. 24258

(2) If the location of a well or proposed well will be or is 24259
within an urbanized area, the chief shall not issue a permit for 24260
at least eighteen days after the date of filing of the application 24261
for the permit unless, upon reasonable cause shown, the chief 24262
waives that period or the chief at the chief's discretion grants a 24263
request for an expedited review. However, the chief shall issue a 24264
permit for a well or proposed well within an urbanized area within 24265
thirty days of the filing of the application unless the chief 24266
denies the application by order. 24267

(D) An applicant may file a request with the chief for 24268
expedited review of a permit application if the well is not or is 24269
not to be located in a gas storage reservoir or reservoir 24270
protective area, as "reservoir protective area" is defined in 24271
section 1571.01 of the Revised Code. If the well is or is to be 24272
located in a coal bearing township, the application shall be 24273
accompanied by the affidavit of the landowner prescribed in 24274
section 1509.08 of the Revised Code. 24275

In addition to a complete application for a permit that meets 24276

the requirements of this section and the permit fee prescribed by 24277
this section, a request for expedited review shall be accompanied 24278
by a separate nonrefundable filing fee of two hundred fifty 24279
dollars. Upon the filing of a request for expedited review, the 24280
chief shall cause the county engineer of the county in which the 24281
well is or is to be located to be notified of the filing of the 24282
permit application and the request for expedited review by 24283
telephone or other means that in the judgment of the chief will 24284
provide timely notice of the application and request. The chief 24285
shall issue a permit within seven days of the filing of the 24286
request unless the chief denies the application by order. 24287
Notwithstanding the provisions of this section governing expedited 24288
review of permit applications, the chief may refuse to accept 24289
requests for expedited review if, in the chief's judgment, the 24290
acceptance of the requests would prevent the issuance, within 24291
twenty-one days of their filing, of permits for which applications 24292
are pending. 24293

(E) A well shall be drilled and operated in accordance with 24294
the plans, sworn statements, and other information submitted in 24295
the approved application. 24296

(F) The chief shall issue an order denying a permit if the 24297
chief finds that there is a substantial risk that the operation 24298
will result in violations of this chapter or rules adopted under 24299
it that will present an imminent danger to public health or safety 24300
or damage to the environment, provided that where the chief finds 24301
that terms or conditions to the permit can reasonably be expected 24302
to prevent such violations, the chief shall issue the permit 24303
subject to those terms or conditions, including, if applicable, 24304
terms and conditions regarding subjects identified in rules 24305
adopted under section 1509.03 of the Revised Code. The issuance of 24306
a permit shall not be considered an order of the chief. 24307

(G) Each application for a permit required by section 1509.05 24308

of the Revised Code, except an application to plug back an 24309
existing well that is required by that section and an application 24310
for a well drilled or reopened for purposes of section 1509.22 of 24311
the Revised Code, also shall be accompanied by a nonrefundable fee 24312
as follows: 24313

(1) Five hundred dollars for a permit to conduct activities 24314
in a township with a population of fewer than ten thousand; 24315

(2) Seven hundred fifty dollars for a permit to conduct 24316
activities in a township with a population of ten thousand or 24317
more, but fewer than fifteen thousand; 24318

(3) One thousand dollars for a permit to conduct activities 24319
in either of the following: 24320

(a) A township with a population of fifteen thousand or more; 24321

(b) A municipal corporation regardless of population. 24322

(4) If the application is for a permit that requires 24323
mandatory pooling, an additional five thousand dollars. 24324

For purposes of calculating fee amounts, populations shall be 24325
determined using the most recent federal decennial census. 24326

Each application for the revision or reissuance of a permit 24327
shall be accompanied by a nonrefundable fee of two hundred fifty 24328
dollars. 24329

(H) Prior to the issuance of a permit to drill a proposed 24330
well that is to be located in an urbanized area, the division 24331
shall conduct a site review to identify and evaluate any 24332
site-specific terms and conditions that may be attached to the 24333
permit. At the site review, a representative of the division shall 24334
consider fencing, screening, and landscaping requirements, if any, 24335
for similar structures in the community in which the well is 24336
proposed to be located. The terms and conditions that are attached 24337
to the permit shall include the establishment of fencing, 24338

screening, and landscaping requirements for the surface facilities 24339
of the proposed well, including a tank battery of the well. 24340

(I) A permit shall be issued by the chief in accordance with 24341
this chapter. A permit issued under this section for a well that 24342
is or is to be located in an urbanized area shall be valid for 24343
twelve months, and all other permits issued under this section 24344
shall be valid for twenty-four months. 24345

(J) A permittee or a permittee's authorized representative 24346
shall notify an inspector from the division of ~~mineral resources~~ 24347
~~management~~ at least twenty-four hours, or another time period 24348
agreed to by the chief's authorized representative, prior to the 24349
commencement of drilling, reopening, converting, well stimulation, 24350
or plugback operations. 24351

Sec. 1509.061. An owner of a well who has been issued a 24352
permit under section 1509.06 of the Revised Code may submit to the 24353
chief of the division of ~~mineral~~ oil and gas resources management, 24354
on a form prescribed by the chief, a request to revise an existing 24355
tract upon which exists a producing or idle well. The chief shall 24356
adopt, and may amend and rescind, rules under section 1509.03 of 24357
the Revised Code that are necessary for the administration of this 24358
section. The rules at least shall stipulate the information to be 24359
included on the request form and shall establish a fee to be paid 24360
by the person submitting the request, which fee shall not exceed 24361
two hundred fifty dollars. 24362

The chief shall approve a request submitted under this 24363
section unless it would result in a violation of this chapter or 24364
rules adopted under it, including provisions establishing spacing 24365
or minimum acreage requirements. 24366

Sec. 1509.062. (A)(1) The owner of a well that has not been 24367
completed, a well that has not produced within one year after 24368

completion, or an existing well that has no reported production 24369
for two consecutive reporting periods as reported in accordance 24370
with section 1509.11 of the Revised Code shall plug the well in 24371
accordance with section 1509.12 of the Revised Code, obtain 24372
temporary inactive well status for the well in accordance with 24373
this section, or perform another activity regarding the well that 24374
is approved by the chief of the division of ~~mineral~~ oil and gas 24375
resources management. 24376

(2) If a well has a reported annual production that is less 24377
than one hundred thousand cubic feet of natural gas or fifteen 24378
barrels of crude oil, or a combination thereof, the chief may 24379
require the owner of the well to submit an application for 24380
temporary inactive well status under this section for the well. 24381

(B) In order for the owner of a well to submit an application 24382
for temporary inactive well status for the well under this 24383
division, the owner and the well shall be in compliance with this 24384
chapter and rules adopted under it, any terms and conditions of 24385
the permit for the well, and applicable orders issued by the 24386
chief. An application for temporary inactive status for a well 24387
shall be submitted to the chief on a form prescribed and provided 24388
by the chief and shall contain all of the following: 24389

(1) The owner's name and address and, if the owner is a 24390
corporation, the name and address of the corporation's statutory 24391
agent; 24392

(2) The signature of the owner or of the owner's authorized 24393
agent. When an authorized agent signs an application, the 24394
application shall be accompanied by a certified copy of the 24395
appointment as such agent. 24396

(3) The permit number assigned to the well. If the well has 24397
not been assigned a permit number, the chief shall assign a permit 24398
number to the well. 24399

(4) A map, on a scale not smaller than four hundred feet to 24400
the inch, that shows the location of the well and the tank 24401
battery, that includes the latitude and longitude of the well, and 24402
that contains all other data that are required by the chief; 24403

(5) A demonstration that the well is of future utility and 24404
that the applicant has a viable plan to utilize the well within a 24405
reasonable period of time; 24406

(6) A demonstration that the well poses no threat to the 24407
health or safety of persons, property, or the environment; 24408

(7) Any other relevant information that the chief prescribes 24409
by rule. 24410

The chief may waive any of the requirements established in 24411
divisions (B)(1) to (6) of this section if the division of ~~mineral~~ 24412
oil and gas resources management possesses a current copy of the 24413
information or document that is required in the applicable 24414
division. 24415

(C) Upon receipt of an application for temporary inactive 24416
well status, the chief shall review the application and shall 24417
either deny the application by issuing an order or approve the 24418
application. The chief shall approve the application only if the 24419
chief determines that the well that is the subject of the 24420
application poses no threat to the health or safety of persons, 24421
property, or the environment. If the chief approves the 24422
application, the chief shall notify the applicant of the chief's 24423
approval. Upon receipt of the chief's approval, the owner shall 24424
shut in the well and empty all liquids and gases from all storage 24425
tanks, pipelines, and other equipment associated with the well. In 24426
addition, the owner shall maintain the well, other equipment 24427
associated with the well, and the surface location of the well in 24428
a manner that prevents hazards to the health and safety of people 24429
and the environment. The owner shall inspect the well at least 24430

every six months and submit to the chief within fourteen days 24431
after the inspection a record of inspection on a form prescribed 24432
and provided by the chief. 24433

(D) Not later than thirty days prior to the expiration of 24434
temporary inactive well status or a renewal of temporary inactive 24435
well status approved by the chief for a well, the owner of the 24436
well may submit to the chief an application for renewal of the 24437
temporary inactive well status on a form prescribed and provided 24438
by the chief. The application shall include a detailed plan that 24439
describes the ultimate disposition of the well, the time frames 24440
for that disposition, and any other information that the chief 24441
determines is necessary. The chief shall either deny an 24442
application by order or approve the application. If the chief 24443
approves the application, the chief shall notify the owner of the 24444
well of the chief's approval. 24445

(E) An application for temporary inactive well status shall 24446
be accompanied by a nonrefundable fee of one hundred dollars. An 24447
application for a renewal of temporary inactive well status shall 24448
be accompanied by a nonrefundable fee of two hundred fifty dollars 24449
for the first renewal and five hundred dollars for each subsequent 24450
renewal. 24451

(F) After a third renewal, the chief may require an owner to 24452
provide a surety bond in an amount not to exceed ten thousand 24453
dollars for each of the owner's wells that has been approved by 24454
the chief for temporary inactive well status. 24455

(G) Temporary inactive well status approved by the chief 24456
expires one year after the date of approval of the application for 24457
temporary inactive well status or production from the well 24458
commences, whichever occurs sooner. In addition, a renewal of a 24459
temporary inactive well status expires one year after the 24460
expiration date of the initial temporary inactive well status or 24461
one year after the expiration date of the previous renewal of the 24462

temporary inactive well status, as applicable, or production from 24463
the well commences, whichever occurs sooner. 24464

(H) The owner of a well that has been approved by the chief 24465
for temporary inactive well status may commence production from 24466
the well at any time. Not later than sixty days after the 24467
commencement of production from such a well, the owner shall 24468
notify the chief of the commencement of production. 24469

(I) This chapter and rules adopted under it, any terms and 24470
conditions of the permit for a well, and applicable orders issued 24471
by the chief apply to a well that has been approved by the chief 24472
for temporary inactive well status or renewal of that status. 24473

Sec. 1509.07. An owner of any well, except an exempt 24474
Mississippian well or an exempt domestic well, shall obtain 24475
liability insurance coverage from a company authorized to do 24476
business in this state in an amount of not less than one million 24477
dollars bodily injury coverage and property damage coverage to pay 24478
damages for injury to persons or damage to property caused by the 24479
drilling, operation, or plugging of all the owner's wells in this 24480
state. However, if any well is located within an urbanized area, 24481
the owner shall obtain liability insurance coverage in an amount 24482
of not less than three million dollars for bodily injury coverage 24483
and property damage coverage to pay damages for injury to persons 24484
or damage to property caused by the drilling, operation, or 24485
plugging of all of the owner's wells in this state. The owner 24486
shall maintain the coverage until all the owner's wells are 24487
plugged and abandoned or are transferred to an owner who has 24488
obtained insurance as required under this section and who is not 24489
under a notice of material and substantial violation or under a 24490
suspension order. The owner shall provide proof of liability 24491
insurance coverage to the chief of the division of mineral oil and 24492
gas resources management upon request. Upon failure of the owner 24493

to provide that proof when requested, the chief may order the 24494
suspension of any outstanding permits and operations of the owner 24495
until the owner provides proof of the required insurance coverage. 24496

Except as otherwise provided in this section, an owner of any 24497
well, before being issued a permit under section 1509.06 of the 24498
Revised Code or before operating or producing from a well, shall 24499
execute and file with the division of ~~mineral oil and gas~~ 24500
resources management a surety bond conditioned on compliance with 24501
the restoration requirements of section 1509.072, the plugging 24502
requirements of section 1509.12, the permit provisions of section 24503
1509.13 of the Revised Code, and all rules and orders of the chief 24504
relating thereto, in an amount set by rule of the chief. 24505

The owner may deposit with the chief, instead of a surety 24506
bond, cash in an amount equal to the surety bond as prescribed 24507
pursuant to this section or negotiable certificates of deposit or 24508
irrevocable letters of credit, issued by any bank organized or 24509
transacting business in this state or by any savings and loan 24510
association as defined in section 1151.01 of the Revised Code, 24511
having a cash value equal to or greater than the amount of the 24512
surety bond as prescribed pursuant to this section. Cash or 24513
certificates of deposit shall be deposited upon the same terms as 24514
those upon which surety bonds may be deposited. If certificates of 24515
deposit are deposited with the chief instead of a surety bond, the 24516
chief shall require the bank or savings and loan association that 24517
issued any such certificate to pledge securities of a cash value 24518
equal to the amount of the certificate that is in excess of the 24519
amount insured by any of the agencies and instrumentalities 24520
created under the "Federal Deposit Insurance Act," 64 Stat. 873 24521
(1950), 12 U.S.C. 1811, as amended, and regulations adopted under 24522
it, including at least the federal deposit insurance corporation, 24523
bank insurance fund, and savings association insurance fund. The 24524
securities shall be security for the repayment of the certificate 24525

of deposit. 24526

Immediately upon a deposit of cash, certificates of deposit, 24527
or letters of credit with the chief, the chief shall deliver them 24528
to the treasurer of state who shall hold them in trust for the 24529
purposes for which they have been deposited. 24530

Instead of a surety bond, the chief may accept proof of 24531
financial responsibility consisting of a sworn financial statement 24532
showing a net financial worth within this state equal to twice the 24533
amount of the bond for which it substitutes and, as may be 24534
required by the chief, a list of producing properties of the owner 24535
within this state or other evidence showing ability and intent to 24536
comply with the law and rules concerning restoration and plugging 24537
that may be required by rule of the chief. The owner of an exempt 24538
Mississippian well is not required to file scheduled updates of 24539
the financial documents, but shall file updates of those documents 24540
if requested to do so by the chief. The owner of a nonexempt 24541
Mississippian well shall file updates of the financial documents 24542
in accordance with a schedule established by rule of the chief. 24543
The chief, upon determining that an owner for whom the chief has 24544
accepted proof of financial responsibility instead of bond cannot 24545
demonstrate financial responsibility, shall order that the owner 24546
execute and file a bond or deposit cash, certificates of deposit, 24547
or irrevocable letters of credit as required by this section for 24548
the wells specified in the order within ten days of receipt of the 24549
order. If the order is not complied with, all wells of the owner 24550
that are specified in the order and for which no bond is filed or 24551
cash, certificates of deposit, or letters of credit are deposited 24552
shall be plugged. No owner shall fail or refuse to plug such a 24553
well. Each day on which such a well remains unplugged thereafter 24554
constitutes a separate offense. 24555

The surety bond provided for in this section shall be 24556
executed by a surety company authorized to do business in this 24557

state. 24558

The chief shall not approve any bond until it is personally 24559
signed and acknowledged by both principal and surety, or as to 24560
either by the principal's or surety's attorney in fact, with a 24561
certified copy of the power of attorney attached thereto. The 24562
chief shall not approve a bond unless there is attached a 24563
certificate of the superintendent of insurance that the company is 24564
authorized to transact a fidelity and surety business in this 24565
state. 24566

All bonds shall be given in a form to be prescribed by the 24567
chief and shall run to the state as obligee. 24568

An owner of an exempt Mississippian well or an exempt 24569
domestic well, in lieu of filing a surety bond, cash in an amount 24570
equal to the surety bond, certificates of deposit, irrevocable 24571
letters of credit, or a sworn financial statement, may file a 24572
one-time fee of fifty dollars, which shall be deposited in the oil 24573
and gas well plugging fund created in section 1509.071 of the 24574
Revised Code. 24575

An owner, operator, producer, or other person shall not 24576
operate a well or produce from a well at any time if the owner, 24577
operator, producer, or other person has not satisfied the 24578
requirements established in this section. 24579

Sec. 1509.071. (A) When the chief of the division of ~~mineral~~ 24580
oil and gas resources management finds that an owner has failed to 24581
comply with a final nonappealable order issued or compliance 24582
agreement entered into under section 1509.04, the restoration 24583
requirements of section 1509.072, plugging requirements of section 24584
1509.12, or permit provisions of section 1509.13 of the Revised 24585
Code, or rules and orders relating thereto, the chief shall make a 24586
finding of that fact and declare any surety bond filed to ensure 24587
compliance with those sections and rules forfeited in the amount 24588

set by rule of the chief. The chief thereupon shall certify the 24589
total forfeiture to the attorney general, who shall proceed to 24590
collect the amount of the forfeiture. In addition, the chief may 24591
require an owner, operator, producer, or other person who 24592
forfeited a surety bond to post a new surety bond in the amount of 24593
fifteen thousand dollars for a single well, thirty thousand 24594
dollars for two wells, or fifty thousand dollars for three or more 24595
wells. 24596

In lieu of total forfeiture, the surety or owner, at the 24597
surety's or owner's option, may cause the well to be properly 24598
plugged and abandoned and the area properly restored or pay to the 24599
treasurer of state the cost of plugging and abandonment. 24600

(B) All moneys collected because of forfeitures of bonds as 24601
provided in this section shall be deposited in the state treasury 24602
to the credit of the oil and gas well fund created in section 24603
1509.02 of the Revised Code. 24604

The chief annually shall spend not less than fourteen per 24605
cent of the revenue credited to the fund during the previous 24606
fiscal year for the following purposes: 24607

(1) In accordance with division (D) of this section, to plug 24608
idle and orphaned wells or to restore the land surface properly as 24609
required in section 1509.072 of the Revised Code; 24610

(2) In accordance with division (E) of this section, to 24611
correct conditions that the chief reasonably has determined are 24612
causing imminent health or safety risks at an idle and orphaned 24613
well or a well for which the owner cannot be contacted in order to 24614
initiate a corrective action within a reasonable period of time as 24615
determined by the chief. 24616

Expenditures from the fund shall be made only for lawful 24617
purposes. In addition, expenditures from the fund shall not be 24618
made to purchase real property or to remove a dwelling in order to 24619

access a well. 24620

(C)(1) Upon determining that the owner of a well has failed 24621
to properly plug and abandon it or to properly restore the land 24622
surface at the well site in compliance with the applicable 24623
requirements of this chapter and applicable rules adopted and 24624
orders issued under it or that a well is an abandoned well for 24625
which no funds are available to plug the well in accordance with 24626
this chapter, the chief shall do all of the following: 24627

(a) Determine from the records in the office of the county 24628
recorder of the county in which the well is located the identity 24629
of the owner of the land on which the well is located, the 24630
identity of the owner of the oil or gas lease under which the well 24631
was drilled or the identity of each person owning an interest in 24632
the lease, and the identities of the persons having legal title 24633
to, or a lien upon, any of the equipment appurtenant to the well; 24634

(b) Mail notice to the owner of the land on which the well is 24635
located informing the landowner that the well is to be plugged. If 24636
the owner of the oil or gas lease under which the well was drilled 24637
is different from the owner of the well or if any persons other 24638
than the owner of the well own interests in the lease, the chief 24639
also shall mail notice that the well is to be plugged to the owner 24640
of the lease or to each person owning an interest in the lease, as 24641
appropriate. 24642

(c) Mail notice to each person having legal title to, or a 24643
lien upon, any equipment appurtenant to the well, informing the 24644
person that the well is to be plugged and offering the person the 24645
opportunity to plug the well and restore the land surface at the 24646
well site at the person's own expense in order to avoid forfeiture 24647
of the equipment to this state. 24648

(2) If none of the persons described in division (C)(1)(c) of 24649
this section plugs the well within sixty days after the mailing of 24650

the notice required by that division, all equipment appurtenant to 24651
the well is hereby declared to be forfeited to this state without 24652
compensation and without the necessity for any action by the state 24653
for use to defray the cost of plugging and abandoning the well and 24654
restoring the land surface at the well site. 24655

(D) Expenditures from the fund for the purpose of division 24656
(B)(1) of this section shall be made in accordance with either of 24657
the following: 24658

(1) The expenditures may be made pursuant to contracts 24659
entered into by the chief with persons who agree to furnish all of 24660
the materials, equipment, work, and labor as specified and 24661
provided in such a contract for activities associated with the 24662
restoration or plugging of a well as determined by the chief. The 24663
activities may include excavation to uncover a well, geophysical 24664
methods to locate a buried well when clear evidence of leakage 24665
from the well exists, cleanout of wellbores to remove material 24666
from a failed plugging of a well, plugging operations, 24667
installation of vault and vent systems, including associated 24668
engineering certifications and permits, restoration of property, 24669
and repair of damage to property that is caused by such 24670
activities. Expenditures shall not be used for salaries, 24671
maintenance, equipment, or other administrative purposes, except 24672
for costs directly attributed to the plugging of an idle and 24673
orphaned well. Agents or employees of persons contracting with the 24674
chief for a restoration or plugging project may enter upon any 24675
land, public or private, on which the well is located for the 24676
purpose of performing the work. Prior to such entry, the chief 24677
shall give to the following persons written notice of the 24678
existence of a contract for a project to restore or plug a well, 24679
the names of the persons with whom the contract is made, and the 24680
date that the project will commence: the owner of the well, the 24681
owner of the land upon which the well is located, the owner or 24682

agents of adjoining land, and, if the well is located in the same 24683
township as or in a township adjacent to the excavations and 24684
workings of a mine and the owner or lessee of that mine has 24685
provided written notice identifying those townships to the chief 24686
at any time during the immediately preceding three years, the 24687
owner or lessee of the mine. 24688

(2)(a) The owner of the land on which a well is located who 24689
has received notice under division (C)(1)(b) of this section may 24690
plug the well and be reimbursed by the division of oil and gas 24691
resources management for the reasonable cost of plugging the well. 24692
In order to plug the well, the landowner shall submit an 24693
application to the chief on a form prescribed by the chief and 24694
approved by the technical advisory council on oil and gas created 24695
in section 1509.38 of the Revised Code. The application, at a 24696
minimum, shall require the landowner to provide the same 24697
information as is required to be included in the application for a 24698
permit to plug and abandon under section 1509.13 of the Revised 24699
Code. The application shall be accompanied by a copy of a proposed 24700
contract to plug the well prepared by a contractor regularly 24701
engaged in the business of plugging oil and gas wells. The 24702
proposed contract shall require the contractor to furnish all of 24703
the materials, equipment, work, and labor necessary to plug the 24704
well properly and shall specify the price for doing the work, 24705
including a credit for the equipment appurtenant to the well that 24706
was forfeited to the state through the operation of division 24707
(C)(2) of this section. Expenditures under division (D)(2)(a) of 24708
this section shall be consistent with the expenditures for 24709
activities described in division (D)(1) of this section. The 24710
application also shall be accompanied by the permit fee required 24711
by section 1509.13 of the Revised Code unless the chief, in the 24712
chief's discretion, waives payment of the permit fee. The 24713
application constitutes an application for a permit to plug and 24714
abandon the well for the purposes of section 1509.13 of the 24715

Revised Code. 24716

(b) Within thirty days after receiving an application and 24717
accompanying proposed contract under division (D)(2)(a) of this 24718
section, the chief shall determine whether the plugging would 24719
comply with the applicable requirements of this chapter and 24720
applicable rules adopted and orders issued under it and whether 24721
the cost of the plugging under the proposed contract is 24722
reasonable. If the chief determines that the proposed plugging 24723
would comply with those requirements and that the proposed cost of 24724
the plugging is reasonable, the chief shall notify the landowner 24725
of that determination and issue to the landowner a permit to plug 24726
and abandon the well under section 1509.13 of the Revised Code. 24727
Upon approval of the application and proposed contract, the chief 24728
shall transfer ownership of the equipment appurtenant to the well 24729
to the landowner. The chief may disapprove an application 24730
submitted under division (D)(2)(a) of this section if the chief 24731
determines that the proposed plugging would not comply with the 24732
applicable requirements of this chapter and applicable rules 24733
adopted and orders issued under it, that the cost of the plugging 24734
under the proposed contract is unreasonable, or that the proposed 24735
contract is not a bona fide, ~~arms~~ arm's length contract. 24736

(c) After receiving the chief's notice of the approval of the 24737
application and permit to plug and abandon a well under division 24738
(D)(2)(b) of this section, the landowner shall enter into the 24739
proposed contract to plug the well. 24740

(d) Upon determining that the plugging has been completed in 24741
compliance with the applicable requirements of this chapter and 24742
applicable rules adopted and orders issued under it, the chief 24743
shall reimburse the landowner for the cost of the plugging as set 24744
forth in the proposed contract approved by the chief. The 24745
reimbursement shall be paid from the oil and gas well fund. If the 24746
chief determines that the plugging was not completed in accordance 24747

with the applicable requirements, the chief shall not reimburse 24748
the landowner for the cost of the plugging, and the landowner or 24749
the contractor, as applicable, promptly shall transfer back to 24750
this state title to and possession of the equipment appurtenant to 24751
the well that previously was transferred to the landowner under 24752
division (D)(2)(b) of this section. If any such equipment was 24753
removed from the well during the plugging and sold, the landowner 24754
shall pay to the chief the proceeds from the sale of the 24755
equipment, and the chief promptly shall pay the moneys so received 24756
to the treasurer of state for deposit into the oil and gas well 24757
fund. 24758

The chief may establish an annual limit on the number of 24759
wells that may be plugged under division (D)(2) of this section or 24760
an annual limit on the expenditures to be made under that 24761
division. 24762

As used in division (D)(2) of this section, "plug" and 24763
"plugging" include the plugging of the well and the restoration of 24764
the land surface disturbed by the plugging. 24765

(E) Expenditures from the oil and gas well fund for the 24766
purpose of division (B)(2) of this section may be made pursuant to 24767
contracts entered into by the chief with persons who agree to 24768
furnish all of the materials, equipment, work, and labor as 24769
specified and provided in such a contract. The competitive bidding 24770
requirements of Chapter 153. of the Revised Code do not apply if 24771
the chief reasonably determines that correction of the applicable 24772
health or safety risk requires immediate action. The chief, 24773
designated representatives of the chief, and agents or employees 24774
of persons contracting with the chief under this division may 24775
enter upon any land, public or private, for the purpose of 24776
performing the work. 24777

(F) Contracts entered into by the chief under this section 24778
are not subject to either of the following: 24779

(1) Chapter 4115. of the Revised Code; 24780

(2) Section 153.54 of the Revised Code, except that the 24781
contractor shall obtain and provide to the chief as a bid guaranty 24782
a surety bond or letter of credit in an amount equal to ten per 24783
cent of the amount of the contract. 24784

(G) The owner of land on which a well is located who has 24785
received notice under division (C)(1)(b) of this section, in lieu 24786
of plugging the well in accordance with division (D)(2) of this 24787
section, may cause ownership of the well to be transferred to an 24788
owner who is lawfully doing business in this state and who has met 24789
the financial responsibility requirements established under 24790
section 1509.07 of the Revised Code, subject to the approval of 24791
the chief. The transfer of ownership also shall be subject to the 24792
landowner's filing the appropriate forms required under section 24793
1509.31 of the Revised Code and providing to the chief sufficient 24794
information to demonstrate the landowner's or owner's right to 24795
produce a formation or formations. That information may include a 24796
deed, a lease, or other documentation of ownership or property 24797
rights. 24798

The chief shall approve or disapprove the transfer of 24799
ownership of the well. If the chief approves the transfer, the 24800
owner is responsible for operating the well in accordance with 24801
this chapter and rules adopted under it, including, without 24802
limitation, all of the following: 24803

(1) Filing an application with the chief under section 24804
1509.06 of the Revised Code if the owner intends to drill deeper 24805
or produce a formation that is not listed in the records of the 24806
division for that well; 24807

(2) Taking title to and possession of the equipment 24808
appurtenant to the well that has been identified by the chief as 24809
having been abandoned by the former owner; 24810

(3) Complying with all applicable requirements that are 24811
necessary to drill deeper, plug the well, or plug back the well. 24812

(H) The chief shall issue an order that requires the owner of 24813
a well to pay the actual documented costs of a corrective action 24814
that is described in division (B)(2) of this section concerning 24815
the well. The chief shall transmit the money so recovered to the 24816
treasurer of state who shall deposit the money in the state 24817
treasury to the credit of the oil and gas well fund. 24818

Sec. 1509.072. No oil or gas well owner or agent of an oil or 24819
gas well owner shall fail to restore the land surface within the 24820
area disturbed in siting, drilling, completing, and producing the 24821
well as required in this section. 24822

(A) Within fourteen days after the date upon which the 24823
drilling of a well is completed to total depth in an urbanized 24824
area and within two months after the date upon which the drilling 24825
of a well is completed in all other areas, the owner or the 24826
owner's agent, in accordance with the restoration plan filed under 24827
division (A)(10) of section 1509.06 of the Revised Code, shall 24828
fill all the pits for containing brine and other waste substances 24829
resulting, obtained, or produced in connection with exploration or 24830
drilling for oil or gas that are not required by other state or 24831
federal law or regulation, and remove all drilling supplies and 24832
drilling equipment. Unless the chief of the division of ~~mineral~~ 24833
oil and gas resources management approves a longer time period, 24834
within three months after the date upon which the surface drilling 24835
of a well is commenced in an urbanized area and within six months 24836
after the date upon which the surface drilling of a well is 24837
commenced in all other areas, the owner or the owner's agent shall 24838
grade or terrace and plant, seed, or sod the area disturbed that 24839
is not required in production of the well where necessary to bind 24840
the soil and prevent substantial erosion and sedimentation. If the 24841

chief finds that a pit used for containing brine, other waste 24842
substances, or oil is in violation of section 1509.22 of the 24843
Revised Code or rules adopted or orders issued under it, the chief 24844
may require the pit to be emptied and closed before expiration of 24845
the fourteen-day or three-month restoration period. 24846

(B) Within three months after a well that has produced oil or 24847
gas is plugged in an urbanized area and within six months after a 24848
well that has produced oil or gas is plugged in all other areas, 24849
or after the plugging of a dry hole, unless the chief approves a 24850
longer time period, the owner or the owner's agent shall remove 24851
all production and storage structures, supplies, and equipment, 24852
and any oil, salt water, and debris, and fill any remaining 24853
excavations. Within that period the owner or the owner's agent 24854
shall grade or terrace and plant, seed, or sod the area disturbed 24855
where necessary to bind the soil and prevent substantial erosion 24856
and sedimentation. 24857

The owner shall be released from responsibility to perform 24858
any or all restoration requirements of this section on any part or 24859
all of the area disturbed upon the filing of a request for a 24860
waiver with and obtaining the written approval of the chief, which 24861
request shall be signed by the surface owner to certify the 24862
approval of the surface owner of the release sought. The chief 24863
shall approve the request unless the chief finds upon inspection 24864
that the waiver would be likely to result in substantial damage to 24865
adjoining property, substantial contamination of surface or 24866
underground water, or substantial erosion or sedimentation. 24867

The chief, by order, may shorten the time periods provided 24868
for under division (A) or (B) of this section if failure to 24869
shorten the periods would be likely to result in damage to public 24870
health or the waters or natural resources of the state. 24871

The chief, upon written application by an owner or an owner's 24872
agent showing reasonable cause, may extend the period within which 24873

restoration shall be completed under divisions (A) and (B) of this 24874
section, but not to exceed a further six-month period, except 24875
under extraordinarily adverse weather conditions or when essential 24876
equipment, fuel, or labor is unavailable to the owner or the 24877
owner's agent. 24878

If the chief refuses to approve a request for waiver or 24879
extension, the chief shall do so by order. 24880

Sec. 1509.073. A person that is issued a permit under this 24881
chapter to drill a new well or drill an existing well deeper in an 24882
urbanized area shall establish fluid drilling conditions prior to 24883
penetration of the Onondaga limestone and continue to use fluid 24884
drilling until total depth of the well is achieved unless the 24885
chief of the division of ~~mineral~~ oil and gas resources management 24886
authorizes such drilling without using fluid. 24887

Sec. 1509.08. Upon receipt of an application for a permit 24888
required by section 1509.05 of the Revised Code, or upon receipt 24889
of an application for a permit to plug and abandon under section 24890
1509.13 of the Revised Code, the chief of the division of ~~mineral~~ 24891
oil and gas resources management shall determine whether the well 24892
is or is to be located in a coal bearing township. 24893

Whether or not the well is or is to be located in a coal 24894
bearing township, the chief, by order, may refuse to issue a 24895
permit required by section 1509.05 of the Revised Code to any 24896
applicant who at the time of applying for the permit is in 24897
material or substantial violation of this chapter or rules adopted 24898
or orders issued under it. The chief shall refuse to issue a 24899
permit to any applicant who at the time of applying for the permit 24900
has been found liable by a final nonappealable order of a court of 24901
competent jurisdiction for damage to streets, roads, highways, 24902
bridges, culverts, or drainways pursuant to section 4513.34 or 24903

5577.12 of the Revised Code until the applicant provides the chief 24904
with evidence of compliance with the order. No applicant shall 24905
attempt to circumvent this provision by applying for a permit 24906
under a different name or business organization name, by 24907
transferring responsibility to another person or entity, by 24908
abandoning the well or lease, or by any other similar act. 24909

If the well is not or is not to be located in a coal bearing 24910
township, or if it is to be located in a coal bearing township, 24911
but the landowner submits an affidavit attesting to ownership of 24912
the property in fee simple, including the coal, and has no 24913
objection to the well, the chief shall issue the permit. 24914

If the application to drill, reopen, or convert concerns a 24915
well that is or is to be located in a coal bearing township, the 24916
chief shall transmit to the chief of the division of mineral 24917
resources management two copies of the application and three 24918
copies of the map required in section 1509.06 of the Revised Code, 24919
except that, when the affidavit with the waiver of objection 24920
described above is submitted, the chief of the division of oil and 24921
gas resources management shall not transmit the copies. 24922

The chief of the division of mineral resources management 24923
immediately shall notify the owner or lessee of any affected mine 24924
that the application has been filed and send to the owner or 24925
lessee two copies of the map accompanying the application setting 24926
forth the location of the well. 24927

If the owner or lessee objects to the location of the well or 24928
objects to any location within fifty feet of the original location 24929
as a possible site for relocation of the well, the owner or lessee 24930
shall notify the chief of the division of mineral resources 24931
management of the objection, giving the reasons for the objection 24932
and, if applicable, indicating on a copy of the map the particular 24933
location or locations within fifty feet of the original location 24934
to which the owner or lessee objects as a site for possible 24935

relocation of the well, within six days after the receipt of the notice. If the chief receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief the objections offered by the owner or lessee are not sufficiently well founded, the chief immediately shall notify the owner or lessee of those findings. The owner or lessee may appeal the decision of the chief to the reclamation commission under section 1513.13 of the Revised Code. The appeal shall be filed within fifteen days, notwithstanding provisions in divisions (A)(1) of section 1513.13 of the Revised Code, to the contrary, from the date on which the owner or lessee receives the notice. If the appeal is not filed within that time, the chief immediately shall approve the application ~~and~~, retain a copy of the application and map, and return a copy of the application to the chief of the division of oil and gas resources management with the approval noted on it. The chief of the division of oil and gas resources management then shall issue the permit if the provisions of this chapter pertaining to the issuance of such a permit have been complied with.

If the chief of the division of mineral resources management receives an objection from the owner or lessee of the mine as to the location of the well within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief shall disapprove the application and ~~suggest~~ immediately return it to the chief of the division of oil and gas resources management together with the reasons for disapproval and a suggestion for a new location for the well, provided that the suggested new location shall not be a location within fifty feet of the original location to which the owner or lessee has objected as a site for possible relocation of the well if the chief of the division of mineral resources management has determined that the objection is well founded. The

chief of the division of oil and gas resources management 24969
immediately shall notify the applicant for the permit of the 24970
disapproval and any suggestion made by the chief of the division 24971
of mineral resources management as to a new location for the well. 24972
The applicant may withdraw the application or amend the 24973
application to drill the well at the location suggested by the 24974
chief, or the applicant may appeal the disapproval of the 24975
application by the chief to the reclamation commission. 24976

If the chief of the division of mineral resources management 24977
receives no objection from the owner or lessee of a mine as to the 24978
location of the well, but does receive an objection from the owner 24979
or lessee as to one or more locations within fifty feet of the 24980
original location as possible sites for relocation of the well 24981
within ten days after receipt of the notice by the owner or 24982
lessee, and if in the opinion of the chief the objection is well 24983
founded, the chief nevertheless shall approve the application and 24984
shall return it immediately to the chief of the division of oil 24985
and gas resources management together with the reasons for 24986
disapproving any of the locations to which the owner or lessee 24987
objects as possible sites for the relocation of the well. The 24988
chief of the division of oil and gas resources management then 24989
shall issue a permit if the provisions of this chapter pertaining 24990
to the issuance of such a permit have been complied with, 24991
incorporating as a term or condition of the permit that the 24992
applicant is prohibited from commencing drilling at any location 24993
within fifty feet of the original location that has been 24994
disapproved by the chief of the division of mineral resources 24995
management. The applicant may appeal to the reclamation commission 24996
the terms and conditions of the permit prohibiting the 24997
commencement of drilling at any such location disapproved by the 24998
chief of the division of mineral resources management. 24999

Any such appeal shall be filed within fifteen days, 25000

notwithstanding provisions in division (A)(1) of section 1513.13 25001
of the Revised Code to the contrary, from the date the applicant 25002
receives notice of the disapproval of the application, any other 25003
location within fifty feet of the original location, or terms or 25004
conditions of the permit, or the owner or lessee receives notice 25005
of the chief's decision. No approval or disapproval of an 25006
application shall be delayed by the chief of the division of 25007
mineral resources management for more than fifteen days from the 25008
date of sending the notice of the application to the mine owner or 25009
lessee as required by this section. 25010

All appeals provided for in this section shall be treated as 25011
expedited appeals. The reclamation commission shall hear any such 25012
appeal in accordance with section 1513.13 of the Revised Code and 25013
issue a decision within thirty days of the filing of the notice of 25014
appeal. 25015

The chief of the division of oil and gas resources management 25016
shall not issue a permit to drill a new well or reopen a well that 25017
is or is to be located within three hundred feet of any opening of 25018
any mine used as a means of ingress, egress, or ventilation for 25019
persons employed in the mine, nor within one hundred feet of any 25020
building or inflammable structure connected with the mine and 25021
actually used as a part of the operating equipment of the mine, 25022
unless the chief of the division of mineral resources management 25023
determines that life or property will not be endangered by 25024
drilling and operating the well in that location. 25025

The chief of the division of mineral resources management may 25026
suspend the drilling or reopening of a well in a coal bearing 25027
township after determining that the drilling or reopening 25028
activities present an imminent and substantial threat to public 25029
health or safety or to miners' health or safety and having been 25030
unable to contact the chief of the division of oil and gas 25031
resources management to request an order of suspension under 25032

section 1509.06 of the Revised Code. Before issuing a suspension order for that purpose, the chief of the division of mineral resources management shall notify the owner in a manner that in the chief's judgment would provide reasonable notification that the chief intends to issue a suspension order. The chief may issue such an order without prior notification if reasonable attempts to notify the owner have failed, but in that event notification shall be given as soon thereafter as practical. Within five calendar days after the issuance of the order, the chief shall provide the owner an opportunity to be heard and to present evidence that the activities do not present an imminent and substantial threat to public health or safety or to miners' health or safety. If, after considering the evidence presented by the owner, the chief determines that the activities do not present such a threat, the chief shall revoke the suspension order. An owner may appeal a suspension order issued by the chief of the division of mineral resources management under this section to the reclamation commission in accordance with section 1513.13 of the Revised Code or may appeal the order directly to the court of common pleas of the county in which the well is located.

Sec. 1509.09. A well may be drilled under a permit only at the location designated on the map required in section 1509.06 of the Revised Code. The location of a well may be changed after the issuance of a permit only with the approval of the chief of the division of ~~mineral~~ oil and gas resources management and, if the well is located in a coal bearing township, with the approval of the chief of the division of mineral resources management using the procedures required in section 1509.08 of the Revised Code for a permit to drill a well unless the permit holder requests the issuance of an emergency drilling permit under this section due to a lost hole under such circumstances that completion of the well is not feasible at the original location. If a permit holder

requests a change of location, the permit holder shall return the 25065
original permit and file an amended map indicating the proposed 25066
new location. 25067

Drilling shall not be commenced at a new location until the 25068
original permit bearing a notation of approval by the chief or 25069
chiefs is posted at the well site. However, a permit holder may 25070
commence drilling at a new location without first receiving the 25071
prior approval required by this section, if all of the following 25072
conditions are met: 25073

(A) Within one working day after spudding the new well, the 25074
permit holder files a request for an emergency drilling permit and 25075
submits to the chief of the division of oil and gas resources 25076
management an application for a permit that meets the requirements 25077
of section 1509.06 of the Revised Code, including the permit fee 25078
required by that section, with an amended map showing the new 25079
location. 25080

(B) ~~A mineral~~ An oil and gas resources inspector is present 25081
before spudding operations are commenced at the location. 25082

(C) The original well is plugged prior to the skidding of the 25083
drilling rig to the new location, and the plugging is witnessed or 25084
verified by ~~a mineral~~ an oil and gas resources inspector or, if 25085
the well is located in a coal bearing township, both a deputy mine 25086
inspector and ~~a mineral~~ an oil and gas resources inspector unless 25087
the chief or the chief's authorized representative temporarily 25088
waives the requirement, but in any event the original well shall 25089
be plugged before the drilling rig is moved from the location. 25090

(D) The new location is within fifty feet of the original 25091
location unless, upon request of the permit holder, the chief, 25092
with the approval of the chief of the division of mineral 25093
resources management if the well is located in a coal bearing 25094
township, agrees to a new location farther than fifty feet from 25095

the original location~~+~~ 25096

(E) The new location meets all the distance and spacing 25097
requirements prescribed by rules adopted under sections 1509.23 25098
and 1509.24 of the Revised Code~~+~~ 25099

(F) If the well is located in a coal bearing township, use of 25100
the new well location has not been disapproved by the chief of the 25101
division of mineral resources management and has not been 25102
prohibited as a term or condition of the permit under section 25103
1509.08 of the Revised Code. 25104

If the chief of the division of oil and gas resources 25105
management approves the change of location, the chief shall issue 25106
an emergency permit within two working days after the filing of 25107
the request for the emergency permit. If the chief disapproves the 25108
change of location, the chief shall, by order, deny the request 25109
and may issue an appropriate enforcement order under section 25110
1509.03 of the Revised Code. 25111

Sec. 1509.10. (A) Any person drilling within the state shall, 25112
within sixty days after the completion of drilling operations to 25113
the proposed total depth or after a determination that a well is a 25114
dry or lost hole, file with the division of ~~mineral~~ oil and gas 25115
resources management all wireline electric logs and an accurate 25116
well completion record on a form that is approved by the chief of 25117
the division of ~~mineral~~ oil and gas resources management that 25118
designates: 25119

(1) The purpose for which the well was drilled; 25120

(2) The character, depth, and thickness of geological units 25121
encountered, including coal seams, mineral beds, associated fluids 25122
such as fresh water, brine, and crude oil, natural gas, and sour 25123
gas, if such seams, beds, fluids, or gases are known; 25124

(3) The dates on which drilling operations were commenced and 25125

completed;	25126
(4) The types of drilling tools used and the name of the person that drilled the well;	25127 25128
(5) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, all other data relating to cementing in the annular space behind such casing or tubing, and data indicating completion as a dry, gas, oil, combination oil and gas, brine injection, or artificial brine well or a stratigraphic test;	25129 25130 25131 25132 25133 25134 25135
(6) The number of perforations in the casing and the intervals of the perforations;	25136 25137
(7) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well, the total depth of the well, and the deepest geological unit that was penetrated in the drilling of the well;	25138 25139 25140 25141 25142
(8) If applicable, the type, volume, and concentration of acid, and the date on which acid was used in acidizing the well;	25143 25144
(9) If applicable, the type and volume of fluid used to stimulate the reservoir of the well, the reservoir breakdown pressure, the method used for the containment of fluids recovered from the fracturing of the well, the methods used for the containment of fluids when pulled from the wellbore from swabbing the well, the average pumping rate of the well, and the name of the person that performed the well stimulation. In addition, the owner shall include a copy of the log from the stimulation of the well, a copy of the invoice for each of the procedures and methods described in division (A)(9) of this section that were used on a well, and a copy of the pumping pressure and rate graphs. However, the owner may redact from the copy of each invoice that is	25145 25146 25147 25148 25149 25150 25151 25152 25153 25154 25155 25156

required to be included under division (A)(9) of this section the 25157
costs of and charges for the procedures and methods described in 25158
division (A)(9) of this section that were used on a well. 25159

(10) The name of the company that performed the logging of 25160
the well and the types of wireline electric logs performed on the 25161
well. 25162

The well completion record shall be submitted in duplicate. 25163
The first copy shall be retained as a permanent record in the 25164
files of the division, and the second copy shall be transmitted by 25165
the chief to the division of geological survey. 25166

(B)(1) Not later than sixty days after the completion of the 25167
drilling operations to the proposed total depth, the owner shall 25168
file all wireline electric logs with the division of ~~mineral oil~~ 25169
and gas resources management and the chief shall transmit such 25170
logs electronically, if available, to the division of geological 25171
survey. Such logs may be retained by the owner for a period of not 25172
more than six months, or such additional time as may be granted by 25173
the chief in writing, after the completion of the well 25174
substantially to the depth shown in the application required by 25175
section 1509.06 of the Revised Code. 25176

(2) If a well is not completed within sixty days after the 25177
completion of drilling operations, the owner shall file with the 25178
division of oil and gas resources management a supplemental well 25179
completion record that includes all of the information required 25180
under this section within sixty days after the completion of the 25181
well. 25182

(C) Upon request in writing by the chief of the division of 25183
geological survey prior to the beginning of drilling of the well, 25184
the person drilling the well shall make available a complete set 25185
of cuttings accurately identified as to depth. 25186

(D) The form of the well completion record required by this 25187

section shall be one that has been approved by the chief of the 25188
division of ~~mineral~~ oil and gas resources management and the chief 25189
of the division of geological survey. The filing of a log as 25190
required by this section fulfills the requirement of filing a log 25191
with the chief of the division of geological survey in section 25192
1505.04 of the Revised Code. 25193

(E) If there is a material listed on the invoice that is 25194
required by division (A)(9) of this section for which the division 25195
of ~~mineral~~ oil and gas resources management does not have a 25196
material safety data sheet, the chief shall obtain a copy of the 25197
material safety data sheet for the material and post a copy of the 25198
material safety data sheet on the division's web site. 25199

Sec. 1509.11. The owner of any well producing or capable of 25200
producing oil or gas shall file with the chief of the division of 25201
~~mineral~~ oil and gas resources management, on or before the 25202
thirty-first day of March, a statement of production of oil, gas, 25203
and brine for the last preceding calendar year in such form as the 25204
chief may prescribe. An owner that has more than one hundred wells 25205
in this state shall submit electronically the statement of 25206
production in a format that is approved by the chief. The chief 25207
shall include on the form, at the minimum, a request for the 25208
submittal of the information that a person who is regulated under 25209
this chapter is required to submit under the "Emergency Planning 25210
and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 25211
U.S.C.A. 11001, and regulations adopted under it, and that the 25212
division does not obtain through other reporting mechanisms. 25213

Sec. 1509.12. (A) No owner of any well shall construct a 25214
well, or permit defective casing in a well to leak fluids or 25215
gases, that causes damage to other permeable strata, underground 25216
sources of drinking water, or the surface of the land or that 25217
threatens the public health and safety or the environment. Upon 25218

the discovery that the casing in a well is defective or that a 25219
well was not adequately constructed, the owner of the well shall 25220
notify the chief of the division of ~~mineral~~ oil and gas resources 25221
management within twenty-four hours of the discovery, and the 25222
owner shall immediately repair the casing, correct the 25223
construction inadequacies, or plug and abandon the well. 25224

(B) When the chief finds that a well should be plugged, the 25225
chief shall notify the owner to that effect by order in writing 25226
and shall specify in the order a reasonable time within which to 25227
comply. No owner shall fail or refuse to plug a well within the 25228
time specified in the order. Each day on which such a well remains 25229
unplugged thereafter constitutes a separate offense. 25230

Where the plugging method prescribed by rules adopted 25231
pursuant to section 1509.15 of the Revised Code cannot be applied 25232
or if applied would be ineffective in carrying out the protection 25233
that the law is meant to give, the chief may designate a different 25234
method of plugging. The abandonment report shall show the manner 25235
in which the well was plugged. 25236

(C) In case of oil or gas wells abandoned prior to September 25237
1, 1978, the board of county commissioners of the county in which 25238
the wells are located may submit to the electors of the county the 25239
question of establishing a special fund, by general levy, by 25240
general bond issue, or out of current funds, which shall be 25241
approved by a majority of the electors voting upon that question 25242
for the purpose of plugging the wells. The fund shall be 25243
administered by the board and the plugging of oil and gas wells 25244
shall be under the supervision of the chief, and the board shall 25245
let contracts for that purpose, provided that the fund shall not 25246
be used for the purpose of plugging oil and gas wells that were 25247
abandoned subsequent to September 1, 1978. 25248

Sec. 1509.13. (A) No person shall plug and abandon a well 25249

without having a permit to do so issued by the chief of the 25250
division of ~~mineral~~ oil and gas resources management. The permit 25251
shall be issued by the chief in accordance with this chapter and 25252
shall be valid for a period of twenty-four months from the date of 25253
issue. 25254

(B) Application by the owner for a permit to plug and abandon 25255
shall be filed as many days in advance as will be necessary for a 25256
~~mineral~~ an oil and gas resources inspector or, if the well is 25257
located in a coal bearing township, both a deputy mine inspector 25258
and a ~~mineral~~ an oil and gas resources inspector to be present at 25259
the plugging. The application shall be filed with the chief upon a 25260
form that the chief prescribes and shall contain the following 25261
information: 25262

(1) The name and address of the owner; 25263

(2) The signature of the owner or the owner's authorized 25264
agent. When an authorized agent signs an application, it shall be 25265
accompanied by a certified copy of the appointment as that agent. 25266

(3) The location of the well identified by section or lot 25267
number, city, village, township, and county; 25268

(4) Designation of well by name and number; 25269

(5) The total depth of the well to be plugged; 25270

(6) The date and amount of last production from the well; 25271

(7) Other data that the chief may require. 25272

(C) If oil or gas has been produced from the well, the 25273
application shall be accompanied by a fee of two hundred fifty 25274
dollars. If a well has been drilled in accordance with law and the 25275
permit is still valid, the permit holder may receive approval to 25276
plug the well from a ~~mineral~~ an oil and gas resources inspector so 25277
that the well can be plugged and abandoned without undue delay. 25278
Unless waived by a ~~mineral~~ an oil and gas resources inspector, the 25279

owner of a well or the owner's authorized representative shall 25280
notify ~~a mineral~~ an oil and gas resources inspector at least 25281
twenty-four hours prior to the commencement of the plugging of a 25282
well. No well shall be plugged and abandoned without ~~a mineral~~ an 25283
oil and gas resources inspector present unless permission has been 25284
granted by the chief. The owner of a well that has produced oil or 25285
gas shall give written notice at the same time to the owner of the 25286
land upon which the well is located and to all lessors that 25287
receive gas from the well pursuant to a lease agreement. If the 25288
well penetrates or passes within one hundred feet of the 25289
excavations and workings of a mine, the owner of the well shall 25290
give written notice to the owner or lessee of that mine, of the 25291
well owner's intention to abandon the well and of the time when 25292
the well owner will be prepared to commence plugging it. 25293

(D) An applicant may file a request with the chief for 25294
expedited review of an application for a permit to plug and 25295
abandon a well. The chief may refuse to accept a request for 25296
expedited review if, in the chief's judgment, acceptance of the 25297
request will prevent the issuance, within twenty-one days of 25298
filing, of permits for which applications filed under section 25299
1509.06 of the Revised Code are pending. In addition to a complete 25300
application for a permit that meets the requirements of this 25301
section and the permit fee prescribed by this section, if 25302
applicable, a request shall be accompanied by a nonrefundable 25303
filing fee of five hundred dollars unless the chief has ordered 25304
the applicant to plug and abandon the well. When a request for 25305
expedited review is filed, the chief shall immediately begin to 25306
process the application and shall issue a permit within seven days 25307
of the filing of the request unless the chief, by order, denies 25308
the application. 25309

(E) This section does not apply to a well plugged or 25310
abandoned in compliance with section 1571.05 of the Revised Code. 25311

Sec. 1509.14. Any person who abandons a well, when written permission has been granted by the chief of the division of ~~mineral oil and gas~~ resources management to abandon and plug the well without an inspector being present to supervise the plugging, shall make a written report of the abandonment to the chief. The report shall be submitted not later than thirty days after the date of abandonment and shall include all of the following:

(A) The date of abandonment;

(B) The name of the owner or operator of the well at the time of abandonment and the post-office address of the owner or operator;

(C) The location of the well as to township and county and the name of the owner of the surface upon which the well is drilled, with the address thereof;

(D) The date of the permit to drill;

(E) The date when drilled;

(F) The depth of the well;

(G) The depth of the top of the formation to which the well was drilled;

(H) The depth of each seam of coal drilled through, if known;

(I) A detailed report as to how the well was plugged, giving in particular the manner in which the coal and various formations were plugged, and the date of the plugging of the well, including the names of those who witnessed the plugging of the well.

The report shall be signed by the owner or operator, or the agent of the owner or operator, who abandons and plugs the well and verified by the oath of the party so signing. For the purposes of this section, the ~~mineral oil and gas~~ resources inspectors may take acknowledgments and administer oaths to the parties signing

the report. 25341

Sec. 1509.15. When any well is to be abandoned, it shall 25342
first be plugged in accordance with a method of plugging adopted 25343
by rule by the chief of the division of ~~mineral oil and gas~~ 25344
resources management. The abandonment report shall show the manner 25345
in which the well was plugged. 25346

Sec. 1509.17. (A) A well shall be constructed in a manner 25347
that is approved by the chief of the division of ~~mineral oil and~~ 25348
~~gas~~ resources management as specified in the permit using 25349
materials that comply with industry standards for the type and 25350
depth of the well and the anticipated fluid pressures that are 25351
associated with the well. In addition, a well shall be constructed 25352
using sufficient steel or conductor casing in a manner that 25353
supports unconsolidated sediments, that protects and isolates all 25354
underground sources of drinking water as defined by the Safe 25355
Drinking Water Act, and that provides a base for a blowout 25356
preventer or other well control equipment that is necessary to 25357
control formation pressures and fluids during the drilling of the 25358
well and other operations to complete the well. Using steel 25359
production casing with sufficient cement, an oil and gas reservoir 25360
shall be isolated during well stimulation and during the 25361
productive life of the well. In addition, sour gas zones and gas 25362
bearing zones that have sufficient pressure and volume to 25363
over-pressurize the surface production casing annulus resulting in 25364
annular overpressurization shall be isolated using approved 25365
cementing, casing, and well construction practices. However, 25366
isolating an oil and gas reservoir shall not exclude open-hole 25367
completion. A well shall not be perforated for purposes of well 25368
stimulation in any zone that is located around casing that 25369
protects underground sources of drinking water without written 25370
authorization from the chief in accordance with division (D) of 25371

this section. When the well penetrates the excavations of a mine, 25372
the casing shall remain intact as provided in section 1509.18 of 25373
the Revised Code and be plugged and abandoned in accordance with 25374
section 1509.15 of the Revised Code. 25375

(B) The chief may adopt rules in accordance with Chapter 119. 25376
of the Revised Code that are consistent with division (A) of this 25377
section and that establish standards for constructing a well, for 25378
evaluating the quality of well construction materials, and for 25379
completing remedial cementing. In addition, the standards 25380
established in the rules shall consider local geology and various 25381
drilling conditions and shall require the use of reasonable 25382
methods that are based on sound engineering principles. 25383

(C) An owner or an owner's authorized representative shall 25384
notify ~~a mineral~~ an oil and gas resources inspector each time that 25385
the owner or the authorized representative notifies a person to 25386
perform the cementing of the conductor casing, the surface casing, 25387
or the production casing. In addition, not later than sixty days 25388
after the completion of the cementing of the production casing, an 25389
owner shall submit to the chief a copy of the cement tickets for 25390
each cemented string of casing and a copy of all logs that were 25391
used to evaluate the quality of the cementing. 25392

(D) The chief shall grant an exemption from this section and 25393
rules adopted under it for a well if the chief determines that a 25394
cement bond log confirms zonal isolation and there is a minimum of 25395
five hundred feet between the uppermost perforation of the casing 25396
and the lowest depth of an underground source of drinking water. 25397

Sec. 1509.181. (A) The chief of the division of mineral 25398
resources management may order the immediate suspension of the 25399
drilling or reopening of a well in a coal bearing township after 25400
determining that the drilling or reopening activities present an 25401
imminent and substantial threat to public health or safety or to a 25402

miner's health or safety. 25403

(B) Before issuing an order under division (A) of this 25404
section, the chief shall notify the chief of the division of oil 25405
and gas resources management and the owner in any manner that the 25406
chief of the division of mineral resources management determines 25407
would provide reasonable notification of the chief's intent to 25408
issue a suspension order. However, the chief may order the 25409
immediate suspension of the drilling or reopening of a well in a 25410
coal bearing township without prior notification to the owner if 25411
the chief has made reasonable attempts to notify the owner and the 25412
attempts have failed. If the chief orders the immediate suspension 25413
of such drilling or reopening, the chief shall provide the chief 25414
of the division of oil and gas resources management and the owner 25415
notice of the order as soon as practical. 25416

(C) Not later than five days after the issuance of an order 25417
under division (A) of this section to immediately suspend the 25418
drilling or reopening of a well in a coal bearing township, the 25419
chief of the division of mineral resources management shall 25420
provide the owner an opportunity to be heard and to present 25421
evidence that the drilling or reopening activities will not likely 25422
result in an imminent and substantial threat to public health or 25423
safety or to a miner's health or safety, as applicable. If the 25424
chief, after considering all evidence presented by the owner, 25425
determines that the activities do not present such a threat, the 25426
chief shall revoke the suspension order. 25427

(D) Notwithstanding any other provision of this chapter, an 25428
owner may appeal a suspension order issued under this section to 25429
the reclamation commission in accordance with section 1513.13 of 25430
the Revised Code. 25431

Sec. 1509.19. An owner who elects to stimulate a well shall 25432

stimulate the well in a manner that will not endanger underground 25433
sources of drinking water. Not later than twenty-four hours before 25434
commencing the stimulation of a well, the owner or the owner's 25435
authorized representative shall notify a ~~mineral~~ oil and gas 25436
resources inspector. If during the stimulation of a well damage to 25437
the production casing or cement occurs and results in the 25438
circulation of fluids from the annulus of the surface production 25439
casing, the owner shall immediately terminate the stimulation of 25440
the well and notify the chief of the division of ~~mineral~~ oil and 25441
gas resources management. If the chief determines that the casing 25442
and the cement may be remediated in a manner that isolates the oil 25443
and gas bearing zones of the well, the chief may authorize the 25444
completion of the stimulation of the well. If the chief determines 25445
that the stimulation of a well resulted in irreparable damage to 25446
the well, the chief shall order that the well be plugged and 25447
abandoned within thirty days of the issuance of the order. 25448

For purposes of determining the integrity of the remediation 25449
of the casing or cement of a well that was damaged during the 25450
stimulation of the well, the chief may require the owner of the 25451
well to submit cement evaluation logs, temperature surveys, 25452
pressure tests, or a combination of such logs, surveys, and tests. 25453

Sec. 1509.21. No person shall, without first having obtained 25454
a permit from the chief of the division of ~~mineral~~ oil and gas 25455
resources management, conduct secondary or additional recovery 25456
operations, including any underground injection of fluids or 25457
carbon dioxide for the secondary or tertiary recovery of oil or 25458
natural gas or for the storage of hydrocarbons that are liquid at 25459
standard temperature or pressure, unless a rule of the chief 25460
expressly authorizes such operations without a permit. The permit 25461
shall be in addition to any permit required by section 1509.05 of 25462
the Revised Code. Secondary or additional recovery operations 25463
shall be conducted in accordance with rules and orders of the 25464

chief and any terms or conditions of the permit authorizing such 25465
operations. In addition, the chief may authorize tests to evaluate 25466
whether fluids or carbon dioxide may be injected in a reservoir 25467
and to determine the maximum allowable injection pressure. The 25468
tests shall be conducted in accordance with methods prescribed in 25469
rules of the chief or conditions of the permit. Rules adopted 25470
under this section shall include provisions regarding applications 25471
for and the issuance of permits; the terms and conditions of 25472
permits; entry to conduct inspections and to examine records to 25473
ascertain compliance with this section and rules, orders, and 25474
terms and conditions of permits adopted or issued thereunder; the 25475
provision and maintenance of information through monitoring, 25476
recordkeeping, and reporting; and other provisions in furtherance 25477
of the goals of this section and the Safe Drinking Water Act. To 25478
implement the goals of the Safe Drinking Water Act, the chief 25479
shall not issue a permit for the underground injection of fluids 25480
for the secondary or tertiary recovery of oil or natural gas or 25481
for the storage of hydrocarbons that are liquid at standard 25482
temperature and pressure, unless the chief concludes that the 25483
applicant has demonstrated that the injection will not result in 25484
the presence of any contaminant in underground water that supplies 25485
or can be reasonably expected to supply any public water system, 25486
such that the presence of any such contaminant may result in the 25487
system's not complying with any national primary drinking water 25488
regulation or may otherwise adversely affect the health of 25489
persons. Rules, orders, and terms or conditions of permits adopted 25490
or issued under this section shall be construed to be no more 25491
stringent than required for compliance with the Safe Drinking 25492
Water Act, unless essential to ensure that underground sources of 25493
drinking water will not be endangered. 25494

Sec. 1509.22. (A) Except when acting in accordance with 25495
section 1509.226 of the Revised Code, no person shall place or 25496

cause to be placed brine, crude oil, natural gas, or other fluids 25497
associated with the exploration or development of oil and gas 25498
resources in surface or ground water or in or on the land in such 25499
quantities or in such manner as actually causes or could 25500
reasonably be anticipated to cause either of the following: 25501

(1) Water used for consumption by humans or domestic animals 25502
to exceed the standards of the Safe Drinking Water Act; 25503

(2) Damage or injury to public health or safety or the 25504
environment. 25505

(B) No person shall store or dispose of brine in violation of 25506
a plan approved under division (A) of section 1509.222 or section 25507
1509.226 of the Revised Code, in violation of a resolution 25508
submitted under section 1509.226 of the Revised Code, or in 25509
violation of rules or orders applicable to those plans or 25510
resolutions. 25511

(C) The chief of the division of ~~mineral oil and gas~~ 25512
resources management shall adopt rules and issue orders regarding 25513
storage and disposal of brine and other waste substances; however, 25514
the storage and disposal of brine and other waste substances and 25515
the chief's rules relating to storage and disposal are subject to 25516
all of the following standards: 25517

(1) Brine from any well except an exempt Mississippian well 25518
shall be disposed of only by injection into an underground 25519
formation, including annular disposal if approved by rule of the 25520
chief, which injection shall be subject to division (D) of this 25521
section; by surface application in accordance with section 25522
1509.226 of the Revised Code; in association with a method of 25523
enhanced recovery as provided in section 1509.21 of the Revised 25524
Code; or by other methods approved by the chief for testing or 25525
implementing a new technology or method of disposal. Brine from 25526
exempt Mississippian wells shall not be discharged directly into 25527

the waters of the state. 25528

(2) Muds, cuttings, and other waste substances shall not be 25529
disposed of in violation of any rule. 25530

(3) Pits or steel tanks shall be used as authorized by the 25531
chief for containing brine and other waste substances resulting 25532
from, obtained from, or produced in connection with drilling, well 25533
stimulation, reworking, reconditioning, plugging back, or plugging 25534
operations. The pits and steel tanks shall be constructed and 25535
maintained to prevent the escape of brine and other waste 25536
substances. 25537

(4) A dike or pit may be used for spill prevention and 25538
control. A dike or pit so used shall be constructed and maintained 25539
to prevent the escape of brine and crude oil, and the reservoir 25540
within such a dike or pit shall be kept reasonably free of brine, 25541
crude oil, and other waste substances. 25542

(5) Earthen impoundments constructed pursuant to the 25543
division's specifications may be used for the temporary storage of 25544
fluids used in the stimulation of a well. 25545

(6) No pit, earthen impoundment, or dike shall be used for 25546
the temporary storage of brine or other substances except in 25547
accordance with divisions (C)(3) to (5) of this section. 25548

(7) No pit or dike shall be used for the ultimate disposal of 25549
brine or other liquid waste substances. 25550

(D) No person, without first having obtained a permit from 25551
the chief, shall inject brine or other waste substances resulting 25552
from, obtained from, or produced in connection with oil or gas 25553
drilling, exploration, or production into an underground formation 25554
unless a rule of the chief expressly authorizes the injection 25555
without a permit. The permit shall be in addition to any permit 25556
required by section 1509.05 of the Revised Code, and the permit 25557
application shall be accompanied by a permit fee of one thousand 25558

dollars. The chief shall adopt rules in accordance with Chapter 25559
119. of the Revised Code regarding the injection into wells of 25560
brine and other waste substances resulting from, obtained from, or 25561
produced in connection with oil or gas drilling, exploration, or 25562
production. The rules may authorize tests to evaluate whether 25563
fluids or carbon dioxide may be injected in a reservoir and to 25564
determine the maximum allowable injection pressure, which shall be 25565
conducted in accordance with methods prescribed in the rules or in 25566
accordance with conditions of the permit. In addition, the rules 25567
shall include provisions regarding applications for and issuance 25568
of the permits required by this division; entry to conduct 25569
inspections and to examine and copy records to ascertain 25570
compliance with this division and rules, orders, and terms and 25571
conditions of permits adopted or issued under it; the provision 25572
and maintenance of information through monitoring, recordkeeping, 25573
and reporting; and other provisions in furtherance of the goals of 25574
this section and the Safe Drinking Water Act. To implement the 25575
goals of the Safe Drinking Water Act, the chief shall not issue a 25576
permit for the injection of brine or other waste substances 25577
resulting from, obtained from, or produced in connection with oil 25578
or gas drilling, exploration, or production unless the chief 25579
concludes that the applicant has demonstrated that the injection 25580
will not result in the presence of any contaminant in ground water 25581
that supplies or can reasonably be expected to supply any public 25582
water system, such that the presence of the contaminant may result 25583
in the system's not complying with any national primary drinking 25584
water regulation or may otherwise adversely affect the health of 25585
persons. This division and rules, orders, and terms and conditions 25586
of permits adopted or issued under it shall be construed to be no 25587
more stringent than required for compliance with the Safe Drinking 25588
Water Act unless essential to ensure that underground sources of 25589
drinking water will not be endangered. 25590

(E) The owner holding a permit, or an assignee or transferee 25591

who has assumed the obligations and liabilities imposed by this 25592
chapter and any rules adopted or orders issued under it pursuant 25593
to section 1509.31 of the Revised Code, and the operator of a well 25594
shall be liable for a violation of this section or any rules 25595
adopted or orders or terms or conditions of a permit issued under 25596
it. 25597

(F) An owner shall replace the water supply of the holder of 25598
an interest in real property who obtains all or part of the 25599
holder's supply of water for domestic, agricultural, industrial, 25600
or other legitimate use from an underground or surface source 25601
where the supply has been substantially disrupted by 25602
contamination, diminution, or interruption proximately resulting 25603
from the owner's oil or gas operation, or the owner may elect to 25604
compensate the holder of the interest in real property for the 25605
difference between the fair market value of the interest before 25606
the damage occurred to the water supply and the fair market value 25607
after the damage occurred if the cost of replacing the water 25608
supply exceeds this difference in fair market values. However, 25609
during the pendency of any order issued under this division, the 25610
owner shall obtain for the holder or shall reimburse the holder 25611
for the reasonable cost of obtaining a water supply from the time 25612
of the contamination, diminution, or interruption by the operation 25613
until the owner has complied with an order of the chief for 25614
compliance with this division or such an order has been revoked or 25615
otherwise becomes not effective. If the owner elects to pay the 25616
difference in fair market values, but the owner and the holder 25617
have not agreed on the difference within thirty days after the 25618
chief issues an order for compliance with this division, within 25619
ten days after the expiration of that thirty-day period, the owner 25620
and the chief each shall appoint an appraiser to determine the 25621
difference in fair market values, except that the holder of the 25622
interest in real property may elect to appoint and compensate the 25623
holder's own appraiser, in which case the chief shall not appoint 25624

an appraiser. The two appraisers appointed shall appoint a third 25625
appraiser, and within thirty days after the appointment of the 25626
third appraiser, the three appraisers shall hold a hearing to 25627
determine the difference in fair market values. Within ten days 25628
after the hearing, the appraisers shall make their determination 25629
by majority vote and issue their final determination of the 25630
difference in fair market values. The chief shall accept a 25631
determination of the difference in fair market values made by 25632
agreement of the owner and holder or by appraisers under this 25633
division and shall make and dissolve orders accordingly. This 25634
division does not affect in any way the right of any person to 25635
enforce or protect, under applicable law, the person's interest in 25636
water resources affected by an oil or gas operation. 25637

(G) In any action brought by the state for a violation of 25638
division (A) of this section involving any well at which annular 25639
disposal is used, there shall be a rebuttable presumption 25640
available to the state that the annular disposal caused the 25641
violation if the well is located within a one-quarter-mile radius 25642
of the site of the violation. 25643

Sec. 1509.221. (A) No person, without first having obtained a 25644
permit from the chief of the division of ~~mineral oil and gas~~ 25645
resources management, shall drill a well or inject a substance 25646
into a well for the exploration for or extraction of minerals or 25647
energy, other than oil or natural gas, including, but not limited 25648
to, the mining of sulfur by the Frasch process, the solution 25649
mining of minerals, the in situ combustion of fossil fuel, or the 25650
recovery of geothermal energy to produce electric power, unless a 25651
rule of the chief expressly authorizes the activity without a 25652
permit. The permit shall be in addition to any permit required by 25653
section 1509.05 of the Revised Code. The chief shall adopt rules 25654
in accordance with Chapter 119. of the Revised Code governing the 25655
issuance of permits under this section. The rules shall include 25656

provisions regarding the matters the applicant for a permit shall 25657
demonstrate to establish eligibility for a permit; the form and 25658
content of applications for permits; the terms and conditions of 25659
permits; entry to conduct inspections and to examine and copy 25660
records to ascertain compliance with this section and rules, 25661
orders, and terms and conditions of permits adopted or issued 25662
thereunder; provision and maintenance of information through 25663
monitoring, recordkeeping, and reporting; and other provisions in 25664
furtherance of the goals of this section and the Safe Drinking 25665
Water Act. To implement the goals of the Safe Drinking Water Act, 25666
the chief shall not issue a permit under this section, unless the 25667
chief concludes that the applicant has demonstrated that the 25668
drilling, injection of a substance, and extraction of minerals or 25669
energy will not result in the presence of any contaminant in 25670
underground water that supplies or can reasonably be expected to 25671
supply any public water system, such that the presence of the 25672
contaminant may result in the system's not complying with any 25673
national primary drinking water regulation or may otherwise 25674
adversely affect the health of persons. The chief may issue, 25675
without a prior adjudication hearing, orders requiring compliance 25676
with this section and rules, orders, and terms and conditions of 25677
permits adopted or issued thereunder. This section and rules, 25678
orders, and terms and conditions of permits adopted or issued 25679
thereunder shall be construed to be no more stringent than 25680
required for compliance with the Safe Drinking Water Act, unless 25681
essential to ensure that underground sources of drinking water 25682
will not be endangered. 25683

(B)(1) There is levied on the owner of an injection well who 25684
has been issued a permit under division (D) of section 1509.22 of 25685
the Revised Code the following fees: 25686

(a) Five cents per barrel of each substance that is delivered 25687
to a well to be injected in the well when the substance is 25688

produced within the division of ~~mineral~~ oil and gas resources 25689
management regulatory district in which the well is located or 25690
within an adjoining ~~mineral~~ oil and gas resources management 25691
regulatory district; 25692

(b) Twenty cents per barrel of each substance that is 25693
delivered to a well to be injected in the well when the substance 25694
is not produced within the division of ~~mineral~~ oil and gas 25695
resources management regulatory district in which the well is 25696
located or within an adjoining ~~mineral~~ oil and gas resources 25697
management regulatory district. 25698

(2) The maximum number of barrels of substance per injection 25699
well in a calendar year on which a fee may be levied under 25700
division (B) of this section is five hundred thousand. If in a 25701
calendar year the owner of an injection well receives more than 25702
five hundred thousand barrels of substance to be injected in the 25703
owner's well and if the owner receives at least one substance that 25704
is produced within the division's regulatory district in which the 25705
well is located or within an adjoining regulatory district and at 25706
least one substance that is not produced within the division's 25707
regulatory district in which the well is located or within an 25708
adjoining regulatory district, the fee shall be calculated first 25709
on all of the barrels of substance that are not produced within 25710
the division's regulatory district in which the well is located or 25711
within an adjoining district at the rate established in division 25712
(B)(2) of this section. The fee then shall be calculated on the 25713
barrels of substance that are produced within the division's 25714
regulatory district in which the well is located or within an 25715
adjoining district at the rate established in division (B)(1) of 25716
this section until the maximum number of barrels established in 25717
division (B)(2) of this section has been attained. 25718

(3) The owner of an injection well who is issued a permit 25719
under division (D) of section 1509.22 of the Revised Code shall 25720

collect the fee levied by division (B) of this section on behalf 25721
of the division of ~~mineral oil and gas~~ resources management and 25722
forward the fee to the division. The chief shall transmit all 25723
money received under division (B) of this section to the treasurer 25724
of state who shall deposit the money in the state treasury to the 25725
credit of the oil and gas well fund created in section 1509.02 of 25726
the Revised Code. The owner of an injection well who collects the 25727
fee levied by this division may retain up to three per cent of the 25728
amount that is collected. 25729

(4) The chief shall adopt rules in accordance with Chapter 25730
119. of the Revised Code establishing requirements and procedures 25731
for collection of the fee levied by division (B) of this section. 25732

(C) In an action under section 1509.04 or 1509.33 of the 25733
Revised Code to enforce this section, the court shall grant 25734
preliminary and permanent injunctive relief and impose a civil 25735
penalty upon the showing that the person against whom the action 25736
is brought has violated, is violating, or will violate this 25737
section or rules, orders, or terms or conditions of permits 25738
adopted or issued thereunder. The court shall not require, prior 25739
to granting such preliminary and permanent injunctive relief or 25740
imposing a civil penalty, proof that the violation was, is, or 25741
will be the result of intentional conduct or negligence. In any 25742
such action, any person may intervene as a plaintiff upon the 25743
demonstration that the person has an interest that is or may be 25744
adversely affected by the activity for which injunctive relief or 25745
a civil penalty is sought. 25746

Sec. 1509.222. (A)(1) Except as provided in section 1509.226 25747
of the Revised Code, no person shall transport brine by vehicle in 25748
this state unless the business entity that employs the person 25749
first registers with and obtains a registration certificate and 25750
identification number from the chief of the division of ~~mineral~~ 25751

oil and gas resources management. 25752

(2) No more than one registration certificate shall be 25753
required of any business entity. Registration certificates issued 25754
under this section are not transferable. An applicant shall file 25755
an application with the chief, containing such information in such 25756
form as the chief prescribes, but including a plan for disposal 25757
that provides for compliance with the requirements of this chapter 25758
and rules of the chief pertaining to the transportation of brine 25759
by vehicle and the disposal of brine so transported and that lists 25760
all disposal sites that the applicant intends to use, the bond 25761
required by section 1509.225 of the Revised Code, and a 25762
certificate issued by an insurance company authorized to do 25763
business in this state certifying that the applicant has in force 25764
a liability insurance policy in an amount not less than three 25765
hundred thousand dollars bodily injury coverage and three hundred 25766
thousand dollars property damage coverage to pay damages for 25767
injury to persons or property caused by the collecting, handling, 25768
transportation, or disposal of brine. The policy shall be 25769
maintained in effect during the term of the registration 25770
certificate. The policy or policies providing the coverage shall 25771
require the insurance company to give notice to the chief if the 25772
policy or policies lapse for any reason. Upon such termination of 25773
the policy, the chief may suspend the registration certificate 25774
until proper insurance coverage is obtained. Each application for 25775
a registration certificate shall be accompanied by a nonrefundable 25776
fee of five hundred dollars. 25777

(3) If a business entity that has been issued a registration 25778
certificate under this section changes its name due to a business 25779
reorganization or merger, the business entity shall revise the 25780
bond or certificates of deposit required by section 1509.225 of 25781
the Revised Code and obtain a new certificate from an insurance 25782
company in accordance with division (A)(2) of this section to 25783

reflect the change in the name of the business entity. 25784

(B) The chief shall issue an order denying an application for 25785
a registration certificate if the chief finds that either of the 25786
following applies: 25787

(1) The applicant, at the time of applying for the 25788
registration certificate, has been found liable by a final 25789
nonappealable order of a court of competent jurisdiction for 25790
damage to streets, roads, highways, bridges, culverts, or 25791
drainways pursuant to section 4513.34 or 5577.12 of the Revised 25792
Code until the applicant provides the chief with evidence of 25793
compliance with the order. 25794

(2) The applicant's plan for disposal does not provide for 25795
compliance with the requirements of this chapter and rules of the 25796
chief pertaining to the transportation of brine by vehicle and the 25797
disposal of brine so transported. 25798

(C) No applicant shall attempt to circumvent division (B) of 25799
this section by applying for a registration certificate under a 25800
different name or business organization name, by transferring 25801
responsibility to another person or entity, or by any similar act. 25802

(D) A registered transporter shall apply to revise a disposal 25803
plan under procedures that the chief shall prescribe by rule. 25804
However, at a minimum, an application for a revision shall list 25805
all sources and disposal sites of brine currently transported. The 25806
chief shall deny any application for a revision of a plan under 25807
this division if the chief finds that the proposed revised plan 25808
does not provide for compliance with the requirements of this 25809
chapter and rules of the chief pertaining to the transportation of 25810
brine by vehicle and the disposal of brine so transported. 25811
Approvals and denials of revisions shall be by order of the chief. 25812

(E) The chief may adopt rules, issue orders, and attach terms 25813
and conditions to registration certificates as may be necessary to 25814

administer, implement, and enforce sections 1509.222 to 1509.226 25815
of the Revised Code for protection of public health or safety or 25816
conservation of natural resources. 25817

Sec. 1509.223. (A) No permit holder or owner of a well shall 25818
enter into an agreement with or permit any person to transport 25819
brine produced from the well who is not registered pursuant to 25820
section 1509.222 of the Revised Code or exempt from registration 25821
under section 1509.226 of the Revised Code. 25822

(B) Each registered transporter shall file with the chief of 25823
the division of ~~mineral~~ oil and gas resources management, on or 25824
before the fifteenth day of April, a statement concerning brine 25825
transported, including quantities transported and source and 25826
delivery points, during the last preceding calendar year, and such 25827
other information in such form as the chief may prescribe. 25828

(C) Each registered transporter shall keep on each vehicle 25829
used to transport brine a daily log and have it available upon the 25830
request of the chief or an authorized representative of the chief 25831
or a peace officer. The log shall, at a minimum, include all of 25832
the following information: 25833

(1) The name of the owner or owners of the well or wells 25834
producing the brine to be transported; 25835

(2) The date and time the brine is loaded; 25836

(3) The name of the driver; 25837

(4) The amount of brine loaded at each collection point; 25838

(5) The disposal location; 25839

(6) The date and time the brine is disposed of and the amount 25840
of brine disposed of at each location. 25841

No registered transporter shall falsify or fail to keep or 25842
submit the log required by this division. 25843

(D) Each registered transporter shall legibly identify with 25844
reflective paints all vehicles employed in transporting or 25845
disposing of brine. Letters shall be no less than four inches in 25846
height and shall indicate the identification number issued by the 25847
chief, the word "brine," and the name and telephone number of the 25848
transporter. 25849

(E) The chief shall maintain and keep a current list of 25850
persons registered to transport brine under section 1509.222 of 25851
the Revised Code. The list shall be open to public inspection. It 25852
is an affirmative defense to a charge under division (A) of this 25853
section that at the time the permit holder or owner of a well 25854
entered into an agreement with or permitted a person to transport 25855
brine, the person was shown on the list as currently registered to 25856
transport brine. 25857

Sec. 1509.224. (A) In addition to any other remedies provided 25858
in this chapter, if the chief of the division of mineral oil and 25859
gas resources management has reason to believe that a pattern of 25860
the same or similar violations of any requirements of ~~sections~~ 25861
section 1509.22, 1509.222, or 1509.223 of the Revised Code, or any 25862
rule adopted thereunder or term or condition of the registration 25863
certificate issued thereunder exists or has existed, and the 25864
violations are caused by the transporter's indifference, lack of 25865
diligence, or lack of reasonable care, or are willfully caused by 25866
the transporter, the chief shall immediately issue an order to the 25867
transporter to show cause why the certificate should not be 25868
suspended or revoked. After the issuance of the order, the chief 25869
shall provide the transporter an opportunity to be heard and to 25870
present evidence at an informal hearing conducted by the chief. 25871
If, at the conclusion of the hearing, the chief finds that such a 25872
pattern of violations exists or has existed, the chief shall issue 25873
an order suspending or revoking the transporter's registration 25874
certificate. An order suspending or revoking a certificate under 25875

this section may be appealed under sections 1509.36 and 1509.37 of 25876
the Revised Code, or notwithstanding any other provision of this 25877
chapter, may be appealed directly to the court of common pleas of 25878
Franklin county. 25879

(B) Before issuing an order denying a registration 25880
certificate; approving or denying approval of an application for 25881
revision of a registered transporter's plan for disposal; or to 25882
implement, administer, or enforce section 1509.22, 1509.222, 25883
1509.223, 1509.225, or 1509.226 of the Revised Code and rules and 25884
terms and conditions of registration certificates adopted or 25885
issued thereunder pertaining to the transportation of brine by 25886
vehicle and the disposal of brine so transported, the chief shall 25887
issue a preliminary order indicating the chief's intent to issue a 25888
final order. The preliminary order shall clearly state the nature 25889
of the chief's proposed action and the findings on which it is 25890
based and shall state that the preliminary order becomes a final 25891
order thirty days after its issuance unless the person to whom the 25892
preliminary order is directed submits to the chief a written 25893
request for an informal hearing before the chief within that 25894
thirty-day period. At the hearing the person may present evidence 25895
as to why the preliminary order should be revoked or modified. 25896
Based upon the findings from the informal hearing, the chief shall 25897
revoke, issue, or modify and issue the preliminary order as a 25898
final order. A final order may be appealed under sections 1509.36 25899
and 1509.37 of the Revised Code. 25900

Sec. 1509.225. (A) Before being issued a registration 25901
certificate under section 1509.222 of the Revised Code, an 25902
applicant shall execute and file with the division of ~~mineral oil~~ 25903
and gas resources management a surety bond for fifteen thousand 25904
dollars to provide compensation for damage and injury resulting 25905
from transporters' violations of sections 1509.22, 1509.222, and 25906
1509.223 of the Revised Code, all rules and orders of the chief of 25907

the division of ~~mineral resource~~ oil and gas resources management 25908
relating thereto, and all terms and conditions of the registration 25909
certificate imposed thereunder. The applicant may deposit with the 25910
chief, in lieu of a surety bond, cash in an amount equal to the 25911
surety bond as prescribed in this section, or negotiable 25912
certificates of deposit issued by any bank organized or 25913
transacting business in this state, or certificates of deposit 25914
issued by any building and loan association as defined in section 25915
1151.01 of the Revised Code, having a cash value equal to or 25916
greater than the amount of the surety bond as prescribed in this 25917
section. Cash or certificates of deposit shall be deposited upon 25918
the same terms as those upon which surety bonds may be deposited. 25919
If certificates of deposit are deposited with the chief in lieu of 25920
a surety bond, the chief shall require the bank or building and 25921
loan association that issued any such certificate to pledge 25922
securities of a cash value equal to the amount of the certificate 25923
that is in excess of the amount insured by any of the agencies and 25924
instrumentalities created under the "Federal Deposit Insurance 25925
Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and 25926
regulations adopted under it, including at least the federal 25927
deposit insurance corporation, bank insurance fund, and savings 25928
association insurance fund. 25929

Such securities shall be security for the repayment of the 25930
certificate of deposit. Immediately upon a deposit of cash or 25931
certificates with the chief, the chief shall deliver it to the 25932
treasurer of state who shall hold it in trust for the purposes for 25933
which it has been deposited. 25934

(B) The surety bond provided for in this section shall be 25935
executed by a surety company authorized to do business in this 25936
state. The chief shall not approve any bond until it is personally 25937
signed and acknowledged by both principal and surety, or as to 25938
either by an attorney in fact, with a certified copy of the power 25939

of attorney attached thereto. The chief shall not approve the bond 25940
unless there is attached a certificate of the superintendent of 25941
insurance that the company is authorized to transact a fidelity 25942
and surety business in this state. All bonds shall be given in a 25943
form to be prescribed by the chief. 25944

(C) If a registered transporter is found liable for a 25945
violation of section 1509.22, 1509.222, or 1509.223 of the Revised 25946
Code or a rule, order, or term or condition of a certificate 25947
involving, in any case, damage or injury to persons or property, 25948
or both, the court may order the forfeiture of any portion of the 25949
bond, cash, or other securities required by this section in full 25950
or partial payment of damages to the person to whom the damages 25951
are due. The treasurer of state and the chief shall deliver the 25952
bond or any cash or other securities deposited in lieu of bond, as 25953
specified in the court's order, to the person to whom the damages 25954
are due; however, execution against the bond, cash, or other 25955
securities, if necessary, is the responsibility of the person to 25956
whom the damages are due. The chief shall not release the bond, 25957
cash, or securities required by this section except by court order 25958
or until the registration is terminated. 25959

Sec. 1509.226. (A) If a board of county commissioners, a 25960
board of township trustees, or the legislative authority of a 25961
municipal corporation wishes to permit the surface application of 25962
brine to roads, streets, highways, and other similar land surfaces 25963
it owns or has the right to control for control of dust or ice, it 25964
may adopt a resolution permitting such application as provided in 25965
this section. If a board or legislative authority does not adopt 25966
such a resolution, then no such surface application of brine is 25967
permitted on such roads, streets, highways, and other similar 25968
surfaces. If a board or legislative authority votes on a proposed 25969
resolution to permit such surface application of brine, but the 25970
resolution fails to receive the affirmative vote of a majority of 25971

the board or legislative authority, the board or legislative 25972
authority shall not adopt such a resolution for one year following 25973
the date on which the vote was taken. A board or legislative 25974
authority shall hold at least one public hearing on any proposal 25975
to permit surface application of brine under this division and may 25976
hold additional hearings. The board or legislative authority shall 25977
publish notice of the time and place of each such public hearing 25978
in a newspaper of general circulation in the political subdivision 25979
at least five days before the day on which the hearing is to be 25980
held. 25981

(B) If a board or legislative authority adopts a resolution 25982
permitting the surface application of brine to roads, streets, 25983
highways, and other similar land surfaces under division (A) of 25984
this section, the board or legislative authority shall, within 25985
thirty days after the adoption of the resolution, prepare and 25986
submit to the chief of the division of ~~mineral oil and gas~~ 25987
resources management a copy of the resolution. Any department, 25988
agency, or instrumentality of this state or the United States that 25989
wishes to permit the surface application of brine to roads, 25990
streets, highways, and other similar land surfaces it owns or has 25991
a right to control shall prepare and submit guidelines for such 25992
application, but need not adopt a resolution under division (A) of 25993
this section permitting such surface application. 25994

All resolutions and guidelines shall be subject to the 25995
following standards: 25996

(1) Brine shall not be applied: 25997

(a) To a water-saturated surface; 25998

(b) Directly to vegetation near or adjacent to surfaces being 25999
treated; 26000

(c) Within twelve feet of structures crossing bodies of water 26001
or crossing drainage ditches; 26002

(d) Between sundown and sunrise, except for ice control.	26003
(2) The discharge of brine through the spreader bar shall stop when the application stops.	26004 26005
(3) The applicator vehicle shall be moving at least five miles per hour at all times while the brine is being applied.	26006 26007
(4) The maximum spreader bar nozzle opening shall be three-quarters of an inch in diameter.	26008 26009
(5) The maximum uniform application rate of brine shall be three thousand gallons per mile on a twelve-foot-wide road or three gallons per sixty square feet on unpaved lots.	26010 26011 26012
(6) The applicator vehicle discharge valve shall be closed between the brine collection point and the specific surfaces that have been approved for brine application.	26013 26014 26015
(7) Any valves that provide for tank draining other than through the spreader bar shall be closed during the brine application and transport.	26016 26017 26018
(8) The angle of discharge from the applicator vehicle spreader bar shall not be greater than sixty degrees from the perpendicular to the unpaved surface.	26019 26020 26021
(9) Only the last twenty-five per cent of an applicator vehicle's contents shall be allowed to have a pressure greater than atmospheric pressure; therefore, the first seventy-five per cent of the applicator vehicle's contents shall be discharged under atmospheric pressure.	26022 26023 26024 26025 26026
(10) Only brine that is produced from a well shall be allowed to be spread on a road. Fluids from the drilling of a well, flowback from the stimulation of a well, and other fluids used to treat a well shall not be spread on a road.	26027 26028 26029 26030
If a resolution or guidelines contain only the standards listed in division <u>divisions</u> (B)(1) to (10) of this section,	26031 26032

without addition or qualification, the resolution or guidelines 26033
shall be deemed effective when submitted to the chief without 26034
further action by the chief. All other resolutions and guidelines 26035
shall comply with and be no less stringent than this chapter, 26036
rules concerning surface application that the chief shall adopt 26037
under division (C) of section 1509.22 of the Revised Code, and 26038
other rules of the chief. Within fifteen days after receiving such 26039
other resolutions and guidelines, the chief shall review them for 26040
compliance with the law and rules and disapprove them if they do 26041
not comply. 26042

The board, legislative authority, or department, agency, or 26043
instrumentality may revise and resubmit any resolutions or 26044
guidelines that the chief disapproves after each disapproval, and 26045
the chief shall again review and approve or disapprove them within 26046
fifteen days after receiving them. The board, legislative 26047
authority, or department, agency, or instrumentality may amend any 26048
resolutions or guidelines previously approved by the chief and 26049
submit them, as amended, to the chief. The chief shall receive, 26050
review, and approve or disapprove the amended resolutions or 26051
guidelines on the same basis and in the same time as original 26052
resolutions or guidelines. The board, legislative authority, or 26053
department, agency, or instrumentality shall not implement amended 26054
resolutions or guidelines until they are approved by the chief 26055
under this division. 26056

(C) Any person, other than a political subdivision required 26057
to adopt a resolution under division (A) of this section or a 26058
department, agency, or instrumentality of this state or the United 26059
States, who owns or has a legal right or obligation to maintain a 26060
road, street, highway, or other similar land surface may file with 26061
the board of county commissioners a written plan for the 26062
application of brine to the road, street, highway, or other 26063
surface. The board need not approve any such plans, but if it 26064

approves a plan, the plan shall comply with this chapter, rules 26065
adopted thereunder, and the board's resolutions, if any. 26066

Disapproved plans may be revised and resubmitted for the board's 26067
approval. Approved plans may also be revised and submitted to the 26068
board. A plan or revised plan shall do all of the following: 26069

- (1) Identify the sources of brine to be used under the plan; 26070
- (2) Identify by name, address, and registration certificate, 26071
if applicable, any transporters of the brine; 26072
- (3) Specifically identify the places to which the brine will 26073
be applied; 26074
- (4) Specifically describe the method, rate, and frequency of 26075
application. 26076

(D) The board may attach terms and conditions to approval of 26077
a plan, or revised plan, and may revoke approval for any violation 26078
of this chapter, rules adopted thereunder, resolutions adopted by 26079
the board, or terms or conditions attached by the board. The board 26080
shall conduct at least one public hearing before approving a plan 26081
or revised plan, publishing notice of the time and place of each 26082
such public hearing in a newspaper of general circulation in the 26083
county at least five days before the day on which the hearing is 26084
to be held. The board shall record the filings of all plans and 26085
revised plans in its journal. The board shall approve, disapprove, 26086
or revoke approval of a plan or revised plan by the adoption of a 26087
resolution. Upon approval of a plan or revised plan, the board 26088
shall send a copy of the plan to the chief. Upon revoking approval 26089
of a plan or revised plan, the board shall notify the chief of the 26090
revocation. 26091

(E) No person shall: 26092

- (1) Apply brine to a water-saturated surface; 26093
- (2) Apply brine directly to vegetation adjacent to the 26094

surface of roads, streets, highways, and other surfaces to which 26095
brine may be applied. 26096

(F) Each political subdivision that adopts a resolution under 26097
divisions (A) and (B) of this section, each department, agency, or 26098
instrumentality of this state or the United States that submits 26099
guidelines under division (B) of this section, and each person who 26100
files a plan under divisions (C) and (D) of this section shall, on 26101
or before the fifteenth day of April of each year, file a report 26102
with the chief concerning brine applied within the person's or 26103
governmental entity's jurisdiction, including the quantities 26104
transported and the sources and application points during the last 26105
preceding calendar year and such other information in such form as 26106
the chief requires. 26107

(G) Any political subdivision or department, agency, or 26108
instrumentality of this state or the United States that applies 26109
brine under this section may do so with its own personnel, 26110
vehicles, and equipment without registration under or compliance 26111
with section 1509.222 or 1509.223 of the Revised Code and without 26112
the necessity for filing the surety bond or other security 26113
required by section 1509.225 of the Revised Code. However, each 26114
such entity shall legibly identify vehicles used to apply brine 26115
with reflective paint in letters no less than four inches in 26116
height, indicating the word "brine" and that the vehicle is a 26117
vehicle of the political subdivision, department, agency, or 26118
instrumentality. Except as stated in this division, such entities 26119
shall transport brine in accordance with sections 1509.22 to 26120
1509.226 of the Revised Code. 26121

(H) A surface application plan filed for approval under 26122
division (C) of this section shall be accompanied by a 26123
nonrefundable fee of fifty dollars, which shall be credited to the 26124
general fund of the county. An approved plan is valid for one year 26125
from the date of its approval unless it is revoked before that 26126

time. An approved revised plan is valid for the remainder of the 26127
term of the plan it supersedes unless it is revoked before that 26128
time. Any person who has filed such a plan or revised plan and had 26129
it approved may renew it by refileing it in accordance with 26130
divisions (C) and (D) of this section within thirty days before 26131
any anniversary of the date on which the original plan was 26132
approved. The board shall notify the chief of renewals and 26133
nonrenewals of plans. Even if a renewed plan is approved under 26134
those divisions, the plan is not effective until notice is 26135
received by the chief, and until notice is received, the chief 26136
shall enforce this chapter and rules adopted thereunder with 26137
regard to the affected roads, streets, highways, and other similar 26138
land surfaces as if the plan had not been renewed. 26139

(I) A resolution adopted under division (A) of this section 26140
by a board or legislative authority shall be effective for one 26141
year following the date of its adoption and from month to month 26142
thereafter until the board or legislative authority, by 26143
resolution, terminates the authority granted in the original 26144
resolution. The termination shall be effective not less than seven 26145
days after enactment of the resolution, and a copy of the 26146
resolution shall be sent to the chief. 26147

Sec. 1509.23. (A) Rules of the chief of the division of 26148
~~mineral oil and gas~~ resources management may specify practices to 26149
be followed in the drilling and treatment of wells, production of 26150
oil and gas, and plugging of wells for protection of public health 26151
or safety or to prevent damage to natural resources, including 26152
specification of the following: 26153

(1) Appropriate devices; 26154

(2) Minimum distances that wells and other excavations, 26155
structures, and equipment shall be located from water wells, 26156
streets, roads, highways, rivers, lakes, streams, ponds, other 26157

bodies of water, railroad tracks, public or private recreational 26158
areas, zoning districts, and buildings or other structures. Rules 26159
adopted under division (A)(2) of this section shall not conflict 26160
with section 1509.021 of the Revised Code. 26161

(3) Other methods of operation; 26162

(4) Procedures, methods, and equipment and other requirements 26163
for equipment to prevent and contain discharges of oil and brine 26164
from oil production facilities and oil drilling and workover 26165
facilities consistent with and equivalent in scope, content, and 26166
coverage to section 311(j)(1)(c) of the "Federal Water Pollution 26167
Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, 26168
as amended, and regulations adopted under it. In addition, the 26169
rules may specify procedures, methods, and equipment and other 26170
requirements for equipment to prevent and contain surface and 26171
subsurface discharges of fluids, condensates, and gases. 26172

(5) Notifications. 26173

(B) The chief, in consultation with the emergency response 26174
commission created in section 3750.02 of the Revised Code, shall 26175
adopt rules in accordance with Chapter 119. of the Revised Code 26176
that specify the information that shall be included in an 26177
electronic database that the chief shall create and host. The 26178
information shall be that which the chief considers to be 26179
appropriate for the purpose of responding to emergency situations 26180
that pose a threat to public health or safety or the environment. 26181
At the minimum, the information shall include that which a person 26182
who is regulated under this chapter is required to submit under 26183
the "Emergency Planning and Community Right-To-Know Act of 1986," 26184
100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under 26185
it. 26186

In addition, the rules shall specify whether and to what 26187
extent the database and the information that it contains will be 26188

made accessible to the public. The rules shall ensure that the 26189
database will be made available via the internet or a system of 26190
computer disks to the emergency response commission and to every 26191
local emergency planning committee and fire department in this 26192
state. 26193

Sec. 1509.24. (A) The chief of the division of ~~mineral oil~~ 26194
and gas resources management, with the approval of the technical 26195
advisory council on oil and gas created in section 1509.38 of the 26196
Revised Code, may adopt, amend, or rescind rules relative to 26197
minimum acreage requirements for drilling units and minimum 26198
distances from which a new well may be drilled or an existing well 26199
deepened, plugged back, or reopened to a source of supply 26200
different from the existing pool from boundaries of tracts, 26201
drilling units, and other wells for the purpose of conserving oil 26202
and gas reserves. The rules relative to minimum acreage 26203
requirements for drilling units shall require a drilling unit to 26204
be compact and composed of contiguous land. 26205

(B) Rules adopted under this section and special orders made 26206
under section 1509.25 of the Revised Code shall apply only to new 26207
wells to be drilled or existing wells to be deepened, plugged 26208
back, or reopened to a source of supply different from the 26209
existing pool for the purpose of extracting oil or gas in their 26210
natural state. 26211

Sec. 1509.25. The chief of the division of ~~mineral oil and~~ 26212
gas resources management, upon the chief's own motion or upon 26213
application of an owner, may hold a hearing to consider the need 26214
or desirability of adopting a special order for drilling unit 26215
requirements in a particular pool different from those established 26216
under section 1509.24 of the Revised Code. The chief shall notify 26217
every owner of land within the area proposed to be included within 26218
the order, of the date, time, and place of the hearing and the 26219

nature of the order being considered at least thirty days prior to 26220
the date of the hearing. Each application for such an order shall 26221
be accompanied by such information as the chief may request. If 26222
the chief finds that the pool can be defined with reasonable 26223
certainty, that the pool is in the initial state of development, 26224
and that the establishment of such different requirements for 26225
drilling a well on a tract or drilling unit in ~~such~~ the pool is 26226
reasonably necessary to protect correlative rights or to provide 26227
effective development, use, or conservation of oil and gas, the 26228
chief, with the written approval of the technical advisory council 26229
on oil and gas created in section 1509.38 of the Revised Code, 26230
shall make a special order designating the area covered by the 26231
order, and specifying the acreage requirements for drilling a well 26232
on a tract or drilling unit in ~~such~~ the area, which acreage 26233
requirements shall be uniform for the entire pool. The order shall 26234
specify minimum distances from the boundary of the tract or 26235
drilling unit for the drilling of wells and minimum distances from 26236
other wells and allow exceptions for wells drilled or drilling in 26237
a particular pool at the time of the filing of the application. 26238
The chief may exempt the discovery well from minimum acreage and 26239
distance requirements in the order. After the date of the notice 26240
for a hearing called to make ~~such~~ the order, no additional well 26241
shall be commenced in the pool for a period of sixty days or until 26242
an order has been made pursuant to the application, whichever is 26243
earlier. The chief, upon the chief's own motion or upon 26244
application of an owner, after a hearing and with the approval of 26245
the technical advisory council on oil and gas, may include 26246
additional lands determined to be underlaid by a particular pool 26247
or to exclude lands determined not to be underlaid by a particular 26248
pool, and may modify the spacing and acreage requirements of the 26249
order. 26250

Nothing in this section permits the chief to establish 26251
drilling units in a pool by requiring the use of a survey grid 26252

coordinate system with fixed or established unit boundaries. 26253

Sec. 1509.26. The owners of adjoining tracts may agree to 26254
pool ~~such~~ the tracts to form a drilling unit that conforms to the 26255
minimum acreage and distance requirements of the division of 26256
~~mineral oil and gas~~ resources management under section 1509.24 or 26257
1509.25 of the Revised Code. ~~Such~~ The agreement shall be in 26258
writing, a copy of which shall be submitted to the division with 26259
the application for a permit required by section 1509.05 of the 26260
Revised Code. Parties to the agreement shall designate one of 26261
their number as the applicant for ~~such~~ the permit. 26262

Sec. 1509.27. If a tract of land is of insufficient size or 26263
shape to meet the requirements for drilling a well thereon as 26264
provided in section 1509.24 or 1509.25 of the Revised Code, 26265
whichever is applicable, and the owner of the tract who also is 26266
the owner of the mineral interest has been unable to form a 26267
drilling unit under agreement as provided in section 1509.26 of 26268
the Revised Code, on a just and equitable basis, such an owner may 26269
make application to the division of ~~mineral oil and gas~~ resources 26270
management for a mandatory pooling order. 26271

The application shall include information as shall be 26272
reasonably required by the chief of the division of ~~mineral oil~~ 26273
and gas resources management and shall be accompanied by an 26274
application for a permit as required by section 1509.05 of the 26275
Revised Code. The chief shall notify all owners of land within the 26276
area proposed to be included within the drilling unit of the 26277
filing of the application and of their right to a hearing. After 26278
the hearing or after the expiration of thirty days from the date 26279
notice of application was mailed to such owners, the chief, if 26280
satisfied that the application is proper in form and that 26281
mandatory pooling is necessary to protect correlative rights and 26282
to provide effective development, use, and conservation of oil and 26283

gas, shall issue a drilling permit and a mandatory pooling order 26284
complying with the requirements for drilling a well as provided in 26285
section 1509.24 or 1509.25 of the Revised Code, whichever is 26286
applicable. The mandatory pooling order shall: 26287

(A) Designate the boundaries of the drilling unit within 26288
which the well shall be drilled; 26289

(B) Designate the proposed production site; 26290

(C) Describe each separately owned tract or part thereof 26291
pooled by the order; 26292

(D) Allocate on a surface acreage basis a pro rata portion of 26293
the production to the owner of each tract pooled by the order. The 26294
pro rata portion shall be in the same proportion that the 26295
percentage of the owner's acreage is to the state minimum acreage 26296
requirements established in rules adopted under this chapter for a 26297
drilling unit unless the applicant demonstrates to the chief using 26298
geological evidence that the geologic structure containing the oil 26299
or gas is larger than the minimum acreage requirement in which 26300
case the pro rata portion shall be in the same proportion that the 26301
percentage of the owner's acreage is to the geologic structure. 26302

(E) Specify the basis upon which each owner of a tract pooled 26303
by the order shall share all reasonable costs and expenses of 26304
drilling and producing if the owner elects to participate in the 26305
drilling and operation of the well; 26306

(F) Designate the person to whom the permit shall be issued. 26307

A person shall not submit more than five applications for 26308
mandatory pooling orders per year under this section unless 26309
otherwise approved by the chief. 26310

No surface operations or disturbances to the surface of the 26311
land shall occur on a tract pooled by an order without the written 26312
consent of or a written agreement with the owner of the tract that 26313

approves the operations or disturbances. 26314

If an owner of a tract pooled by the order does not elect to 26315
participate in the risk and cost of the drilling and operation of 26316
a well, the owner shall be designated as a nonparticipating owner 26317
in the drilling and operation of the well on a limited or carried 26318
basis and is subject to terms and conditions determined by the 26319
chief to be just and reasonable. In addition, if an owner is 26320
designated as a nonparticipating owner, the owner is not liable 26321
for actions or conditions associated with the drilling or 26322
operation of the well. If the applicant bears the costs of 26323
drilling, equipping, and operating a well for the benefit of a 26324
nonparticipating owner, as provided for in the pooling order, then 26325
the applicant shall be entitled to the share of production from 26326
the drilling unit accruing to the interest of that 26327
nonparticipating owner, exclusive of the nonparticipating owner's 26328
proportionate share of the royalty interest until there has been 26329
received the share of costs charged to that nonparticipating owner 26330
plus such additional percentage of the share of costs as the chief 26331
shall determine. The total amount receivable hereunder shall in no 26332
event exceed two hundred per cent of the share of costs charged to 26333
that nonparticipating owner. After receipt of that share of costs 26334
by such an applicant, a nonparticipating owner shall receive a 26335
proportionate share of the working interest in the well in 26336
addition to a proportionate share of the royalty interest, if any. 26337

If there is a dispute as to costs of drilling, equipping, or 26338
operating a well, the chief shall determine those costs. 26339

Sec. 1509.28. (A) The chief of the division of mineral oil 26340
and gas resources management, upon the chief's own motion or upon 26341
application by the owners of sixty-five per cent of the land area 26342
overlying the pool, shall hold a hearing to consider the need for 26343
the operation as a unit of an entire pool or part thereof. An 26344

application by owners shall be accompanied by such information as 26345
the chief may request. 26346

The chief shall make an order providing for the unit 26347
operation of a pool or part thereof if the chief finds that such 26348
operation is reasonably necessary to increase substantially the 26349
ultimate recovery of oil and gas, and the value of the estimated 26350
additional recovery of oil or gas exceeds the estimated additional 26351
cost incident to conducting ~~such~~ the operation. The order shall be 26352
upon terms and conditions that are just and reasonable and shall 26353
prescribe a plan for unit operations that shall include: 26354

(1) A description of the unitized area, termed the unit area; 26355

(2) A statement of the nature of the operations contemplated; 26356

(3) An allocation to the separately owned tracts in the unit 26357
area of all the oil and gas that is produced from the unit area 26358
and is saved, being the production that is not used in the conduct 26359
of operations on the unit area or not unavoidably lost. The 26360
allocation shall be in accord with the agreement, if any, of the 26361
interested parties. If there is no such agreement, the chief shall 26362
determine the value, from the evidence introduced at the hearing, 26363
of each separately owned tract in the unit area, exclusive of 26364
physical equipment, for development of oil and gas by unit 26365
operations, and the production allocated to each tract shall be 26366
the proportion that the value of each tract so determined bears to 26367
the value of all tracts in the unit area. 26368

(4) A provision for the credits and charges to be made in the 26369
adjustment among the owners in the unit area for their respective 26370
investments in wells, tanks, pumps, machinery, materials, and 26371
equipment contributed to the unit operations; 26372

(5) A provision providing how the expenses of unit 26373
operations, including capital investment, shall be determined and 26374
charged to the separately owned tracts and how the expenses shall 26375

be paid; 26376

(6) A provision, if necessary, for carrying or otherwise 26377
financing any person who is unable to meet the person's financial 26378
obligations in connection with the unit, allowing a reasonable 26379
interest charge for such service; 26380

(7) A provision for the supervision and conduct of the unit 26381
operations, in respect to which each person shall have a vote with 26382
a value corresponding to the percentage of the expenses of unit 26383
operations chargeable against the interest of ~~such~~ that person; 26384

(8) The time when the unit operations shall commence, and the 26385
manner in which, and the circumstances under which, the unit 26386
operations shall terminate; 26387

(9) Such additional provisions as are found to be appropriate 26388
for carrying on the unit operations, and for the protection or 26389
adjustment of correlative rights. 26390

(B) No order of the chief providing for unit operations shall 26391
become effective unless and until the plan for unit operations 26392
prescribed by the chief has been approved in writing by those 26393
owners who, under the chief's order, will be required to pay at 26394
least sixty-five per cent of the costs of the unit operation, and 26395
also by the royalty or, with respect to unleased acreage, fee 26396
owners of sixty-five per cent of the acreage to be included in the 26397
unit. If the plan for unit operations has not been so approved by 26398
owners and royalty owners at the time the order providing for unit 26399
operations is made, the chief shall upon application and notice 26400
hold such supplemental hearings as may be required to determine if 26401
and when the plan for unit operations has been so approved. If the 26402
owners and royalty owners, or either, owning the required 26403
percentage of interest in the unit area do not approve the plan 26404
for unit operations within a period of six months from the date on 26405
which the order providing for unit operations is made, ~~such~~ the 26406

order shall cease to be of force and shall be revoked by the 26407
chief. 26408

An order providing for unit operations may be amended by an 26409
order made by the chief, in the same manner and subject to the 26410
same conditions as an original order providing for unit 26411
operations, provided that: 26412

(1) If such an amendment affects only the rights and 26413
interests of the owners, the approval of the amendment by the 26414
royalty owners shall not be required. 26415

(2) No such order of amendment shall change the percentage 26416
for allocation of oil and gas as established for any separately 26417
owned tract by the original order, except with the consent of all 26418
persons owning interest in ~~such~~ the tract. 26419

The chief, by an order, may provide for the unit operation of 26420
a pool or a part thereof that embraces a unit area established by 26421
a previous order of the chief. Such an order, in providing for the 26422
allocation of unit production, shall first treat the unit area 26423
previously established as a single tract, and the portion of the 26424
unit production so allocated thereto shall then be allocated among 26425
the separately owned tracts included in ~~such~~ the previously 26426
established unit area in the same proportions as those specified 26427
in the previous order. 26428

Oil and gas allocated to a separately owned tract shall be 26429
deemed, for all purposes, to have been actually produced from ~~such~~ 26430
the tract, and all operations, including, but not limited to, the 26431
commencement, drilling, operation of, or production from a well 26432
upon any portion of the unit area shall be deemed for all purposes 26433
the conduct of such operations and production from any lease or 26434
contract for lands any portion of which is included in the unit 26435
area. The operations conducted pursuant to the order of the chief 26436
shall constitute a fulfillment of all the express or implied 26437

obligations of each lease or contract covering lands in the unit 26438
area to the extent that compliance with such obligations cannot be 26439
had because of the order of the chief. 26440

Oil and gas allocated to any tract, and the proceeds from the 26441
sale thereof, shall be the property and income of the several 26442
persons to whom, or to whose credit, the same are allocated or 26443
payable under the order providing for unit operations. 26444

No order of the chief or other contract relating to the sale 26445
or purchase of production from a separately owned tract shall be 26446
terminated by the order providing for unit operations, but shall 26447
remain in force and apply to oil and gas allocated to ~~such~~ the 26448
tract until terminated in accordance with the provisions thereof. 26449

Except to the extent that the parties affected so agree, no 26450
order providing for unit operations shall be construed to result 26451
in a transfer of all or any part of the title of any person to the 26452
oil and gas rights in any tract in the unit area. All property, 26453
whether real or personal, that may be acquired for the account of 26454
the owners within the unit area shall be the property of such 26455
owners in the proportion that the expenses of unit operations are 26456
charged. 26457

Sec. 1509.29. Upon application by an owner of a tract for 26458
which a drilling permit may not be issued, and a showing by the 26459
owner that the owner is unable to enter a voluntary pooling 26460
agreement and that the owner would be unable to participate under 26461
a mandatory pooling order, the chief of the division of ~~mineral~~
oil and gas resources management shall issue a permit and order 26462
establishing the tract as an exception tract if the chief finds 26463
that ~~such~~ the owner would otherwise be precluded from producing 26464
oil or gas from the owner's tract because of minimum acreage or 26465
distance requirements. The order shall set a percentage of the 26466
maximum daily potential production at which the well may be 26467
26468

produced. The percentage shall be the same as the percentage that 26469
the number of acres in the tract bears to the number of acres in 26470
the minimum acreage requirement that has been established under 26471
section 1509.24 or 1509.25 of the Revised Code, whichever is 26472
applicable, but if the well drilled on ~~such~~ the tract is located 26473
nearer to the boundary of the tract than the required minimum 26474
distance, the percentage may not exceed the percentage determined 26475
by dividing the distance from the well to the boundary by the 26476
minimum distance requirement. Within ten days after completion of 26477
the well, the maximum daily potential production of the well shall 26478
be determined by such drill stem, open flow, or other tests as may 26479
be required by the chief. The chief shall require such tests, at 26480
least once every three months, as are necessary to determine the 26481
maximum daily potential production at that time. 26482

Sec. 1509.31. (A) Whenever the entire interest of an oil and 26483
gas lease is assigned or otherwise transferred, the assignor or 26484
transferor shall notify the holders of the royalty interests, and, 26485
if a well or wells exist on the lease, the division of ~~mineral oil~~ 26486
and gas resources management, of the name and address of the 26487
assignee or transferee by certified mail, return receipt 26488
requested, not later than thirty days after the date of the 26489
assignment or transfer. When notice of any such assignment or 26490
transfer is required to be provided to the division, it shall be 26491
provided on a form prescribed and provided by the division and 26492
verified by both the assignor or transferor and by the assignee or 26493
transferee and shall be accompanied by a nonrefundable fee of one 26494
hundred dollars for each well. The notice form applicable to 26495
assignments or transfers of a well to the owner of the surface 26496
estate of the tract on which the well is located shall contain a 26497
statement informing the landowner that the well may require 26498
periodic servicing to maintain its productivity; that, upon 26499
assignment or transfer of the well to the landowner, the landowner 26500

becomes responsible for compliance with the requirements of this 26501
chapter and rules adopted under it, including, without limitation, 26502
the proper disposal of brine obtained from the well, the plugging 26503
of the well when it becomes incapable of producing oil or gas, and 26504
the restoration of the well site; and that, upon assignment or 26505
transfer of the well to the landowner, the landowner becomes 26506
responsible for the costs of compliance with the requirements of 26507
this chapter and rules adopted under it and the costs for 26508
operating and servicing the well. 26509

(B) When the entire interest of a well is proposed to be 26510
assigned or otherwise transferred to the landowner for use as an 26511
exempt domestic well, the owner who has been issued a permit under 26512
this chapter for the well shall submit to the chief of the 26513
division of oil and gas resources management an application for 26514
the assignment or transfer that contains all documents that the 26515
chief requires and a nonrefundable fee of one hundred dollars. The 26516
application for such an assignment or transfer shall be prescribed 26517
and provided by the chief. The chief may approve the application 26518
if the application is accompanied by a release of all of the oil 26519
and gas leases that are included in the applicable formation of 26520
the drilling unit, the release is in a form such that the well 26521
ownership merges with the fee simple interest of the surface 26522
tract, and the release is in a form that may be recorded. However, 26523
if the owner of the well does not release the oil and gas leases 26524
associated with the well that is proposed to be assigned or 26525
otherwise transferred or if the fee simple tract that results from 26526
the merger of the well ownership with the fee simple interest of 26527
the surface tract is less than five acres, the proposed exempt 26528
domestic well owner shall post a five thousand dollar bond with 26529
the division ~~of mineral resources management~~ prior to the 26530
assignment or transfer of the well to ensure that the well will be 26531
properly plugged. The chief, for good cause, may modify the 26532
requirements of this section governing the assignment or transfer 26533

of the interests of a well to the landowner. Upon the assignment 26534
or transfer of the well, the owner of an exempt domestic well is 26535
not subject to the severance tax levied under section 5749.02 of 26536
the Revised Code, but is subject to all applicable fees 26537
established in this chapter. 26538

(C) The owner holding a permit under section 1509.05 of the 26539
Revised Code is responsible for all obligations and liabilities 26540
imposed by this chapter and any rules, orders, and terms and 26541
conditions of a permit adopted or issued under it, and no 26542
assignment or transfer by the owner relieves the owner of the 26543
obligations and liabilities until and unless the assignee or 26544
transferee files with the division the information described in 26545
divisions (A)(1), (2), (3), (4), (5), (10), (11), and (12) of 26546
section 1509.06 of the Revised Code; obtains liability insurance 26547
coverage required by section 1509.07 of the Revised Code, except 26548
when none is required by that section; and executes and files a 26549
surety bond, negotiable certificates of deposit or irrevocable 26550
letters of credit, or cash, as described in that section. Instead 26551
of a bond, but only upon acceptance by the chief ~~of the division~~ 26552
~~of mineral resources management~~, the assignee or transferee may 26553
file proof of financial responsibility, described in section 26554
1509.07 of the Revised Code. Section 1509.071 of the Revised Code 26555
applies to the surety bond, cash, and negotiable certificates of 26556
deposit and irrevocable letters of credit described in this 26557
section. Unless the chief approves a modification, each assignee 26558
or transferee shall operate in accordance with the plans and 26559
information filed by the permit holder pursuant to section 1509.06 26560
of the Revised Code. 26561

(D) If a mortgaged property that is being foreclosed is 26562
subject to an oil or gas lease, pipeline agreement, or other 26563
instrument related to the production or sale of oil or natural gas 26564
and the lease, agreement, or other instrument was recorded 26565

subsequent to the mortgage, and if the lease, agreement, or other instrument is not in default, the oil or gas lease, pipeline agreement, or other instrument, as applicable, has priority over all other liens, claims, or encumbrances on the property so that the oil or gas lease, pipeline agreement, or other instrument is not terminated or extinguished upon the foreclosure sale of the mortgaged property. If the owner of the mortgaged property was entitled to oil and gas royalties before the foreclosure sale, the oil or gas royalties shall be paid to the purchaser of the foreclosed property.

Sec. 1509.32. Any person adversely affected may file with the chief of the division of ~~mineral~~ oil and gas resources management a written complaint alleging failure to restore disturbed land surfaces in violation of section 1509.072 or 1509.22 of the Revised Code or a rule adopted thereunder.

Upon receipt of a complaint, the chief shall cause an investigation to be made of the lands where the alleged violation has occurred and send copies of the investigation report to the person who filed the complaint and to the owner. Upon finding a violation the chief shall order the owner to eliminate the violation within a specified time. If the owner fails to eliminate the violation within the time specified, the chief may request the prosecuting attorney of the county in which the violation occurs or the attorney general to bring appropriate action to secure compliance with ~~such~~ those sections. If the chief fails to bring an appropriate action to secure compliance with ~~such~~ those sections within twenty days after the time specified, the person filing the complaint may request the prosecuting attorney of the county in which the violation occurs to bring an appropriate action to secure compliance with ~~such~~ those sections. The division of ~~mineral~~ oil and gas resources management may cooperate with any state or local agency to provide technical advice or minimum

standards for the restoration of various soils and land surfaces 26598
or to assist in any investigation. 26599

Sec. 1509.33. (A) Whoever violates sections 1509.01 to 26600
1509.31 of the Revised Code, or any rules adopted or orders or 26601
terms or conditions of a permit or registration certificate issued 26602
pursuant to these sections for which no specific penalty is 26603
provided in this section, shall pay a civil penalty of not more 26604
than four thousand dollars for each offense. 26605

(B) Whoever violates section 1509.221 of the Revised Code or 26606
any rules adopted or orders or terms or conditions of a permit 26607
issued thereunder shall pay a civil penalty of not more than two 26608
thousand five hundred dollars for each violation. 26609

(C) Whoever violates division (D) of section 1509.22 or 26610
division (A)(1) of section 1509.222 of the Revised Code shall pay 26611
a civil penalty of not less than two thousand five hundred dollars 26612
nor more than twenty thousand dollars for each violation. 26613

(D) Whoever violates division (A) of section 1509.22 of the 26614
Revised Code shall pay a civil penalty of not less than two 26615
thousand five hundred dollars nor more than ten thousand dollars 26616
for each violation. 26617

(E) Whoever violates division (A) of section 1509.223 of the 26618
Revised Code shall pay a civil penalty of not more than ten 26619
thousand dollars for each violation. 26620

(F) Whoever violates section 1509.072 of the Revised Code or 26621
any rules adopted or orders issued to administer, implement, or 26622
enforce that section shall pay a civil penalty of not more than 26623
five thousand dollars for each violation. 26624

(G) In addition to any other penalties provided in this 26625
chapter, whoever violates division (B) of section 1509.22 or 26626
division (A)(1) of section 1509.222 or knowingly violates division 26627

(A) of section 1509.223 of the Revised Code is liable for any 26628
damage or injury caused by the violation and for the cost of 26629
rectifying the violation and conditions caused by the violation. 26630
If two or more persons knowingly violate one or more of ~~such~~ those 26631
divisions in connection with the same event, activity, or 26632
transaction, they are jointly and severally liable under this 26633
division. 26634

(H) The attorney general, upon the request of the chief of 26635
the division of ~~mineral~~ oil and gas resources management, shall 26636
commence an action under this section against any person who 26637
violates sections 1509.01 to 1509.31 of the Revised Code, or any 26638
rules adopted or orders or terms or conditions of a permit or 26639
registration certificate issued pursuant to these sections. Any 26640
action under this section is a civil action, governed by the Rules 26641
of Civil Procedure and other rules of practice and procedure 26642
applicable to civil actions. The remedy provided in this division 26643
is cumulative and concurrent with any other remedy provided in 26644
this chapter, and the existence or exercise of one remedy does not 26645
prevent the exercise of any other, except that no person shall be 26646
subject to both a civil penalty under division (A), (B), (C), or 26647
(D) of this section and a criminal penalty under section 1509.99 26648
of the Revised Code for the same offense. 26649

Sec. 1509.34. (A)(1) If an owner fails to pay the fees 26650
imposed by this chapter, or if the chief of the division of 26651
~~mineral~~ oil and gas resources management incurs costs under 26652
division (E) of section 1509.071 of the Revised Code to correct 26653
conditions associated with the owner's well that the chief 26654
reasonably has determined are causing imminent health or safety 26655
risks, the division of ~~mineral~~ oil and gas resources management 26656
shall have a priority lien against that owner's interest in the 26657
applicable well in front of all other creditors for the amount of 26658
any such unpaid fees and costs incurred. The chief shall file a 26659

statement in the office of the county recorder of the county in 26660
which the applicable well is located of the amount of the unpaid 26661
fees and costs incurred as described in this division. The 26662
statement shall constitute a lien on the owner's interest in the 26663
well as of the date of the filing. The lien shall remain in force 26664
so long as any portion of the lien remains unpaid or until the 26665
chief issues a certificate of release of the lien. If the chief 26666
issues a certificate of release of the lien, the chief shall file 26667
the certificate of release in the office of the applicable county 26668
recorder. 26669

(2) A lien imposed under division (A)(1) of this section 26670
shall be in addition to any lien imposed by the attorney general 26671
for failure to pay the assessment imposed by section 1509.50 of 26672
the Revised Code or the tax levied under division (A)(5) or (6) of 26673
section 5749.02 of the Revised Code, as applicable. 26674

(3) If the attorney general cannot collect from a severer or 26675
an owner for an outstanding balance of amounts due under section 26676
1509.50 of the Revised Code or of unpaid taxes levied under 26677
division (A)(5) or (6) of section 5749.02 of the Revised Code, as 26678
applicable, the tax commissioner may request the chief to impose a 26679
priority lien against the owner's interest in the applicable well. 26680
Such a lien has priority in front of all other creditors. 26681

(B) The chief promptly shall issue a certificate of release 26682
of a lien under either of the following circumstances: 26683

(1) Upon the repayment in full of the amount of unpaid fees 26684
imposed by this chapter or costs incurred by the chief under 26685
division (E) of section 1509.071 of the Revised Code to correct 26686
conditions associated with the owner's well that the chief 26687
reasonably has determined are causing imminent health or safety 26688
risks; 26689

(2) Any other circumstance that the chief determines to be in 26690

the best interests of the state. 26691

(C) The chief may modify the amount of a lien under this 26692
section. If the chief modifies a lien, the chief shall file a 26693
statement in the office of the county recorder of the applicable 26694
county of the new amount of the lien. 26695

(D) An owner regarding which the division has recorded a lien 26696
against the owner's interest in a well in accordance with this 26697
section shall not transfer a well, lease, or mineral rights to 26698
another owner or person until the chief issues a certificate of 26699
release for each lien against the owner's interest in the well. 26700

(E) All money from the collection of liens under this section 26701
shall be deposited in the state treasury to the credit of the oil 26702
and gas well fund created in section 1509.02 of the Revised Code. 26703

Sec. 1509.36. Any person adversely affected by an order by 26704
the chief of the division of ~~mineral oil and gas~~ resources 26705
management may appeal to the oil and gas commission for an order 26706
vacating or modifying the order. 26707

The person so appealing to the commission shall be known as 26708
appellant and the chief shall be known as appellee. Appellant and 26709
appellee shall be deemed to be parties to the appeal. 26710

The appeal shall be in writing and shall set forth the order 26711
complained of and the grounds upon which the appeal is based. The 26712
appeal shall be filed with the commission within thirty days after 26713
the date upon which the appellant received notice by certified 26714
mail and, for all other persons adversely affected by the order, 26715
within thirty days after the date of the order complained of. 26716
Notice of the filing of the appeal shall be filed with the chief 26717
within three days after the appeal is filed with the commission. 26718

Upon the filing of the appeal the commission promptly shall 26719
fix the time and place at which the hearing on the appeal will be 26720

held, and shall give the appellant and the chief at least ten 26721
days' written notice thereof by mail. The commission may postpone 26722
or continue any hearing upon its own motion or upon application of 26723
the appellant or of the chief. 26724

The filing of an appeal provided for in this section does not 26725
automatically suspend or stay execution of the order appealed 26726
from, but upon application by the appellant the commission may 26727
suspend or stay the execution pending determination of the appeal 26728
upon such terms as the commission considers proper. 26729

Either party to the appeal or any interested person who, 26730
pursuant to commission rules has been granted permission to 26731
appear, may submit such evidence as the commission considers 26732
admissible. 26733

For the purpose of conducting a hearing on an appeal, the 26734
commission may require the attendance of witnesses and the 26735
production of books, records, and papers, and it may, and at the 26736
request of any party it shall, issue subpoenas for witnesses or 26737
subpoenas duces tecum to compel the production of any books, 26738
records, or papers, directed to the sheriffs of the counties where 26739
the witnesses are found. The subpoenas shall be served and 26740
returned in the same manner as subpoenas in criminal cases are 26741
served and returned. The fees of sheriffs shall be the same as 26742
those allowed by the court of common pleas in criminal cases. 26743
Witnesses shall be paid the fees and mileage provided for under 26744
section 119.094 of the Revised Code. Such fees and mileage 26745
expenses incurred at the request of appellant shall be paid in 26746
advance by the appellant, and the remainder of those expenses 26747
shall be paid out of funds appropriated for the expenses of the 26748
division of ~~mineral~~ oil and gas resources management. 26749

In case of disobedience or neglect of any subpoena served on 26750
any person, or the refusal of any witness to testify to any matter 26751
regarding which the witness may be lawfully interrogated, the 26752

court of common pleas of the county in which the disobedience, 26753
neglect, or refusal occurs, or any judge thereof, on application 26754
of the commission or any member thereof, shall compel obedience by 26755
attachment proceedings for contempt as in the case of disobedience 26756
of the requirements of a subpoena issued from that court or a 26757
refusal to testify therein. Witnesses at such hearings shall 26758
testify under oath, and any member of the commission may 26759
administer oaths or affirmations to persons who so testify. 26760

At the request of any party to the appeal, a stenographic or 26761
electronic record of the testimony and other evidence submitted 26762
shall be taken by an official court ~~shorthand~~ reporter at the 26763
expense of the party making the request ~~therefor~~ for the record. 26764
The record shall include all of the testimony and other evidence 26765
and the rulings on the admissibility thereof presented at the 26766
hearing. The commission shall pass upon the admissibility of 26767
evidence, but any party may at the time object to the admission of 26768
any evidence and except to the rulings of the commission thereon, 26769
and if the commission refuses to admit evidence the party offering 26770
same may make a proffer thereof, and such proffer shall be made a 26771
part of the record of the hearing. 26772

If upon completion of the hearing the commission finds that 26773
the order appealed from was lawful and reasonable, it shall make a 26774
written order affirming the order appealed from; if the commission 26775
finds that the order was unreasonable or unlawful, it shall make a 26776
written order vacating the order appealed from and making the 26777
order that it finds the chief should have made. Every order made 26778
by the commission shall contain a written finding by the 26779
commission of the facts upon which the order is based. 26780

Notice of the making of the order shall be given forthwith to 26781
each party to the appeal by mailing a certified copy thereof to 26782
each such party by certified mail. 26783

The order of the commission is final unless vacated by the 26784

court of common pleas of Franklin county in an appeal as provided 26785
for in section 1509.37 of the Revised Code. Sections 1509.01 to 26786
1509.37 of the Revised Code, providing for appeals relating to 26787
orders by the chief or by the commission, or relating to rules 26788
adopted by the chief, do not constitute the exclusive procedure 26789
that any person who believes the person's rights to be unlawfully 26790
affected by those sections or any official action taken thereunder 26791
must pursue in order to protect and preserve those rights, nor do 26792
those sections constitute a procedure that that person must pursue 26793
before that person may lawfully appeal to the courts to protect 26794
and preserve those rights. 26795

Sec. 1509.38. There is hereby created in the division of 26796
~~mineral oil and gas~~ resources management a technical advisory 26797
council on oil and gas, which shall consist of eight members to be 26798
appointed by the governor with the advice and consent of the 26799
senate. Three members shall be independent oil or gas producers, 26800
operators, or their representatives, operating and producing 26801
primarily in this state, three members shall be oil or gas 26802
producers, operators, or their representatives having substantial 26803
oil and gas producing operations in this state and at least one 26804
other state, one member shall represent the public, and one member 26805
shall represent persons having landowners' royalty interests in 26806
oil and gas production. All members shall be residents of this 26807
state, and all members, except the members representing the public 26808
and persons having landowners' royalty interests, shall have at 26809
least five years of practical or technical experience in oil or 26810
gas drilling and production. Not more than one member may 26811
represent any one company, producer, or operator. 26812

Terms of office shall be for three years, commencing on the 26813
first day of February and ending on the thirty-first day of 26814
January. Each member shall hold office from the date of 26815
appointment until the end of the term for which the member was 26816

appointed. A vacancy in the office of a member shall be filled by 26817
the governor, with the advice and consent of the senate. Any 26818
member appointed to fill a vacancy occurring prior to the 26819
expiration of the term for which the member's predecessor was 26820
appointed shall hold office for the remainder of that term. Any 26821
member shall continue in office subsequent to the expiration date 26822
of the member's term until the member's successor takes office, or 26823
until a period of sixty days has elapsed, whichever occurs first. 26824

The council shall select from among its members a 26825
chairperson, a vice-chairperson, and a secretary. All members are 26826
entitled to their actual and necessary expenses incurred in the 26827
performance of their duties as members, payable from the 26828
appropriations for the division. 26829

The governor may remove any member for inefficiency, neglect 26830
of duty, or malfeasance in office. 26831

The council shall hold at least one regular meeting in each 26832
quarter of a calendar year and shall keep a record of its 26833
proceedings. Special meetings may be called by the chairperson and 26834
shall be called by the chairperson upon receipt of a written 26835
request signed by two or more members of the council. A written 26836
notice of the time and place of each meeting shall be sent to each 26837
member of the council. Five members constitute a quorum, and no 26838
action of the council is valid unless five members concur. 26839

The council, when requested by the chief of the division of 26840
~~mineral oil and gas~~ resources management, shall consult with and 26841
advise the chief and perform other duties that may be lawfully 26842
delegated to it by the chief. The council may participate in 26843
hearings held by the chief under this chapter and has powers of 26844
approval as provided in sections 1509.24 and 1509.25 of the 26845
Revised Code. The council shall conduct the activities required, 26846
and exercise the authority granted, under Chapter 1510. of the 26847
Revised Code. 26848

The council, upon receiving a request from the chairperson of the oil and gas commission under division (C) of section 1509.35 of the Revised Code, immediately shall prepare and provide to the chairperson a list of its members who may serve as temporary members of the oil and gas commission as provided in that division.

Sec. 1509.40. Except as provided in section 1509.29 of the Revised Code, no authority granted in this chapter shall be construed as authorizing a limitation on the amount that any well, leasehold, or field is permitted to produce under proration orders of the division of ~~mineral~~ oil and gas resources management.

Sec. 1509.50. (A) An oil and gas regulatory cost recovery assessment is hereby imposed by this section on an owner. An owner shall pay the assessment in the same manner as a severer who is required to file a return under section 5749.06 of the Revised Code. However, an owner may designate a severer who shall pay the owner's assessment on behalf of the owner on the return that the severer is required to file under that section. If a severer so pays an owner's assessment, the severer may recoup from the owner the amount of the assessment. Except for an exempt domestic well, the assessment imposed shall be in addition to the taxes levied on the severance of oil and gas under section 5749.02 of the Revised Code.

(B)(1) Except for an exempt domestic well, the oil and gas regulatory cost recovery assessment shall be calculated on a quarterly basis and shall be one of the following:

(a) If the sum of ten cents per barrel of oil for all of the wells of the owner, one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner, and the amount of the severance tax levied on each severer for all of the

wells of the owner under divisions (A)(5) and (6) of section 26879
5749.02 of the Revised Code, as applicable, is greater than the 26880
sum of fifteen dollars for each well owned by the owner, the 26881
amount of the assessment is the sum of ten cents per barrel of oil 26882
for all of the wells of the owner and one-half of one cent per one 26883
thousand cubic feet of natural gas for all of the wells of the 26884
owner. 26885

(b) If the sum of ten cents per barrel of oil for all of the 26886
wells of the owner, one-half of one cent per one thousand cubic 26887
feet of natural gas for all of the wells of the owner, and the 26888
amount of the severance tax levied on each severer for all of the 26889
wells of the owner under divisions (A)(5) and (6) of section 26890
5749.02 of the Revised Code, as applicable, is less than the sum 26891
of fifteen dollars for each well owned by the owner, the amount of 26892
the assessment is the sum of fifteen dollars for each well owned 26893
by the owner less the amount of the tax levied on each severer for 26894
all of the wells of the owner under divisions (A)(5) and (6) of 26895
section 5749.02 of the Revised Code, as applicable. 26896

(2) The oil and gas regulatory cost recovery assessment for a 26897
well that becomes an exempt domestic well on and after ~~the~~ 26898
~~effective date of this section~~ June 30, 2010, shall be sixty 26899
dollars to be paid to the division of ~~mineral oil and gas~~ 26900
resources management on the first day of July of each year. 26901

(C) All money collected pursuant to this section shall be 26902
deposited in the state treasury to the credit of the oil and gas 26903
well fund created in section 1509.02 of the Revised Code. 26904

(D) Except for purposes of revenue distribution as specified 26905
in division (B) of section 5749.02 of the Revised Code, the oil 26906
and gas regulatory cost recovery assessment imposed by this 26907
section shall be treated the same and equivalent for all purposes 26908
as the taxes levied on the severance of oil and gas under that 26909
section. However, the assessment imposed by this section is not a 26910

tax under Chapter 5749. of the Revised Code.	26911
Sec. 1510.01. As used in this chapter:	26912
(A) "First purchaser" means:	26913
(1) With regard to crude oil, the person to whom title first is transferred beyond the gathering tank or tanks, beyond the facility from which the crude oil was first produced, or both;	26914 26915 26916
(2) With regard to natural gas, the person to whom title first is transferred beyond the inlet side of the measurement station from which the natural gas was first produced.	26917 26918 26919
(B) "Independent producer" means a person who complies with both of the following:	26920 26921
(1) Produces oil or natural gas and is not engaged in refining either product;	26922 26923
(2) Derives a majority of income from ownership in properties producing oil or natural gas.	26924 26925
(C) "Qualified independent producer association" means an association that complies with all of the following:	26926 26927
(1) It is in existence on December 18, 1997.	26928
(2) It is organized and operating within this state.	26929
(3) A majority of the members of its governing body are independent producers.	26930 26931
(D) "Technical advisory council" or "council" means the technical advisory council created in the division of mineral oil <u>and gas</u> resources management under section 1509.38 of the Revised Code.	26932 26933 26934 26935
Sec. 1510.08. (A)(1) Except as provided in division (A)(2) of this section, an operating committee may levy assessments on the production of oil and natural gas in this state for the purposes	26936 26937 26938

of a marketing program established under this chapter. 26939

(2) An operating committee shall not levy an assessment that 26940
was not approved by independent producers or that exceeds the 26941
amount authorized under division (B)(1) of section 1510.04 of the 26942
Revised Code. An operating committee shall not levy an assessment 26943
against an independent producer who is not eligible to vote in a 26944
referendum for the marketing program that the operating committee 26945
administers, as determined under division (C) of section 1510.02 26946
of the Revised Code. 26947

(B) The technical advisory council may require a first 26948
purchaser to withhold assessments from any amounts that the first 26949
purchaser owes to independent producers and, notwithstanding 26950
division (A)(2) of this section, to remit them to the chairperson 26951
of the council at the office of the division of ~~mineral oil and~~ 26952
gas resources management. A first purchaser who pays an assessment 26953
that is levied pursuant to this section for an independent 26954
producer may deduct the amount of the assessment from any moneys 26955
that the first purchaser owes the independent producer. 26956

(C) A marketing program shall require a refund of assessments 26957
collected under this section after receiving an application for a 26958
refund from an independent producer. An application for a refund 26959
shall be made on a form furnished by the council. The operating 26960
committee shall ensure that refund forms are available where 26961
assessments for its program are withheld. 26962

An independent producer who desires a refund shall submit a 26963
request for a refund not later than the thirty-first day of March 26964
of the year in which the request is submitted. The council shall 26965
refund the assessment to the independent producer not later than 26966
the thirtieth day of June of the year in which the request for the 26967
refund is submitted. 26968

(D) An operating committee shall not use moneys from any 26969

assessments that it levies for any political or legislative 26970
purpose or for preferential treatment of one person to the 26971
detriment of another person who is affected by the marketing 26972
program that the operating committee administers. 26973

Sec. 1515.08. The supervisors of a soil and water 26974
conservation district have the following powers in addition to 26975
their other powers: 26976

(A) To conduct surveys, investigations, and research relating 26977
to the character of soil erosion, floodwater and sediment damages, 26978
and the preventive and control measures and works of improvement 26979
for flood prevention and the conservation, development, 26980
utilization, and disposal of water needed within the district, and 26981
to publish the results of those surveys, investigations, or 26982
research, provided that no district shall initiate any research 26983
program except in cooperation or after consultation with the Ohio 26984
agricultural research and development center; 26985

(B) To develop plans for the conservation of soil resources, 26986
for the control and prevention of soil erosion, and for works of 26987
improvement for flood prevention and the conservation, 26988
development, utilization, and disposal of water within the 26989
district, and to publish those plans and information; 26990

(C) To implement, construct, repair, maintain, and operate 26991
preventive and control measures and other works of improvement for 26992
natural resource conservation and development and flood 26993
prevention, and the conservation, development, utilization, and 26994
disposal of water within the district on lands owned or controlled 26995
by this state or any of its agencies and on any other lands within 26996
the district, which works may include any facilities authorized 26997
under state or federal programs, and to acquire, by purchase or 26998
gift, to hold, encumber, or dispose of, and to lease real and 26999
personal property or interests in such property for those 27000

purposes; 27001

(D) To cooperate or enter into agreements with any occupier 27002
of lands within the district in the carrying on of natural 27003
resource conservation operations and works of improvement for 27004
flood prevention and the conservation, development, utilization, 27005
and management of natural resources within the district, subject 27006
to such conditions as the supervisors consider necessary; 27007

(E) To accept donations, gifts, grants, and contributions in 27008
money, service, materials, or otherwise, and to use or expend them 27009
according to their terms; 27010

(F) To adopt, amend, and rescind rules to carry into effect 27011
the purposes and powers of the district; 27012

(G) To sue and plead in the name of the district, and be sued 27013
and impleaded in the name of the district, with respect to its 27014
contracts and, as indicated in section 1515.081 of the Revised 27015
Code, certain torts of its officers, employees, or agents acting 27016
within the scope of their employment or official responsibilities, 27017
or with respect to the enforcement of its obligations and 27018
covenants made under this chapter; 27019

(H) To make and enter into all contracts, leases, and 27020
agreements and execute all instruments necessary or incidental to 27021
the performance of the duties and the execution of the powers of 27022
the district under this chapter, provided that all of the 27023
following apply: 27024

(1) Except as provided in section 307.86 of the Revised Code 27025
regarding expenditures by boards of county commissioners, when the 27026
cost under any such contract, lease, or agreement, other than 27027
compensation for personal services or rental of office space, 27028
involves an expenditure of more than the amount established in 27029
that section regarding expenditures by boards of county 27030
commissioners, the supervisors shall make a written contract with 27031

the lowest and best bidder after advertisement, for not less than 27032
two nor more than four consecutive weeks preceding the day of the 27033
opening of bids, in a newspaper of general circulation within the 27034
district or as provided in section 7.16 of the Revised Code and in 27035
such other publications as the supervisors determine. The notice 27036
shall state the general character of the work and materials to be 27037
furnished, the place where plans and specifications may be 27038
examined, and the time and place of receiving bids. 27039

(2) Each bid for a contract shall contain the full name of 27040
every person interested in it. 27041

(3) Each bid for a contract for the construction, demolition, 27042
alteration, repair, or reconstruction of an improvement shall meet 27043
the requirements of section 153.54 of the Revised Code. 27044

(4) Each bid for a contract, other than a contract for the 27045
construction, demolition, alteration, repair, or reconstruction of 27046
an improvement, at the discretion of the supervisors, may be 27047
accompanied by a bond or certified check on a solvent bank in an 27048
amount not to exceed five per cent of the bid, conditioned that, 27049
if the bid is accepted, a contract shall be entered into. 27050

(5) The supervisors may reject any and all bids. 27051

(I) To make agreements with the department of natural 27052
resources giving it control over lands of the district for the 27053
purpose of construction of improvements by the department under 27054
section 1501.011 of the Revised Code; 27055

(J) To charge, alter, and collect rentals and other charges 27056
for the use or services of any works of the district; 27057

(K) To enter, either in person or by designated 27058
representatives, upon lands, private or public, in the necessary 27059
discharge of their duties; 27060

(L) To enter into agreements or contracts with the department 27061

for the determination, implementation, inspection, and funding of 27062
agricultural pollution abatement and urban sediment pollution 27063
abatement measures whereby landowners, operators, managers, and 27064
developers may meet adopted state standards for a quality 27065
environment, except that failure of a district board of 27066
supervisors to negotiate an agreement or contract with the 27067
department shall authorize the division of soil and water 27068
resources to implement the required program; 27069

(M) To conduct demonstrations and provide information to the 27070
public regarding practices and methods for natural resource 27071
conservation, development, and utilization; 27072

(N) To enter into contracts or agreements with the chief of 27073
the division of soil and water resources to implement and 27074
administer a program for urban sediment pollution abatement and to 27075
receive and expend moneys provided by the chief for that purpose; 27076

(O) To develop operation and management plans, as defined in 27077
section 1511.01 of the Revised Code, as necessary; 27078

(P) To determine whether operation and management plans 27079
developed under division (A) of section 1511.021 of the Revised 27080
Code comply with the standards established under division (E)(1) 27081
of section 1511.02 of the Revised Code and to approve or 27082
disapprove the plans, based on such compliance. If an operation 27083
and management plan is disapproved, the board shall provide a 27084
written explanation to the person who submitted the plan. The 27085
person may appeal the plan disapproval to the chief, who shall 27086
afford the person a hearing. Following the hearing, the chief 27087
shall uphold the plan disapproval or reverse it. If the chief 27088
reverses the plan disapproval, the plan shall be deemed approved 27089
under this division. In the event that any person operating or 27090
owning agricultural land or a concentrated animal feeding 27091
operation in accordance with an approved operation and management 27092
plan who, in good faith, is following that plan, causes 27093

agricultural pollution, the plan shall be revised in a fashion 27094
necessary to mitigate the agricultural pollution, as determined 27095
and approved by the board of supervisors of the soil and water 27096
conservation district. 27097

(Q) With regard to composting conducted in conjunction with 27098
agricultural operations, to do all of the following: 27099

(1) Upon request or upon their own initiative, inspect 27100
composting at any such operation to determine whether the 27101
composting is being conducted in accordance with section 1511.022 27102
of the Revised Code; 27103

(2) If the board determines that composting is not being so 27104
conducted, request the chief to issue an order under division (G) 27105
of section 1511.02 of the Revised Code requiring the person who is 27106
conducting the composting to prepare a composting plan in 27107
accordance with rules adopted under division (E)(8)(c) of that 27108
section and to operate in accordance with that plan or to operate 27109
in accordance with a previously prepared plan, as applicable; 27110

(3) In accordance with rules adopted under division (E)(8)(c) 27111
of section 1511.02 of the Revised Code, review and approve or 27112
disapprove any such composting plan. If a plan is disapproved, the 27113
board shall provide a written explanation to the person who 27114
submitted the plan. 27115

As used in division (Q) of this section, "composting" has the 27116
same meaning as in section 1511.01 of the Revised Code. 27117

(R) With regard to conservation activities that are conducted 27118
in conjunction with agricultural operations, to assist the county 27119
auditor, upon request, in determining whether a conservation 27120
activity is a conservation practice for purposes of Chapter 929. 27121
or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code. 27122

As used in this division, "conservation practice" has the 27123
same meaning as in section 5713.30 of the Revised Code. 27124

(S) To do all acts necessary or proper to carry out the 27125
powers granted in this chapter. 27126

The director of natural resources shall make recommendations 27127
to reduce the adverse environmental effects of each project that a 27128
soil and water conservation district plans to undertake under 27129
division (A), (B), (C), or (D) of this section and that will be 27130
funded in whole or in part by moneys authorized under section 27131
1515.16 of the Revised Code and shall disapprove any such project 27132
that the director finds will adversely affect the environment 27133
without equal or greater benefit to the public. The director's 27134
disapproval or recommendations, upon the request of the district 27135
filed in accordance with rules adopted by the Ohio soil and water 27136
conservation commission, shall be reviewed by the commission, 27137
which may confirm the director's decision, modify it, or add 27138
recommendations to or approve a project the director has 27139
disapproved. 27140

Any instrument by which real property is acquired pursuant to 27141
this section shall identify the agency of the state that has the 27142
use and benefit of the real property as specified in section 27143
5301.012 of the Revised Code. 27144

Sec. 1515.14. Within the limits of funds appropriated to the 27145
department of natural resources and the soil and water 27146
conservation district assistance fund created in this section, 27147
there shall be paid in each calendar year to each local soil and 27148
water conservation district an amount not to exceed one dollar for 27149
each one dollar received in accordance with section 1515.10 of the 27150
Revised Code, received from tax levies in excess of the ten-mill 27151
levy limitation approved for the benefit of local soil and water 27152
conservation districts, or received from an appropriation by a 27153
municipal corporation or a township to a maximum of eight thousand 27154
dollars, provided that the Ohio soil and water conservation 27155

commission may approve payment to a district in an amount in 27156
excess of eight thousand dollars in any calendar year upon receipt 27157
of a request and justification from the district. The county 27158
auditor shall credit such payments to the special fund established 27159
pursuant to section 1515.10 of the Revised Code for the local soil 27160
and water conservation district. The department may make advances 27161
at least quarterly to each district on the basis of the estimated 27162
contribution of the state to each district. Moneys received by 27163
each district shall be expended for the purposes of the district. 27164

For the purpose of providing money to soil and water 27165
conservation districts under this section, there is hereby created 27166
in the state treasury the soil and water conservation district 27167
assistance fund consisting of money credited to it under sections 27168
3714.073 and 3734.901 and division (A)~~(5)~~(4) of section 3734.57 of 27169
the Revised Code. 27170

Sec. 1515.24. (A) Following receipt of a certification made 27171
by the supervisors of a soil and water conservation district 27172
pursuant to section 1515.19 of the Revised Code together with 27173
receipt of all plans, specifications, and estimates submitted 27174
under that section and upon completion of a schedule of estimated 27175
assessments in accordance with section 1515.211 of the Revised 27176
Code, the board of county commissioners may adopt a resolution 27177
levying upon the property within the project area an assessment at 27178
a uniform or varied rate based upon the benefit to the area 27179
certified by the supervisors, as necessary to pay the cost of 27180
construction of the improvement not otherwise funded and to repay 27181
advances made for purposes of the improvement from the fund 27182
created by section 1515.15 of the Revised Code. The board of 27183
county commissioners shall direct the person or authority 27184
preparing assessments to give primary consideration, in 27185
determining a parcel's estimated assessments relating to the 27186
disposal of water, to the potential increase in productivity that 27187

the parcel may experience as a result of the improvement and also 27188
to give consideration to the amount of water disposed of, the 27189
location of the property relative to the project, the value of the 27190
project to the watershed, and benefits. The part of the assessment 27191
that is found to benefit state, county, or township roads or 27192
highways or municipal streets shall be assessed against the state, 27193
county, township, or municipal corporation, respectively, payable 27194
from motor vehicle revenues. The part of the assessment that is 27195
found to benefit property owned by any public corporation, any 27196
political subdivision of the state, or the state shall be assessed 27197
against the public corporation, the political subdivision, or the 27198
state and shall be paid out of the general funds or motor vehicle 27199
revenues of the public corporation, the political subdivision of 27200
the state, or the state, except as otherwise provided by law. 27201

(B) The assessment shall be certified to the county auditor 27202
and by the county auditor to the county treasurer. The collection 27203
of the assessment shall conform in all matters to Chapter 323. of 27204
the Revised Code. 27205

(C) Any land owned and managed by the department of natural 27206
resources for wildlife, recreation, nature preserve, or forestry 27207
purposes is exempt from assessments if the director of natural 27208
resources determines that the land derives no benefit from the 27209
improvement. In making such a determination, the director shall 27210
consider the purposes for which the land is owned and managed and 27211
any relevant articles of dedication or existing management plans 27212
for the land. If the director determines that the land derives no 27213
benefit from the improvement, the director shall notify the board 27214
of county commissioners, within thirty days after receiving the 27215
assessment notification required by this section, indicating that 27216
the director has determined that the land is to be exempt and 27217
explaining the specific reason for making this determination. The 27218
board of county commissioners, within thirty days after receiving 27219

the director's exemption notification, may appeal the 27220
determination to the court of common pleas. If the court of common 27221
pleas finds in favor of the board of county commissioners, the 27222
department of natural resources shall pay all court costs and 27223
legal fees. 27224

(D)(1) The board shall give notice by first class mail to 27225
every public and private property owner whose property is subject 27226
to assessment, at the tax mailing or other known address of the 27227
owner. The notice shall contain a statement of the amount to be 27228
assessed against the property of the addressee, a description of 27229
the method used to determine the necessity for and the amount of 27230
the proposed assessment, a description of any easement on the 27231
property that is necessary for purposes of the improvement, and a 27232
statement that the addressee may file an objection in writing at 27233
the office of the board of county commissioners within thirty days 27234
after the mailing of notice. If the residence of any owner cannot 27235
be ascertained, or if any mailed notice is returned undelivered, 27236
the board shall publish the notice to all such owners in a 27237
newspaper of general circulation within the project area, ~~at least~~ 27238
once each week for three weeks, which or as provided in section 27239
7.16 of the Revised Code. The notice shall include the information 27240
contained in the mailed notice, but shall state that the owner may 27241
file an objection in writing at the office of the board of county 27242
commissioners within thirty days after the last publication of the 27243
notice. 27244

(2) Upon receipt of objections as provided in this section, 27245
the board shall proceed within thirty days to hold a final hearing 27246
on the objections by fixing a date and giving notice by first 27247
class mail to the objectors at the address provided in filing the 27248
objection. If any mailed notice is returned undelivered, the board 27249
shall give due notice to the objectors in a newspaper of general 27250
circulation in the project area or as provided in section 7.16 of 27251

the Revised Code, stating the time, place, and purpose of the 27252
hearing. Upon hearing the objectors, the board may adopt a 27253
resolution amending and approving the final schedule of 27254
assessments and shall enter it in the journal. 27255

(3) Any owner whose objection is not allowed may appeal 27256
within thirty days to the court of common pleas of the county in 27257
which the property is located. 27258

(4) The board of county commissioners shall make an order 27259
approving the levying of the assessment and shall proceed under 27260
section 6131.23 of the Revised Code after one of the following has 27261
occurred, as applicable: 27262

(a) Final notice is provided by mail or publication. 27263

(b) The imposition of assessments is upheld in the final 27264
disposition of an appeal that is filed pursuant to division (D)(3) 27265
of this section. 27266

(c) The resolution levying the assessments is approved in a 27267
referendum that is held pursuant to section 305.31 of the Revised 27268
Code. 27269

(5) The county treasurer shall deposit the proceeds of the 27270
assessment in the fund designated by the board and shall report to 27271
the county auditor the amount of money from the assessment that is 27272
collected by the treasurer. Moneys shall be expended from the fund 27273
for purposes of the improvement. 27274

(E) Any moneys collected in excess of the amount needed for 27275
construction of the improvement and the subsequent first year's 27276
maintenance may be maintained in a fund to be used for maintenance 27277
of the improvement. In any year subsequent to a year in which an 27278
assessment for construction of an improvement levied under this 27279
section has been collected, and upon determination by the board of 27280
county commissioners that funds are not otherwise available for 27281
maintenance or repair of the improvement, the board shall levy on 27282

the property within the project area an assessment for maintenance 27283
at a uniform percentage of all construction costs based upon the 27284
assessment schedule used in determining the construction 27285
assessment. The assessment is not subject to the provisions 27286
concerning notice and petition contained in this section. An 27287
assessment for maintenance shall not be levied in any year in 27288
which the unencumbered balance of funds available for maintenance 27289
of the improvement exceeds twenty per cent of the cost of 27290
construction of the improvement, except that the board may adjust 27291
the level of assessment within the twenty per cent limitation, or 27292
suspend temporarily the levying of an assessment, for maintenance 27293
purposes as maintenance funds are needed. 27294

For the purpose of levying an assessment for maintenance of 27295
an improvement, a board may use the procedures established in 27296
Chapter 6137. of the Revised Code regarding maintenance of 27297
improvements as defined in section 6131.01 of the Revised Code in 27298
lieu of using the procedures established under this section. 27299

(F) The board of county commissioners may issue bonds and 27300
notes as authorized by section 131.23 or 133.17 of the Revised 27301
Code. 27302

Sec. 1517.02. There is hereby created in the department of 27303
natural resources the division of natural areas and preserves, 27304
which shall be administered by the chief of the division of 27305
natural areas and preserves. The chief shall take an oath of 27306
office and shall file in the office of the secretary of state a 27307
bond signed by the chief and by a surety approved by the governor 27308
for a sum fixed pursuant to section 121.11 of the Revised Code. 27309

The chief shall administer a system of nature preserves. The 27310
chief shall establish a system of nature preserves through 27311
acquisition and dedication of natural areas of state or national 27312
significance, which shall include, but not be limited to, areas 27313

that represent characteristic examples of Ohio's natural landscape 27314
types and its natural vegetation and geological history. The chief 27315
shall encourage landowners to dedicate areas of unusual 27316
significance as nature preserves, and shall establish and maintain 27317
a registry of natural areas of unusual significance. 27318

The chief may participate in watershed planning activities 27319
with other states or federal agencies. 27320

The chief shall do the following: 27321

(A) Formulate policies and plans for the acquisition, use, 27322
management, and protection of nature preserves; 27323

(B) Formulate policies for the selection of areas suitable 27324
for registration; 27325

(C) Formulate policies for the dedication of areas as nature 27326
preserves; 27327

(D) Prepare and maintain surveys and inventories of natural 27328
areas, rare and endangered species of plants and animals, and 27329
other unique natural features. The information shall be ~~stored~~ 27330
entered in the Ohio natural heritage database, established 27331
~~pursuant to this division, and may be made available to any~~ 27332
~~individual or private or public agency for research, educational,~~ 27333
~~environmental, land management, or other similar purposes that are~~ 27334
~~not detrimental to the conservation of a species or feature.~~ 27335
~~Information regarding sensitive site locations of species that are~~ 27336
~~listed pursuant to section 1518.01 of the Revised Code and of~~ 27337
~~unique natural features that are included in the Ohio natural~~ 27338
~~heritage database is not subject to section 149.43 of the Revised~~ 27339
~~Code if the chief determines that the release of the information~~ 27340
~~could be detrimental to the conservation of a species or unique~~ 27341
~~natural feature under section 1531.04 of the Revised Code.~~ 27342

(E) Adopt rules for the use, visitation, and protection of 27343
nature preserves and natural areas owned or managed through 27344

easement, license, or lease by the department and administered by	27345
the division in accordance with Chapter 119. of the Revised Code;	27346
(F) Provide facilities and improvements within the state	27347
system of nature preserves that are necessary for their	27348
visitation, use, restoration, and protection and do not impair	27349
their natural character;	27350
(G) Provide interpretive programs and publish and disseminate	27351
information pertaining to nature preserves and natural areas for	27352
their visitation and use;	27353
(H) Conduct and grant permits to qualified persons for the	27354
conduct of scientific research and investigations within nature	27355
preserves;	27356
(I) Establish an appropriate system for marking nature	27357
preserves;	27358
(J) Publish and submit to the governor and the general	27359
assembly a biennial report of the status and condition of each	27360
nature preserve, activities conducted within each preserve, and	27361
plans and recommendations for natural area preservation.	27362
Sec. 1531.04. The division of wildlife, at the direction of	27363
the chief of the division, shall do all of the following:	27364
(A) Plan, develop, and institute programs and policies based	27365
on the best available information, including biological	27366
information derived from professionally accepted practices in	27367
wildlife and fisheries management, with the approval of the	27368
director of natural resources;	27369
(B) Have and take the general care, protection, and	27370
supervision of the wildlife in the state parks known as Lake St.	27371
Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake,	27372
Guilford Lake, such part of Pymatuning reservoir as lies in this	27373
state, and all other state parks and lands owned by the state or	27374

in which it is interested or may acquire or become interested, 27375
except lands and lakes the care and supervision of which are 27376
vested in some other officer, body, board, association, or 27377
organization; 27378

(C) Enforce by proper legal action or proceeding the laws of 27379
the state and division rules for the protection, preservation, 27380
propagation, and management of wild animals and sanctuaries and 27381
refuges for the propagation of those wild animals, and adopt and 27382
carry into effect such measures as it considers necessary in the 27383
performance of its duties; 27384

(D) Promote, educate, and inform the citizens of the state 27385
about conservation and the values of fishing, hunting, and 27386
trapping, with the approval of the director; 27387

(E) Prepare and maintain surveys and inventories of rare and 27388
endangered species of plants and animals and other unique natural 27389
features. The information shall be stored in the Ohio natural 27390
heritage database, established pursuant to this division, and may 27391
be made available to any individual or private or public agency 27392
for research, educational, environmental, land management, or 27393
other similar purposes that are not detrimental to the 27394
conservation of a species or feature. Information regarding 27395
sensitive site locations of species that are listed pursuant to 27396
section 1518.01 of the Revised Code and of unique natural features 27397
that are included in the Ohio natural heritage database is not 27398
subject to section 149.43 of the Revised Code if the chief 27399
determines that the release of the information could be 27400
detrimental to the conservation of a species or unique natural 27401
feature. 27402

Sec. 1541.03. All lands and waters dedicated and set apart 27403
for state park purposes shall be under the control and management 27404
of the division of parks and recreation, which shall protect, 27405

maintain, and keep them in repair. The division shall have the	27406
following powers over all such lands and waters:	27407
(A) To make alterations and improvements;	27408
(B) To construct and maintain dikes, wharves, landings,	27409
docks, dams, and other works;	27410
(C) To construct and maintain roads and drives in, around,	27411
upon, and to the lands and waters to make them conveniently	27412
accessible and useful to the public;	27413
(D) Except as otherwise provided in this section, to adopt,	27414
amend, and rescind, in accordance with Chapter 119. of the Revised	27415
Code, rules necessary for the proper management of state parks,	27416
bodies of water, and the lands adjacent to them under its	27417
jurisdiction and control, including the following:	27418
(1) Governing opening and closing times and dates of the	27419
parks;	27420
(2) Establishing fees and charges for use of facilities in	27421
state parks;	27422
(3) Governing camps, camping, and fees for camps and camping;	27423
(4) Governing the application for and rental of, rental fees	27424
for, and the use of cottages;	27425
(5) Relating to public use of state park lands, and governing	27426
the operation of motor vehicles, including speeds, and parking on	27427
those lands;	27428
(6) Governing all advertising within state parks and the	27429
requirements for the operation of places selling tangible personal	27430
property and control of food service sales on lands and waters	27431
under the control of the division, which rules shall establish	27432
uniform requirements;	27433
(7) Providing uniform standards relating to the size, type,	27434
location, construction, and maintenance of structures and devices	27435

used for fishing or moorage of watercraft, rowboats, sailboats, 27436
and powercraft, as those terms are defined in section 1547.01 of 27437
the Revised Code, over waters under the control of the division 27438
and establishing reasonable fees for the construction of and 27439
annual use permits for those structures and devices; 27440

(8) Governing state beaches, swimming, inflatable devices, 27441
and fees for them; 27442

(9) Governing the removal and disposition of any watercraft, 27443
rowboat, sailboat, or powercraft, as those terms are defined in 27444
section 1547.01 of the Revised Code, left unattended for more than 27445
seven days on any lands or waters under the control of the 27446
division; 27447

(10) Governing the establishment and collection of check 27448
collection charges for checks that are returned to the division or 27449
dishonored for any reason. 27450

(E) To coordinate and plan trails in accordance with section 27451
1519.03 of the Revised Code; 27452

(F) To cooperate with the United States and agencies of it 27453
and with political subdivisions in administering federal 27454
recreation moneys under the "Land and Water Conservation Fund Act 27455
of 1965," 78 Stat. 897, 16 U.S.C. 4601-8, as amended; prepare and 27456
distribute the statewide comprehensive outdoor recreation plan; 27457
and administer the state recreational vehicle fund created in 27458
section 4519.11 of the Revised Code; 27459

(G) To administer any state or federally funded grant program 27460
that is related to natural resources and recreation as considered 27461
necessary by the director of natural resources; 27462

(H) To assist the department of natural resources and its 27463
divisions by providing department-wide planning, capital 27464
improvements planning, and special purpose planning. 27465

With the approval of the director, the chief of the division 27466
of parks and recreation may enter into contracts or agreements 27467
with any agency of the United States government, any other public 27468
agency, or any private entity or organization for the performance 27469
of the duties of the division. 27470

The chief may sell, lease, or transfer minerals or mineral 27471
rights, with the approval of the director of natural resources, 27472
when the chief and the director determine it to be in the best 27473
interest of the state. Upon approval of the director, the chief 27474
may make, execute, and deliver contracts, including leases, to 27475
drill for oil and natural gas on and under lands owned by the 27476
state and administered by the division to any person who complies 27477
with the terms of such a contract. No such contract shall be valid 27478
for more than fifty years from its effective date. Consideration 27479
for minerals and mineral rights shall be by rental or royalty 27480
basis as prescribed by the chief and payable as prescribed by 27481
contract. Money collected from rentals shall be paid into the 27482
state treasury to the credit of the state park fund created in 27483
section 1541.22 of the Revised Code. Money collected from 27484
royalties shall be paid into the parks mineral royalties trust 27485
fund created in section 1541.25 of the Revised Code. 27486

The division shall adopt rules under this section 27487
establishing a discount program for all persons who are issued a 27488
golden buckeye card under section 173.06 of the Revised Code. The 27489
discount program shall provide a discount for all park services 27490
and rentals, but shall not provide a discount for the purchase of 27491
merchandise. 27492

The division shall not adopt rules establishing fees or 27493
charges for parking a motor vehicle in a state park or for 27494
admission to a state park. 27495

Every resident of this state with a disability that has been 27496
determined by the veterans administration to be permanently and 27497

totally disabling, who receives a pension or compensation from the 27498
veterans administration, and who received an honorable discharge 27499
from the armed forces of the United States, and every veteran to 27500
whom the registrar of motor vehicles has issued a set of license 27501
plates under section 4503.41 of the Revised Code, shall be exempt 27502
from the fees for camping, provided that the resident or veteran 27503
carries in the state park such evidence of the resident's or 27504
veteran's disability as the chief prescribes by rule. 27505

Unless otherwise provided by division rule, every resident of 27506
this state who is sixty-five years of age or older or who is 27507
permanently and totally disabled and who furnishes evidence of 27508
that age or disability in a manner prescribed by division rule 27509
shall be charged one-half of the regular fee for camping, except 27510
on the weekends and holidays designated by the division, and shall 27511
not be charged more than ninety per cent of the regular charges 27512
for state recreational facilities, equipment, services, and food 27513
service operations utilized by the person at any time of year, 27514
whether maintained or operated by the state or leased for 27515
operation by another entity. 27516

As used in this section, "food service operations" means 27517
restaurants that are owned by the department of natural resources 27518
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state 27519
parks or are part of a state park lodge. "Food service operations" 27520
does not include automatic vending machines, concession stands, or 27521
snack bars. 27522

As used in this section, "prisoner of war" means any 27523
regularly appointed, enrolled, enlisted, or inducted member of the 27524
military forces of the United States who was captured, separated, 27525
and incarcerated by an enemy of the United States. Any person who 27526
has been a prisoner of war, was honorably discharged from the 27527
military forces, and is a resident of this state is exempt from 27528
the fees for camping. To claim this exemption, the person shall 27529

present written evidence in the form of a record of separation, a 27530
letter from one of the military forces of the United States, or 27531
such other evidence as the chief prescribes by rule that satisfies 27532
the eligibility criteria established by this section. 27533

Sec. 1541.05. (A) The chief of the division of parks and 27534
recreation, with the approval of the director of natural 27535
resources, may dispose of any of the following by sale, donation, 27536
trade, trade-in, recycling, or any other lawful means, in a manner 27537
that will benefit the division: 27538

(1) Standing timber that as a result of wind, storm, 27539
pestilence, or any other natural occurrence may present a hazard 27540
to life or property, timber that has weakened or fallen on lands 27541
under the control and management of the division, or any timber or 27542
other forest products that ~~requires~~ require management to improve 27543
wildlife habitat, protect against wildfires, provide access to 27544
recreational facilities, implement sustainable forestry practices, 27545
or improve the safety, quality, or appearance of any state park 27546
area; 27547

(2) Spoils of a dredging operation conducted by the division 27548
in waters under the control and management of the division. Prior 27549
to the disposition of any spoils under this division, the chief 27550
shall notify the director of environmental protection of the 27551
chief's intent so that the director may determine if the spoils 27552
constitute solid wastes or hazardous waste, as those terms are 27553
defined in section 3734.01 of the Revised Code, that must be 27554
disposed of in accordance with Chapter 3734. of the Revised Code. 27555
If the director does not notify the chief within thirty days after 27556
receiving notice of the disposition that the spoils must be 27557
disposed of in accordance with Chapter 3734. of the Revised Code, 27558
the chief may proceed with the disposition. 27559

(3) Notwithstanding sections 125.12 to 125.14 of the Revised 27560

Code, excess supplies and surplus supplies, as those terms are 27561
defined in section 125.12 of the Revised Code; 27562

(4) Agricultural products that are grown or raised by the 27563
division. As used in this division, "agricultural products" 27564
includes products of apiculture, animal husbandry, or poultry 27565
husbandry, field crops, fruits, and vegetables. 27566

(5) Abandoned personal property, including golf balls that 27567
are found on property under the control and management of the 27568
division. 27569

(B) In accordance with Chapter 119. of the Revised Code, the 27570
chief shall adopt, and may amend and rescind, such rules as are 27571
necessary to administer this section. 27572

(C) Proceeds Except as provided in division (D) of this 27573
section, proceeds from the disposition of items under this section 27574
shall be deposited in the state treasury to the credit of the 27575
state park fund created in section 1541.22 of the Revised Code. 27576

(D) The chief of the division of parks and recreation may 27577
enter into a memorandum of understanding with the chief of the 27578
division of forestry to allow the division of forestry to 27579
administer the sale of timber and forest products on lands that 27580
are owned or controlled by the division of parks and recreation. 27581
Proceeds from the sale of timber or forest products pursuant to 27582
the memorandum of understanding shall be apportioned as follows: 27583

(1) Seventy-five per cent of the proceeds shall be deposited 27584
in the state treasury to the credit of the state park fund. 27585

(2) Twenty-five per cent of the proceeds shall be deposited 27586
in the state treasury to the credit of the state forest fund 27587
created in section 1503.05 of the Revised Code. 27588

Sec. 1541.25. There is hereby created the parks mineral 27589
royalties trust fund, which shall be in the custody of the 27590

treasurer of state and shall not be a part of the state treasury. 27591
The fund shall consist of royalties paid to the division of parks 27592
and recreation pursuant to the sale, lease, or transfer of 27593
minerals or mineral rights as provided in section 1541.03 of the 27594
Revised Code. Money in the fund shall be used by the division to 27595
facilitate capital improvements, maintenance, repairs, and 27596
renovations on properties that are owned by the state and 27597
administered by the division. 27598

Investment earnings of the fund shall be credited to the 27599
parks mineral royalties fund created in section 1541.26 of the 27600
Revised Code. Quarterly each fiscal year, the investment earnings 27601
of the parks mineral royalties trust fund shall be transferred to 27602
the parks mineral royalties fund. 27603

Upon the request of the director of natural resources, the 27604
director of budget and management annually may transfer an amount 27605
not to exceed ten per cent of the principal of the parks mineral 27606
royalties trust fund to the parks mineral royalties fund. 27607

Sec. 1541.26. There is hereby created in the state treasury 27608
the parks mineral royalties fund. The fund shall consist of all 27609
investment earnings of the parks mineral royalties trust fund 27610
created in section 1541.25 of the Revised Code and any principal 27611
transferred from the trust fund as authorized by that section. 27612

Money in the parks mineral royalties fund shall be used by 27613
the division of parks and recreation to facilitate capital 27614
improvements, maintenance, repairs, and renovations on properties 27615
that are owned by the state and administered by the division. All 27616
expenditures from the fund shall be approved by the director of 27617
natural resources. 27618

Sec. 1545.09. (A) The board of park commissioners shall adopt 27619
such bylaws and rules as the board considers advisable for the 27620

preservation of good order within and adjacent to parks and 27621
reservations of land, and for the protection and preservation of 27622
the parks, parkways, and other reservations of land under its 27623
jurisdiction and control and of property and natural life therein. 27624
The board shall also adopt bylaws or rules establishing a 27625
procedure for contracting for professional, technical, consulting, 27626
and other special services. Any competitive bidding procedures of 27627
the board do not apply to the purchase of benefits for park 27628
district officers or employees when such benefits are provided 27629
through a health and welfare trust fund administered through or in 27630
conjunction with a collective bargaining representative of the 27631
park district employees, as authorized in section 1545.071 of the 27632
Revised Code. The Summaries of the bylaws and rules shall be 27633
published as provided in the case of ordinances of municipal 27634
corporations under section 731.21 of the Revised Code before 27635
taking effect. 27636

(B)(1) As used in division (B)(2) of this section, "similar 27637
violation under state law" means a violation of any section of the 27638
Revised Code, other than division (C) of this section, that is 27639
similar to a violation of a bylaw or rule adopted under division 27640
(A) of this section. 27641

(2) The board of park commissioners may adopt by bylaw a 27642
penalty for a violation of any bylaw or rule adopted under 27643
division (A) of this section, and any penalty so adopted shall not 27644
exceed in severity whichever of the following is applicable: 27645

(a) The penalty designated under the Revised Code for a 27646
violation of the state law that is similar to the bylaw or rule 27647
for which the board adopted the penalty; 27648

(b) For a violation of a bylaw or rule adopted under division 27649
(A) of this section for which the similar violation under state 27650
law does not bear a penalty or for which there is no similar 27651
violation under state law, a fine of not more than one hundred 27652

fifty dollars for a first offense and not more than one thousand 27653
dollars for each subsequent offense. 27654

(3) ~~Any~~ A summary of any bylaw adopted under division (B)(2) 27655
of this section shall be published as provided in the case of 27656
ordinances of municipal corporations under section 731.21 of the 27657
Revised Code before taking effect. 27658

(C) No person shall violate any bylaws or rules adopted under 27659
division (A) of this section. All fines collected for any 27660
violation of this section shall be paid into the treasury of such 27661
park board. 27662

Sec. 1545.12. (A) Except as provided in division (B) of this 27663
section, if the board of park commissioners finds that any lands 27664
that it has acquired are not necessary for the purposes for which 27665
they were acquired by the board, it may sell and dispose of the 27666
lands upon terms the board considers advisable. The board also may 27667
lease or permit the use of any lands for purposes not inconsistent 27668
with the purposes for which the lands were acquired, and upon 27669
terms the board considers advisable. No lands shall be sold 27670
pursuant to this division without first giving notice of the 27671
board's intention to sell the lands by publication once a week for 27672
four consecutive weeks in ~~not less than two English newspapers a~~ 27673
newspaper of general circulation in the district or as provided in 27674
section 7.16 of the Revised Code. The notice shall contain an 27675
accurate description of the lands and shall state the time and 27676
place at which sealed bids will be received for the purchase of 27677
the lands, and the lands shall not thereafter be sold at private 27678
sale for less than the best and highest bid received without 27679
giving further notice as specified in this division. 27680

(B)(1) After compliance with division (B)(2) of this section, 27681
the board of park commissioners may sell land upon terms the board 27682
considers advisable to any park district established under section 27683

511.18 or Chapter 1545. of the Revised Code, any political 27684
subdivision of the state, the state or any department or agency of 27685
the state, or any department or agency of the federal government 27686
for conservation uses or for park or recreation purposes without 27687
the necessity of having to comply with division (A) of this 27688
section. 27689

(2) Before the board of park commissioners may sell land 27690
under division (B)(1) of this section, the board shall offer the 27691
land for sale to each of the following public agencies that is 27692
authorized to acquire, develop, and maintain land for conservation 27693
uses or for park or recreation purposes: each park district 27694
established under section 511.18 or Chapter 1545. of the Revised 27695
Code or political subdivision in which the land is located, each 27696
park district that is so established and that adjoins or each 27697
political subdivision that adjoins a park district so established 27698
or political subdivision in which the land is located, and each 27699
agency or department of the state or of the federal government 27700
that operates parks or conservation or recreation areas near the 27701
land. The board shall make the offer by giving a written notice 27702
that the land is available for sale, by first class mail, to these 27703
public agencies. A failure of delivery of the written notice to 27704
any of these public agencies does not invalidate any proceedings 27705
for the sale of land under this division. Any public agency that 27706
is so notified and that wishes to purchase the land shall make an 27707
offer to the board in writing not later than sixty days after 27708
receiving the written notice. 27709

If there is only one offer to purchase the land made in that 27710
sixty-day period, the board need not hold a public hearing on the 27711
offer. The board shall accept the offer only if it determines that 27712
acceptance of the offer will result in the best public use of the 27713
land. 27714

If there is more than one offer to purchase the land made in 27715

that sixty-day period, the board shall not accept any offer until 27716
the board holds a public hearing on the offers. If, after the 27717
hearing, the board decides to accept an offer, it shall accept the 27718
offer that it determines will result in the best public use of the 27719
land. 27720

(C) No lands shall be sold under this section at either 27721
public or private sale without the approval of the probate court 27722
of the county in which the lands are situated. 27723

Sec. 1547.302. (A) Unclaimed vessels or outboard motors 27724
ordered into storage under division (B) of section 1547.30 or 27725
section 1547.301 of the Revised Code shall be disposed of at the 27726
order of the sheriff of the county, the chief of police of the 27727
municipal corporation, township, or township police district, or 27728
another chief of a law enforcement agency in any of the following 27729
ways: 27730

(1) To a marine salvage dealer; 27731

(2) To any other facility owned, operated, or under contract 27732
with the state or the county, municipal corporation, township, or 27733
other political subdivision; 27734

(3) To a charitable organization, religious organization, or 27735
similar organization not used and operated for profit; 27736

(4) By sale at public auction by the sheriff, the chief, or 27737
an auctioneer licensed under Chapter 4707. of the Revised Code, 27738
after giving notice of the auction by advertisement, published 27739
once a week for two consecutive weeks in a newspaper of general 27740
circulation in the county or as provided in section 7.16 of the 27741
Revised Code. 27742

(B) Any moneys accruing from the disposition of an unclaimed 27743
vessel or motor that are in excess of the expenses resulting from 27744
the removal and storage of the vessel or motor shall be credited 27745

to the general revenue fund or to the general fund of the county, 27746
municipal corporation, township, or other political subdivision, 27747
as appropriate. 27748

(C) As used in this section, "charitable organization" has 27749
the same meaning as in section 1716.01 of the Revised Code. 27750

Sec. 1551.311. The general assembly hereby finds and declares 27751
that the future of the Ohio coal industry lies in the development 27752
of clean coal technology and that the disproportionate economic 27753
impact on the state under Title IV of the "Clean Air Act 27754
Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, warrants 27755
maximum federal assistance to this state for such development. It 27756
is therefore imperative that the ~~Ohio air quality department of~~ 27757
~~development authority created under Chapter 3706. of the Revised~~ 27758
~~Code~~, its Ohio coal development office, the Ohio coal industry, 27759
the Ohio Washington office in the office of the governor, and the 27760
state's congressional delegation make every effort to acquire any 27761
federal assistance available for the development of clean coal 27762
technology, including assisting entities eligible for grants in 27763
their acquisition. The Ohio coal development agenda required by 27764
section 1551.34 of the Revised Code shall include, in addition to 27765
the other information required by that section, a description of 27766
such efforts and a description of the current status of the 27767
development of clean coal technology in this state and elsewhere. 27768

Sec. 1551.32. (A) There is hereby established within the ~~Ohio~~ 27769
~~air quality department of development authority~~ the Ohio coal 27770
development office whose purposes are to do all of the following: 27771

(1) Encourage, promote, and support siting, financing, 27772
construction, and operation of commercially available or scaled 27773
facilities and technologies, including, without limitation, 27774
commercial-scale demonstration facilities and, when necessary or 27775

appropriate to demonstrate the commercial acceptability of a 27776
specific technology, up to three installations within this state 27777
utilizing the specific technology, to more efficiently produce, 27778
beneficiate, market, or use Ohio coal; 27779

(2) Encourage, promote, and support the market acceptance and 27780
increased market use of Ohio coal through technology and market 27781
development; 27782

(3) Assist in the financing of coal development facilities; 27783

(4) Encourage, promote, and support, in state-owned 27784
buildings, facilities, and operations, use of Ohio coal and 27785
electricity sold by utilities and others in this state that use 27786
Ohio coal for generation; 27787

(5) Improve environmental quality, particularly through 27788
cleaner use of Ohio coal; 27789

(6) Assist and cooperate with governmental agencies, 27790
universities and colleges, coal producers, coal miners, electric 27791
utilities and other coal users, public and private sector coal 27792
development interests, and others in achieving these purposes. 27793

(B) The office shall give priority to improvement or 27794
reconstruction of existing facilities and equipment when 27795
economically feasible, to construction and operation of 27796
commercial-scale facilities, and to technologies, equipment, and 27797
other techniques that enable maximum use of Ohio coal in an 27798
environmentally acceptable, cost-effective manner. 27799

Sec. 1551.33. (A) The ~~Ohio air quality director of~~ 27800
~~development authority, by the affirmative vote of a majority of~~ 27801
~~its members,~~ shall appoint and fix the compensation of the 27802
director of the Ohio coal development office. The director shall 27803
serve at the pleasure of the ~~authority~~ director of development. 27804

(B) The director of the office shall do all of the following: 27805

- (1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code; 27806
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- (2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda; 27808
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- (3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda; 27811
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- (4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person; 27815
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- (5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the ~~authority~~ director of development. 27819
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- (6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code; 27824
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- (7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public 27827
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utilities commission a report recommending that the commission 27837
allow the recovery of costs associated with the facility or 27838
project under section 4905.304 of the Revised Code and including 27839
the reasons for the recommendation. 27840

(8) Establish such policies, procedures, and guidelines as 27841
are necessary to achieve the office's purposes. 27842

(C) ~~By the affirmative vote of a majority of the members of~~ 27843
~~the Ohio air quality development authority, the~~ The director of 27844
the office may exercise any of the powers and duties ~~of the~~ 27845
~~director of development as the authority and~~ that the director of 27846
the office ~~consider~~ considers appropriate or desirable to achieve 27847
the office's purposes, including, but not limited to, the powers 27848
and duties enumerated in sections 1551.11, 1551.12, ~~1551.13,~~ and 27849
1551.15 of the Revised Code. 27850

Additionally, the director of the office may make loans to 27851
governmental agencies or persons for projects to carry out the 27852
office's purposes. Fees, charges, rates of interest, times of 27853
payment of interest and principal, and other terms, conditions, 27854
and provisions of the loans shall be such as the director of the 27855
office determines to be appropriate and in furtherance of the 27856
purposes for which the loans are made. The mortgage lien securing 27857
any moneys lent by the director of the office may be subordinate 27858
to the mortgage lien securing any moneys lent or invested by a 27859
financial institution, but shall be superior to that securing any 27860
moneys lent or expended by any other person. The moneys used in 27861
making the loans shall be disbursed upon order of the director of 27862
the office. 27863

Sec. 1551.35. (A) There is hereby established a technical 27864
advisory committee to assist the director of the Ohio coal 27865
development office in achieving the office's purposes. The 27866
director shall appoint to the committee one member of the public 27867

utilities commission and one representative each of coal 27868
production companies, the united mine workers of America, electric 27869
utilities, manufacturers that use Ohio coal, and environmental 27870
organizations, as well as two people with a background in coal 27871
research and development technology, one of whom is employed at 27872
the time of the member's appointment by a state university, as 27873
defined in section 3345.011 of the Revised Code. In addition, the 27874
committee shall include four legislative members. The speaker and 27875
minority leader of the house of representatives each shall appoint 27876
one member of the house of representatives, and the president and 27877
minority leader of the senate each shall appoint one member of the 27878
senate, to the committee. The director of environmental protection 27879
~~and the director of development~~ shall serve on the committee as an 27880
ex officio ~~members~~ member. Any member of the committee may 27881
designate in writing a substitute to serve in the member's absence 27882
on the committee. The director of environmental protection may 27883
designate in writing the chief of the air pollution control 27884
division of the agency to represent the agency. Members shall 27885
serve on the committee at the pleasure of their appointing 27886
authority. Members of the committee appointed by the director of 27887
the office and, notwithstanding section 101.26 of the Revised 27888
Code, legislative members of the committee, when engaged in their 27889
official duties as members of the committee, shall be compensated 27890
on a per diem basis in accordance with division (J) of section 27891
124.15 of the Revised Code, except that the member of the public 27892
utilities commission and, while employed by a state university, 27893
the member with a background in coal research, shall not be so 27894
compensated. Members shall receive their actual and necessary 27895
expenses incurred in the performance of their duties. 27896

(B) The technical advisory committee shall review and make 27897
recommendations concerning the Ohio coal development agenda 27898
required under section 1551.34 of the Revised Code, project 27899
proposals, research and development projects submitted to the 27900

office by public utilities for the purpose of section 4905.304 of 27901
the Revised Code, proposals for grants, loans, and loan guarantees 27902
for purposes of sections 1555.01 to 1555.06 of the Revised Code, 27903
and such other topics as the director of the office considers 27904
appropriate. 27905

(C) The technical advisory committee may hold an executive 27906
session at any regular or special meeting for the purpose of 27907
considering research and development project proposals or 27908
applications for assistance submitted to the Ohio coal development 27909
office under section 1551.33, or sections 1555.01 to 1555.06, of 27910
the Revised Code, to the extent that the proposals or applications 27911
consist of trade secrets or other proprietary information. 27912

Any materials or data submitted to, made available to, or 27913
received by the ~~Ohio air quality~~ department of development 27914
~~authority~~ or the director of the Ohio coal development office in 27915
connection with agreements for assistance entered into under this 27916
chapter or Chapter 1555. of the Revised Code, or any information 27917
taken from those materials or data for any purpose, to the extent 27918
that the materials or data consist of trade secrets or other 27919
proprietary information, are not public records for the purposes 27920
of section 149.43 of the Revised Code. 27921

As used in this division, "trade secrets" has the same 27922
meaning as in section 1333.61 of the Revised Code. 27923

Sec. 1555.02. It is hereby declared to be the public policy 27924
of this state through the operations of the Ohio coal development 27925
office under this chapter to contribute toward one or more of the 27926
following: to provide for the comfort, health, safety, and general 27927
welfare of all employees and other inhabitants of this state 27928
through research and development directed toward the discovery of 27929
new technologies or the demonstration or application of existing 27930
technologies to enable the conversion or use of Ohio coal as a 27931

fuel or chemical feedstock in an environmentally acceptable manner 27932
thereby enhancing the marketability and fostering the use of this 27933
state's vast reserves of coal, to assist in the financing of coal 27934
research and development and coal research and development 27935
projects or facilities for persons doing business in this state 27936
and educational and scientific institutions located in this state, 27937
to create or preserve jobs and employment opportunities or improve 27938
the economic welfare of the people of this state, or to assist and 27939
cooperate with such persons and educational and scientific 27940
institutions in conducting coal research and development. In 27941
furtherance of this public policy, the Ohio coal development 27942
office, with the advice of the technical advisory committee 27943
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 27944
~~vote of a majority of the members of the Ohio air quality~~ 27945
~~development authority~~, may make loans, guarantee loans, and make 27946
grants to persons doing business in this state or to educational 27947
or scientific institutions located in this state for coal research 27948
and development projects by such persons or educational or 27949
scientific institutions; may, with the advice of the technical 27950
advisory committee ~~and the affirmative vote of a majority of the~~ 27951
~~members of the Ohio air quality development authority~~, request the 27952
issuance of coal research and development general obligations 27953
under section 151.07 of the Revised Code to provide funds for 27954
making such loans, loan guarantees, and grants; and may, with the 27955
advice of the technical advisory committee ~~and the affirmative~~ 27956
~~vote of a majority of the members of the Ohio air quality~~ 27957
~~development authority~~, expend moneys credited to the coal research 27958
and development fund created in section 1555.15 of the Revised 27959
Code for the purpose of making such loans, loan guarantees, and 27960
grants. Determinations by the director of the Ohio coal 27961
development office that coal research and development or a coal 27962
research and development facility is a coal research and 27963
development project under this chapter and is consistent with the 27964

purposes of Section 15 of Article VIII, Ohio Constitution, and 27965
this chapter shall be conclusive as to the validity and 27966
enforceability of the coal research and development general 27967
obligations issued to finance such project and of the 27968
authorizations, trust agreements or indentures, loan agreements, 27969
loan guarantee agreements, or grant agreements, and other 27970
agreements made in connection therewith, all in accordance with 27971
their terms. 27972

Sec. 1555.03. For the purposes of this chapter, the director 27973
of the Ohio coal development office may: 27974

(A) With the advice of the technical advisory committee 27975
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 27976
~~vote of a majority of the members of the Ohio air quality~~ 27977
~~development authority~~, make loans, guarantee loans, and make 27978
grants to persons doing business in this state or to educational 27979
or scientific institutions located in this state for coal research 27980
and development projects by any such person or educational or 27981
scientific institution and adopt rules under Chapter 119. of the 27982
Revised Code for making such loans, guarantees, and grants. 27983

(B) In making loans, loan guarantees, and grants under 27984
division (A) of this section and section 1555.04 of the Revised 27985
Code, the director of the office shall ensure that an adequate 27986
portion of the total amount of those loans, loan guarantees, and 27987
grants, as determined by the director with the advice of the 27988
technical advisory committee, is used for conducting research on 27989
fundamental scientific problems related to the utilization of Ohio 27990
coal and shall ensure, to the maximum feasible extent, joint 27991
financial participation by the federal government or other 27992
investors or interested parties in conjunction with any such loan, 27993
loan guarantee, or grant. The director, in each grant agreement or 27994
contract under division (A) of this section, loan contract or 27995

agreement under this division or section 1555.04 of the Revised 27996
Code, and contract of guarantee under section 1555.05 of the 27997
Revised Code, shall require that the facility or project be 27998
maintained and kept in good condition and repair by the person or 27999
educational or scientific institution to whom the grant or loan 28000
was made or for whom the guarantee was made. 28001

(C) From time to time, with the advice of the technical 28002
advisory committee ~~and the affirmative vote of a majority of the~~ 28003
~~members of the Ohio air quality development authority,~~ request the 28004
issuance of coal research and development general obligations 28005
under section 151.07 of the Revised Code, for any of the purposes 28006
set forth in Section 15 of Article VIII, Ohio Constitution, and 28007
subject to the limitations therein upon the aggregate total amount 28008
of obligations that may be outstanding at any time. 28009

(D) Include as a condition of any loan, loan guarantee, or 28010
grant contract or agreement with any such person or educational or 28011
scientific institution that the director of the office receive, in 28012
addition to payments of principal and interest on any such loan or 28013
service charges for any such guarantee, as appropriate, as 28014
authorized by Section 15, Article VIII, Ohio Constitution, a 28015
reasonable royalty or portion of the income or profits arising out 28016
of the developments, discoveries, or inventions, including patents 28017
or copyrights, that result in whole or in part from coal research 28018
and development projects conducted under any such contract or 28019
agreement, in such amounts and for such period of years as may be 28020
negotiated and provided by the contract or agreement in advance of 28021
the making of the grant, loan, or loan guarantee. Moneys received 28022
by the director of the office under this section may be credited 28023
to the coal research and development bond service fund or used to 28024
make additional loans, loan guarantees, grants, or agreements 28025
under this section. 28026

(E) Employ managers, superintendents, and other employees and 28027

retain or contract with consulting engineers, financial 28028
consultants, accounting experts, architects, and such other 28029
consultants and independent contractors as are necessary in the 28030
judgment of the director of the office to carry out this chapter, 28031
and fix the compensation thereof. 28032

(F) Receive and accept from any federal agency, subject to 28033
the approval of the governor, grants for or in aid of the 28034
construction or operation of any coal research and development 28035
project or for coal research and development, and receive and 28036
accept aid or contributions from any source of money, property, 28037
labor, or other things of value, to be held, used, and applied 28038
only for the purposes for which such grants and contributions are 28039
made. 28040

(G) Purchase fire and extended coverage and liability 28041
insurance for any coal research and development project, insurance 28042
protecting the office and its officers and employees against 28043
liability for damage to property or injury to or death of persons 28044
arising from its operations, and any other insurance the director 28045
of the office determines necessary or proper under this chapter. 28046
Any moneys received by the director from the proceeds of any such 28047
insurance with respect to a coal research and development project 28048
and any moneys received by the director from the proceeds of any 28049
settlement, judgment, foreclosure, or other insurance with respect 28050
to a coal research and development project or facility shall be 28051
credited to the coal research and development bond service fund. 28052

(H) In the exercise of the powers of the director of the 28053
office under this chapter, call to the director's assistance, 28054
temporarily, from time to time, any engineers, technical experts, 28055
financial experts, and other employees in any state department, 28056
agency, or commission, or in the Ohio state university, or other 28057
educational institutions financed wholly or partially by this 28058
state for purposes of assisting the director of the office with 28059

reviewing and evaluating applications for financial assistance 28060
under this chapter, monitoring performance of coal research and 28061
development projects receiving financial assistance under this 28062
chapter, and reviewing and evaluating the progress and findings of 28063
those projects. Such engineers, experts, and employees shall not 28064
receive any additional compensation over that which they receive 28065
from the department, agency, commission, or educational 28066
institution by which they are employed, but they shall be 28067
reimbursed for their actual and necessary expenses incurred while 28068
working under the direction of the director. 28069

(I) Do all acts necessary or proper to carry out the powers 28070
expressly granted in this chapter. 28071

Sec. 1555.04. (A) With respect to coal research and 28072
development projects financed wholly or partially from a loan or 28073
loan guarantee under this chapter, the director of the Ohio coal 28074
development office, in addition to other powers under this 28075
chapter, with the advice of the technical advisory committee 28076
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 28077
~~vote of a majority of the members of the Ohio air quality~~ 28078
~~development authority~~, may enter into loan agreements, accept 28079
notes and other forms of obligation to evidence such indebtedness 28080
and mortgages, liens, pledges, assignments, or other security 28081
interests to secure such indebtedness, which may be prior or 28082
subordinate to or on a parity with other indebtedness, 28083
obligations, mortgages, pledges, assignments, other security 28084
interests, or liens or encumbrances, and take such actions as the 28085
director of the office considers appropriate to protect such 28086
security and safeguard against losses, including, without 28087
limitation, foreclosure and the bidding upon and purchase of 28088
property upon foreclosure or other sale. 28089

(B) The authority granted by this section is cumulative and 28090

supplementary to all other authority granted in this chapter. The 28091
authority granted by this section does not alter or impair any 28092
similar authority granted elsewhere in this chapter with respect 28093
to other projects. 28094

Sec. 1555.05. (A) Subject to any limitations as to aggregate 28095
amounts thereof that may from time to time be prescribed by the 28096
general assembly and to other applicable provisions of this 28097
chapter, and subject to the one-hundred-million-dollar limitation 28098
provided in Section 15 of Article VIII, Ohio Constitution, the 28099
director of the Ohio coal development office, on behalf of this 28100
state, with the advice of the technical advisory committee created 28101
in section 1551.35 of the Revised Code ~~and the affirmative vote of~~ 28102
~~a majority of the members of the Ohio air quality development~~ 28103
~~authority,~~ may enter into contracts to guarantee the repayment or 28104
payment of the unpaid principal amount of loans made to pay the 28105
costs of coal research and development projects. 28106

(B) The contract of guarantee may make provision for the 28107
conditions of, time for, and manner of fulfillment of the 28108
guarantee commitment, subrogation of this state to the rights of 28109
the parties guaranteed and exercise of such parties' rights by the 28110
state, giving the state the option of making payment of the 28111
principal amount guaranteed in one or more installments and, if 28112
deferred, to pay interest thereon from the source specified in 28113
division (A) of this section, and any other terms or conditions 28114
customary to such guarantees and as the director of the office may 28115
approve, and may contain provisions for securing the guarantee in 28116
the manner consistent with this section, covenants on behalf of 28117
this state to issue obligations under section 1555.08 of the 28118
Revised Code to provide moneys to fulfill such guarantees and 28119
covenants, and covenants restricting the aggregate amount of 28120
guarantees that may be contracted under this section and 28121
obligations that may be issued under section 151.07 of the Revised 28122

Code, and terms pertinent to either, to better secure the parties 28123
guaranteed. 28124

(C) The director of the office may fix service charges for 28125
making a guarantee. Such charges shall be payable at such times 28126
and place and in such amounts and manner as may be prescribed by 28127
the director. Moneys received from such charges shall be credited 28128
to the coal research and development bond service fund. 28129

(D) Any guaranteed parties under this section, by any 28130
suitable form of legal proceedings and except to the extent that 28131
their rights are restricted by the guarantee documents, may 28132
protect and enforce any rights under the laws of this state or 28133
granted by such guarantee or guarantee documents. Such rights 28134
include the right to compel the performance of all duties of the 28135
office required by this section or the guarantee or guarantee 28136
documents; and in the event of default with respect to the payment 28137
of any guarantees, to apply to a court having jurisdiction of the 28138
cause to appoint a receiver to receive and administer the moneys 28139
pledged to such guarantee with full power to pay, and to provide 28140
for payment of, such guarantee, and with such powers, subject to 28141
the direction of the court, as are accorded receivers in general 28142
equity cases, excluding any power to pledge or apply additional 28143
revenues or receipts or other income or moneys of this state. Each 28144
duty of the office and its director and employees required or 28145
undertaken under this section or a guarantee made under this 28146
section is hereby established as a duty of the office and of its 28147
director and each such employee having authority to perform such 28148
duty, specifically enjoined by the law resulting from an office, 28149
trust, or station within the meaning of section 2731.01 of the 28150
Revised Code. The persons who are at the time the director of the 28151
office, or its employees, are not liable in their personal 28152
capacities on any guarantees or contracts to make guarantees by 28153
the director. 28154

Sec. 1555.06. Upon application by the director of the Ohio 28155
coal development office ~~with the affirmative vote of a majority of~~ 28156
~~the members of the Ohio air quality development authority,~~ the 28157
controlling board, from appropriations available to the board, may 28158
provide funds for surveys or studies by the office of any proposed 28159
coal research and development project subject to repayment by the 28160
office from funds available to it, within the time fixed by the 28161
board. Funds to be repaid shall be charged by the office to the 28162
appropriate coal research and development project and the amount 28163
thereof shall be a cost of the project. This section does not 28164
abrogate the authority of the controlling board to otherwise 28165
provide funds for use by the office in the exercise of the powers 28166
granted to it by this chapter. 28167

Sec. 1555.08. (A) Subject to the limitations provided in 28168
Section 15 of Article VIII, Ohio Constitution, the commissioners 28169
of the sinking fund, upon certification by the director of the 28170
Ohio coal development office of the amount of moneys or additional 28171
moneys needed in the coal research and development fund for the 28172
purpose of making grants or loans for allowable costs, or needed 28173
for capitalized interest, for funding reserves, and for paying 28174
costs and expenses incurred in connection with the issuance, 28175
carrying, securing, paying, redeeming, or retirement of the 28176
obligations or any obligations refunded thereby, including payment 28177
of costs and expenses relating to letters of credit, lines of 28178
credit, insurance, put agreements, standby purchase agreements, 28179
indexing, marketing, remarketing and administrative arrangements, 28180
interest swap or hedging agreements, and any other credit 28181
enhancement, liquidity, remarketing, renewal, or refunding 28182
arrangements, all of which are authorized by this section, or 28183
providing moneys for loan guarantees, shall issue obligations of 28184
the state under this section in amounts authorized by the general 28185

assembly; provided that such obligations may be issued to the 28186
extent necessary to satisfy the covenants in contracts of 28187
guarantee made under section 1555.05 of the Revised Code to issue 28188
obligations to meet such guarantees, notwithstanding limitations 28189
otherwise applicable to the issuance of obligations under this 28190
section except the one-hundred-million-dollar limitation provided 28191
in Section 15 of Article VIII, Ohio Constitution. The proceeds of 28192
such obligations, except for the portion to be deposited in the 28193
coal research and development bond service fund as may be provided 28194
in the bond proceedings, shall as provided in the bond proceedings 28195
be deposited in the coal research and development fund. The 28196
commissioners of the sinking fund may appoint trustees, paying 28197
agents, and transfer agents and may retain the services of 28198
financial advisors, accounting experts, and attorneys, and retain 28199
or contract for the services of marketing, remarketing, indexing, 28200
and administrative agents, other consultants, and independent 28201
contractors, including printing services, as are necessary in 28202
their judgment to carry out this section. 28203

(B) The full faith and credit of the state of Ohio is hereby 28204
pledged to obligations issued under this section. The right of the 28205
holders and owners to payment of bond service charges is limited 28206
to all or that portion of the moneys pledged thereto pursuant to 28207
the bond proceedings in accordance with this section, and each 28208
such obligation shall bear on its face a statement to that effect. 28209

(C) Obligations shall be authorized by resolution of the 28210
commissioners of the sinking fund on request of the director of 28211
the Ohio coal development office as provided in section 1555.02 of 28212
the Revised Code and the bond proceedings shall provide for the 28213
purpose thereof and the principal amount or amounts, and shall 28214
provide for or authorize the manner or agency for determining the 28215
principal maturity or maturities, not exceeding forty years from 28216
the date of issuance, the interest rate or rates or the maximum 28217

interest rate, the date of the obligations and the dates of 28218
payment of interest thereon, their denomination, and the 28219
establishment within or without the state of a place or places of 28220
payment of bond service charges. Sections 9.98 to 9.983 of the 28221
Revised Code apply to obligations issued under this section. The 28222
purpose of such obligations may be stated in the bond proceedings 28223
in terms describing the general purpose or purposes to be served. 28224
The bond proceedings shall also provide, subject to the provisions 28225
of any other applicable bond proceedings, for the pledge of all, 28226
or such part as the commissioners of the sinking fund may 28227
determine, of the moneys credited to the coal research and 28228
development bond service fund to the payment of bond service 28229
charges, which pledges may be made either prior or subordinate to 28230
other expenses, claims, or payments and may be made to secure the 28231
obligations on a parity with obligations theretofore or thereafter 28232
issued, if and to the extent provided in the bond proceedings. The 28233
moneys so pledged and thereafter received by the state are 28234
immediately subject to the lien of such pledge without any 28235
physical delivery thereof or further act, and the lien of any such 28236
pledges is valid and binding against all parties having claims of 28237
any kind against the state or any governmental agency of the 28238
state, irrespective of whether such parties have notice thereof, 28239
and shall create a perfected security interest for all purposes of 28240
Chapter 1309. of the Revised Code, without the necessity for 28241
separation or delivery of funds or for the filing or recording of 28242
the bond proceedings by which such pledge is created or any 28243
certificate, statement, or other document with respect thereto; 28244
and the pledge of such moneys is effective and the money therefrom 28245
and thereof may be applied to the purposes for which pledged 28246
without necessity for any act of appropriation. Every pledge, and 28247
every covenant and agreement made with respect thereto, made in 28248
the bond proceedings may therein be extended to the benefit of the 28249
owners and holders of obligations authorized by this section, and 28250

to any trustee therefor, for the further security of the payment	28251
of the bond service charges.	28252
(D) The bond proceedings may contain additional provisions as	28253
to:	28254
(1) The redemption of obligations prior to maturity at the	28255
option of the commissioners of the sinking fund at such price or	28256
prices and under such terms and conditions as are provided in the	28257
bond proceedings;	28258
(2) Other terms of the obligations;	28259
(3) Limitations on the issuance of additional obligations;	28260
(4) The terms of any trust agreement or indenture securing	28261
the obligations or under which the obligations may be issued;	28262
(5) The deposit, investment, and application of the coal	28263
research and development bond service fund, and the safeguarding	28264
of moneys on hand or on deposit, without regard to Chapter 131. or	28265
135. of the Revised Code, but subject to any special provisions of	28266
this chapter, with respect to particular moneys; provided, that	28267
any bank or trust company which acts as depository of any moneys	28268
in the fund may furnish such indemnifying bonds or may pledge such	28269
securities as required by the commissioners of the sinking fund;	28270
(6) Any other provision of the bond proceedings being binding	28271
upon the commissioners of the sinking fund, or such other body or	28272
person as may from time to time have the authority under law to	28273
take such actions as may be necessary to perform all or any part	28274
of the duty required by such provision;	28275
(7) Any provision which may be made in a trust agreement or	28276
indenture;	28277
(8) Any other or additional agreements with the holders of	28278
the obligations, or the trustee therefor, relating to the	28279
obligations or the security therefor, including the assignment of	28280

mortgages or other security obtained or to be obtained for loans 28281
under this chapter. 28282

(E) The obligations may have the great seal of the state or a 28283
facsimile thereof affixed thereto or printed thereon. The 28284
obligations shall be signed by such members of the commissioners 28285
of the sinking fund as are designated in the resolution 28286
authorizing the obligations or bear the facsimile signatures of 28287
such members. Any coupons attached to the obligations shall bear 28288
the facsimile signature of the treasurer of state. Any obligations 28289
may be executed by the persons who, on the date of execution, are 28290
the commissioners although on the date of such bonds the persons 28291
were not the commissioners. Any coupons may be executed by the 28292
person who, on the date of execution, is the treasurer of state 28293
although on the date of such coupons the person was not the 28294
treasurer of state. In case any officer or commissioner whose 28295
signature or a facsimile of whose signature appears on any such 28296
obligations or any coupons ceases to be such officer or 28297
commissioner before delivery thereof, such signature or facsimile 28298
is nevertheless valid and sufficient for all purposes as if the 28299
individual had remained such officer or commissioner until such 28300
delivery; and in case the seal to be affixed to obligations has 28301
been changed after a facsimile of the seal has been imprinted on 28302
such obligations, such facsimile seal shall continue to be 28303
sufficient as to such obligations and obligations issued in 28304
substitution or exchange therefor. 28305

(F) All obligations except loan guarantees are negotiable 28306
instruments and securities under Chapter 1308. of the Revised 28307
Code, subject to the provisions of the bond proceedings as to 28308
registration. The obligations may be issued in coupon or in 28309
registered form, or both, as the commissioners of the sinking fund 28310
determine. Provision may be made for the registration of any 28311
obligations with coupons attached thereto as to principal alone or 28312

as to both principal and interest, their exchange for obligations 28313
so registered, and for the conversion or reconversion into 28314
obligations with coupons attached thereto of any obligations 28315
registered as to both principal and interest, and for reasonable 28316
charges for such registration, exchange, conversion, and 28317
reconversion. 28318

(G) Obligations may be sold at public sale or at private 28319
sale, as determined in the bond proceedings. 28320

(H) Pending preparation of definitive obligations, the 28321
commissioners of the sinking fund may issue interim receipts or 28322
certificates which shall be exchanged for such definitive 28323
obligations. 28324

(I) In the discretion of the commissioners of the sinking 28325
fund, obligations may be secured additionally by a trust agreement 28326
or indenture between the commissioners and a corporate trustee, 28327
which may be any trust company or bank having a place of business 28328
within the state. Any such agreement or indenture may contain the 28329
resolution authorizing the issuance of the obligations, any 28330
provisions that may be contained in any bond proceedings, and 28331
other provisions that are customary or appropriate in an agreement 28332
or indenture of such type, including, but not limited to: 28333

(1) Maintenance of each pledge, trust agreement, indenture, 28334
or other instrument comprising part of the bond proceedings until 28335
the state has fully paid the bond service charges on the 28336
obligations secured thereby, or provision therefor has been made; 28337

(2) In the event of default in any payments required to be 28338
made by the bond proceedings, or any other agreement of the 28339
commissioners of the sinking fund made as a part of the contract 28340
under which the obligations were issued, enforcement of such 28341
payments or agreement by mandamus, the appointment of a receiver, 28342
suit in equity, action at law, or any combination of the 28343

foregoing;	28344
(3) The rights and remedies of the holders of obligations and	28345
of the trustee, and provisions for protecting and enforcing them,	28346
including limitations on rights of individual holders of	28347
obligations;	28348
(4) The replacement of any obligations that become mutilated	28349
or are destroyed, lost, or stolen;	28350
(5) Such other provisions as the trustee and the	28351
commissioners of the sinking fund agree upon, including	28352
limitations, conditions, or qualifications relating to any of the	28353
foregoing.	28354
(J) Any holder of obligations or a trustee under the bond	28355
proceedings, except to the extent that the holder's rights are	28356
restricted by the bond proceedings, may by any suitable form of	28357
legal proceedings protect and enforce any rights under the laws of	28358
this state or granted by such bond proceedings. Such rights	28359
include the right to compel the performance of all duties of the	28360
commissioners of the sinking fund, the Ohio air quality department	28361
<u>of development authority</u> , or the Ohio coal development office	28362
required by this chapter and Chapter 1551. of the Revised Code or	28363
the bond proceedings; to enjoin unlawful activities; and in the	28364
event of default with respect to the payment of any bond service	28365
charges on any obligations or in the performance of any covenant	28366
or agreement on the part of the commissioners, the authority	28367
<u>department</u> , or the office in the bond proceedings, to apply to a	28368
court having jurisdiction of the cause to appoint a receiver to	28369
receive and administer the moneys pledged, other than those in the	28370
custody of the treasurer of state, that are pledged to the payment	28371
of the bond service charges on such obligations or that are the	28372
subject of the covenant or agreement, with full power to pay, and	28373
to provide for payment of bond service charges on, such	28374
obligations, and with such powers, subject to the direction of the	28375

court, as are accorded receivers in general equity cases, 28376
excluding any power to pledge additional revenues or receipts or 28377
other income or moneys of the commissioners of the sinking fund or 28378
the state or governmental agencies of the state to the payment of 28379
such principal and interest and excluding the power to take 28380
possession of, mortgage, or cause the sale or otherwise dispose of 28381
any project. 28382

Each duty of the commissioners of the sinking fund and their 28383
employees, and of each governmental agency and its officers, 28384
members, or employees, undertaken pursuant to the bond proceedings 28385
or any grant, loan, or loan guarantee agreement made under 28386
authority of this chapter, and in every agreement by or with the 28387
commissioners, is hereby established as a duty of the 28388
commissioners, and of each such officer, member, or employee 28389
having authority to perform such duty, specifically enjoined by 28390
the law resulting from an office, trust, or station within the 28391
meaning of section 2731.01 of the Revised Code. 28392

The persons who are at the time the commissioners of the 28393
sinking fund, or their employees, are not liable in their personal 28394
capacities on any obligations issued by the commissioners or any 28395
agreements of or with the commissioners. 28396

(K) Obligations issued under this section are lawful 28397
investments for banks, societies for savings, savings and loan 28398
associations, deposit guarantee associations, trust companies, 28399
trustees, fiduciaries, insurance companies, including domestic for 28400
life and domestic not for life, trustees or other officers having 28401
charge of sinking and bond retirement or other special funds of 28402
political subdivisions and taxing districts of this state, the 28403
commissioners of the sinking fund of the state, the administrator 28404
of workers' compensation, the state teachers retirement system, 28405
the public employees retirement system, the school employees 28406
retirement system, and the Ohio police and fire pension fund, 28407

notwithstanding any other provisions of the Revised Code or rules 28408
adopted pursuant thereto by any governmental agency of the state 28409
with respect to investments by them, and are also acceptable as 28410
security for the deposit of public moneys. 28411

(L) If the law or the instrument creating a trust pursuant to 28412
division (I) of this section expressly permits investment in 28413
direct obligations of the United States or an agency of the United 28414
States, unless expressly prohibited by the instrument, such moneys 28415
also may be invested in no-front-end-load money market mutual 28416
funds consisting exclusively of obligations of the United States 28417
or an agency of the United States and in repurchase agreements, 28418
including those issued by the fiduciary itself, secured by 28419
obligations of the United States or an agency of the United 28420
States; and in collective investment funds established in 28421
accordance with section 1111.14 of the Revised Code and consisting 28422
exclusively of any such securities, notwithstanding division 28423
(A)(1)(c) of that section. The income from such investments shall 28424
be credited to such funds as the commissioners of the sinking fund 28425
determine, and such investments may be sold at such times as the 28426
commissioners determine or authorize. 28427

(M) Provision may be made in the applicable bond proceedings 28428
for the establishment of separate accounts in the bond service 28429
fund and for the application of such accounts only to the 28430
specified bond service charges on obligations pertinent to such 28431
accounts and bond service fund and for other accounts therein 28432
within the general purposes of such fund. Moneys to the credit of 28433
the bond service fund shall be disbursed on the order of the 28434
treasurer of state; provided, that no such order is required for 28435
the payment from the bond service fund when due of bond service 28436
charges on obligations. 28437

(N) The commissioners of the sinking fund may pledge all, or 28438
such portion as they determine, of the receipts of the bond 28439

service fund to the payment of bond service charges on obligations 28440
issued under this section, and for the establishment and 28441
maintenance of any reserves, as provided in the bond proceedings, 28442
and make other provisions therein with respect to pledged receipts 28443
as authorized by this chapter, which provisions control 28444
notwithstanding any other provisions of law pertaining thereto. 28445

(O) The commissioners of the sinking fund may covenant in the 28446
bond proceedings, and any such covenants control notwithstanding 28447
any other provision of law, that the state and applicable officers 28448
and governmental agencies of the state, including the general 28449
assembly, so long as any obligations are outstanding, shall: 28450

(1) Maintain statutory authority for and cause to be levied 28451
and collected taxes so that the pledged receipts are sufficient in 28452
amount to meet bond service charges, and the establishment and 28453
maintenance of any reserves and other requirements provided for in 28454
the bond proceedings, and, as necessary, to meet covenants 28455
contained in any loan guarantees made under this chapter; 28456

(2) Take or permit no action, by statute or otherwise, that 28457
would impair the exemption from federal income taxation of the 28458
interest on the obligations. 28459

(P) All moneys received by or on account of the state and 28460
required by the applicable bond proceedings, consistent with this 28461
section, to be deposited, transferred, or credited to the coal 28462
research and development bond service fund, and all other moneys 28463
transferred or allocated to or received for the purposes of the 28464
fund, shall be credited to such fund and to any separate accounts 28465
therein, subject to applicable provisions of the bond proceedings, 28466
but without necessity for any act of appropriation. During the 28467
period beginning with the date of the first issuance of 28468
obligations and continuing during such time as any such 28469
obligations are outstanding, and so long as moneys in the bond 28470
service fund are insufficient to pay all bond service charges on 28471

such obligations becoming due in each year, a sufficient amount of 28472
moneys of the state are committed and shall be paid to the bond 28473
service fund in each year for the purpose of paying the bond 28474
service charges becoming due in that year without necessity for 28475
further act of appropriation for such purpose. The bond service 28476
fund is a trust fund and is hereby pledged to the payment of bond 28477
service charges to the extent provided in the applicable bond 28478
proceedings, and payment thereof from such fund shall be made or 28479
provided for by the treasurer of state in accordance with such 28480
bond proceedings without necessity for any act of appropriation. 28481
All investment earnings of the fund shall be credited to the fund. 28482

(Q) For purposes of establishing the limitations contained in 28483
Section 15 of Article VIII, Ohio Constitution, the "principal 28484
amount" refers to the aggregate of the offering price of the bonds 28485
or notes. "Principal amount" does not refer to the aggregate value 28486
at maturity or redemption of the bonds or notes. 28487

(R) This section applies only with respect to obligations 28488
issued and delivered prior to September 30, 2000. 28489

Sec. 1555.17. All final actions of the director of the Ohio 28490
coal development office shall be journalized and such journal 28491
shall be open to inspection of the public at all reasonable times. 28492
Any materials or data, to the extent that they consist of trade 28493
secrets, as defined in section 1333.61 of the Revised Code, or 28494
other proprietary information, that are submitted or made 28495
available to, or received by, the ~~Ohio air quality~~ department of 28496
~~development authority~~ or the director of the Ohio coal development 28497
office, in connection with agreements for assistance entered into 28498
under this chapter or Chapter 1551. of the Revised Code, or any 28499
information taken from those materials or data, are not public 28500
records for the purposes of section 149.43 of the Revised Code. 28501

Sec. 1561.06. The chief of the division of mineral resources 28502
management shall designate the townships in which mineable or 28503
quarryable coal or other mineral is or may be mined or quarried, 28504
which townships shall be considered coal or mineral bearing 28505
townships. The chief shall divide the coal or other mineral 28506
bearing townships into such districts as the chief deems best for 28507
inspection purposes, and the chief may change such districts 28508
whenever, in the chief's judgment, the best interests of the 28509
service require. 28510

The chief shall designate as provided in this section as coal 28511
or mineral bearing townships those townships in which coal is 28512
being mined or in which coal is found in such thickness as to make 28513
the mining of ~~such~~ the coal or mineral probable at some future 28514
time, and shall designate ~~such~~ the township as a unit. As used in 28515
this chapter and Chapters 1563., 1565., and 1567. of the Revised 28516
Code, "coal or mineral bearing township" means a township that has 28517
been so designated by the chief under this section. 28518

The chief shall also designate the townships in which coal is 28519
being mined or in which coal is found in such thickness as to make 28520
the mining of ~~such~~ the coal probable at some future time as "coal 28521
bearing townships" as ~~such~~ that term is used in Chapter 1509. of 28522
the Revised Code. The chief shall certify to the chief of the 28523
division of oil and gas resources management the townships that 28524
are designated as coal bearing townships. 28525

Sec. 1561.12. An applicant for any examination or certificate 28526
under this section shall, before being examined, register the 28527
applicant's name with the chief of the division of mineral 28528
resources management and file with the chief an affidavit as to 28529
all matters of fact establishing the applicant's right to receive 28530
the examination, a certificate of good character and temperate 28531
habits signed by at least three reputable citizens of the 28532

community in which the applicant resides, and a certificate from a
reputable and disinterested physician as to the physical condition
of ~~such~~ the applicant showing that the applicant is physically
capable of performing the duties of the office or position.

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Each applicant for examination for any of the following
positions shall present evidence satisfactory to the chief that
the applicant has been a resident and citizen of this state for
two years next preceding the date of application:

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(A) An applicant for the position of deputy mine inspector of
underground mines shall have had actual practical experience of
not less than six years, at least two of which shall have been in
the underground workings of mines in this state. In the case of an
applicant who would inspect underground coal mines, the two years
shall consist of actual practical experience in underground coal
mines. In the case of an applicant who would inspect noncoal
mines, the two years shall consist of actual practical experience
in noncoal mines. In lieu of two years of the actual practical
experience required, the chief may accept as the equivalent
thereof a certificate evidencing graduation from an accredited
school of mines or mining, after a four-year course of study, but
such credit shall not apply as to the two years' actual practical
experience required in the mines in this state.

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The applicant shall pass an examination as to the applicant's
practical and technological knowledge of mine surveying, mining
machinery, and appliances; the proper development and operation of
mines; the best methods of working and ventilating mines; the
nature, properties, and powers of noxious, poisonous, and
explosive gases, particularly methane; the best means and methods
of detecting, preventing, and removing the accumulation of such
gases; the use and operation of gas detecting devices and
appliances; first aid to the injured; and the uses and dangers of

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electricity as applied and used in, at, and around mines. ~~Such~~ The 28565
applicant shall also hold a certificate for foreperson of gaseous 28566
mines issued by the chief. 28567

(B) An applicant for the position of deputy mine inspector of 28568
surface mines shall have had actual practical mining experience of 28569
not less than six years, at least two of which shall have been in 28570
surface mines in this state. In lieu of two years of the actual 28571
practical experience required, the chief may accept as the 28572
equivalent thereof a certificate evidencing graduation from an 28573
accredited school of mines or mining, after a four-year course of 28574
study, but that credit shall not apply as to the two years' actual 28575
practical experience required in the mines in this state. The 28576
applicant shall pass an examination as to the applicant's 28577
practical and technological knowledge of surface mine surveying, 28578
machinery, and appliances; the proper development and operations 28579
of surface mines; first aid to the injured; and the use and 28580
dangers of explosives and electricity as applied and used in, at, 28581
and around surface mines. The applicant shall also hold a surface 28582
mine foreperson certificate issued by the chief. 28583

(C) An applicant for the position of electrical inspector 28584
shall have had at least five years' practical experience in the 28585
installation and maintenance of electrical circuits and equipment 28586
in mines, and the applicant shall be thoroughly familiar with the 28587
principles underlying the safety features of permissible and 28588
approved equipment as authorized and used in mines. 28589

The applicant shall be required to pass the examination 28590
required for deputy mine inspectors and an examination testing and 28591
determining the applicant's qualification and ability to 28592
competently inspect and administer the mining law that relates to 28593
electricity used in and around mines and mining in this state. 28594

(D) An applicant for the position of superintendent or 28595
assistant superintendent of rescue stations shall possess the same 28596

qualifications as those required for a deputy mine inspector. In 28597
addition, the applicant shall present evidence satisfactory to the 28598
chief that the applicant is sufficiently qualified and trained to 28599
organize, supervise, and conduct group training classes in first 28600
aid, safety, and rescue work. 28601

The applicant shall pass the examination required for deputy 28602
mine inspectors and shall be tested as to the applicant's 28603
practical and technological experience and training in first aid, 28604
safety, and mine rescue work. 28605

(E) An applicant for the position of mine chemist shall have 28606
such educational training as is represented by the degree MS in 28607
chemistry from a university of recognized standing, and at least 28608
five years of actual practical experience in research work in 28609
chemistry or as an assistant chemist. The chief may provide that 28610
an equivalent combination of education and experience together 28611
with a wide knowledge of the methods of and skill in chemical 28612
analysis and research may be accepted in lieu of the above 28613
qualifications. It is preferred that ~~such~~ the chemist shall have 28614
had actual experience in mineralogy and metallurgy. 28615

~~(F) An applicant for the position of gas storage well 28616
inspector shall possess the same qualifications as an applicant 28617
for the position of deputy mine inspector and shall have a 28618
practical knowledge and experience of and in the operation, 28619
location, drilling, maintenance, and abandonment of oil and gas 28620
wells, especially in coal or mineral bearing townships, and shall 28621
have a thorough knowledge of the latest and best method of 28622
plugging and sealing abandoned oil and gas wells. 28623~~

~~Such applicant for gas storage well inspector shall pass an 28624
examination conducted by the chief to determine the applicant's 28625
fitness to act as a gas storage well inspector before being 28626
eligible for appointment. 28627~~

Sec. 1561.13. The chief of the division of mineral resources	28628
management shall conduct examinations for offices and positions in	28629
the division of mineral resources management, and for mine	28630
forepersons, mine electricians, shot firers, surface mine	28631
blasters, and fire bosses, as follows:	28632
(A) Division of mineral resources management:	28633
(1) Deputy mine inspectors of underground mines;	28634
(2) Deputy mine inspectors of surface mines;	28635
(3) Electrical inspectors;	28636
(4) Superintendent of rescue stations;	28637
(5) Assistant superintendents of rescue stations;	28638
(6) Mine chemists at a division laboratory if the chief	28639
chooses to operate a laboratory;	28640
 (7) Gas storage well inspector.	28641
(B) Mine forepersons:	28642
(1) Mine foreperson of gaseous mines;	28643
(2) Mine foreperson of nongaseous mines;	28644
(3) Mine foreperson of surface mines.	28645
(C) Forepersons:	28646
(1) Foreperson of gaseous mines;	28647
(2) Foreperson of nongaseous mines;	28648
(3) Foreperson of surface maintenance facilities at	28649
underground or surface mines;	28650
(4) Foreperson of surface mines.	28651
(D) Fire bosses.	28652
(E) Mine electricians.	28653

(F) Surface mine blasters. 28654

(G) Shot firers. 28655

The chief annually shall provide for the examination of 28656
candidates for appointment or promotion as deputy mine inspectors 28657
and such other positions and offices set forth in division (A) of 28658
this section as are necessary. Special examinations may be held 28659
whenever it becomes necessary to make appointments to any of those 28660
positions. 28661

The chief shall provide for the examination of persons 28662
seeking certificates of competency as mine forepersons, 28663
forepersons, mine electricians, shot firers, surface mine 28664
blasters, and fire bosses quarterly or more often as required, at 28665
such times and places within the state as shall, in the judgment 28666
of the chief, afford the best facilities to the greatest number of 28667
applicants. Public notice shall be given through the press or 28668
otherwise, not less than ten days in advance, announcing the time 28669
and place at which examinations under this section are to be held. 28670

The examinations provided for in this section shall be 28671
conducted under rules adopted under section 1561.05 of the Revised 28672
Code and conditions prescribed by the chief. Any rules that relate 28673
to particular candidates shall, upon application of any candidate, 28674
be furnished to the candidate by the chief; they shall also be of 28675
uniform application to all candidates in the several groups. 28676

Sec. 1561.35. If the deputy mine inspector finds that any 28677
matter, thing, or practice connected with any mine and not 28678
prohibited specifically by law is dangerous or hazardous, or that 28679
from a rigid enforcement of this chapter and Chapters ~~1509.~~, 28680
1563., 1565., and 1567. and applicable provisions of Chapter 1509. 28681
of the Revised Code, the matter, thing, or practice would become 28682
dangerous and hazardous so as to tend to the bodily injury of any 28683
person, the deputy mine inspector forthwith shall give notice in 28684

writing to the owner, lessee, or agent of the mine of the 28685
particulars in which the deputy mine inspector considers the mine 28686
or any matter, thing, or practice connected therewith is dangerous 28687
or hazardous and recommend changes that the conditions require, 28688
and forthwith shall mail a copy of the report and the deputy mine 28689
inspector's recommendations to the chief of the division of 28690
mineral resources management. Upon receipt of the report and 28691
recommendations, the chief forthwith shall make a finding thereon 28692
and mail a copy to the owner, operator, lessee, or agent of the 28693
mine, and to the deputy mine inspector; a copy of the finding of 28694
the chief shall be posted upon the bulletin board of the mine. 28695
Where the miners have a mine safety committee, one additional copy 28696
shall be posted on the bulletin board for the use and possession 28697
of the committee. 28698

The owner, operator, lessee, or agent of the mine, or the 28699
authorized representative of the workers of the mine, within ten 28700
days may appeal to the reclamation commission for a review and 28701
redetermination of the finding of the chief in the matter in 28702
accordance with section 1513.13 of the Revised Code, 28703
notwithstanding division (A)(1) of that section, which provides 28704
for appeals within thirty days. A copy of the decision of the 28705
commission shall be mailed as required by this section for the 28706
mailing of the finding by the chief on the deputy mine inspector's 28707
report. 28708

Sec. 1561.49. The chief of the division of mineral resources 28709
management may designate not more than thirty deputy mine 28710
inspectors, at least one of whom shall be classified and appointed 28711
as electrical inspector provided for in division (B) of section 28712
1561.12 of the Revised Code; ~~one gas storage well inspector;~~ one 28713
superintendent of rescue stations; three assistant superintendents 28714
of rescue stations; three chemists; and such clerks, 28715
stenographers, and other employees as are necessary for the 28716

administration of this chapter and Chapters 1563., 1565., and 28717
1567. and applicable provisions of Chapter 1509. of the Revised 28718
Code. 28719

Such officers, employees, and personnel shall be appointed 28720
and employed under such conditions and qualifications as set forth 28721
in ~~such~~ those chapters. 28722

Sec. 1563.06. For the purpose of making the examinations 28723
provided for in this chapter and Chapters ~~1509.~~ 1561., 1565., and 28724
1567. and applicable provisions of Chapter 1509. of the Revised 28725
Code, the chief of the division of mineral resources management, 28726
and each deputy mine inspector, may enter any mine at a reasonable 28727
time, by day or by night, but in such manner as will not 28728
necessarily impede the working of the mine, and the owner, lessee, 28729
or agent thereof shall furnish the means necessary for such entry 28730
and examination. 28731

Sec. 1563.24. In all mines generating methane in such 28732
quantities as to be considered a gaseous mine under section 28733
1563.02 of the Revised Code, the mine foreperson of such a mine 28734
shall: 28735

(A) Employ a sufficient number of competent persons holding 28736
foreperson of gaseous mines or fire boss certificates, except as 28737
provided in section 1565.02 of the Revised Code, to examine the 28738
working places whether they are in actual course of working or 28739
not, and the traveling ways and entrances to old workings with 28740
approved flame safety lamps, all of which shall be done not more 28741
than three hours prior to the time fixed for the employees to 28742
enter ~~such~~ the mine; 28743

(B) Have all old parts of the mine not in the actual course 28744
of working, but that are open and safe to travel, examined not 28745
less than once each three days by a competent person who holds a 28746

foreperson of gaseous mines or a fire boss certificate; 28747

(C) See that all parts of the mine not sealed off as provided 28748
in section 1563.41 of the Revised Code are kept free from standing 28749
gas, and upon the discovery of any standing gas, see that the 28750
entrance to the place where the gas is so discovered is fenced off 28751
and marked with a sign upon which is written the word "danger," 28752
and ~~such~~ the sign shall so remain until ~~such~~ the gas has been 28753
removed; 28754

(D) Have the mine examined on all idle days, holidays, and 28755
Sundays on which employees are required to work therein; 28756

(E) If more than three hours elapse between shifts, have the 28757
places in which the succeeding shift works examined by a competent 28758
person who holds a foreperson of gaseous mines or fire boss 28759
certificate; 28760

(F) See that this chapter and Chapters ~~1509.~~ 1561., 1565., 28761
and 1567. and applicable provisions of Chapter 1509. of the 28762
Revised Code, with regard to examination of working places, 28763
removal of standing gas, and fencing off of dangerous places, are 28764
complied with before the employees employed by the mine foreperson 28765
for this particular work are permitted to do any other work; 28766

(G) Have a report made on the blackboard provided for in 28767
section 1567.06 of the Revised Code, which report shall show the 28768
condition of the mine as to the presence of gas and the place 28769
where such gas is present, if there is any, before the mine 28770
foreperson permits the employees to enter the mine; 28771

(H) Have reports of the duties and activities enumerated in 28772
this section signed by the person who makes ~~such~~ the examination. 28773
The reports so signed shall be sent once each week to the deputy 28774
mine inspector of the district in which the mine is located on 28775
blanks furnished by the division of mineral resources management 28776
for that purpose, and a copy of ~~such~~ the report shall be kept on 28777

file at the mine. 28778

(I) Have the fire boss record a report after each 28779
examination, in ink, in the fire boss' record book, which book 28780
shall show the time taken in making the examination and also 28781
clearly state the nature and location of any danger that was 28782
discovered in any room, entry, or other place in the mine, and, if 28783
any danger was discovered, the fire boss shall immediately report 28784
the location thereof to the mine foreperson. 28785

No person shall enter the mine until the fire bosses return 28786
to the mine office on the surface, or to a station located in the 28787
mine, where a record book as provided for in this section shall be 28788
kept and signed by the person making the examination, and report 28789
to the oncoming mine foreperson that the mine is in safe condition 28790
for the employees to enter. When a station is located in any mine, 28791
the fire bosses shall sign also the report entered in the record 28792
book in the mine office on the surface. The record books of the 28793
fire bosses shall at all times during working hours be accessible 28794
to the deputy mine inspector and the employees of the mine. 28795

In every mine generating explosive gas in quantities 28796
sufficient to be detected by an approved flame safety lamp, when 28797
the working portions are one mile or more from the entrance to the 28798
mine or from the bottom of the shaft or slope, a permanent station 28799
of suitable dimensions may be erected by the mine foreperson, 28800
provided that the location is approved by the deputy mine 28801
inspector, for the use of the fire bosses, and a fireproof vault 28802
of ample strength shall be erected in ~~such~~ the station of brick, 28803
stone, or concrete, in which the temporary record book of the fire 28804
bosses, as described in this section, shall be kept. No person, 28805
except a mine foreperson of gaseous mines, and in case of 28806
necessity such other persons as are designated by the mine 28807
foreperson, shall pass beyond the permanent station and danger 28808
signal until the mine has been examined by a fire boss, and the 28809

mine or certain portions thereof reported by the fire boss to be 28810
safe. 28811

This section does not prevent a mine foreperson or foreperson 28812
of gaseous mines from being qualified to act and acting in the 28813
capacity of fire boss. The record book shall be supplied by the 28814
division and purchased by the operator. 28815

No mine foreperson or person delegated by the mine 28816
foreperson, or any operator of a mine, or other person, shall 28817
refuse or neglect to comply with this section. 28818

Sec. 1563.28. The ~~man~~ worker performing the duties of fire 28819
boss shall, in an approved manner, use a flame safety lamp when 28820
making examinations under this chapter and Chapters ~~1509.~~, 1561., 28821
1565., and 1567. and applicable provisions of Chapter 1509. of the 28822
Revised Code. As evidence of such examinations ~~he~~ the fire boss 28823
shall mark with chalk, upon the face of the coal or in some other 28824
conspicuous place, ~~his~~ the fire boss's initials and the date of 28825
the month that ~~such~~ the examination is made, and shall fully 28826
comply with all the law relating to gas and ~~his~~ the fire boss's 28827
duties as to making such examinations. After making ~~his~~ such an 28828
examination and report, prior to employees entering the mine for 28829
the oncoming shift, ~~he~~ the fire boss who made the examination or 28830
another fire boss shall return to the working places with the 28831
employees at the starting time of the oncoming shift. 28832

No person shall refuse or neglect to comply with this 28833
section. 28834

Sec. 1571.01. As used in this chapter, unless other meaning 28835
is clearly indicated in the context: 28836

(A) "Gas storage reservoir" or "storage reservoir" or 28837
"reservoir" means a continuous area of a subterranean porous sand 28838
or rock stratum or strata, any part of which or of the protective 28839

area of which, is within a coal bearing township, into which gas 28840
is or may be injected for the purpose of storing it therein and 28841
removing it therefrom, or for the purpose of testing whether such 28842
stratum is suitable for such storage purposes. 28843

(B) "Gas" means any natural, manufactured, or by-product gas 28844
or any mixture thereof. 28845

(C) "Reservoir operator" or "operator," when used in 28846
referring to the operator of a gas storage reservoir, means a 28847
person who is engaged in the work of preparing to inject, or who 28848
injects gas into, or who stores gas in, or who removes gas from, a 28849
gas storage reservoir, and who owns the right to do so. 28850

(D)(1) "Boundary," when used in referring to the boundary of 28851
a gas storage reservoir, means the boundary of such reservoir as 28852
shown on the map or maps thereof on file in the division of 28853
~~mineral oil and gas~~ resources management as required by this 28854
chapter. 28855

(2) "Boundary," when used in referring to the boundary of a 28856
reservoir protective area, means the boundary of such reservoir 28857
protective area as shown on the map or maps thereof on file in the 28858
division as required by this chapter. 28859

(E) "Reservoir protective area" or "reservoir's protective 28860
area" means the area of land outside the boundary of a gas storage 28861
reservoir shown as such on the map or maps thereof on file in the 28862
division as required by this chapter. The area of land shown on 28863
such map or maps as such reservoir protective area shall be 28864
outside the boundary of such reservoir, and shall encircle such 28865
reservoir and touch all parts of the boundary of such reservoir, 28866
and no part of the outside boundary of such protective area shall 28867
be less than two thousand nor more than five thousand linear feet 28868
distant from the boundary of such reservoir. 28869

(F) "Coal bearing township" means a township designated as a 28870

coal bearing township by the chief of the division of mineral 28871
resources management as required by section 1561.06 of the Revised 28872
Code. 28873

(G) "Coal mine" means the underground excavations of a mine 28874
that are being used or are usable or are being developed for use 28875
in connection with the extraction of coal from its natural deposit 28876
in the earth. "Underground excavations," when used in referring to 28877
the underground excavations of a coal mine, includes the abandoned 28878
underground excavations of such mine. It also includes the 28879
underground excavations of an abandoned coal mine if such 28880
abandoned mine is connected with underground excavations of a coal 28881
mine. "Coal mine" does not mean or include: 28882

(1) A mine in which coal is extracted from its natural 28883
deposit in the earth by strip or open pit mining methods or by 28884
other methods by which individuals are not required to go 28885
underground in connection with the extraction of coal from its 28886
natural deposit in the earth; 28887

(2) A mine in which not more than fourteen individuals are 28888
regularly employed underground. 28889

(H) "Operator," when used in referring to the operator of a 28890
coal mine, means a person who engages in the work of developing 28891
such mine for use in extracting coal from its natural deposit in 28892
the earth, or who so uses such mine, and who owns the right to do 28893
so. 28894

(I) "Boundary," when used in referring to the boundary of a 28895
coal mine, means the boundary of the underground excavations of 28896
such mine as shown on the maps of such mine on file in the 28897
division of mineral resources management as required by sections 28898
1563.03 to 1563.05 and 1571.03 of the Revised Code. 28899

(J) "Mine protective area" or "mine's protective area" means 28900
the area of land that the operator of a coal mine designates and 28901

shows as such on the map or maps of such coal mine filed with the 28902
division as required by sections 1563.03 to 1563.05 and 1571.03 of 28903
the Revised Code. Such area of land shall be outside of the 28904
boundary of such coal mine, but some part of the boundary of such 28905
area of land shall abut upon a part of the boundary of such coal 28906
mine. Such area of land shall be comprised of such tracts of land 28907
in which such coal mine operator owns the right to extract coal 28908
therefrom by underground mining methods and in which underground 28909
excavations of such coal mine are likely to be made within the 28910
ensuing year for use in connection with the extraction of coal 28911
therefrom. 28912

(K) "Pillar" means a solid block of coal or other material 28913
left unmined to support the overlying strata in a coal mine, or to 28914
protect a well. 28915

(L) "Retreat mining" means the removal of pillars and ribs 28916
and stumps and other coal remaining in a section of a coal mine 28917
after the development mining has been completed in such section. 28918

(M) "Linear feet," when used to indicate distance between two 28919
points that are not in the same plane, means the length in feet of 28920
the shortest horizontal line that connects two lines projected 28921
vertically upward or downward from the two points. 28922

(N) "Map" means a graphic representation of the location and 28923
size of the existing or proposed items it is made to represent, 28924
accurately drawn according to a given scale. 28925

(O) "Well" means any hole, drilled or bored, or being drilled 28926
or bored, into the earth, whether for the purpose of, or whether 28927
used for: 28928

(1) Producing or extracting any gas or liquid mineral, or 28929
natural or artificial brines, or oil field waters; 28930

(2) Injecting gas into or removing gas from an underground 28931
gas storage reservoir; 28932

(3) Introducing water or other liquid pressure into an oil 28933
bearing sand to recover oil contained in such sand, provided that 28934
"well" does not mean a hole drilled or bored, or being drilled or 28935
bored, into the earth, whether for the purpose of, or whether used 28936
for, producing or extracting potable water to be used as such. 28937

(P) "Testing" means injecting gas into, or storing gas in or 28938
removing gas from, a gas storage reservoir for the sole purpose of 28939
determining whether such reservoir is suitable for use as a gas 28940
storage reservoir. 28941

(Q) "Casing" means a string or strings of pipe commonly 28942
placed in a well. 28943

(R) "Inactivate" means to shut off temporarily all flow of 28944
gas from a well at a point below the horizon of the coal mine that 28945
might be affected by such flow of gas, by means of a plug or other 28946
suitable device or by injecting water, bentonite, or some other 28947
equally nonporous material into the well, or any other method 28948
approved by ~~the mineral~~ an oil and gas resources inspector. 28949

(S) "Gas storage well inspector" means the gas storage well 28950
inspector in the division. 28951

(T) The verb "open" or the noun "opening," when used in 28952
clauses relating to the time when a coal mine operator intends to 28953
open a new coal mine, or the time when a new coal mine is opened, 28954
or the time of the opening of a new coal mine, or when used in 28955
other similar clauses to convey like meanings, means that time and 28956
condition in the initial development of a new coal mine when the 28957
second opening required by section 1563.14 of the Revised Code is 28958
completed in such mine. 28959

Sec. 1571.012. An applicant for the position of gas storage 28960
well inspector shall register the applicant's name with the chief 28961
of the division of oil and gas resources management and file with 28962

the chief an affidavit as to all matters of fact establishing the 28963
applicant's right to take the examination for that position, a 28964
certificate of good character and temperate habits signed by at 28965
least three reputable citizens of the community in which the 28966
applicant resides, and a certificate from a reputable and 28967
disinterested physician as to the physical condition of the 28968
applicant showing that the applicant is physically capable of 28969
performing the duties of the position. The applicant also shall 28970
present evidence satisfactory to the chief that the applicant has 28971
been a resident and citizen of this state for at least two years 28972
next preceding the date of application. 28973

An applicant shall possess the same qualifications as an 28974
applicant for the position of deputy mine inspector established in 28975
section 1561.12 of the Revised Code. In addition, the applicant 28976
shall have practical knowledge and experience of and in the 28977
operation, location, drilling, maintenance, and abandonment of oil 28978
and gas wells, especially in coal or mineral bearing townships, 28979
and shall have a thorough knowledge of the latest and best method 28980
of plugging and sealing abandoned oil and gas wells. 28981

An applicant for gas storage well inspector shall pass an 28982
examination conducted by the chief to determine the applicant's 28983
fitness to act as gas storage well inspector before being eligible 28984
for appointment. 28985

Sec. 1571.013. (A) The chief of the division of oil and gas 28986
resources management shall conduct examinations for the position 28987
of gas storage well inspector. The chief annually shall provide 28988
for the examination of candidates for appointment as gas storage 28989
well inspector. Special examinations may be held whenever it 28990
becomes necessary to make an appointment of gas storage well 28991
inspector. 28992

(B) Public notice shall be given through the press or otherwise, not less than ten days in advance, announcing the time and place at which examinations under this section are to be held. 28993
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(C) The examinations provided for in this section shall be conducted in accordance with rules adopted under section 1571.014 of the Revised Code and conditions prescribed by the chief. 28996
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Sec. 1571.014. The chief of the division of oil and gas resources management shall appoint a gas storage well inspector from the eligible list of candidates for that position that is prepared under section 124.24 of the Revised Code. If a vacancy occurs in the position of gas storage well inspector, the chief shall fill the position by selecting a person from that list. 28999
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The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for conducting examinations for the position of gas storage well inspector. 29005
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Sec. 1571.02. (A) Any reservoir operator who, on September 9, 1957, is injecting gas into, storing gas in, or removing gas from a reservoir shall within sixty days after such date file with the division of ~~mineral~~ oil and gas resources management a map thereof as described in division (C) of this section, provided that if a reservoir operator is, on September 9, 1957, injecting gas into or storing gas in a reservoir solely for testing, the reservoir operator shall at once file such map with the division. 29008
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(B) If the injection of gas into or storage of gas in a gas storage reservoir is begun after September 9, 1957, the operator of such reservoir shall file with the division a map thereof as described in division (C) of this section, on the same day and not less than three months prior to beginning such injection or storage. 29016
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(C) Each map filed with the division pursuant to this section 29022

shall be prepared by a registered surveyor, registered engineer, 29023
or competent geologist. It shall show both of the following: 29024

(1) The location of the boundary of such reservoir and the 29025
boundary of such reservoir's protective area, and the known fixed 29026
monuments, corner stones, or other permanent markers in such 29027
boundary lines; 29028

(2) The boundary lines of the counties, townships, and 29029
sections or lots that are within the limits of such map, and the 29030
name of each such county and township and the number of each such 29031
section or lot clearly indicated thereon. The legend of the map 29032
shall indicate the stratum or strata in which the gas storage 29033
reservoir is located. 29034

The location of the boundary of the gas storage reservoir as 29035
shown on the map shall be defined by the location of those wells 29036
around the periphery of such reservoir that had no gas production 29037
when drilled into the storage stratum of such reservoir, provided 29038
that if the operator of such reservoir, upon taking into 29039
consideration the number and nature of such wells, the geological 29040
and production knowledge of the storage stratum, its character, 29041
permeability, and distribution, and operating experience, 29042
determines that the location of the boundary of such reservoir 29043
should be differently defined, the reservoir operator may, on such 29044
map, show the boundary of such reservoir to be located at a 29045
location different than the location defined by the location of 29046
those wells around the periphery of such reservoir that had no gas 29047
production when drilled into the storage stratum. 29048

Whenever the operator of a gas storage reservoir determines 29049
that the location of the boundary of such reservoir as shown on 29050
the most recent map thereof on file in the division pursuant to 29051
this section is incorrect, the reservoir operator shall file with 29052
the division an amended map showing the boundary of such reservoir 29053
to be located at the location that the reservoir operator then 29054

considers to be correct. 29055

(D) Each operator of a gas storage reservoir who files with 29056
the division a map as required by this section shall, at the end 29057
of each six-month period following the date of such filing, file 29058
with the division an amended map showing changes, if any, in the 29059
boundary line of such reservoir or of such reservoir's protective 29060
area that have occurred in the six-month period. Nothing in this 29061
division shall be construed to require such a reservoir operator 29062
to file an amended map at the end of any such six-month period if 29063
no such boundary changes have occurred in such period. 29064

An operator of a gas storage reservoir who is required by 29065
this section to file an amended map with the division shall not be 29066
required to so file such an amended map after such time when the 29067
reservoir operator files with the division a map pertaining to 29068
such reservoir, as provided in section 1571.04 of the Revised 29069
Code. 29070

Sec. 1571.03. (A) Every operator of a coal mine who is 29071
required by sections 1563.03 to 1563.05 of the Revised Code, to 29072
file maps of such mine, shall cause to be shown on each of such 29073
maps, in addition to the boundary lines of each tract under which 29074
excavations are likely to be made during the ensuing year, as 29075
referred to in section 1563.03 of the Revised Code: 29076

(1) The boundary of such coal mine in accordance with the 29077
meaning of the term "boundary" ~~when used in referring to the~~ 29078
~~boundary of a coal mine, and the term "coal mine" as those terms~~ 29079
~~are defined~~ in section 1571.01 of the Revised Code; 29080

(2) The boundary of the mine protective area of such mine. 29081

This division shall not be construed to amend or repeal any 29082
provisions of sections 1563.03 to 1563.05 of the Revised Code, 29083
either by implication or otherwise. 29084

This division is intended only to add to existing statutory requirements pertaining to the filing of coal mine maps with the division of mineral resources management, the requirements established in this division.

(B) Every operator of a coal mine who believes that any part of the boundary of such mine is within two thousand linear feet of a well that is drilled through the horizon of such coal mine and into or through the storage stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall at once send notice to that effect by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management.

(C) Every operator of a coal mine who expects that any part of the boundary of such mine will, on a date after September 9, 1957, be extended beyond its location on such date to a point within two thousand linear feet of a well that is drilled through the horizon of such mine and into or through the stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall send at least nine months' notice of such date and of the location of such well by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management. If at the end of three years after the date stated in the notice by an operator of a coal mine to an operator of a storage reservoir as the date upon which part of the boundary of such coal mine is expected to be extended to a point within two thousand linear feet of such well, no part of such coal mine is so extended, the operator of such coal mine shall be liable to the operator of such storage reservoir for all expenses incurred by such reservoir operator in doing the plugging or reconditioning of such well as the reservoir operator is required to do in such

cases as provided in section 1571.05 of the Revised Code. Such 29117
mine operator shall in no event be liable to such reservoir 29118
operator: 29119

(1) For expenses of plugging or reconditioning such well 29120
incurred prior to receipt by such reservoir operator from such 29121
mine operator of a notice as provided for in this division; 29122

(2) For any expenses of plugging or reconditioning such well 29123
if any part of the work of plugging or reconditioning was 29124
commenced prior to receipt by such reservoir operator from such 29125
mine operator of a notice as provided for in this division. 29126

(D) If a person intends to open a new coal mine after 29127
September 9, 1957, and if at the time of its opening any part of 29128
the boundary of such mine will be within two thousand linear feet 29129
of a well that is drilled through the horizon of such mine and 29130
into or through the storage stratum or strata of a gas storage 29131
reservoir within the boundary of such reservoir or within its 29132
protective area, such person shall send by registered mail to the 29133
operator of such storage reservoir, the division of mineral 29134
resources management, and ~~to~~ the division of oil and gas resources 29135
management at least nine months' notice of the date upon which the 29136
person intends to open such mine, and of the location of such 29137
well. If at the end of nine months after the date stated in the 29138
notice by an operator of a coal mine to an operator of a storage 29139
reservoir, the division of mineral resources management, and ~~to~~ 29140
the division of oil and gas resources management, as the date upon 29141
which such coal mine operator intends to open such new mine, such 29142
new mine is not opened, the operator of such coal mine shall be 29143
liable to the operator of such storage reservoir for all expenses 29144
incurred by such reservoir operator in doing the plugging or 29145
reconditioning of such well as the reservoir operator is required 29146
to do in such cases as provided in section 1571.05 of the Revised 29147
Code, provided: 29148

(1) That such mine operator may, prior to the end of nine 29149
months after the date stated in such mine operator's notice to 29150
such reservoir operator, the division of mineral resources 29151
management, and the division of oil and gas resources management 29152
as the date upon which the mine operator intended to open such new 29153
mine, notify such reservoir operator, the division of mineral 29154
resources management, and the division of oil and gas resources 29155
management in writing by registered mail, that the opening of such 29156
new mine will be delayed beyond the end of such nine-month period 29157
of time, and that the mine operator requests that a conference be 29158
held as provided in section 1571.10 of the Revised Code for the 29159
purpose of endeavoring to reach an agreement establishing a date 29160
subsequent to the end of such nine-month period of time, on or 29161
before which such mine operator may open such new mine without 29162
being liable to pay such reservoir operator expenses incurred by 29163
such reservoir operator in plugging or reconditioning such well as 29164
in this division provided; 29165

(2) That if such mine operator sends to such reservoir 29166
operator, the division of mineral resources management, and ~~to~~ the 29167
division of oil and gas resources management a notice and request 29168
for a conference as provided in division (D)(1) of this section, 29169
such mine operator shall not be liable to pay such reservoir 29170
operator for expenses incurred by such reservoir operator in 29171
plugging and reconditioning such well, unless such mine operator 29172
fails to open such new mine within the period of time fixed by an 29173
approved agreement reached in such conference, or fixed by an 29174
order by the chief of the division of ~~mineral~~ oil and gas 29175
resources management upon a hearing held in the matter in the 29176
event of failure to reach an approved agreement in the 29177
conference~~r~~. After issuing an order under this division, the chief 29178
shall notify the chief of the division of mineral resources 29179
management and send a copy of the order to the chief. 29180

(3) That such mine operator shall in no event be liable to 29181
such reservoir operator: 29182

(a) For expense of plugging or reconditioning such well 29183
incurred prior to the receipt by such reservoir operator from such 29184
mine operator of the notice of the date upon which such mine 29185
operator intends to open such new mine; 29186

(b) For any expense of plugging or reconditioning such well 29187
if any part of the work of plugging or reconditioning was 29188
commenced prior to receipt by such reservoir operator from such 29189
mine operator of such notice. 29190

Sec. 1571.04. (A) Upon the filing of each map or amended map 29191
with the division of ~~mineral oil and gas~~ resources management by 29192
operators of gas storage reservoirs as required by this chapter, 29193
and each coal mine map with the division of mineral resources 29194
management as required by sections 1563.03 to 1563.05 and division 29195
(A) of section 1571.03 of the Revised Code, the gas storage well 29196
inspector shall cause an examination to be made of all maps on 29197
file in ~~the division~~ those divisions as the gas storage well 29198
inspector may deem necessary to ascertain whether any part of a 29199
reservoir protective area as shown on any such map is within ten 29200
thousand linear feet of any part of the boundary of a coal mine as 29201
shown on any such map. If, upon making that examination, the gas 29202
storage well inspector finds that any part of such a reservoir 29203
protective area is within ten thousand linear feet of any part of 29204
the boundary of such a coal mine, the gas storage well inspector 29205
shall promptly send by registered mail notice to that effect to 29206
the operator of the reservoir and to the operator of the coal 29207
mine. 29208

(B) Within sixty days after receipt by an operator of a gas 29209
storage reservoir of a notice from the gas storage well inspector 29210
under division (A) of this section, such operator shall file on 29211

the same day with both the division ~~a map~~ of mineral resources 29212
management and the division of oil and gas resources management 29213
identical maps prepared by a registered surveyor, registered 29214
engineer, or competent geologist, which shall do all of the 29215
following: 29216

(1) Indicate the stratum or strata in which such gas storage 29217
reservoir is located; 29218

(2) Show the location of the boundary of the reservoir and 29219
the boundary of its protective area, and the known fixed 29220
monuments, corner stones, or other permanent markers in such 29221
boundary lines; 29222

(3) Show the boundary lines of the counties, townships, and 29223
sections or lots that are within the limits of such maps, and the 29224
name of each such county and township and the number of each such 29225
section or lot clearly indicated thereon; 29226

(4) Show the location of all oil or gas wells known to the 29227
operator of such reservoir that have been drilled within the 29228
boundary of the reservoir or within its protective area, and 29229
indicate which of such wells, if any, have been or are to be 29230
plugged or reconditioned for use in the operation of such 29231
reservoir. 29232

The location of the boundary of the gas storage reservoir as 29233
shown on the maps shall be defined by the location of those wells 29234
around the periphery of the reservoir that had no gas production 29235
when drilled into the storage stratum of the reservoir, provided 29236
that, if the operator of the reservoir, upon taking into 29237
consideration the number and nature of such wells, the geological 29238
and production knowledge of the storage stratum, its character, 29239
permeability, and distribution, and operating experience, 29240
determines that the location of the boundary of the reservoir 29241
should be differently defined, the reservoir operator may, on the 29242

maps, show the boundary of the reservoir to be located at a 29243
location different from the location defined by the location of 29244
those wells around the periphery of the reservoir that had no gas 29245
production when drilled into the storage stratum. 29246

(C) Any coal mine operator who receives from the gas storage 29247
well inspector a copy of a map as provided by division (E) of this 29248
section may request the gas storage well inspector to furnish the 29249
coal mine operator with: 29250

(1) The name of the original operator of any well shown on 29251
such map; 29252

(2) The date drilling of such well was completed; 29253

(3) The total depth of such well; 29254

(4) The depth at which oil or gas was encountered in such 29255
well if it was productive of oil or gas; 29256

(5) The initial rock pressure of such well; 29257

(6) A copy of the log of the driller of such well or other 29258
similar data; 29259

(7) The location of such well in respect to the property 29260
lines of the tract of land on which it is located; 29261

(8) A statement as to whether the well is inactive or active: 29262

(a) If inactive, the date of plugging and other pertinent 29263
data; 29264

(b) If active, whether it is being used for test purposes or 29265
storage purposes; 29266

(9) A statement of the maximum injection pressure 29267
contemplated by the operator of the reservoir shown on such map. 29268

Upon receipt of such a request, the gas storage well 29269
inspector shall promptly furnish the coal mine operator the 29270
information requested. If the information is not ascertainable 29271

from the files in the division of oil and gas resources 29272
management, the gas storage well inspector shall request the 29273
reservoir operator to furnish the division with such information 29274
to the extent that the reservoir operator has knowledge thereof. 29275
Upon receipt of such a request, the reservoir operator shall 29276
promptly furnish such information to the division. Thereupon the 29277
gas storage well inspector shall promptly transmit such 29278
information to the mine operator who requested it. 29279

Whenever the operator of a gas storage reservoir determines 29280
that the location of the boundary of the reservoir as shown on the 29281
most recent map thereof on file in the division pursuant to this 29282
section is incorrect, the reservoir operator shall file with the 29283
division an amended map showing the boundary of the reservoir to 29284
be located at the location that the reservoir operator then 29285
considers to be correct. 29286

(D) Each operator of a gas storage reservoir who files a ~~map~~ 29287
with the division of mineral resources management and the division 29288
of oil and gas resources management maps as required by this 29289
section shall, at the end of each six-month period following the 29290
date of such filing, file with ~~the~~ each division ~~an~~ identical 29291
amended ~~map~~ maps showing changes in the boundary line of the 29292
reservoir or of the reservoir's protective area that have occurred 29293
in the six-month period, and further showing or describing any 29294
other occurrences within that six-month period that cause the most 29295
recent ~~map~~ maps on file and pertaining to the reservoir to no 29296
longer be correct. Nothing in this division shall be construed to 29297
require such a reservoir operator to file an amended map at the 29298
end of any such six-month period if no boundary changes or other 29299
occurrences have occurred in that period. The operator of the 29300
reservoir shall also file with the division of mineral resources 29301
management and the division of oil and gas resources management, 29302
subsequent to the filing of a ~~map~~ maps as provided for in division 29303

(B) of this section, a statement whenever changing the maximum injection pressure is contemplated, stating for each affected well within the boundary of the reservoir or its protective area, the amount of change of injection pressure contemplated. The location or drilling of new wells or the abandonment or reconditioning of wells shall not be considered to be occurrences requiring the filing of an amended map or statement.

(E) Promptly upon the filing with the division of oil and gas resources management of a map or an amended map pertaining to a gas storage reservoir under this section, the gas storage well inspector shall send by registered mail to the operator of the coal mine a part of the boundary of which is within ten thousand linear feet of any part of the boundary of the reservoir or of the outside boundary of the reservoir's protective area, notice of the filing together with a copy of the map.

(F) When the operator of a gas storage reservoir files with the division a map of mineral resources management and the division of oil and gas resources management maps or ~~an~~ amended ~~map~~ maps under this section, the reservoir operator shall file as many copies of the ~~map~~ maps as ~~the~~ each division may require for its files and as are needed for sending a copy to each coal mine operator under division (E) of this section.

Sec. 1571.05. (A) Whenever any part of a gas storage reservoir or any part of its protective area underlies any part of a coal mine, or is, or within nine months is expected or intended to be, within two thousand linear feet of the boundary of a coal mine that is operating in a coal seam any part of which extends over any part of the storage reservoir or its protective area, the operator of the reservoir, if the reservoir operator or some other reservoir operator has not theretofore done so, shall:

(1) Use every known method that is reasonable under the

circumstance for discovering and locating all wells drilled within 29335
the area of the reservoir or its protective area that underlie any 29336
part of the coal mine or its protective area; 29337

(2) Plug or recondition all known wells drilled within the 29338
area of the reservoir or its protective area that underlie any 29339
part of the coal mine. 29340

(B) Whenever an operator of a gas storage reservoir is 29341
notified by the operator of a coal mine, as provided in division 29342
(B) of section 1571.03 of the Revised Code, that the coal mine 29343
operator believes that part of the boundary of the mine is within 29344
two thousand linear feet of a well that is drilled through the 29345
horizon of the coal mine and into or through the storage stratum 29346
or strata of the reservoir within the boundary of the reservoir or 29347
within its protective area, the reservoir operator shall plug or 29348
recondition the well as in this section prescribed, unless it is 29349
agreed in a conference or is ordered by the chief of the division 29350
of ~~mineral~~ oil and gas resources management after a hearing, as 29351
provided in section 1571.10 of the Revised Code, that the well 29352
referred to in the notice is not such a well as is described in 29353
division (B) of section 1571.03 of the Revised Code. 29354

Whenever an operator of a gas storage reservoir is notified 29355
by the operator of a coal mine as provided in division (C) or (D) 29356
of section 1571.03 of the Revised Code, that part of the boundary 29357
of the mine is, or within nine months is intended or expected to 29358
be, within two thousand linear feet of a well that is drilled 29359
through the horizon of the mine and into or through the storage 29360
stratum or strata of the reservoir within the boundary of the 29361
reservoir or within its protective area, the reservoir operator 29362
shall plug or recondition the well as in this section prescribed. 29363

Whenever the operator of a coal mine considers that the use 29364
of a well such as in this section described, if used for injecting 29365
gas into, or storing gas in, or removing gas from, a gas storage 29366

reservoir, would be hazardous to the safety of persons or property 29367
on or in the vicinity of the premises of the coal mine or the 29368
reservoir or well, the coal mine operator may file with the 29369
division objections to the use of the well for such purposes, and 29370
a request that a conference be held as provided in section 1571.10 29371
of the Revised Code, to discuss and endeavor to resolve by mutual 29372
agreement whether or not the well shall or shall not be used for 29373
such purposes, and whether or not the well shall be reconditioned, 29374
inactivated, or plugged. The request shall set forth the mine 29375
operator's reasons for such objections. If no approved agreement 29376
is reached in the conference, the gas storage well inspector shall 29377
within ten days after the termination of the conference, file with 29378
the chief a request that the chief hear and determine the matters 29379
considered at the conference as provided in section 1571.10 of the 29380
Revised Code. Upon conclusion of the hearing, the chief shall find 29381
and determine whether or not the safety of persons or of the 29382
property on or in the vicinity of the premises of the coal mine, 29383
or the reservoir, or the well requires that the well be 29384
reconditioned, inactivated, or plugged, and shall make an order 29385
consistent with that determination, provided that the chief shall 29386
not order a well plugged unless the chief first finds that there 29387
is underground leakage of gas therefrom. 29388

The plugging or reconditioning of each well described in a 29389
notice from a coal mine operator to a reservoir operator as 29390
provided in division (B) of section 1571.03 of the Revised Code, 29391
which must be plugged or reconditioned, shall be completed within 29392
such time as the gas storage well inspector may fix in the case of 29393
each such well. The plugging or reconditioning of each well 29394
described in a notice from a coal mine operator to a reservoir 29395
operator as provided in division (C) of section 1571.03 of the 29396
Revised Code, which must be plugged or reconditioned, shall be 29397
completed by the time the well, by reason of the extension of the 29398
boundary of the coal mine, is within two thousand linear feet of 29399

any part of the boundary of the mine. The plugging or 29400
reconditioning of each well described in a notice from a coal mine 29401
operator to a reservoir operator, as provided in division (D) of 29402
section 1571.03 of the Revised Code, which must be plugged or 29403
reconditioned, shall be completed by the time the well, by reason 29404
of the opening of the new mine, is within two thousand linear feet 29405
of any part of the boundary of the new mine. A reservoir operator 29406
who is required to complete the plugging or reconditioning of a 29407
well within a period of time fixed as in this division prescribed, 29408
may prior to the end of that period of time, notify the division 29409
and the mine operator from whom the reservoir operator received a 29410
notice as provided in division (B), (C), or (D) of section 1571.03 29411
of the Revised Code, in writing by registered mail, that the 29412
completion of the plugging or reconditioning of the well referred 29413
to in the notice will be delayed beyond the end of the period of 29414
time fixed therefor as in this section provided, and that the 29415
reservoir operator requests that a conference be held for the 29416
purpose of endeavoring to reach an agreement establishing a date 29417
subsequent to the end of that period of time, on or before which 29418
the reservoir operator may complete the plugging or reconditioning 29419
without incurring any penalties for failure to do so as provided 29420
in this chapter. If such a reservoir operator sends to such a mine 29421
operator and to the division a notice and request for a conference 29422
as in this division provided, the reservoir operator shall not 29423
incur any penalties for failure to complete the plugging or 29424
reconditioning of the well within the period of time fixed as in 29425
this division prescribed, unless the reservoir operator fails to 29426
complete the plugging or reconditioning of the well within the 29427
period of time fixed by an approved agreement reached in the 29428
conference, or fixed by an order by the chief upon a hearing held 29429
in the matter in the event of failure to reach an approved 29430
agreement in the conference. 29431

Whenever, in compliance with this division, a well is to be 29432

plugged by a reservoir operator, the operator shall give to the 29433
division notice thereof, as many days in advance as will be 29434
necessary for the gas storage well inspector or a deputy mine 29435
inspector to be present at the plugging. The notification shall be 29436
made on blanks furnished by the division and shall show the 29437
following information: 29438

(1) Name and address of the applicant; 29439

(2) The location of the well identified by section or lot 29440
number, city or village, and township and county; 29441

(3) The well name and number of each well to be plugged. 29442

(C) The operator shall give written notice at the same time 29443
to the owner of the land upon which the well is located, the 29444
owners or agents of the adjoining land, and adjoining well owners 29445
or agents of the operator's intention to abandon the well, and of 29446
the time when the operator will be prepared to commence plugging 29447
and filling the same. In addition to giving such notices, the 29448
reservoir operator shall also at the same time send a copy of the 29449
notice by registered mail to the coal mine operator, if any, who 29450
sent to the reservoir operator the notice as provided in division 29451
(B), (C), or (D) of section 1571.03 of the Revised Code, in order 29452
that the coal mine operator or the coal mine operator's designated 29453
representative may attend and observe the manner in which the 29454
plugging of the well is done. 29455

If the reservoir operator plugs the well without ~~an~~ the gas 29456
storage well inspector ~~from the division~~ or a deputy mine 29457
inspector being present to supervise the plugging, the reservoir 29458
operator shall send to the division and to the coal mine operator 29459
a copy of the report of the plugging of the well, including in the 29460
report: 29461

(1) The date of abandonment; 29462

(2) The name of the owner or operator of the well at the time 29463

of abandonment and the well owner's or operator's post office	29464
address;	29465
(3) The location of the well as to township and county and	29466
the name of the owner of the surface upon which the well is	29467
drilled, with the address thereof;	29468
(4) The date of the permit to drill;	29469
(5) The date when drilled;	29470
(6) Whether the well has been mapped;	29471
(7) The depth of the well;	29472
(8) The depth of the top of the sand to which the well was	29473
drilled;	29474
(9) The depth of each seam of coal drilled through;	29475
(10) A detailed report as to how the well was plugged, giving	29476
in particular the manner in which the coal and various sands were	29477
plugged, and the date of the plugging of the well, including	29478
therein the names of those who witnessed the plugging of the well.	29479
The report shall be signed by the operator or the operator's	29480
agent who plugged the well and verified by the oath of the party	29481
so signing. For the purposes of this section, a deputy mine	29482
inspector may take acknowledgements and administer oaths to the	29483
parties signing the report.	29484
Whenever, in compliance with this division, a well is to be	29485
reconditioned by a reservoir operator, the operator shall give to	29486
the division notice thereof as many days before the reconditioning	29487
is begun as will be necessary for the gas storage well inspector,	29488
or a deputy mine inspector, to be present at the reconditioning.	29489
No well shall be reconditioned if an inspector of the division is	29490
not present unless permission to do so has been granted by the	29491
chief. The reservoir operator, at the time of giving notice to the	29492
division as in this section required, also shall send a copy of	29493

the notice by registered mail to the coal mine operator, if any, 29494
who sent to the reservoir operator the notice as provided in 29495
division (B), (C), or (D) of section 1571.03 of the Revised Code, 29496
in order that the coal mine operator or the coal mine operator's 29497
designated representative may attend and observe the manner in 29498
which the reconditioning of the well is done. 29499

If the reservoir operator reconditions the well when ~~no~~ the 29500
gas storage well inspector ~~of the division~~ or a deputy mine 29501
inspector is not present to supervise the reconditioning, the 29502
reservoir operator shall make written report to the division 29503
describing the manner in which the reconditioning was done, and 29504
shall send to the coal mine operator a copy of the report by 29505
registered mail. 29506

(D) Wells that are required by this section to be plugged 29507
shall be plugged in the manner specified in sections 1509.13 to 29508
1509.17 of the Revised Code, and the operator shall give the 29509
notifications and reports required by divisions (B) and (C) of 29510
this section. No such well shall be plugged or abandoned without 29511
the written approval of the division, and no such well shall be 29512
mudded, plugged, or abandoned without the gas storage well 29513
inspector or a deputy mine inspector present unless written 29514
permission has been granted by the chief or the gas storage well 29515
inspector. For purposes of this section, the chief of the division 29516
of mineral resources management has the authority given the chief 29517
of the division of oil and gas resources management in sections 29518
1509.15 and 1509.17 of the Revised Code. If such a well has been 29519
plugged prior to the time plugging thereof is required by this 29520
section, and, on the basis of the data, information, and other 29521
evidence available it is determined that the plugging was done in 29522
the manner required by this section, or was done in accordance 29523
with statutes prescribing the manner of plugging wells in effect 29524
at the time the plugging was done, and that there is no evidence 29525

of leakage of gas from the well either at or below the surface, 29526
and that the plugging is sufficiently effective to prevent the 29527
leakage of gas from the well, the obligations imposed upon the 29528
reservoir operator by this section as to plugging the well shall 29529
be considered fully satisfied. The operator of a coal mine any 29530
part of the boundary of which is, or within nine months is 29531
expected or intended to be, within two thousand linear feet of the 29532
well may at any time raise a question as to whether the plugging 29533
of the well is sufficiently effective to prevent the leakage of 29534
gas therefrom, and the issue so made shall be determined by a 29535
conference or hearing as provided in section 1571.10 of the 29536
Revised Code. 29537

(E) Wells that are to be reconditioned as required by this 29538
section shall be, or shall be made to be: 29539

(1) Cased in accordance with the statutes of this state in 29540
effect at the time the wells were drilled, with the casing being, 29541
or made to be, sufficiently effective in that there is no evidence 29542
of any leakage of gas therefrom; 29543

(2) Equipped with a producing string and well head composed 29544
of new pipe, or pipe as good as new, and fittings designed to 29545
operate with safety and to contain the stored gas at maximum 29546
pressures contemplated. 29547

When a well that is to be reconditioned as required by this 29548
section has been reconditioned for use in the operation of the 29549
reservoir prior to the time prescribed in this section, and on the 29550
basis of the data, information, and other evidence available it is 29551
determined that at the time the well was so reconditioned the 29552
requirements prescribed in this division were met, and that there 29553
is no evidence of underground leakage of gas from the well, and 29554
that the reconditioning is sufficiently effective to prevent 29555
underground leakage from the well, the obligations imposed upon 29556
the reservoir operator by this section as to reconditioning the 29557

well shall be considered fully satisfied. Any operator of a coal 29558
mine any part of the boundary of which is, or within nine months 29559
is expected or intended to be, within two thousand linear feet of 29560
the well may at any time raise a question as to whether the 29561
reconditioning of the well is sufficiently effective to prevent 29562
underground leakage of gas therefrom, and the issue so made shall 29563
be determined by a conference or hearing as provided in section 29564
1571.10 of the Revised Code. 29565

If the gas storage well inspector at any time finds that a 29566
well that is drilled through the horizon of a coal mine and into 29567
or through the storage stratum or strata of a reservoir within the 29568
boundary of the reservoir or within its protective area is located 29569
within the boundary of the coal mine or within two thousand linear 29570
feet of the mine boundary, and was drilled prior to the time the 29571
statutes of this state required that wells be cased, and that the 29572
well fails to meet the casing and equipping requirements 29573
prescribed in this division, the gas storage well inspector shall 29574
promptly notify the operator of the reservoir thereof in writing, 29575
and the reservoir operator upon receipt of the notice shall 29576
promptly recondition the well in the manner prescribed in this 29577
division for reconditioning wells, unless, in a conference or 29578
hearing as provided in section 1571.10 of the Revised Code, a 29579
different course of action is agreed upon or ordered. 29580

(F)(1) When a well within the boundary of a gas storage 29581
reservoir or within the reservoir's protective area penetrates the 29582
storage stratum or strata of the reservoir, but does not penetrate 29583
the coal seam within the boundary of a coal mine, the gas storage 29584
well inspector may, upon application of the operator of the 29585
storage reservoir, exempt the well from the requirements of this 29586
section. Either party affected by the action of the gas storage 29587
well inspector may request a conference and hearing with respect 29588
to the exemption. 29589

(2) When a well located within the boundary of a storage reservoir or a reservoir's protective area is a producing well in a stratum above or below the storage stratum, the obligations imposed by this section shall not begin until the well ceases to be a producing well.

(G) When retreat mining reaches a point in a coal mine when the operator of the mine expects that within ninety days retreat work will be at the location of a pillar surrounding an active storage reservoir well, the operator of the mine shall promptly send by registered mail notice to that effect to the operator of the reservoir. Thereupon the operators may by agreement determine whether it is necessary or advisable to temporarily inactivate the well. If inactivated, the well shall not be reactivated until a reasonable period of time has elapsed, such period of time to be determined by agreement by the operators. In the event that the parties cannot agree upon either of the foregoing matters, the question shall be submitted to the gas storage well inspector for a conference in accordance with section 1571.10 of the Revised Code.

(H)(1) The provisions of this section that require the plugging or reconditioning of wells shall not apply to such wells as are used to inject gas into, store gas in, or remove gas from a gas storage reservoir when the sole purpose of the injection, storage, or removal is testing. The operator of a gas storage reservoir who injects gas into, stores gas in, or removes gas from a reservoir for the sole purpose of testing shall be subject to all other provisions of this chapter that are applicable to operators of reservoirs.

(2) If the injection of gas into, or storage of gas in, a gas storage reservoir any part of which, or of the protective area of which, is within the boundary of a coal mine is begun after September 9, 1957, and if the injection or storage of gas is for

the sole purpose of testing, the operator of the reservoir shall 29622
send by registered mail to the operator of the coal mine, the 29623
division of oil and gas resources management, and ~~to~~ the division 29624
of mineral resources management at least sixty days' notice of the 29625
date upon which the testing will be begun. 29626

If at any time within the period of time during which testing 29627
of a reservoir is in progress, any part of the reservoir or of its 29628
protective area comes within any part of the boundary of a coal 29629
mine, the operator of the reservoir shall promptly send notice to 29630
that effect by registered mail to the operator of the mine, the 29631
division of oil and gas resources management, and ~~to~~ the division 29632
of mineral resources management. 29633

(3) Any coal mine operator who receives a notice as provided 29634
for in division (H)(2) of this section may within thirty days of 29635
the receipt thereof file with the division objections to the 29636
testing. The gas storage well inspector also may, within the time 29637
within which a coal mine operator may file an objection, place in 29638
the files of the division objections to the testing. The reservoir 29639
operator shall comply throughout the period of the testing 29640
operations with all conditions and requirements agreed upon and 29641
approved in the conference on such objections conducted as 29642
provided in section 1571.10 of the Revised Code, or in an order 29643
made by the chief following a hearing in the matter as provided in 29644
section 1571.10 of the Revised Code. If in complying with the 29645
agreement or order either the reservoir operator or the coal mine 29646
operator encounters or discovers conditions that were not known to 29647
exist at the time of the conference or hearing and that materially 29648
affect the agreement or order, or the ability of the reservoir 29649
operator to comply therewith, either operator may apply for a 29650
rehearing or modification of the order. 29651

(I) In addition to complying with all other provisions of 29652
this chapter and any lawful orders issued thereunder, the operator 29653

of each gas storage reservoir shall keep all wells drilled into or 29654
through the storage stratum or strata within the boundary of the 29655
operator's reservoir or within the reservoir's protective area in 29656
such condition, and operate the same in such manner, as to prevent 29657
the escape of gas therefrom into any coal mine, and shall operate 29658
and maintain the storage reservoir and its facilities in such 29659
manner and at such pressures as will prevent gas from escaping 29660
from the reservoir or its facilities into any coal mine. 29661

Sec. 1571.06. (A) Distances between boundaries of gas storage 29662
reservoirs, reservoir protective areas, coal mines, coal mine 29663
protective areas, and wells, as shown on the most recent maps of 29664
storage reservoirs and of coal mines filed with the division of 29665
oil and gas resources management or the division of mineral 29666
resources management as required by this chapter and sections 29667
1563.03 to 1563.05 of the Revised Code, may be accepted and relied 29668
upon as being accurate and correct, by operators of coal mines and 29669
operators of reservoirs. Data, statements, and reports filed with 29670
~~the~~ either division as required by this chapter and sections 29671
1563.03 to 1563.05 of the Revised Code may be likewise accepted 29672
and relied upon. However, the gas storage well inspector or any 29673
reservoir operator or coal mine operator, or any other person 29674
having a direct interest in the matter, may at any time question 29675
the accuracy or correctness of any map, data, statement, or report 29676
so filed, with ~~the~~ either division by notifying ~~the division~~ both 29677
divisions thereof in writing. Such notice shall state the reasons 29678
why the question is raised. When any such notice is so filed, the 29679
gas storage well inspector shall proceed promptly to hold a 29680
conference on the question thus raised, as provided in section 29681
1571.10 of the Revised Code. 29682

(B) If, in any proceeding under this chapter, the accuracy or 29683
correctness of any map, data, statement, or report, filed by any 29684
person pursuant to the requirements of this chapter is in 29685

question, the person so filing the same shall have the burden of 29686
proving the accuracy or correctness thereof. 29687

(C) The operator of a gas storage reservoir shall, at all 29688
reasonable times, be permitted to inspect the premises and 29689
facilities of any coal mine any part of the boundary of which is 29690
within any part of the boundary of such gas storage reservoir or 29691
within its protective area, and the operator of a coal mine shall, 29692
at all reasonable times, be permitted to inspect the premises and 29693
facilities of any gas storage reservoir any part of the boundary 29694
of which or any part of the protective area of which is within the 29695
boundary of such coal mine. In the event that either such 29696
reservoir operator or such coal mine operator denies permission to 29697
make any such inspection, the chief of the division of ~~mineral~~ oil 29698
and gas resources management on the chief's own motion, or on an 29699
application by the operator desiring to make such inspection, upon 29700
a hearing thereon if requested by either operator, after 29701
reasonable notice of such hearing, may make an order providing for 29702
such inspection. 29703

Sec. 1571.08. (A) Whenever in this chapter, the method or 29704
material to be used in discharging any obligations imposed by this 29705
chapter is specified, an alternative method or material may be 29706
used if approved by the gas storage well inspector or the chief of 29707
the division of ~~mineral~~ oil and gas resources management. A person 29708
desiring to use such alternative method or material shall file 29709
with the division of ~~mineral~~ oil and gas resources management an 29710
application for permission to do so. Such application shall 29711
describe such alternative method or material in reasonable detail. 29712
The gas storage well inspector shall promptly send by registered 29713
mail notice of the filing of such application to any coal mine 29714
operator or reservoir operator whose mine or reservoir may be 29715
directly affected thereby. Any such coal mine operator or 29716
reservoir operator may within ten days following receipt of such 29717

notice, file with the division objections to such application. The 29718
gas storage well inspector may also file with the division an 29719
objection to such application at any time during which coal mine 29720
operators or reservoir operators are permitted to file objections. 29721
If no objections are filed within the ten-day period of time, the 29722
gas storage well inspector shall thereupon issue a permit 29723
approving the use of such alternative method or material. If any 29724
such objections are filed by any coal mine operator or reservoir 29725
operator, or by the gas storage well inspector, the question as to 29726
whether or not the use of such alternative method or material, or 29727
a modification thereof is approved, shall be determined by a 29728
conference or hearing as provided in section 1571.10 of the 29729
Revised Code. 29730

(B) Whenever in this chapter, provision is made for the 29731
filing of objections with the division, such objections shall be 29732
in writing and shall state as definitely as is reasonably possible 29733
the reasons for such objections. Upon the filing of any such 29734
objection the gas storage well inspector shall promptly fix the 29735
time and place for holding a conference for the purpose of 29736
discussing and endeavoring to resolve by mutual agreement the 29737
issue raised by such objection. The gas storage well inspector 29738
shall send written notice thereof by registered mail to each 29739
person having a direct interest therein. Thereupon the issue made 29740
by such objection shall be determined by a conference or hearing 29741
in accordance with the procedures for conferences and hearings as 29742
provided in section 1571.10 of the Revised Code. 29743

Sec. 1571.09. (A) The chief of the division of mineral oil 29744
and gas resources management or any officer or employee of the 29745
division thereunto duly authorized by the chief may investigate, 29746
inspect, or examine records and facilities of any coal mine 29747
operator or reservoir operator, for the purpose of determining the 29748
accuracy or correctness of any map, data, statement, report, or 29749

other item or article, filed with or otherwise received by the 29750
division pursuant to this chapter. When a material question is 29751
raised by any reservoir operator or coal mine operator as to the 29752
accuracy or correctness of any such map, data, statement, report, 29753
or other item or article, which may directly affect the reservoir 29754
operator or coal mine operator, the matter shall be determined by 29755
a conference or hearing as provided in section 1571.10 of the 29756
Revised Code. 29757

(B) The division of ~~mineral~~ oil and gas resources management 29758
shall keep all maps, data, statements, reports, well logs, 29759
notices, or other items or articles filed with or otherwise 29760
received by it pursuant to this chapter in a safe place and 29761
conveniently accessible to persons entitled to examine them. It 29762
shall maintain indexes of all such items and articles so that any 29763
of them may be promptly located. None of such items or articles 29764
shall be open to public inspection, but: (1) any of such items or 29765
articles pertaining to a mine may be examined by: the operator, 29766
owner, lessee, or agent of such mine; persons financially 29767
interested in such mine; owners of land adjoining such mine; the 29768
operator, owner, lessee, or agent of a mine adjoining such mine; 29769
authorized representatives of the persons employed to work in such 29770
mine; the operator of a gas storage reservoir any part of the 29771
boundary of which or of the boundary of its protective area is 29772
within ten thousand linear feet of the boundary of such mine, or 29773
the agent of such reservoir operator thereunto authorized by such 29774
reservoir operator; or any employee of the division of geological 29775
survey in the department of natural resources thereunto duly 29776
authorized by the chief of that division; and (2) any of such 29777
items or articles pertaining to a gas storage reservoir may be 29778
examined by: the operator of such reservoir; the operator of a 29779
coal mine any part of the boundary of which is within ten thousand 29780
linear feet of the boundary of a gas storage reservoir or of the 29781
boundary of its protective area, or the agent of such mine 29782

operator thereunto authorized by such mine operator, or the 29783
authorized representatives of the persons employed to work in such 29784
mine; or any employee of the division of geological survey 29785
thereunto duly authorized by the chief of that division. The 29786
division of ~~mineral~~ oil and gas resources management shall not 29787
permit any of such items or articles to be removed from its 29788
office, and it shall not furnish copies of any such items or 29789
articles to any person other than as provided in this chapter. 29790

The division shall keep a docket of all proceedings arising 29791
under this chapter, in which shall be entered the dates of any 29792
notice received or issued, the names of all persons to whom it 29793
sends a notice, and the address of each, the dates of conferences 29794
and hearings, and all findings, determinations, decisions, 29795
rulings, and orders, or other actions by the division. 29796

(C) Whenever any provision of this chapter requires the 29797
division to give notice to the operator of a coal mine of any 29798
proceeding to be held pursuant to this chapter, the division shall 29799
simultaneously give a copy of such notice to the authorized 29800
representatives of the persons employed to work in such mine. 29801

Sec. 1571.10. (A) The gas storage well inspector or any 29802
person having a direct interest in the administration of this 29803
chapter may at any time file with the division of ~~mineral~~ oil and 29804
gas resources management a written request that a conference be 29805
held for the purpose of discussing and endeavoring to resolve by 29806
mutual agreement any question or issue relating to the 29807
administration of this chapter, or to compliance with its 29808
provisions, or to any violation thereof. Such request shall 29809
describe the matter concerning which the conference is requested. 29810
Thereupon the gas storage well inspector shall promptly fix the 29811
time and place for the holding of such conference and shall send 29812
written notice thereof to each person having a direct interest 29813

therein. At such conference the gas storage well inspector or a 29814
representative of the division designated by the gas storage well 29815
inspector shall be in attendance, and shall preside at the 29816
conference, and the gas storage well inspector or designated 29817
representative may make such recommendations as the gas storage 29818
well inspector or designated representative deems proper. Any 29819
agreement reached at such conference shall be consistent with the 29820
requirements of this chapter and, if approved by the gas storage 29821
well inspector, it shall be reduced to writing and shall be 29822
effective. Any such agreement approved by the gas storage well 29823
inspector shall be kept on file in the division and a copy thereof 29824
shall be furnished to each of the persons having a direct interest 29825
therein. The conference shall be deemed terminated as of the date 29826
an approved agreement is reached or when any person having a 29827
direct interest therein refuses to confer thereafter. Such a 29828
conference shall be held in all cases prior to the holding of a 29829
hearing as provided in this section. 29830

(B) Within ten days after the termination of a conference at 29831
which no approved agreement is reached, any person who 29832
participated in such conference and who has a direct interest in 29833
the subject matter thereof, or the gas storage well inspector, may 29834
file with the chief of the division of ~~mineral~~ oil and gas 29835
resources management a request that the chief hear and determine 29836
the matter or matters, or any part thereof considered at the 29837
conference. Thereupon the chief shall promptly fix the time and 29838
place for the holding of such hearing and shall send written 29839
notice thereof to each person having a direct interest therein. 29840
The form of the request for such hearing and the conduct of the 29841
hearing shall be in accordance with rules that the chief adopts 29842
under section 1571.11 of the Revised Code. Consistent with the 29843
requirement for reasonable notice each such hearing shall be held 29844
promptly after the filing of the request therefor. Any person 29845
having a direct interest in the matter to be heard shall be 29846

entitled to appear and be heard in person or by attorney. The 29847
division may present at such hearing any evidence that is material 29848
to the matter being heard and that has come to the division's 29849
attention in any investigation or inspection made pursuant to this 29850
chapter. 29851

(C) For the purpose of conducting such a hearing the chief 29852
may require the attendance of witnesses and the production of 29853
books, records, and papers, and the chief may, and at the request 29854
of any person having a direct interest in the matter being heard, 29855
the chief shall, issue subpoenas for witnesses or subpoenas duces 29856
tecum to compel the production of any books, records, or papers, 29857
directed to the sheriffs of the counties where such witnesses are 29858
found, which subpoenas shall be served and returned in the same 29859
manner as subpoenas in criminal cases are served and returned. The 29860
fees of sheriffs shall be the same as those allowed by the court 29861
of common pleas in criminal cases. Witnesses shall be paid the 29862
fees and mileage provided for under section 119.094 of the Revised 29863
Code. Such fee and mileage expenses shall be paid in advance by 29864
the persons at whose request they are incurred, and the remainder 29865
of such expenses shall be paid out of funds appropriated for the 29866
expenses of the division. 29867

In case of disobedience or neglect of any subpoena served on 29868
any person, or the refusal of any witness to testify to any matter 29869
regarding which the witness may be lawfully interrogated, the 29870
court of common pleas of the county in which such disobedience, 29871
neglect, or refusal occurs, or any judge thereof, on application 29872
of the chief, shall compel obedience by attachment proceedings for 29873
contempt as in the case of disobedience of the requirements of a 29874
subpoena issued from such court or a refusal to testify therein. 29875
Witnesses at such hearings shall testify under oath, and the chief 29876
may administer oaths or affirmations to persons who so testify. 29877

(D) With the consent of the chief, the testimony of any 29878

witness may be taken by deposition at the instance of a party to 29879
any hearing before the chief at any time after hearing has been 29880
formally commenced. The chief may, of the chief's own motion, 29881
order testimony to be taken by deposition at any stage in any 29882
hearing, proceeding, or investigation pending before the chief. 29883
Such deposition shall be taken in the manner prescribed by the 29884
laws of this state for taking depositions in civil cases in courts 29885
of record. 29886

(E) After the conclusion of a hearing the chief shall make a 29887
determination and finding of facts. Every adjudication, 29888
determination, or finding by the chief shall be made by written 29889
order and shall contain a written finding by the chief of the 29890
facts upon which the adjudication, determination, or finding is 29891
based. Notice of the making of such order shall be given to the 29892
persons whose rights, duties, or privileges are affected thereby, 29893
by sending a certified copy thereof by registered mail to each of 29894
such persons. 29895

Adjudications, determinations, findings, and orders made by 29896
the chief shall not be governed by, or be subject to, Chapter 119. 29897
of the Revised Code. 29898

Sec. 1571.11. The chief of the division of ~~mineral oil and~~ 29899
gas resources management shall adopt rules governing 29900
administrative procedures to be followed in the administration of 29901
this chapter, which shall be of general application in all matters 29902
and to all persons affected by this chapter. 29903

No rule adopted by the chief pursuant to this section shall 29904
be effective until the tenth day after a certified copy thereof 29905
has been filed in the office of the secretary of state. 29906

All rules filed in the office of the secretary of state 29907
pursuant to this section shall be recorded by the secretary of 29908
state under a heading entitled "Regulations relating to the 29909

storage of gas in underground gas storage reservoirs" and shall be 29910
numbered consecutively under such heading and shall bear the date 29911
of filing. Such rules shall be public records open to public 29912
inspection. 29913

No rule filed in the office of the secretary of state 29914
pursuant to this section shall be amended except by a rule that 29915
contains the entire rule as amended and that repeals the rule 29916
amended. Each rule that amends a rule shall bear the same 29917
consecutive rule number as the number of the rule that it amends, 29918
and it shall bear the date of filing. 29919

No rule filed in the office of the secretary of state 29920
pursuant to this section shall be repealed except by a rule. Each 29921
rule that repeals a rule shall bear the same consecutive rule 29922
number as the number of the rule that it repeals, and it shall 29923
bear the date of filing. 29924

The authority and the duty of the chief to adopt rules as 29925
provided in this section shall not be governed by, or be subject 29926
to Chapter 119. of the Revised Code. 29927

The chief shall have available at all times copies of all 29928
rules adopted pursuant to this section, and shall furnish same 29929
free of charge to any person requesting same. 29930

Sec. 1571.14. Any person claiming to be aggrieved or 29931
adversely affected by an order of the chief of the division of 29932
~~mineral oil and gas~~ resources management made as provided in 29933
section 1571.10 or 1571.16 of the Revised Code may appeal to the 29934
director of natural resources for an order vacating or modifying 29935
such order. Upon receipt of the appeal, the director shall appoint 29936
an individual who has knowledge of the laws and rules regarding 29937
the underground storage of gas and who shall act as a hearing 29938
officer in accordance with Chapter 119. of the Revised Code in 29939
hearing the appeal. 29940

The person appealing to the director shall be known as 29941
appellant and the chief shall be known as appellee. The appellant 29942
and the appellee shall be deemed parties to the appeal. 29943

The appeal shall be in writing and shall set forth the order 29944
complained of and the grounds upon which the appeal is based. The 29945
appeal shall be filed with the director within thirty days after 29946
the date upon which appellant received notice by registered mail 29947
of the making of the order complained of, as required by section 29948
1571.10 of the Revised Code. Notice of the filing of such appeal 29949
shall be delivered by appellant to the chief within three days 29950
after the appeal is filed with the director. 29951

Within seven days after receipt of the notice of appeal the 29952
chief shall prepare and certify to the director at the expense of 29953
appellant a complete transcript of the proceedings out of which 29954
the appeal arises, including a transcript of the testimony 29955
submitted to the chief. 29956

Upon the filing of the appeal the director shall fix the time 29957
and place at which the hearing on the appeal will be held, and 29958
shall give appellant and the chief at least ten days' written 29959
notice thereof by mail. The director may postpone or continue any 29960
hearing upon the director's own motion or upon application of 29961
appellant or of the chief. 29962

The filing of an appeal provided for in this section does not 29963
automatically suspend or stay execution of the order appealed 29964
from, but upon application by the appellant the director may 29965
suspend or stay such execution pending determination of the appeal 29966
upon such terms as the director deems proper. 29967

The hearing officer appointed by the director shall hear the 29968
appeal de novo, and either party to the appeal may submit such 29969
evidence as the hearing officer deems admissible. 29970

For the purpose of conducting a hearing on an appeal, the 29971

hearing officer may require the attendance of witnesses and the 29972
production of books, records, and papers, and may, and at the 29973
request of any party shall, issue subpoenas for witnesses or 29974
subpoenas duces tecum to compel the production of any books, 29975
records, or papers, directed to the sheriffs of the counties where 29976
such witnesses are found, which subpoenas shall be served and 29977
returned in the same manner as subpoenas in criminal cases are 29978
served and returned. The fees of sheriffs shall be the same as 29979
those allowed by the court of common pleas in criminal cases. 29980
Witnesses shall be paid the fees and mileage provided for under 29981
section 119.094 of the Revised Code. Such fee and mileage expenses 29982
incurred at the request of appellant shall be paid in advance by 29983
appellant, and the remainder of such expenses shall be paid out of 29984
funds appropriated for the expenses of the division of ~~mineral oil~~ 29985
and gas resources management. 29986

In case of disobedience or neglect of any subpoena served on 29987
any person, or the refusal of any witness to testify to any matter 29988
regarding which the witness may be lawfully interrogated, the 29989
court of common pleas of the county in which such disobedience, 29990
neglect, or refusal occurs, or any judge thereof, on application 29991
of the director, shall compel obedience by attachment proceedings 29992
for contempt as in the case of disobedience of the requirements of 29993
a subpoena issued from such court or a refusal to testify therein. 29994
Witnesses at such hearings shall testify under oath, and the 29995
hearing officer may administer oaths or affirmations to persons 29996
who so testify. 29997

At the request of any party to the appeal, a stenographic or 29998
electronic record of the testimony and other evidence submitted 29999
shall be taken by an official court ~~shorthand~~ reporter at the 30000
expense of the party making the request ~~therefor~~ for the record. 30001
The record shall include all of the testimony and other evidence 30002
and the rulings on the admissibility thereof presented at the 30003

hearing. The hearing officer shall pass upon the admissibility of 30004
evidence, but any party may at the time object to the admission of 30005
any evidence and except to the ruling of the hearing officer 30006
thereon, and if the hearing officer refuses to admit evidence, the 30007
party offering same may make a proffer thereof, and such proffer 30008
shall be made a part of the record of such hearing. 30009

If upon completion of the hearing the hearing officer finds 30010
that the order appealed from was lawful and reasonable, the 30011
hearing officer shall make a written order affirming the order 30012
appealed from. If the hearing officer finds that such order was 30013
unreasonable or unlawful, the hearing officer shall make a written 30014
order vacating the order appealed from and making the order that 30015
it finds the chief should have made. Every order made by the 30016
hearing officer shall contain a written finding by the hearing 30017
officer of the facts upon which the order is based. Notice of the 30018
making of such order shall be given forthwith to each party to the 30019
appeal by mailing a certified copy thereof to each such party by 30020
registered mail. 30021

Sec. 1571.16. (A) The gas storage well inspector or any 30022
person having a direct interest in the subject matter of this 30023
chapter may file with the division of ~~mineral~~ oil and gas 30024
resources management a complaint in writing stating that a person 30025
is violating, or is about to violate, a provision or provisions of 30026
this chapter, or has done, or is about to do, an act, matter, or 30027
thing therein prohibited or declared to be unlawful, or has 30028
failed, omitted, neglected, or refused, or is about to fail, omit, 30029
neglect, or refuse, to perform a duty enjoined upon the person by 30030
this chapter. Upon the filing of such a complaint, the chief of 30031
the division of ~~mineral~~ oil and gas resources management shall 30032
promptly fix the time for the holding of a hearing on such 30033
complaint and shall send by registered mail to the person so 30034
complained of, a copy of such complaint together with at least 30035

five days' notice of the time and place at which such hearing will 30036
be held. Such notice of such hearing shall also be given to all 30037
persons having a direct interest in the matters complained of in 30038
such complaint. Such hearing shall be conducted in the same 30039
manner, and the chief and persons having a direct interest in the 30040
matter being heard, shall have the same powers, rights, and duties 30041
as provided in divisions (B), (C), (D), and (E) of section 1571.10 30042
of the Revised Code, in connection with hearings by the chief, 30043
provided that if after conclusion of the hearing the chief finds 30044
that the charges against the person complained of, as stated in 30045
such complaint, have not been sustained by a preponderance of 30046
evidence, the chief shall make an order dismissing the complaint, 30047
and if the chief finds that the charges have been so sustained, 30048
the chief shall by appropriate order require compliance with those 30049
provisions. 30050

(B) Whenever the chief is of the opinion that any person is 30051
violating, or is about to violate, any provision of this chapter, 30052
or has done, or is about to do, any act, matter, or thing therein 30053
prohibited or declared to be unlawful, or has failed, omitted, 30054
neglected, or refused, or is about to fail, omit, neglect, or 30055
refuse, to perform any duty enjoined upon the person by this 30056
chapter, or has failed, omitted, neglected, or refused, or is 30057
about to fail, omit, neglect, or refuse, to obey any lawful 30058
requirement or order made by the chief, or any final judgment, 30059
order, or decree made by any court pursuant to this chapter, then 30060
and in every such case, the chief may institute in a court of 30061
competent jurisdiction of the county or counties wherein the 30062
operation is situated, an action to enjoin or restrain such 30063
violations or to enforce obedience with law or the orders of the 30064
chief. No injunction bond shall be required to be filed in any 30065
such proceeding. Such persons or corporations as the court may 30066
deem necessary or proper to be joined as parties in order to make 30067
its judgment, order, or writ effective may be joined as parties. 30068

An appeal may be taken as in other civil actions. 30069

(C) In addition to the other remedies as provided in 30070
divisions (A) and (B) of this section, any reservoir operator or 30071
coal mine operator affected by this chapter may proceed by 30072
injunction or other appropriate remedy to restrain violations or 30073
threatened violations of this chapter or of orders of the chief, 30074
or of the hearing officer appointed under section 1571.14 of the 30075
Revised Code, or the judgments, orders, or decrees of any court or 30076
to enforce obedience therewith. 30077

(D) Each remedy prescribed in divisions (A), (B), and (C) of 30078
this section is deemed concurrent or contemporaneous with each 30079
other remedy prescribed therein, and the existence or exercise of 30080
any one such remedy shall not prevent the exercise of any other 30081
such remedy. 30082

(E) The provisions of this chapter providing for conferences, 30083
hearings by the chief, appeals to the hearing officer from orders 30084
of the chief, and appeals to the court of common pleas from orders 30085
of the hearing officer, and the remedies prescribed in divisions 30086
(A), (B), (C), and (D) of this section, do not constitute the 30087
exclusive procedure that a person, who deems the person's rights 30088
to be unlawfully affected by any official action taken thereunder, 30089
must pursue in order to protect and preserve such rights, nor does 30090
this chapter constitute a procedure that such a person must pursue 30091
before the person may lawfully proceed by other actions, legal or 30092
equitable, to protect and preserve such rights. 30093

Sec. 1571.18. After ~~the effective date of this section~~ June 30094
30, 2010, and not later than the thirty-first day of March each 30095
year, the owner of a well that is used for gas storage or of a 30096
well that is used to monitor a gas storage reservoir and that is 30097
located in a reservoir protective area shall pay to the chief of 30098
the division of ~~mineral~~ oil and gas resources management a gas 30099

storage well regulatory fee of one hundred twenty-five dollars for 30100
each well that the owner owned as of the thirty-first day of 30101
December of the previous year for the purposes of administering 30102
this chapter and Chapter 1509. of the Revised Code. The chief may 30103
prescribe and provide a form for the collection of the fee imposed 30104
by this section and may adopt rules in accordance with Chapter 30105
119. of the Revised Code that are necessary for the administration 30106
of this section. 30107

All money collected under this section shall be deposited in 30108
the state treasury to the credit of the oil and gas well fund 30109
created in section 1509.02 of the Revised Code. 30110

Sec. 1571.99. Any person who purposely violates any order of 30111
the chief of the division of mineral oil and gas resources 30112
management, of a hearing officer appointed by the director of 30113
natural resources under section 1571.14 of the Revised Code, or of 30114
the director, made pursuant to this chapter shall be punished by a 30115
fine not exceeding two thousand dollars, or imprisoned in jail for 30116
a period not exceeding twelve months, or both, in the discretion 30117
of the court. 30118

Sec. 1701.07. (A) Every corporation shall have and maintain 30119
an agent, sometimes referred to as the "statutory agent," upon 30120
whom any process, notice, or demand required or permitted by 30121
statute to be served upon a corporation may be served. The agent 30122
may be a natural person who is a resident of this state or may be 30123
a domestic corporation or a foreign corporation holding a license 30124
as such under the laws of this state, that is authorized by its 30125
articles of incorporation to act as such agent and that has a 30126
business address in this state. 30127

(B) The secretary of state shall not accept original articles 30128
for filing unless there is filed with the articles a written 30129

appointment of an agent that is signed by the incorporators of the 30130
corporation or a majority of them and a written acceptance of the 30131
appointment that is signed by the agent. In all other cases, the 30132
corporation shall appoint the agent and shall file in the office 30133
of the secretary of state a written appointment of the agent that 30134
is signed by any authorized officer of the corporation and a 30135
written acceptance of the appointment that is either the original 30136
acceptance signed by the agent or a photocopy, facsimile, or 30137
similar reproduction of the original acceptance signed by the 30138
agent. 30139

(C) The written appointment of an agent shall set forth the 30140
name and address in this state of the agent, including the street 30141
and number or other particular description, and shall otherwise be 30142
in such form as the secretary of state prescribes. The secretary 30143
of state shall keep a record of the names of corporations, and the 30144
names and addresses of their respective agents. 30145

(D) If any agent dies, removes from the state, or resigns, 30146
the corporation shall forthwith appoint another agent and file 30147
with the secretary of state, on a form prescribed by the secretary 30148
of state, a written appointment of the agent. 30149

(E) If the agent changes the agent's address from that 30150
appearing upon the record in the office of the secretary of state, 30151
the corporation or the agent shall forthwith file with the 30152
secretary of state, on a form prescribed by the secretary of 30153
state, a written statement setting forth the new address. 30154

(F) An agent may resign by filing with the secretary of 30155
state, on a form prescribed by the secretary of state, a written 30156
notice to that effect that is signed by the agent and by sending a 30157
copy of the notice to the corporation at the current or last known 30158
address of its principal office on or prior to the date the notice 30159
is filed with the secretary of state. The notice shall set forth 30160
the name of the corporation, the name and current address of the 30161

agent, the current or last known address, including the street and 30162
number or other particular description, of the corporation's 30163
principal office, the resignation of the agent, and a statement 30164
that a copy of the notice has been sent to the corporation within 30165
the time and in the manner prescribed by this division. Upon the 30166
expiration of thirty days after the filing, the authority of the 30167
agent shall terminate. 30168

(G) A corporation may revoke the appointment of an agent by 30169
filing with the secretary of state, on a form prescribed by the 30170
secretary of state, a written appointment of another agent and a 30171
statement that the appointment of the former agent is revoked. 30172

(H) Any process, notice, or demand required or permitted by 30173
statute to be served upon a corporation may be served upon the 30174
corporation by delivering a copy of it to its agent, if a natural 30175
person, or by delivering a copy of it at the address of its agent 30176
in this state, as the address appears upon the record in the 30177
office of the secretary of state. If (1) the agent cannot be 30178
found, or (2) the agent no longer has that address, or (3) the 30179
corporation has failed to maintain an agent as required by this 30180
section, and if in any such case the party desiring that the 30181
process, notice, or demand be served, or the agent or 30182
representative of the party, shall have filed with the secretary 30183
of state an affidavit stating that one of the foregoing conditions 30184
exists and stating the most recent address of the corporation that 30185
the party after diligent search has been able to ascertain, then 30186
service of process, notice, or demand upon the secretary of state, 30187
as the agent of the corporation, may be initiated by delivering to 30188
the secretary of state or at the secretary of state's office 30189
quadruplicate copies of such process, notice, or demand and by 30190
paying to the secretary of state a fee of five dollars. The 30191
secretary of state shall forthwith give notice of the delivery to 30192
the corporation at its principal office as shown upon the record 30193

in the secretary of state's office and at any different address 30194
shown on its last franchise tax report filed in this state, or to 30195
the corporation at any different address set forth in the above 30196
mentioned affidavit, and shall forward to the corporation at said 30197
addresses, by certified mail, with request for return receipt, a 30198
copy of the process, notice, or demand; and thereupon service upon 30199
the corporation shall be deemed to have been made. 30200

(I) The secretary of state shall keep a record of each 30201
process, notice, and demand delivered to the secretary of state or 30202
at the secretary of state's office under this section or any other 30203
law of this state that authorizes service upon the secretary of 30204
state, and shall record the time of the delivery and the action 30205
thereafter with respect thereto. 30206

(J) This section does not limit or affect the right to serve 30207
any process, notice, or demand upon a corporation in any other 30208
manner permitted by law. 30209

(K) Every corporation shall state in each annual report filed 30210
by it with the department of taxation the name and address of its 30211
statutory agent. 30212

(L) Except when an original appointment of an agent is filed 30213
with the original articles, a written appointment of an agent or a 30214
written statement filed by a corporation with the secretary of 30215
state shall be signed by any authorized officer of the corporation 30216
or by the incorporators of the corporation or a majority of them 30217
if no directors have been elected. 30218

(M) For filing a written appointment of an agent other than 30219
one filed with original articles, and for filing a statement of 30220
change of address of an agent, the secretary of state shall charge 30221
and collect the fee specified in division (R) of section 111.16 of 30222
the Revised Code. 30223

(N) Upon the failure of a corporation to appoint another 30224

agent or to file a statement of change of address of an agent, the 30225
secretary of state shall give notice thereof by ~~certified~~ ordinary 30226
or electronic mail to the corporation at the electronic mail 30227
address provided to the secretary of state, or at the address set 30228
forth in the notice of resignation or on the last franchise tax 30229
return filed in this state by the corporation. Unless the default 30230
is cured within thirty days after the mailing by the secretary of 30231
state of the notice or within any further period of time that the 30232
secretary of state grants, upon the expiration of that period of 30233
time from the date of the mailing, the articles of the corporation 30234
shall be canceled without further notice or action by the 30235
secretary of state. The secretary of state shall make a notation 30236
of the cancellation on the secretary of state's records. 30237

A corporation whose articles have been canceled may be 30238
reinstated by filing, on a form prescribed by the secretary of 30239
state, an application for reinstatement and the required 30240
appointment of agent or required statement, and by paying the 30241
filing fee specified in division (Q) of section 111.16 of the 30242
Revised Code. The rights, privileges, and franchises of a 30243
corporation whose articles have been reinstated are subject to 30244
section 1701.922 of the Revised Code. The secretary of state shall 30245
furnish the tax commissioner a monthly list of all corporations 30246
canceled and reinstated under this division. 30247

(O) This section does not apply to banks, trust companies, 30248
insurance companies, or any corporation defined under the laws of 30249
this state as a public utility for taxation purposes. 30250

Sec. 1702.59. (A) Every nonprofit corporation, incorporated 30251
under the general corporation laws of this state, or previous 30252
laws, or under special provisions of the Revised Code, or created 30253
before September 1, 1851, which corporation has expressly or 30254
impliedly elected to be governed by the laws passed since that 30255

date, and whose articles or other documents are filed with the 30256
secretary of state, shall file with the secretary of state a 30257
verified statement of continued existence, signed by a director, 30258
officer, or three members in good standing, setting forth the 30259
corporate name, the place where the principal office of the 30260
corporation is located, the date of incorporation, the fact that 30261
the corporation is still actively engaged in exercising its 30262
corporate privileges, and the name and address of its agent 30263
appointed pursuant to section 1702.06 of the Revised Code. 30264

(B) Each corporation required to file a statement of 30265
continued existence shall file it with the secretary of state 30266
within each five years after the date of incorporation or of the 30267
last corporate filing. 30268

(C) Corporations specifically exempted by division (N) of 30269
section 1702.06 of the Revised Code, or whose activities are 30270
regulated or supervised by another state official, agency, bureau, 30271
department, or commission are exempted from this section. 30272

(D) The secretary of state shall give notice ~~in writing~~ by 30273
ordinary or electronic mail and provide a form for compliance with 30274
this section to each corporation required by this section to file 30275
the statement of continued existence, such notice and form to be 30276
mailed to the last known physical or electronic mail address of 30277
the corporation as it appears on the records of the secretary of 30278
state or which the secretary of state may ascertain upon a 30279
reasonable search. 30280

(E) If any nonprofit corporation required by this section to 30281
file a statement of continued existence fails to file the 30282
statement required every fifth year, then the secretary of state 30283
shall cancel the articles of such corporation, make a notation of 30284
the cancellation on the records, and mail to the corporation a 30285
certificate of the action so taken. 30286

(F) A corporation whose articles have been canceled may be reinstated by filing an application for reinstatement and paying to the secretary of state the fee specified in division (Q) of section 111.16 of the Revised Code. The name of a corporation whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, or trade name has been filed, the name of which is not distinguishable upon the record as provided in section 1702.06 of the Revised Code, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code. The rights, privileges, and franchises of a corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

(G) The secretary of state shall furnish the tax commissioner a list of all corporations failing to file the required statement of continued existence.

Sec. 1703.031. (A) If the laws of the United States prohibit, preempt, or otherwise eliminate the licensing requirement of sections 1703.01 to 1703.31 of the Revised Code with respect to a corporation that is a bank, savings bank, or savings and loan association chartered under the laws of the United States, the main office of which is located in another state, the bank, savings bank, or savings and loan association shall notify the

secretary of state that it is transacting business in this state 30319
by submitting a notice in such form as the secretary of state 30320
prescribes. The notice shall be verified by the oath of the 30321
president, vice-president, secretary, or treasurer of the bank, 30322
savings bank, or savings and loan association, and shall set forth 30323
all of the following: 30324

(1) The name of the corporation and any trade name under 30325
which it will do business in this state; 30326

(2) The location and complete address, including the county, 30327
of its main office in another state and its principal office, if 30328
any, in this state; 30329

(3) The appointment of a designated agent and the complete 30330
address of such agent in this state, which agent may be a natural 30331
person who is a resident of this state, or may be a domestic 30332
corporation for profit or a foreign corporation for profit holding 30333
a license as such under the laws of this state, provided that the 30334
domestic or foreign corporation has a business address in this 30335
state and is authorized by its articles of incorporation to act as 30336
such agent; 30337

(4) The irrevocable consent of the corporation to service of 30338
process on such agent so long as the authority of the agent 30339
continues and to service of process upon the secretary of state in 30340
the events provided for in section 1703.19 of the Revised Code; 30341

(5) A brief summary of the business to be transacted within 30342
this state. 30343

(B) The notice required by this section shall be accompanied 30344
by a certificate of good standing or subsistence, dated not 30345
earlier than sixty days prior to the submission of the notice, 30346
under the seal of the proper official of the agency of the United 30347
States that incorporated the bank, savings bank, or savings and 30348
loan association, setting forth the exact corporate title, the 30349

date of incorporation, and the fact that the bank, savings bank, 30350
or savings and loan association is in good standing or is a 30351
subsisting bank, savings bank, or savings and loan association. 30352

(C) Upon submission of the notice, a bank, savings bank, or 30353
savings and loan association shall pay a filing fee ~~of one hundred~~ 30354
~~dollars~~ to the secretary of state as required by section 111.16 of 30355
the Revised Code. 30356

(D)(1) No such notice shall be accepted for filing if it 30357
appears that the name of the bank, savings bank, or savings and 30358
loan association is any of the following: 30359

(a) Prohibited by law; 30360

(b) Not distinguishable upon the records in the office of the 30361
secretary of state from the name of a limited liability company, 30362
whether domestic or foreign, or any other corporation, whether 30363
nonprofit or for profit and whether that of a domestic corporation 30364
or of a foreign corporation authorized to transact business in 30365
this state, unless there is also filed with the secretary of state 30366
the consent of the other limited liability company or corporation 30367
to the use of the name, evidenced in a writing signed by any 30368
authorized representative or authorized officer of the other 30369
limited liability company or corporation; 30370

(c) Not distinguishable upon the records in the office of the 30371
secretary of state from a trade name, the exclusive right to which 30372
is at the time in question registered in the manner provided in 30373
Chapter 1329. of the Revised Code, unless there also is filed with 30374
the secretary of state the consent of the other corporation or 30375
person to the use of the name, evidenced in a writing signed by 30376
any authorized officer of the other corporation or authorized 30377
party of the other person owning the exclusive right to the 30378
registered trade name. 30379

(2) Notwithstanding division (D)(1)(b) of this section, if a 30380

notice is not acceptable for filing solely because the name of the bank, savings bank, or savings and loan association is not distinguishable from the name of another corporation or registered trade name, the bank, savings bank, or savings and loan association may be authorized to transact business in this state by filing with the secretary of state, in addition to those items otherwise prescribed by this section, a statement signed by an authorized officer directing the bank, savings bank, or savings and loan association to transact business in this state under an assumed business name or names that comply with the requirements of division (D) of this section and stating that the bank, savings bank, or savings and loan association will transact business in this state only under the assumed name or names.

(E) The secretary of state shall provide evidence of receipt of notice to each bank, savings bank, or savings and loan association that submits a notice required by this section.

Sec. 1703.07. If a foreign corporation has merged or consolidated with one or more foreign corporations, it shall file with the secretary of state a certificate setting forth the fact of merger or consolidation, certified by the secretary of state, or other proper official, of the state under the laws of which the foreign corporation was incorporated.

The secretary of state, before filing a certificate evidencing a foreign corporation's merger or consolidation, shall charge and collect from the foreign corporation a filing fee ~~of ten dollars~~ as required by section 111.16 of the Revised Code.

Sec. 1707.11. (A) Each person that is not organized under the laws of this state, that is not licensed under section 1703.03 of the Revised Code, or that does not have its principal place of business in this state, shall submit to the division of securities

an irrevocable consent to service of process, as described in 30411
division (B) of this section, in connection with any of the 30412
following: 30413

(1) Filings to claim any of the exemptions enumerated in 30414
division (Q), (W), ~~(X)~~, or (Y) of section 1707.03 of the Revised 30415
Code; 30416

(2) Applications for registration by description, 30417
qualification, or coordination; 30418

(3) Notice filings pursuant to section 1707.092 of the 30419
Revised Code. 30420

(B) The irrevocable written consent shall be executed and 30421
acknowledged by an individual duly authorized to give the consent 30422
and shall do all of the following: 30423

(1) Designate the secretary of state as agent for service of 30424
process or pleadings; 30425

(2) State that actions growing out of the sale of such 30426
securities, the giving of investment advice, or fraud committed by 30427
a person on whose behalf the consent is submitted may be commenced 30428
against the person, in the proper court of any county in this 30429
state in which a cause of action may arise or in which the 30430
plaintiff in the action may reside, by serving on the secretary of 30431
state any proper process or pleading authorized by the laws of 30432
this state; 30433

(3) Stipulate that service of process or pleading on the 30434
secretary of state shall be taken in all courts to be as valid and 30435
binding as if service had been made upon the person on whose 30436
behalf the consent is submitted. 30437

(C) Notwithstanding any application, form, or other material 30438
filed with or submitted to the division that purports to appoint 30439
as agent for service of process a person other than the secretary 30440

of state, the application, form, or other material shall be 30441
considered to appoint the secretary of state as agent for service 30442
of process. 30443

(D) Service of any process or pleadings may be made on the 30444
secretary of state by duplicate copies, of which one shall be 30445
filed in the office of the secretary of state, and the other 30446
immediately forwarded by the secretary of state by certified mail 30447
to the principal place of business of the person on whose behalf 30448
the consent is submitted or to the last known address as shown on 30449
the filing made with the division. However, failure to mail such 30450
copy does not invalidate the service. 30451

(E) Notwithstanding any provision of this chapter, or of any 30452
rule adopted by the division of securities under this chapter, 30453
that requires the submission of a consent to service of process, 30454
the division may provide by rule for the electronic filing or 30455
submission of a consent to service of process. 30456

Sec. 1707.17. (A)(1) The license of every dealer in and 30457
salesperson of securities shall expire on the thirty-first day of 30458
December of each year, and may be renewed upon the filing with the 30459
division of securities of an application for renewal, and the 30460
payment of the fee prescribed in this section. The division shall 30461
give notice, without unreasonable delay, of its action on any 30462
application for renewal of a dealer's or salesperson's license. 30463

(2) The license of every investment adviser and investment 30464
adviser representative licensed under section 1707.141 or 1707.161 30465
of the Revised Code shall expire on the thirty-first day of 30466
December of each year. The licenses may be renewed upon the filing 30467
with the division of an application for renewal, and the payment 30468
of the fee prescribed in division (B) of this section. The 30469
division shall give notice, without unreasonable delay, of its 30470
action on any application for renewal. 30471

(3) An investment adviser required to make a notice filing 30472
under division (B) of section 1707.141 of the Revised Code 30473
annually shall file with the division the notice filing and the 30474
fee prescribed in division (B) of this section, no later than the 30475
thirty-first day of December of each year. 30476

(4) The license of every state retirement system investment 30477
officer licensed under section 1707.163 of the Revised Code and 30478
the license of a bureau of workers' compensation chief investment 30479
officer issued under section 1707.165 of the Revised Code shall 30480
expire on the thirtieth day of June of each year. The licenses may 30481
be renewed on the filing with the division of an application for 30482
renewal, and the payment of the fee prescribed in division (B) of 30483
this section. The division shall give notice, without unreasonable 30484
delay, of its action on any application for renewal. 30485

(B)(1) The fee for each dealer's license, and for each annual 30486
renewal thereof, shall be two hundred dollars. 30487

(2) The fee for each salesperson's license, and for each 30488
annual renewal thereof, shall be sixty dollars. 30489

(3) The fee for each investment adviser's license, and for 30490
each annual renewal thereof, shall be one hundred dollars. 30491

(4) The fee for each investment adviser notice filing 30492
required by division (B) of section 1707.141 of the Revised Code 30493
shall be one hundred dollars. 30494

(5) The fee for each investment adviser representative's 30495
license, and for each annual renewal thereof, shall be thirty-five 30496
dollars. 30497

(6) The fee for each state retirement system investment 30498
officer's license, and for each annual renewal thereof, shall be 30499
fifty dollars. 30500

(7) The fee for a bureau of workers' compensation chief 30501

investment officer's license, and for each annual renewal thereof, 30502
shall be fifty dollars. 30503

(C) A dealer's, salesperson's, investment adviser's, 30504
investment adviser representative's, bureau of workers' 30505
compensation chief investment officer's, or state retirement 30506
system investment officer's license may be issued at any time for 30507
the remainder of the calendar year. In that event, the annual fee 30508
shall not be reduced. 30509

(D) The division may, by rule or order, waive, in whole or in 30510
part, any of the fee requirements of this section for any person 30511
or class of persons if the imposition or waiver is appropriate in 30512
the public interest and for the protection of securities 30513
investors. 30514

Sec. 1711.05. Every county agricultural society annually 30515
shall publish an abstract of its treasurer's account in a 30516
newspaper of general circulation in the county and make a report 30517
of its proceedings during the year. It shall also make, in 30518
accordance with the rules of the department of agriculture, a 30519
synopsis of its awards for improvement in agriculture and in 30520
household manufactures and forward such synopsis to the director 30521
of agriculture at or before the annual meeting of the directors of 30522
the society with the director of agriculture, as provided for in 30523
section 901.06 of the Revised Code. No payment after such date 30524
shall be made from the county treasury to such society unless a 30525
certificate from the director is presented to the county auditor 30526
showing that such reports have been made. 30527

Sec. 1711.07. The board of directors of a county or 30528
independent agricultural society shall consist of at least eight 30529
members. An employee of the Ohio state university extension 30530
service and the county school superintendent shall be members ex 30531

officio. Their terms of office shall be determined by the rules of 30532
the department of agriculture. Any vacancy in the board caused by 30533
death, resignation, refusal to qualify, removal from county, or 30534
other cause may be filled by the board until the society's next 30535
annual election, when a director shall be elected for the 30536
unexpired term. There shall be an annual election of directors by 30537
ballot at a time and a place fixed by the board, but this election 30538
shall not be held later than the first Saturday in December 1994, 30539
and not later than the fifteenth day of November each year 30540
thereafter, beginning in 1995. The secretary of the society shall 30541
give notice of such election, for three weeks prior to the holding 30542
thereof, in ~~at least two newspapers~~ a newspaper of ~~opposite~~ 30543
~~politics and of~~ general circulation in the county or as provided 30544
in section 7.16 of the Revised Code, or by letter mailed to each 30545
member of the society. Only persons holding membership 30546
certificates at the close of the annual county fair, or at least 30547
fifteen calendar days before the date of election, as may be fixed 30548
by the board, may vote, unless such election is held on the 30549
fairground during the fair, in which case all persons holding 30550
membership certificates on the date and hour of the election may 30551
vote. When the election is to be held during the fair, notice of 30552
such election must be prominently mentioned in the premium list, 30553
in addition to the notice required in ~~newspapers~~ a newspaper. The 30554
terms of office of the retiring directors shall expire, and those 30555
of the directors-elect shall begin, not later than the first 30556
Saturday in January 1995, and not later than the thirtieth day of 30557
November each year thereafter, beginning in 1995. 30558

The secretary of such society shall send the name and address 30559
of each member of its board to the director of agriculture within 30560
ten days after the election. 30561

Sec. 1711.18. In a county in which there is a county 30562
agricultural society indebted fifteen thousand dollars or more, 30563

and such society has purchased a fairground or title to such 30564
fairground is vested in fee in the county, the board of county 30565
commissioners, upon the presentation of a petition signed by not 30566
less than five hundred resident electors of the county praying for 30567
the submission to the electors of the county of the question 30568
whether or not county bonds shall be issued and sold to liquidate 30569
such indebtedness, shall, by resolution within ten days 30570
thereafter, fix a date, which shall be within thirty days, upon 30571
which the question of issuing and selling such bonds, in the 30572
necessary amount and denomination, shall be submitted to the 30573
electors of the county. The board also shall cause a copy of such 30574
resolution to be certified to the county board of elections and 30575
such board of elections, within ten days after such certification, 30576
shall proceed to make the necessary arrangements for the 30577
submission of such question to such electors at the time fixed by 30578
such resolution. 30579

Such election shall be held at the regular places of voting 30580
in the county and shall be conducted, canvassed, and certified, 30581
except as otherwise provided by law, as are elections of county 30582
officers. The county board of elections must give fifteen days' 30583
notice of such submission by publication in ~~one or more newspapers~~ 30584
published a newspaper of general circulation in the county once a 30585
week for two consecutive weeks or as provided in section 7.16 of 30586
the Revised Code, stating the amount of bonds to be issued, the 30587
purpose for which they are to be issued, and the time and places 30588
of holding such election. Those who vote in favor of the 30589
proposition shall have written or printed on their ballots "for 30590
the issue of bonds" and those who vote against it shall have 30591
written or printed on their ballots "against the issue of bonds." 30592
If a majority of those voting upon the question of issuing the 30593
bonds vote in favor thereof, then and only then shall they be 30594
issued and the tax provided for in section 1711.20 of the Revised 30595
Code be levied. 30596

Sec. 1711.30. Before issuing bonds under section 1711.28 of 30597
the Revised Code, the board of county commissioners, by 30598
resolution, shall submit to the qualified electors of the county 30599
at the next general election for county officers, held not less 30600
than ninety days after receiving from the county agricultural 30601
society the notice provided for in section 1711.25 of the Revised 30602
Code, the question of issuing and selling such bonds in such 30603
amount and denomination as are necessary for the purpose in view, 30604
and shall certify a copy of such resolution to the county board of 30605
elections. 30606

The county board of elections shall place the question of 30607
issuing and selling such bonds upon the ballot and make all other 30608
necessary arrangements for the submission, at the time fixed by 30609
such resolution, of such question to such electors. The votes cast 30610
at such election upon such question must be counted, canvassed, 30611
and certified in the same manner, except as provided by law, as 30612
votes cast for county officers. Fifteen days' notice of such 30613
submission shall be given by the county board of elections, by 30614
publication once a week for two consecutive weeks in ~~two or more~~ 30615
~~newspapers published~~ a newspaper of general circulation in the 30616
county or as provided in section 7.16 of the Revised Code, stating 30617
the amount of bonds to be issued, the purpose for which they are 30618
to be issued, and the time and places of holding such election. 30619
Such question must be stated on the ballot as follows: "For the 30620
issue of county fair bonds, yes"; "For the issue of county fair 30621
bonds, no." If the majority of those voting upon the question of 30622
issuing the bonds vote in favor thereof, then and only then shall 30623
they be issued and the tax provided for in section 1711.29 of the 30624
Revised Code be levied. 30625

Sec. 1728.06. Every community urban redevelopment corporation 30626
qualifying under this chapter, before proceeding with any project 30627

authorized in this chapter, shall make written application to the 30628
municipal corporation for approval thereof. The application shall 30629
be in such form and shall certify to such facts and data as shall 30630
be required by the municipal corporation, and may include but not 30631
be limited to: 30632

(A) A general statement of the nature of the proposed 30633
project, that the undertaking conforms to all applicable municipal 30634
ordinances, that its completion will meet an existing need, and 30635
that the project accords with the master plan or official map, if 30636
any, of the municipal corporation; 30637

(B) A description of the proposed project outlining the area 30638
included and a description of each unit thereof if the project is 30639
to be undertaken in units and setting out such architectural and 30640
site plans as may be required; 30641

(C) A statement of the estimated cost of the proposed project 30642
in such detail as may be required, including the estimated cost of 30643
each unit if it is to be so undertaken; 30644

(D) The source, method, and amount of money to be subscribed 30645
through the investment of private capital, setting forth the 30646
amount of stock or other securities to be issued therefor; 30647

(E) A fiscal plan for the project outlining a schedule of 30648
rents, the estimated expenditures for operation and maintenance, 30649
payments for interest, amortization of debt and reserves, and 30650
payments to the municipal corporation to be made pursuant to a 30651
financial agreement to be entered into with the municipal 30652
corporation; 30653

(F) A relocation plan providing for the relocation of 30654
persons, including families, business concerns, and others, 30655
displaced by the project, which relocation plan shall include, but 30656
not be limited to, the proposed method for the relocation of 30657
residents who will be displaced from their dwelling accommodations 30658

in decent, safe, and sanitary dwelling accommodations within their 30659
means, or with provision for adjustment payments to bring such 30660
accommodations within their means, and without undue hardship, and 30661
reasonable moving costs; 30662

(G) The names and tax mailing addresses, as determined from 30663
the records of the county auditor not more than five days prior to 30664
the submission of the application to the mayor of the municipal 30665
corporation, of the owners of all property which the corporation 30666
proposes in its application to acquire. 30667

Such application shall be addressed and submitted to the 30668
mayor of the municipal corporation, who shall, within sixty days 30669
after receipt thereof, submit it with ~~his~~ the mayor's 30670
recommendations to the governing body. The application shall be a 30671
matter of public record upon receipt by the mayor. 30672

The governing body shall by notice published once a week for 30673
two consecutive weeks in a newspaper of general circulation in the 30674
municipal corporation or as provided in section 7.16 of the 30675
Revised Code, by written notice, by certified mail or personal 30676
service, to the owners of property which the corporation proposes 30677
in its application to purchase at the tax mailing address as set 30678
forth in the corporation's application, by the putting up of signs 30679
in at least five places within the area covered by the 30680
application, and by giving written notice, by certified mail or 30681
personal service, to community organizations known by the clerk of 30682
the governing body to represent a substantial number of the 30683
residents of the area covered by the application, advise that the 30684
application is on file in the office of the clerk of the governing 30685
body of the municipal corporation and is available for inspection 30686
by the general public during business hours and advise that a 30687
public hearing shall be held thereon, stating the place and time 30688
of the public hearing, which time shall be not less than fourteen 30689
days after the first publication, or after sending the mailed 30690

notice, or after the putting up of the signs, whichever is later. 30691

Following the public hearing and after complying with section 30692
5709.83 of the Revised Code, the governing body, taking into 30693
consideration the financial impact on the community, shall by 30694
resolution approve or disapprove the application, approval to be 30695
by an affirmative vote of not less than three-fifths of the 30696
governing body, but in the event of disapproval, changes may be 30697
suggested to secure its approval. 30698

An application may be revised or resubmitted in the same 30699
manner and subject to the same procedures as an original 30700
application. The clerk of the governing body shall diligently 30701
discharge the duties imposed on the clerk by this division, 30702
provided failure of the clerk to send written notices to all 30703
community organizations, in a good faith effort by the clerk to 30704
give the required notice, shall not invalidate any proceedings 30705
under this chapter. The failure of delivery of notice given by 30706
certified mail under this division shall not invalidate any 30707
proceedings under this chapter. 30708

Sec. 1728.07. Every approved project shall be evidenced by a 30709
financial agreement between the municipal corporation and the 30710
community urban redevelopment corporation. Such agreement shall be 30711
prepared by the community urban redevelopment corporation and 30712
submitted as a separate part of its application for project 30713
approval. 30714

The financial agreement shall be in the form of a contract 30715
requiring full performance within twenty years from the date of 30716
completion of the project and shall, as a minimum, include the 30717
following: 30718

(A) That all improvements in the project to be constructed or 30719
acquired by the corporation shall be exempt from taxation, subject 30720
to section 1728.10 of the Revised Code; 30721

(B) That the corporation shall make payments in lieu of real estate taxes not less than the amount as provided by section 1728.11 of the Revised Code; or if the municipal corporation is an impacted city, not less than the amount as provided by section 1728.111 of the Revised Code;

(C) That the corporation, its successors and assigns, shall use, develop, and redevelop the real property of the project in accordance with, and for the period of, the community development plan approved by the governing body of the municipal corporation for the blighted area in which the project is situated and shall so bind its successors and assigns by appropriate agreements and covenants running with the land enforceable by the municipal corporation.

(D) If the municipal corporation is an impacted city, the extent of the undertakings and activities of the corporation for the elimination and for the prevention of the development or spread of blight.

(E) That the corporation or the municipal corporation, or both, shall provide for carrying out relocation of persons, families, business concerns, and others displaced by the project, pursuant to a relocation plan, including the method for the relocation of residents in decent, safe, and sanitary dwelling accommodations, and reasonable moving costs, determined to be feasible by the governing body of the municipal corporation. Where the relocation plan is carried out by the corporation, its officers, employees, agents, or lessees, the municipal corporation shall enforce and supervise the corporation's compliance with the relocation plan. If the corporation refuses or fails to comply with the relocation plan and the municipal corporation fails or refuses to enforce compliance with such plan, the director of development may request the attorney general to commence a civil action against the municipality and the corporation to require

compliance with such relocation plan. Prior to requesting action 30754
by the attorney general the director shall give notice of the 30755
proposed action to the municipality and the corporation, provide 30756
an opportunity to such municipality and corporation for 30757
discussions on the matter, and allow a reasonable time in which 30758
the corporation may begin compliance with the relocation plan, or 30759
the municipality may commence enforcement of the relocation plan. 30760

(F) That the corporation shall submit annually, within ninety 30761
days after the close of its fiscal year, its auditor's reports to 30762
the mayor and governing body of the municipal corporation; 30763

(G) That the corporation shall, upon request, permit 30764
inspection of property, equipment, buildings, and other facilities 30765
of the corporation, and also permit examination and audit of its 30766
books, contracts, records, documents, and papers by authorized 30767
representatives of the municipal corporation; 30768

(H) That in the event of any dispute between the parties the 30769
matters in controversy shall be resolved by arbitration in the 30770
manner provided therein; 30771

(I) That operation under the financial agreement is 30772
terminable by the corporation in the manner provided by Chapter 30773
1728. of the Revised Code; 30774

(J) That the corporation shall, at all times prior to the 30775
expiration or other termination of the financial agreement, remain 30776
bound by Chapter 1728. of the Revised Code; 30777

~~(K) That all wages paid to laborers and mechanics employed 30778
for work on such projects, other than for residential structures 30779
containing seven or less family units, shall be paid at the 30780
prevailing rates of wages of laborers and mechanics for the class 30781
of work called for by the project, which wages shall be determined 30782
in accordance with the requirements of Chapter 4115. of the 30783
Revised Code for determination of prevailing wage rates, provided 30784~~

~~that the requirements of this division do not apply where the 30785
federal government or any of its agencies furnishes by law or 30786
grant all or any part of the funds used in connection with such 30787
project and prescribes predetermined minimum wages to be paid to 30788
such laborers and mechanics. 30789~~

Modifications of the financial agreement may from time to 30790
time be made by agreement between the governing body of the 30791
municipal corporation and the community urban redevelopment 30792
corporation. 30793

Sec. 1751.01. As used in this chapter: 30794

(A)(1) "Basic health care services" means the following 30795
services when medically necessary: 30796

(a) Physician's services, except when such services are 30797
supplemental under division (B) of this section; 30798

(b) Inpatient hospital services; 30799

(c) Outpatient medical services; 30800

(d) Emergency health services; 30801

(e) Urgent care services; 30802

(f) Diagnostic laboratory services and diagnostic and 30803
therapeutic radiologic services; 30804

(g) Diagnostic and treatment services, other than 30805
prescription drug services, for biologically based mental 30806
illnesses; 30807

(h) Preventive health care services, including, but not 30808
limited to, voluntary family planning services, infertility 30809
services, periodic physical examinations, prenatal obstetrical 30810
care, and well-child care; 30811

(i) Routine patient care for patients enrolled in an eligible 30812
cancer clinical trial pursuant to section 3923.80 of the Revised 30813

Code. 30814

"Basic health care services" does not include experimental 30815
procedures. 30816

Except as provided by divisions (A)(2) and (3) of this 30817
section in connection with the offering of coverage for diagnostic 30818
and treatment services for biologically based mental illnesses, a 30819
health insuring corporation shall not offer coverage for a health 30820
care service, defined as a basic health care service by this 30821
division, unless it offers coverage for all listed basic health 30822
care services. However, this requirement does not apply to the 30823
coverage of beneficiaries enrolled in medicare pursuant to a 30824
medicare contract, or to the coverage of beneficiaries enrolled in 30825
the federal employee health benefits program pursuant to 5 30826
U.S.C.A. 8905, or to the coverage of medicaid recipients, ~~or to~~ 30827
~~the coverage of participants of the children's buy in program,~~ or 30828
to the coverage of beneficiaries under any federal health care 30829
program regulated by a federal regulatory body, or to the coverage 30830
of beneficiaries under any contract covering officers or employees 30831
of the state that has been entered into by the department of 30832
administrative services. 30833

(2) A health insuring corporation may offer coverage for 30834
diagnostic and treatment services for biologically based mental 30835
illnesses without offering coverage for all other basic health 30836
care services. A health insuring corporation may offer coverage 30837
for diagnostic and treatment services for biologically based 30838
mental illnesses alone or in combination with one or more 30839
supplemental health care services. However, a health insuring 30840
corporation that offers coverage for any other basic health care 30841
service shall offer coverage for diagnostic and treatment services 30842
for biologically based mental illnesses in combination with the 30843
offer of coverage for all other listed basic health care services. 30844

(3) A health insuring corporation that offers coverage for 30845

basic health care services is not required to offer coverage for 30846
diagnostic and treatment services for biologically based mental 30847
illnesses in combination with the offer of coverage for all other 30848
listed basic health care services if all of the following apply: 30849

(a) The health insuring corporation submits documentation 30850
certified by an independent member of the American academy of 30851
actuaries to the superintendent of insurance showing that incurred 30852
claims for diagnostic and treatment services for biologically 30853
based mental illnesses for a period of at least six months 30854
independently caused the health insuring corporation's costs for 30855
claims and administrative expenses for the coverage of basic 30856
health care services to increase by more than one per cent per 30857
year. 30858

(b) The health insuring corporation submits a signed letter 30859
from an independent member of the American academy of actuaries to 30860
the superintendent of insurance opining that the increase in costs 30861
described in division (A)(3)(a) of this section could reasonably 30862
justify an increase of more than one per cent in the annual 30863
premiums or rates charged by the health insuring corporation for 30864
the coverage of basic health care services. 30865

(c) The superintendent of insurance makes the following 30866
determinations from the documentation and opinion submitted 30867
pursuant to divisions (A)(3)(a) and (b) of this section: 30868

(i) Incurred claims for diagnostic and treatment services for 30869
biologically based mental illnesses for a period of at least six 30870
months independently caused the health insuring corporation's 30871
costs for claims and administrative expenses for the coverage of 30872
basic health care services to increase by more than one per cent 30873
per year. 30874

(ii) The increase in costs reasonably justifies an increase 30875
of more than one per cent in the annual premiums or rates charged 30876

by the health insuring corporation for the coverage of basic health care services.	30877 30878
Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.	30879 30880
(B)(1) "Supplemental health care services" means any health care services other than basic health care services that a health insuring corporation may offer, alone or in combination with either basic health care services or other supplemental health care services, and includes:	30881 30882 30883 30884 30885
(a) Services of facilities for intermediate or long-term care, or both;	30886 30887
(b) Dental care services;	30888
(c) Vision care and optometric services including lenses and frames;	30889 30890
(d) Podiatric care or foot care services;	30891
(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;	30892 30893
(f) Short-term outpatient evaluative and crisis-intervention mental health services;	30894 30895
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	30896 30897
(h) Home health services;	30898
(i) Prescription drug services;	30899
(j) Nursing services;	30900
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	30901 30902
(l) Physical therapy services;	30903
(m) Chiropractic services;	30904

(n) Any other category of services approved by the superintendent of insurance.	30905 30906
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	30907 30908 30909 30910 30911
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	30912 30913 30914 30915 30916
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.	30917 30918 30919 30920 30921 30922 30923
(E) "Children's buy in program" has the same meaning as in section 5101.5211 of the Revised Code.	30924 30925
(F) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.	30926 30927
(G) <u>(F)</u> "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.	30928 30929 30930
(H) <u>(G)</u> "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.	30931 30932 30933
(I) <u>(H)</u> "Corporation" means a corporation formed under Chapter	30934

1701. or 1702. of the Revised Code or the similar laws of another 30935
state. 30936

~~(J)~~(I) "Emergency health services" means those health care 30937
services that must be available on a seven-days-per-week, 30938
twenty-four-hours-per-day basis in order to prevent jeopardy to an 30939
enrollee's health status that would occur if such services were 30940
not received as soon as possible, and includes, where appropriate, 30941
provisions for transportation and indemnity payments or service 30942
agreements for out-of-area coverage. 30943

~~(K)~~(J) "Enrollee" means any natural person who is entitled to 30944
receive health care benefits provided by a health insuring 30945
corporation. 30946

~~(L)~~(K) "Evidence of coverage" means any certificate, 30947
agreement, policy, or contract issued to a subscriber that sets 30948
out the coverage and other rights to which such person is entitled 30949
under a health care plan. 30950

~~(M)~~(L) "Health care facility" means any facility, except a 30951
health care practitioner's office, that provides preventive, 30952
diagnostic, therapeutic, acute convalescent, rehabilitation, 30953
mental health, mental retardation, intermediate care, or skilled 30954
nursing services. 30955

~~(N)~~(M) "Health care services" means basic, supplemental, and 30956
specialty health care services. 30957

~~(O)~~(N) "Health delivery network" means any group of providers 30958
or health care facilities, or both, or any representative thereof, 30959
that have entered into an agreement to offer health care services 30960
in a panel rather than on an individual basis. 30961

~~(P)~~(O) "Health insuring corporation" means a corporation, as 30962
defined in division ~~(I)~~(H) of this section, that, pursuant to a 30963
policy, contract, certificate, or agreement, pays for, reimburses, 30964
or provides, delivers, arranges for, or otherwise makes available, 30965

basic health care services, supplemental health care services, or 30966
specialty health care services, or a combination of basic health 30967
care services and either supplemental health care services or 30968
specialty health care services, through either an open panel plan 30969
or a closed panel plan. 30970

"Health insuring corporation" does not include a limited 30971
liability company formed pursuant to Chapter 1705. of the Revised 30972
Code, an insurer licensed under Title XXXIX of the Revised Code if 30973
that insurer offers only open panel plans under which all 30974
providers and health care facilities participating receive their 30975
compensation directly from the insurer, a corporation formed by or 30976
on behalf of a political subdivision or a department, office, or 30977
institution of the state, or a public entity formed by or on 30978
behalf of a board of county commissioners, a county board of 30979
developmental disabilities, an alcohol and drug addiction services 30980
board, a board of alcohol, drug addiction, and mental health 30981
services, or a community mental health board, as those terms are 30982
used in Chapters 340. and 5126. of the Revised Code. Except as 30983
provided by division (D) of section 1751.02 of the Revised Code, 30984
or as otherwise provided by law, no board, commission, agency, or 30985
other entity under the control of a political subdivision may 30986
accept insurance risk in providing for health care services. 30987
However, nothing in this division shall be construed as 30988
prohibiting such entities from purchasing the services of a health 30989
insuring corporation or a third-party administrator licensed under 30990
Chapter 3959. of the Revised Code. 30991

~~(Q)~~(P) "Intermediary organization" means a health delivery 30992
network or other entity that contracts with licensed health 30993
insuring corporations or self-insured employers, or both, to 30994
provide health care services, and that enters into contractual 30995
arrangements with other entities for the provision of health care 30996
services for the purpose of fulfilling the terms of its contracts 30997

with the health insuring corporations and self-insured employers. 30998

~~(R)~~(O) "Intermediate care" means residential care above the 30999
level of room and board for patients who require personal 31000
assistance and health-related services, but who do not require 31001
skilled nursing care. 31002

~~(S)~~(R) "Medicaid" has the same meaning as in section 5111.01 31003
of the Revised Code. 31004

~~(T)~~(S) "Medical record" means the personal information that 31005
relates to an individual's physical or mental condition, medical 31006
history, or medical treatment. 31007

~~(U)~~(T) "Medicare" means the program established under Title 31008
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 31009
1395, as amended. 31010

~~(V)~~(U)(1) "Open panel plan" means a health care plan that 31011
provides incentives for enrollees to use participating providers 31012
and that also allows enrollees to use providers that are not 31013
participating providers. 31014

(2) No health insuring corporation may offer an open panel 31015
plan, unless the health insuring corporation is also licensed as 31016
an insurer under Title XXXIX of the Revised Code, the health 31017
insuring corporation, on June 4, 1997, holds a certificate of 31018
authority or license to operate under Chapter 1736. or 1740. of 31019
the Revised Code, or an insurer licensed under Title XXXIX of the 31020
Revised Code is responsible for the out-of-network risk as 31021
evidenced by both an evidence of coverage filing under section 31022
1751.11 of the Revised Code and a policy and certificate filing 31023
under section 3923.02 of the Revised Code. 31024

~~(W)~~(V) "Panel" means a group of providers or health care 31025
facilities that have joined together to deliver health care 31026
services through a contractual arrangement with a health insuring 31027
corporation, employer group, or other payor. 31028

~~(X)~~(W) "Person" has the same meaning as in section 1.59 of 31029
the Revised Code, and, unless the context otherwise requires, 31030
includes any insurance company holding a certificate of authority 31031
under Title XXXIX of the Revised Code, any subsidiary and 31032
affiliate of an insurance company, and any government agency. 31033

~~(Y)~~(X) "Premium rate" means any set fee regularly paid by a 31034
subscriber to a health insuring corporation. A "premium rate" does 31035
not include a one-time membership fee, an annual administrative 31036
fee, or a nominal access fee, paid to a managed health care system 31037
under which the recipient of health care services remains solely 31038
responsible for any charges accessed for those services by the 31039
provider or health care facility. 31040

~~(Z)~~(Y) "Primary care provider" means a provider that is 31041
designated by a health insuring corporation to supervise, 31042
coordinate, or provide initial care or continuing care to an 31043
enrollee, and that may be required by the health insuring 31044
corporation to initiate a referral for specialty care and to 31045
maintain supervision of the health care services rendered to the 31046
enrollee. 31047

~~(AA)~~(Z) "Provider" means any natural person or partnership of 31048
natural persons who are licensed, certified, accredited, or 31049
otherwise authorized in this state to furnish health care 31050
services, or any professional association organized under Chapter 31051
1785. of the Revised Code, provided that nothing in this chapter 31052
or other provisions of law shall be construed to preclude a health 31053
insuring corporation, health care practitioner, or organized 31054
health care group associated with a health insuring corporation 31055
from employing certified nurse practitioners, certified nurse 31056
anesthetists, clinical nurse specialists, certified nurse 31057
midwives, dietitians, physician assistants, dental assistants, 31058
dental hygienists, optometric technicians, or other allied health 31059
personnel who are licensed, certified, accredited, or otherwise 31060

authorized in this state to furnish health care services. 31061

~~(BB)~~(AA) "Provider sponsored organization" means a 31062
corporation, as defined in division ~~(I)~~(H) of this section, that 31063
is at least eighty per cent owned or controlled by one or more 31064
hospitals, as defined in section 3727.01 of the Revised Code, or 31065
one or more physicians licensed to practice medicine or surgery or 31066
osteopathic medicine and surgery under Chapter 4731. of the 31067
Revised Code, or any combination of such physicians and hospitals. 31068
Such control is presumed to exist if at least eighty per cent of 31069
the voting rights or governance rights of a provider sponsored 31070
organization are directly or indirectly owned, controlled, or 31071
otherwise held by any combination of the physicians and hospitals 31072
described in this division. 31073

~~(CC)~~(BB) "Solicitation document" means the written materials 31074
provided to prospective subscribers or enrollees, or both, and 31075
used for advertising and marketing to induce enrollment in the 31076
health care plans of a health insuring corporation. 31077

~~(DD)~~(CC) "Subscriber" means a person who is responsible for 31078
making payments to a health insuring corporation for participation 31079
in a health care plan, or an enrollee whose employment or other 31080
status is the basis of eligibility for enrollment in a health 31081
insuring corporation. 31082

~~(EE)~~(DD) "Urgent care services" means those health care 31083
services that are appropriately provided for an unforeseen 31084
condition of a kind that usually requires medical attention 31085
without delay but that does not pose a threat to the life, limb, 31086
or permanent health of the injured or ill person, and may include 31087
such health care services provided out of the health insuring 31088
corporation's approved service area pursuant to indemnity payments 31089
or service agreements. 31090

Sec. 1751.04. (A) Except as provided by division (D) of this 31091

section, upon the receipt by the superintendent of insurance of a 31092
complete application for a certificate of authority to establish 31093
or operate a health insuring corporation, which application sets 31094
forth or is accompanied by the information and documents required 31095
by division (A) of section 1751.03 of the Revised Code, the 31096
superintendent shall review the application and accompanying 31097
documents and make findings as to whether the applicant for a 31098
certificate of authority has done all of the following with 31099
respect to any basic health care services and supplemental health 31100
care services to be furnished: 31101

(1) Demonstrated the willingness and potential ability to 31102
ensure that all basic health care services and supplemental health 31103
care services described in the evidence of coverage will be 31104
provided to all its enrollees as promptly as is appropriate and in 31105
a manner that assures continuity; 31106

(2) Made effective arrangements to ensure that its enrollees 31107
have reliable access to qualified providers in those specialties 31108
that are generally available in the geographic area or areas to be 31109
served by the applicant and that are necessary to provide all 31110
basic health care services and supplemental health care services 31111
described in the evidence of coverage; 31112

(3) Made appropriate arrangements for the availability of 31113
short-term health care services in emergencies within the 31114
geographic area or areas to be served by the applicant, 31115
twenty-four hours per day, seven days per week, and for the 31116
provision of adequate coverage whenever an out-of-area emergency 31117
arises; 31118

(4) Made appropriate arrangements for an ongoing evaluation 31119
and assurance of the quality of health care services provided to 31120
enrollees, including, if applicable, the development of a quality 31121
assurance program complying with the requirements of sections 31122
1751.73 to 1751.75 of the Revised Code, and the adequacy of the 31123

personnel, facilities, and equipment by or through which the 31124
services are rendered; 31125

(5) Developed a procedure to gather and report statistics 31126
relating to the cost and effectiveness of its operations, the 31127
pattern of utilization of its services, and the quality, 31128
availability, and accessibility of its services. 31129

(B) Based upon the information provided in the application 31130
for issuance of a certificate of authority, the superintendent 31131
shall determine whether or not the applicant meets the 31132
requirements of division (A) of this section. If the 31133
superintendent determines that the applicant does not meet these 31134
requirements, the superintendent shall specify in what respects it 31135
is deficient. However, the superintendent shall not deny an 31136
application because the requirements of this section are not met 31137
unless the applicant has been given an opportunity for a hearing 31138
on that issue. 31139

(C) If the applicant requests a hearing, the superintendent 31140
shall hold a hearing before denying an application because the 31141
applicant does not meet the requirements of this section. The 31142
hearing shall be held in accordance with Chapter 119. of the 31143
Revised Code. 31144

(D) Nothing in this section requires the superintendent to 31145
review or make findings with regard to an application and 31146
accompanying documents to establish or operate any of the 31147
following: 31148

(1) A health insuring corporation to cover solely medicaid 31149
recipients; 31150

(2) A health insuring corporation to cover solely medicare 31151
beneficiaries; 31152

(3) A health insuring corporation to cover solely medicaid 31153
recipients and medicare beneficiaries; 31154

(4) A health insuring corporation to cover solely	31155
participants of the children's buy in program;	31156
(5) A health insuring corporation to cover solely medicaid	31157
recipients and participants of the children's buy in program;	31158
(6) A health insuring corporation to cover solely medicaid	31159
recipients, medicare beneficiaries, and participants of the	31160
children's buy in program.	31161
Sec. 1751.11. (A) Every subscriber of a health insuring	31162
corporation is entitled to an evidence of coverage for the health	31163
care plan under which health care benefits are provided.	31164
(B) Every subscriber of a health insuring corporation that	31165
offers basic health care services is entitled to an identification	31166
card or similar document that specifies the health insuring	31167
corporation's name as stated in its articles of incorporation, and	31168
any trade or fictitious names used by the health insuring	31169
corporation. The identification card or document shall list at	31170
least one toll-free telephone number that provides the subscriber	31171
with access, to information on a twenty-four-hours-per-day,	31172
seven-days-per-week basis, as to how health care services may be	31173
obtained. The identification card or document shall also list at	31174
least one toll-free number that, during normal business hours,	31175
provides the subscriber with access to information on the coverage	31176
available under the subscriber's health care plan and information	31177
on the health care plan's internal and external review processes.	31178
(C) No evidence of coverage, or amendment to the evidence of	31179
coverage, shall be delivered, issued for delivery, renewed, or	31180
used, until the form of the evidence of coverage or amendment has	31181
been filed by the health insuring corporation with the	31182
superintendent of insurance. If the superintendent does not	31183
disapprove the evidence of coverage or amendment within sixty days	31184
after it is filed it shall be deemed approved, unless the	31185

superintendent sooner gives approval for the evidence of coverage 31186
or amendment. With respect to an amendment to an approved evidence 31187
of coverage, the superintendent only may disapprove provisions 31188
amended or added to the evidence of coverage. If the 31189
superintendent determines within the sixty-day period that any 31190
evidence of coverage or amendment fails to meet the requirements 31191
of this section, the superintendent shall so notify the health 31192
insuring corporation and it shall be unlawful for the health 31193
insuring corporation to use such evidence of coverage or 31194
amendment. At any time, the superintendent, upon at least thirty 31195
days' written notice to a health insuring corporation, may 31196
withdraw an approval, deemed or actual, of any evidence of 31197
coverage or amendment on any of the grounds stated in this 31198
section. Such disapproval shall be effected by a written order, 31199
which shall state the grounds for disapproval and shall be issued 31200
in accordance with Chapter 119. of the Revised Code. 31201

(D) No evidence of coverage or amendment shall be delivered, 31202
issued for delivery, renewed, or used: 31203

(1) If it contains provisions or statements that are 31204
inequitable, untrue, misleading, or deceptive; 31205

(2) Unless it contains a clear, concise, and complete 31206
statement of the following: 31207

(a) The health care services and insurance or other benefits, 31208
if any, to which an enrollee is entitled under the health care 31209
plan; 31210

(b) Any exclusions or limitations on the health care 31211
services, type of health care services, benefits, or type of 31212
benefits to be provided, including copayments and deductibles; 31213

(c) An enrollee's personal financial obligation for 31214
noncovered services; 31215

(d) Where and in what manner general information and 31216

information as to how health care services may be obtained is	31217
available, including a toll-free telephone number;	31218
(e) The premium rate with respect to individual and	31219
conversion contracts, and relevant copayment and deductible	31220
provisions with respect to all contracts. The statement of the	31221
premium rate, however, may be contained in a separate insert.	31222
(f) The method utilized by the health insuring corporation	31223
for resolving enrollee complaints;	31224
(g) The utilization review, internal review, and external	31225
review procedures established under sections 1751.77 to 1751.85 of	31226
the Revised Code.	31227
(3) Unless it provides for the continuation of an enrollee's	31228
coverage, in the event that the enrollee's coverage under the	31229
group policy, contract, certificate, or agreement terminates while	31230
the enrollee is receiving inpatient care in a hospital. This	31231
continuation of coverage shall terminate at the earliest	31232
occurrence of any of the following:	31233
(a) The enrollee's discharge from the hospital;	31234
(b) The determination by the enrollee's attending physician	31235
that inpatient care is no longer medically indicated for the	31236
enrollee; however, nothing in division (D)(3)(b) of this section	31237
precludes a health insuring corporation from engaging in	31238
utilization review as described in the evidence of coverage.	31239
(c) The enrollee's reaching the limit for contractual	31240
benefits;	31241
(d) The effective date of any new coverage.	31242
(4) Unless it contains a provision that states, in substance,	31243
that the health insuring corporation is not a member of any	31244
guaranty fund, and that in the event of the health insuring	31245
corporation's insolvency, an enrollee is protected only to the	31246

extent that the hold harmless provision required by section 31247
1751.13 of the Revised Code applies to the health care services 31248
rendered; 31249

(5) Unless it contains a provision that states, in substance, 31250
that in the event of the insolvency of the health insuring 31251
corporation, an enrollee may be financially responsible for health 31252
care services rendered by a provider or health care facility that 31253
is not under contract to the health insuring corporation, whether 31254
or not the health insuring corporation authorized the use of the 31255
provider or health care facility. 31256

(E) Notwithstanding divisions (C) and (D) of this section, a 31257
health insuring corporation may use an evidence of coverage that 31258
provides for the coverage of beneficiaries enrolled in medicare 31259
pursuant to a medicare contract, or an evidence of coverage that 31260
provides for the coverage of beneficiaries enrolled in the federal 31261
employees health benefits program pursuant to 5 U.S.C.A. 8905, or 31262
an evidence of coverage that provides for the coverage of medicaid 31263
recipients, ~~or an evidence of coverage that provides for coverage~~ 31264
~~of participants of the children's buy in program,~~ or an evidence 31265
of coverage that provides for the coverage of beneficiaries under 31266
any other federal health care program regulated by a federal 31267
regulatory body, or an evidence of coverage that provides for the 31268
coverage of beneficiaries under any contract covering officers or 31269
employees of the state that has been entered into by the 31270
department of administrative services, if both of the following 31271
apply: 31272

(1) The evidence of coverage has been approved by the United 31273
States department of health and human services, the United States 31274
office of personnel management, the Ohio department of job and 31275
family services, or the department of administrative services. 31276

(2) The evidence of coverage is filed with the superintendent 31277
of insurance prior to use and is accompanied by documentation of 31278

approval from the United States department of health and human 31279
services, the United States office of personnel management, the 31280
Ohio department of job and family services, or the department of 31281
administrative services. 31282

Sec. 1751.111. (A)(1) This section applies to both of the 31283
following: 31284

(a) A health insuring corporation that issues or requires the 31285
use of a standardized identification card or an electronic 31286
technology for submission and routing of prescription drug claims 31287
pursuant to a policy, contract, or agreement for health care 31288
services; 31289

(b) A person or entity that a health insuring corporation 31290
contracts with to issue a standardized identification card or an 31291
electronic technology described in division (A)(1)(a) of this 31292
section. 31293

(2) Notwithstanding division (A)(1) of this section, this 31294
section does not apply to the issuance or required use of a 31295
standardized identification card or an electronic technology for 31296
submission and routing of prescription drug claims in connection 31297
with any of the following: 31298

(a) Coverage provided under the medicare advantage program 31299
operated pursuant to Part C of Title XVIII of the "Social Security 31300
Act," 49 Stat. 62 (1935), 42 U.S.C. 301, as amended. 31301

(b) Coverage provided under medicaid. 31302

~~(c) Coverage provided under the children's buy-in program.~~ 31303

~~(d)~~ Coverage provided under an employer's self-insurance plan 31304
or by any of its administrators, as defined in section 3959.01 of 31305
the Revised Code, to the extent that federal law supersedes, 31306
preempts, prohibits, or otherwise precludes the application of 31307
this section to the plan and its administrators. 31308

(B) A standardized identification card or an electronic technology issued or required to be used as provided in division (A)(1) of this section shall contain uniform prescription drug information in accordance with either division (B)(1) or (2) of this section.

(1) The standardized identification card or the electronic technology shall be in a format and contain information fields approved by the national council for prescription drug programs or a successor organization, as specified in the council's or successor organization's pharmacy identification card implementation guide in effect on the first day of October most immediately preceding the issuance or required use of the standardized identification card or the electronic technology.

(2) If the health insuring corporation or the person under contract with the corporation to issue a standardized identification card or an electronic technology requires the information for the submission and routing of a claim, the standardized identification card or the electronic technology shall contain any of the following information:

(a) The health insuring corporation's name;

(b) The subscriber's name, group number, and identification number;

(c) A telephone number to inquire about pharmacy-related issues;

(d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";

(e) The processor's control number, labeled as "RxPCN";

(f) The subscriber's pharmacy benefits group number if different from the subscriber's medical group number, labeled as "RxGrp."

(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims.

(D) Each health insuring corporation described in division (A) of this section shall annually file a certificate with the superintendent of insurance certifying that it or any person it contracts with to issue a standardized identification card or electronic technology for submission and routing of prescription drug claims complies with this section.

(E)(1) Except as provided in division (E)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to a subscriber, the health insuring corporation or person under contract with the corporation to issue a standardized identification card or an electronic technology shall issue a new card or electronic technology to the subscriber.

(2) A health insuring corporation or person under contract with the corporation is not required under division (E)(1) of this section to issue a new card or electronic technology to a subscriber more than once during a twelve-month period.

(F) Nothing in this section shall be construed as requiring a health insuring corporation to produce more than one standardized identification card or one electronic technology for use by subscribers accessing health care benefits provided under a policy, contract, or agreement for health care services.

Sec. 1751.12. (A)(1) No contractual periodic prepayment and

no premium rate for nongroup and conversion policies for health 31370
care services, or any amendment to them, may be used by any health 31371
insuring corporation at any time until the contractual periodic 31372
prepayment and premium rate, or amendment, have been filed with 31373
the superintendent of insurance, and shall not be effective until 31374
the expiration of sixty days after their filing unless the 31375
superintendent sooner gives approval. The filing shall be 31376
accompanied by an actuarial certification in the form prescribed 31377
by the superintendent. The superintendent shall disapprove the 31378
filing, if the superintendent determines within the sixty-day 31379
period that the contractual periodic prepayment or premium rate, 31380
or amendment, is not in accordance with sound actuarial principles 31381
or is not reasonably related to the applicable coverage and 31382
characteristics of the applicable class of enrollees. The 31383
superintendent shall notify the health insuring corporation of the 31384
disapproval, and it shall thereafter be unlawful for the health 31385
insuring corporation to use the contractual periodic prepayment or 31386
premium rate, or amendment. 31387

(2) No contractual periodic prepayment for group policies for 31388
health care services shall be used until the contractual periodic 31389
prepayment has been filed with the superintendent. The filing 31390
shall be accompanied by an actuarial certification in the form 31391
prescribed by the superintendent. The superintendent may reject a 31392
filing made under division (A)(2) of this section at any time, 31393
with at least thirty days' written notice to a health insuring 31394
corporation, if the contractual periodic prepayment is not in 31395
accordance with sound actuarial principles or is not reasonably 31396
related to the applicable coverage and characteristics of the 31397
applicable class of enrollees. 31398

(3) At any time, the superintendent, upon at least thirty 31399
days' written notice to a health insuring corporation, may 31400
withdraw the approval given under division (A)(1) of this section, 31401

deemed or actual, of any contractual periodic prepayment or 31402
premium rate, or amendment, based on information that either of 31403
the following applies: 31404

(a) The contractual periodic prepayment or premium rate, or 31405
amendment, is not in accordance with sound actuarial principles. 31406

(b) The contractual periodic prepayment or premium rate, or 31407
amendment, is not reasonably related to the applicable coverage 31408
and characteristics of the applicable class of enrollees. 31409

(4) Any disapproval under division (A)(1) of this section, 31410
any rejection of a filing made under division (A)(2) of this 31411
section, or any withdrawal of approval under division (A)(3) of 31412
this section, shall be effected by a written notice, which shall 31413
state the specific basis for the disapproval, rejection, or 31414
withdrawal and shall be issued in accordance with Chapter 119. of 31415
the Revised Code. 31416

(B) Notwithstanding division (A) of this section, a health 31417
insuring corporation may use a contractual periodic prepayment or 31418
premium rate for policies used for the coverage of beneficiaries 31419
enrolled in medicare pursuant to a medicare risk contract or 31420
medicare cost contract, or for policies used for the coverage of 31421
beneficiaries enrolled in the federal employees health benefits 31422
program pursuant to 5 U.S.C.A. 8905, or for policies used for the 31423
coverage of medicaid recipients, ~~or for policies used for coverage~~ 31424
~~of participants of the children's buy in program,~~ or for policies 31425
used for the coverage of beneficiaries under any other federal 31426
health care program regulated by a federal regulatory body, or for 31427
policies used for the coverage of beneficiaries under any contract 31428
covering officers or employees of the state that has been entered 31429
into by the department of administrative services, if both of the 31430
following apply: 31431

(1) The contractual periodic prepayment or premium rate has 31432

been approved by the United States department of health and human 31433
services, the United States office of personnel management, the 31434
department of job and family services, or the department of 31435
administrative services. 31436

(2) The contractual periodic prepayment or premium rate is 31437
filed with the superintendent prior to use and is accompanied by 31438
documentation of approval from the United States department of 31439
health and human services, the United States office of personnel 31440
management, the department of job and family services, or the 31441
department of administrative services. 31442

(C) The administrative expense portion of all contractual 31443
periodic prepayment or premium rate filings submitted to the 31444
superintendent for review must reflect the actual cost of 31445
administering the product. The superintendent may require that the 31446
administrative expense portion of the filings be itemized and 31447
supported. 31448

(D)(1) Copayments must be reasonable and must not be a 31449
barrier to the necessary utilization of services by enrollees. 31450

(2) A health insuring corporation, in order to ensure that 31451
copayments are reasonable and not a barrier to the necessary 31452
utilization of basic health care services by enrollees, may do one 31453
of the following: 31454

(a) Impose copayment charges on any single covered basic 31455
health care service that does not exceed forty per cent of the 31456
average cost to the health insuring corporation of providing the 31457
service; 31458

(b) Impose copayment charges that annually do not exceed 31459
twenty per cent of the total annual cost to the health insuring 31460
corporation of providing all covered basic health care services, 31461
including physician office visits, urgent care services, and 31462
emergency health services, when aggregated as to all persons 31463

covered under the filed product in question. In addition, annual 31464
copayment charges as to each enrollee shall not exceed twenty per 31465
cent of the total annual cost to the health insuring corporation 31466
of providing all covered basic health care services, including 31467
physician office visits, urgent care services, and emergency 31468
health services, as to such enrollee. The total annual cost of 31469
providing a health care service is the cost to the health insuring 31470
corporation of providing the health care service to its enrollees 31471
as reduced by any applicable provider discount. 31472

(3) To ensure that copayments are reasonable and not a 31473
barrier to the utilization of basic health care services, a health 31474
insuring corporation may not impose, in any contract year, on any 31475
subscriber or enrollee, copayments that exceed two hundred per 31476
cent of the average annual premium rate to subscribers or 31477
enrollees. 31478

(4) For purposes of division (D) of this section, both of the 31479
following apply: 31480

(a) Copayments imposed by health insuring corporations in 31481
connection with a high deductible health plan that is linked to a 31482
health savings account are reasonable and are not a barrier to the 31483
necessary utilization of services by enrollees. 31484

(b) Divisions (D)(2) and (3) of this section do not apply to 31485
a high deductible health plan that is linked to a health savings 31486
account. 31487

(E) A health insuring corporation shall not impose lifetime 31488
maximums on basic health care services. However, a health insuring 31489
corporation may establish a benefit limit for inpatient hospital 31490
services that are provided pursuant to a policy, contract, 31491
certificate, or agreement for supplemental health care services. 31492

(F) A health insuring corporation may require that an 31493
enrollee pay an annual deductible that does not exceed one 31494

thousand dollars per enrollee or two thousand dollars per family, 31495
except that: 31496

(1) A health insuring corporation may impose higher 31497
deductibles for high deductible health plans that are linked to 31498
health savings accounts; 31499

(2) The superintendent may adopt rules allowing different 31500
annual deductible amounts for plans with a medical savings 31501
account, health reimbursement arrangement, flexible spending 31502
account, or similar account; 31503

(3) A health insuring corporation may impose higher 31504
deductibles under health plans if requested by the group contract, 31505
policy, certificate, or agreement holder, or an individual seeking 31506
coverage under an individual health plan. This shall not be 31507
construed as requiring the health insuring corporation to create 31508
customized health plans for group contract holders or individuals. 31509

(G) As used in this section, "health savings account" and 31510
"high deductible health plan" have the same meanings as in the 31511
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 223, as 31512
amended. 31513

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, 31514
either directly or indirectly, enter into contracts for the 31515
provision of health care services with a sufficient number and 31516
types of providers and health care facilities to ensure that all 31517
covered health care services will be accessible to enrollees from 31518
a contracted provider or health care facility. 31519

(b) A health insuring corporation shall not refuse to 31520
contract with a physician for the provision of health care 31521
services or refuse to recognize a physician as a specialist on the 31522
basis that the physician attended an educational program or a 31523
residency program approved or certified by the American 31524

osteopathic association. A health insuring corporation shall not 31525
refuse to contract with a health care facility for the provision 31526
of health care services on the basis that the health care facility 31527
is certified or accredited by the American osteopathic association 31528
or that the health care facility is an osteopathic hospital as 31529
defined in section 3702.51 of the Revised Code. 31530

(c) Nothing in division (A)(1)(b) of this section shall be 31531
construed to require a health insuring corporation to make a 31532
benefit payment under a closed panel plan to a physician or health 31533
care facility with which the health insuring corporation does not 31534
have a contract, provided that none of the bases set forth in that 31535
division are used as a reason for failing to make a benefit 31536
payment. 31537

(2) When a health insuring corporation is unable to provide a 31538
covered health care service from a contracted provider or health 31539
care facility, the health insuring corporation must provide that 31540
health care service from a noncontracted provider or health care 31541
facility consistent with the terms of the enrollee's policy, 31542
contract, certificate, or agreement. The health insuring 31543
corporation shall either ensure that the health care service be 31544
provided at no greater cost to the enrollee than if the enrollee 31545
had obtained the health care service from a contracted provider or 31546
health care facility, or make other arrangements acceptable to the 31547
superintendent of insurance. 31548

(3) Nothing in this section shall prohibit a health insuring 31549
corporation from entering into contracts with out-of-state 31550
providers or health care facilities that are licensed, certified, 31551
accredited, or otherwise authorized in that state. 31552

(B)(1) A health insuring corporation shall, either directly 31553
or indirectly, enter into contracts with all providers and health 31554
care facilities through which health care services are provided to 31555
its enrollees. 31556

(2) A health insuring corporation, upon written request, 31557
shall assist its contracted providers in finding stop-loss or 31558
reinsurance carriers. 31559

(C) A health insuring corporation shall file an annual 31560
certificate with the superintendent certifying that all provider 31561
contracts and contracts with health care facilities through which 31562
health care services are being provided contain the following: 31563

(1) A description of the method by which the provider or 31564
health care facility will be notified of the specific health care 31565
services for which the provider or health care facility will be 31566
responsible, including any limitations or conditions on such 31567
services; 31568

(2) The specific hold harmless provision specifying 31569
protection of enrollees set forth as follows: 31570

"[Provider/Health Care Facility] agrees that in no event, 31571
including but not limited to nonpayment by the health insuring 31572
corporation, insolvency of the health insuring corporation, or 31573
breach of this agreement, shall [Provider/Health Care Facility] 31574
bill, charge, collect a deposit from, seek remuneration or 31575
reimbursement from, or have any recourse against, a subscriber, 31576
enrollee, person to whom health care services have been provided, 31577
or person acting on behalf of the covered enrollee, for health 31578
care services provided pursuant to this agreement. This does not 31579
prohibit [Provider/Health Care Facility] from collecting 31580
co-insurance, deductibles, or copayments as specifically provided 31581
in the evidence of coverage, or fees for uncovered health care 31582
services delivered on a fee-for-service basis to persons 31583
referenced above, nor from any recourse against the health 31584
insuring corporation or its successor." 31585

(3) Provisions requiring the provider or health care facility 31586
to continue to provide covered health care services to enrollees 31587

in the event of the health insuring corporation's insolvency or 31588
discontinuance of operations. The provisions shall require the 31589
provider or health care facility to continue to provide covered 31590
health care services to enrollees as needed to complete any 31591
medically necessary procedures commenced but unfinished at the 31592
time of the health insuring corporation's insolvency or 31593
discontinuance of operations. The completion of a medically 31594
necessary procedure shall include the rendering of all covered 31595
health care services that constitute medically necessary follow-up 31596
care for that procedure. If an enrollee is receiving necessary 31597
inpatient care at a hospital, the provisions may limit the 31598
required provision of covered health care services relating to 31599
that inpatient care in accordance with division (D)(3) of section 31600
1751.11 of the Revised Code, and may also limit such required 31601
provision of covered health care services to the period ending 31602
thirty days after the health insuring corporation's insolvency or 31603
discontinuance of operations. 31604

The provisions required by division (C)(3) of this section 31605
shall not require any provider or health care facility to continue 31606
to provide any covered health care service after the occurrence of 31607
any of the following: 31608

(a) The end of the thirty-day period following the entry of a 31609
liquidation order under Chapter 3903. of the Revised Code; 31610

(b) The end of the enrollee's period of coverage for a 31611
contractual prepayment or premium; 31612

(c) The enrollee obtains equivalent coverage with another 31613
health insuring corporation or insurer, or the enrollee's employer 31614
obtains such coverage for the enrollee; 31615

(d) The enrollee or the enrollee's employer terminates 31616
coverage under the contract; 31617

(e) A liquidator effects a transfer of the health insuring 31618

corporation's obligations under the contract under division (A)(8) 31619
of section 3903.21 of the Revised Code. 31620

(4) A provision clearly stating the rights and 31621
responsibilities of the health insuring corporation, and of the 31622
contracted providers and health care facilities, with respect to 31623
administrative policies and programs, including, but not limited 31624
to, payments systems, utilization review, quality assurance, 31625
assessment, and improvement programs, credentialing, 31626
confidentiality requirements, and any applicable federal or state 31627
programs; 31628

(5) A provision regarding the availability and 31629
confidentiality of those health records maintained by providers 31630
and health care facilities to monitor and evaluate the quality of 31631
care, to conduct evaluations and audits, and to determine on a 31632
concurrent or retrospective basis the necessity of and 31633
appropriateness of health care services provided to enrollees. The 31634
provision shall include terms requiring the provider or health 31635
care facility to make these health records available to 31636
appropriate state and federal authorities involved in assessing 31637
the quality of care or in investigating the grievances or 31638
complaints of enrollees, and requiring the provider or health care 31639
facility to comply with applicable state and federal laws related 31640
to the confidentiality of medical or health records. 31641

(6) A provision that states that contractual rights and 31642
responsibilities may not be assigned or delegated by the provider 31643
or health care facility without the prior written consent of the 31644
health insuring corporation; 31645

(7) A provision requiring the provider or health care 31646
facility to maintain adequate professional liability and 31647
malpractice insurance. The provision shall also require the 31648
provider or health care facility to notify the health insuring 31649
corporation not more than ten days after the provider's or health 31650

care facility's receipt of notice of any reduction or cancellation 31651
of such coverage. 31652

(8) A provision requiring the provider or health care 31653
facility to observe, protect, and promote the rights of enrollees 31654
as patients; 31655

(9) A provision requiring the provider or health care 31656
facility to provide health care services without discrimination on 31657
the basis of a patient's participation in the health care plan, 31658
age, sex, ethnicity, religion, sexual preference, health status, 31659
or disability, and without regard to the source of payments made 31660
for health care services rendered to a patient. This requirement 31661
shall not apply to circumstances when the provider or health care 31662
facility appropriately does not render services due to limitations 31663
arising from the provider's or health care facility's lack of 31664
training, experience, or skill, or due to licensing restrictions. 31665

(10) A provision containing the specifics of any obligation 31666
on the primary care provider to provide, or to arrange for the 31667
provision of, covered health care services twenty-four hours per 31668
day, seven days per week; 31669

(11) A provision setting forth procedures for the resolution 31670
of disputes arising out of the contract; 31671

(12) A provision stating that the hold harmless provision 31672
required by division (C)(2) of this section shall survive the 31673
termination of the contract with respect to services covered and 31674
provided under the contract during the time the contract was in 31675
effect, regardless of the reason for the termination, including 31676
the insolvency of the health insuring corporation; 31677

(13) A provision requiring those terms that are used in the 31678
contract and that are defined by this chapter, be used in the 31679
contract in a manner consistent with those definitions. 31680

This division does not apply to the coverage of beneficiaries 31681

enrolled in medicare pursuant to a medicare risk contract or 31682
medicare cost contract, or to the coverage of beneficiaries 31683
enrolled in the federal employee health benefits program pursuant 31684
to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or 31685
to the coverage of beneficiaries under any federal health care 31686
program regulated by a federal regulatory body, ~~or to the coverage~~ 31687
~~of participants of the children's buy-in program,~~ or to the 31688
coverage of beneficiaries under any contract covering officers or 31689
employees of the state that has been entered into by the 31690
department of administrative services. 31691

(D)(1) No health insuring corporation contract with a 31692
provider or health care facility shall contain any of the 31693
following: 31694

(a) A provision that directly or indirectly offers an 31695
inducement to the provider or health care facility to reduce or 31696
limit medically necessary health care services to a covered 31697
enrollee; 31698

(b) A provision that penalizes a provider or health care 31699
facility that assists an enrollee to seek a reconsideration of the 31700
health insuring corporation's decision to deny or limit benefits 31701
to the enrollee; 31702

(c) A provision that limits or otherwise restricts the 31703
provider's or health care facility's ethical and legal 31704
responsibility to fully advise enrollees about their medical 31705
condition and about medically appropriate treatment options; 31706

(d) A provision that penalizes a provider or health care 31707
facility for principally advocating for medically necessary health 31708
care services; 31709

(e) A provision that penalizes a provider or health care 31710
facility for providing information or testimony to a legislative 31711
or regulatory body or agency. This shall not be construed to 31712

prohibit a health insuring corporation from penalizing a provider 31713
or health care facility that provides information or testimony 31714
that is libelous or slanderous or that discloses trade secrets 31715
which the provider or health care facility has no privilege or 31716
permission to disclose. 31717

(f) A provision that violates Chapter 3963. of the Revised 31718
Code. 31719

(2) Nothing in this division shall be construed to prohibit a 31720
health insuring corporation from doing either of the following: 31721

(a) Making a determination not to reimburse or pay for a 31722
particular medical treatment or other health care service; 31723

(b) Enforcing reasonable peer review or utilization review 31724
protocols, or determining whether a particular provider or health 31725
care facility has complied with these protocols. 31726

(E) Any contract between a health insuring corporation and an 31727
intermediary organization shall clearly specify that the health 31728
insuring corporation must approve or disapprove the participation 31729
of any provider or health care facility with which the 31730
intermediary organization contracts. 31731

(F) If an intermediary organization that is not a health 31732
delivery network contracting solely with self-insured employers 31733
subcontracts with a provider or health care facility, the 31734
subcontract with the provider or health care facility shall do all 31735
of the following: 31736

(1) Contain the provisions required by divisions (C) and (G) 31737
of this section, as made applicable to an intermediary 31738
organization, without the inclusion of inducements or penalties 31739
described in division (D) of this section; 31740

(2) Acknowledge that the health insuring corporation is a 31741
third-party beneficiary to the agreement; 31742

(3) Acknowledge the health insuring corporation's role in approving the participation of the provider or health care facility, pursuant to division (E) of this section.

(G) Any provider contract or contract with a health care facility shall clearly specify the health insuring corporation's statutory responsibility to monitor and oversee the offering of covered health care services to its enrollees.

(H)(1) A health insuring corporation shall maintain its provider contracts and its contracts with health care facilities at one or more of its places of business in this state, and shall provide copies of these contracts to facilitate regulatory review upon written notice by the superintendent of insurance.

(2) Any contract with an intermediary organization that accepts compensation shall include provisions requiring the intermediary organization to provide the superintendent with regulatory access to all books, records, financial information, and documents related to the provision of health care services to subscribers and enrollees under the contract. The contract shall require the intermediary organization to maintain such books, records, financial information, and documents at its principal place of business in this state and to preserve them for at least three years in a manner that facilitates regulatory review.

(I)(1) A health insuring corporation shall notify its affected enrollees of the termination of a contract for the provision of health care services between the health insuring corporation and a primary care physician or hospital, by mail, within thirty days after the termination of the contract.

(a) Notice shall be given to subscribers of the termination of a contract with a primary care physician if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from the primary care physician

within the previous twelve months or if the subscriber or 31774
dependent has selected the physician as the subscriber's or 31775
dependent's primary care physician within the previous twelve 31776
months. 31777

(b) Notice shall be given to subscribers of the termination 31778
of a contract with a hospital if the subscriber, or a dependent 31779
covered under the subscriber's health care coverage, has received 31780
health care services from that hospital within the previous twelve 31781
months. 31782

(2) The health insuring corporation shall pay, in accordance 31783
with the terms of the contract, for all covered health care 31784
services rendered to an enrollee by a primary care physician or 31785
hospital between the date of the termination of the contract and 31786
five days after the notification of the contract termination is 31787
mailed to a subscriber at the subscriber's last known address. 31788

(J) Divisions (A) and (B) of this section do not apply to any 31789
health insuring corporation that, on June 4, 1997, holds a 31790
certificate of authority or license to operate under Chapter 1740. 31791
of the Revised Code. 31792

(K) Nothing in this section shall restrict the governing body 31793
of a hospital from exercising the authority granted it pursuant to 31794
section 3701.351 of the Revised Code. 31795

Sec. 1751.15. (A) Each health insuring corporation shall 31796
accept individuals for open enrollment coverage as provided in 31797
sections 3923.58 and 3923.581 of the Revised Code. A health 31798
insuring corporation may reinsure coverage of any individual 31799
acquired under those sections with the open enrollment reinsurance 31800
program in accordance with division (G) of section 3924.11 of the 31801
Revised Code. Fixed periodic prepayment rates charged for coverage 31802
reinsured by the program shall be established in accordance with 31803
section 3924.12 of the Revised Code. 31804

(B) This section does not apply to any of the following:	31805
(1) Any health insuring corporation that offers only supplemental health care services or specialty health care services;	31806 31807 31808
(2) Any health insuring corporation that offers plans only through medicare, <u>or</u> medicaid, or the children's buy-in program and that has no other commercial enrollment;	31809 31810 31811
(3) Any health insuring corporation that offers plans only through other federal health care programs regulated by federal regulatory bodies and that has no other commercial enrollment;	31812 31813 31814
(4) Any health insuring corporation that offers plans only through contracts covering officers or employees of the state that have been entered into by the department of administrative services and that has no other commercial enrollment.	31815 31816 31817 31818
Sec. 1751.17. (A) As used in this section, "nongroup contract" means a contract issued by a health insuring corporation to an individual who makes direct application for coverage under the contract and who, if required by the health insuring corporation, submits to medical underwriting. "Nongroup contract" does not include group conversion coverage, coverage obtained through open enrollment, or coverage issued on the basis of membership in a group.	31819 31820 31821 31822 31823 31824 31825 31826
(B) Except as provided in division (C) of this section, every nongroup contract that is issued by a health insuring corporation and that makes available basic health care services shall provide an option for conversion to a contract issued on a direct-payment basis to an enrollee covered by the nongroup contract. The option for conversion shall be available:	31827 31828 31829 31830 31831 31832
(1) Upon the death of the subscriber, to the surviving spouse with respect to the spouse or dependents who were then covered by	31833 31834

the nongroup contract;	31835
(2) Upon the divorce, dissolution, or annulment of the marriage of the subscriber, to the divorced spouse, or, in the event of annulment, to the former spouse of the subscriber;	31836 31837 31838
(3) To a child solely with respect to the child, upon the child's attaining the limiting age of coverage under the nongroup contract while covered as a dependent under the contract.	31839 31840 31841
(C) The direct payment contract offered pursuant to division (B) of this section shall not be made available to an enrollee if any of the following applies:	31842 31843 31844
(1) The enrollee is, or is eligible to be, covered for benefits at least comparable to the nongroup contract under any of the following:	31845 31846 31847
(a) Medicaid;	31848
(b) The children's buy-in program;	31849
(c) Medicare;	31850
(d) <u>(c)</u> Any act of congress or law under this or any other state of the United States providing coverage at least comparable to the benefits offered under division (C)(1)(a), <u>or</u> (b), or (c) of this section.	31851 31852 31853 31854
(2) The nongroup contract under which the enrollee was covered was terminated due to nonpayment of a premium rate.	31855 31856
(3) The enrollee is eligible for group coverage provided by, or available through, an employer or association and the group coverage provides benefits comparable to the benefits provided under a direct payment contract.	31857 31858 31859 31860
(D) The direct payment contract offered pursuant to division (B) of this section shall provide benefits that are at least comparable to the benefits provided by the nongroup contract under which the enrollee was covered at the time of the occurrence of	31861 31862 31863 31864

any of the events set forth in division (B) of this section. The 31865
coverage provided under the direct payment contract shall be 31866
continuous, provided that the enrollee makes the required premium 31867
rate payment within the thirty-day period immediately following 31868
the occurrence of the event, and may be terminated for nonpayment 31869
of any required premium rate payment. 31870

(E) The evidence of coverage of every nongroup contract shall 31871
contain notice that an option for conversion to a contract issued 31872
on a direct-payment basis is available, in accordance with this 31873
section, to any enrollee covered by the contract. 31874

(F) Benefits otherwise payable to an enrollee under a direct 31875
payment contract shall be reduced by the amount of any benefits 31876
available to the enrollee under any applicable group health 31877
insuring corporation contract or group sickness and accident 31878
insurance policy. 31879

(G) Nothing in this section shall be construed as requiring a 31880
health insuring corporation to offer nongroup contracts. 31881

(H) This section does not apply to any nongroup contract 31882
offering only supplemental health care services or specialty 31883
health care services. 31884

Sec. 1751.20. (A) No health insuring corporation, or agent, 31885
employee, or representative of a health insuring corporation, 31886
shall use any advertisement or solicitation document, or shall 31887
engage in any activity, that is unfair, untrue, misleading, or 31888
deceptive. 31889

(B) No health insuring corporation shall use a name that is 31890
deceptively similar to the name or description of any insurance or 31891
surety corporation doing business in this state. 31892

(C) All solicitation documents, advertisements, evidences of 31893
coverage, and enrollee identification cards used by a health 31894

insuring corporation shall contain the health insuring 31895
corporation's name. The use of a trade name, an insurance group 31896
designation, the name of a parent company, the name of a division 31897
of an affiliated insurance company, a service mark, a slogan, a 31898
symbol, or other device, without the name of the health insuring 31899
corporation as stated in its articles of incorporation, shall not 31900
satisfy this requirement if the usage would have the capacity and 31901
tendency to mislead or deceive persons as to the true identity of 31902
the health insuring corporation. 31903

(D) No solicitation document or advertisement used by a 31904
health insuring corporation shall contain any words, symbols, or 31905
physical materials that are so similar in content, phraseology, 31906
shape, color, or other characteristic to those used by an agency 31907
of the federal government or this state, that prospective 31908
enrollees may be led to believe that the solicitation document or 31909
advertisement is connected with an agency of the federal 31910
government or this state. 31911

(E) A health insuring corporation that provides basic health 31912
care services may use the phrase "health maintenance organization" 31913
or the abbreviation "HMO" in its marketing name, advertising, 31914
solicitation documents, or marketing literature, or in reference 31915
to the phrase "doing business as" or the abbreviation "DBA." 31916

(F) This section does not apply to the coverage of 31917
beneficiaries enrolled in medicare pursuant to a medicare risk 31918
contract or medicare cost contract, or to the coverage of 31919
beneficiaries enrolled in the federal employee health benefits 31920
program pursuant to 5 U.S.C.A. 8905, or to the coverage of 31921
medicaid recipients, ~~or to the coverage of participants of the~~ 31922
~~children's buy-in program,~~ or to the coverage of beneficiaries 31923
under any federal health care program regulated by a federal 31924
regulatory body, or to the coverage of beneficiaries under any 31925
contract covering officers or employees of the state that has been 31926

entered into by the department of administrative services. 31927

Sec. 1751.31. (A) Any changes in a health insuring 31928
corporation's solicitation document shall be filed with the 31929
superintendent of insurance. The superintendent, within sixty days 31930
of filing, may disapprove any solicitation document or amendment 31931
to it on any of the grounds stated in this section. Such 31932
disapproval shall be effected by written notice to the health 31933
insuring corporation. The notice shall state the grounds for 31934
disapproval and shall be issued in accordance with Chapter 119. of 31935
the Revised Code. 31936

(B) The solicitation document shall contain all information 31937
necessary to enable a consumer to make an informed choice as to 31938
whether or not to enroll in the health insuring corporation. The 31939
information shall include a specific description of the health 31940
care services to be available and the approximate number and type 31941
of full-time equivalent medical practitioners. The information 31942
shall be presented in the solicitation document in a manner that 31943
is clear, concise, and intelligible to prospective applicants in 31944
the proposed service area. 31945

(C) Every potential applicant whose subscription to a health 31946
care plan is solicited shall receive, at or before the time of 31947
solicitation, a solicitation document approved by the 31948
superintendent. 31949

(D) Notwithstanding division (A) of this section, a health 31950
insuring corporation may use a solicitation document that the 31951
corporation uses in connection with policies for medicare 31952
beneficiaries pursuant to a medicare risk contract or medicare 31953
cost contract, or for policies for beneficiaries of the federal 31954
employees health benefits program pursuant to 5 U.S.C.A. 8905, or 31955
for policies for medicaid recipients, or for policies for 31956
beneficiaries of any other federal health care program regulated 31957

by a federal regulatory body, ~~or for policies for participants of~~ 31958
~~the children's buy in program,~~ or for policies for beneficiaries 31959
of contracts covering officers or employees of the state entered 31960
into by the department of administrative services, if both of the 31961
following apply: 31962

(1) The solicitation document has been approved by the United 31963
States department of health and human services, the United States 31964
office of personnel management, the department of job and family 31965
services, or the department of administrative services. 31966

(2) The solicitation document is filed with the 31967
superintendent of insurance prior to use and is accompanied by 31968
documentation of approval from the United States department of 31969
health and human services, the United States office of personnel 31970
management, the department of job and family services, or the 31971
department of administrative services. 31972

(E) No health insuring corporation, or its agents or 31973
representatives, shall use monetary or other valuable 31974
consideration, engage in misleading or deceptive practices, or 31975
make untrue, misleading, or deceptive representations to induce 31976
enrollment. Nothing in this division shall prohibit incentive 31977
forms of remuneration such as commission sales programs for the 31978
health insuring corporation's employees and agents. 31979

(F) Any person obligated for any part of a premium rate in 31980
connection with an enrollment agreement, in addition to any right 31981
otherwise available to revoke an offer, may cancel such agreement 31982
within seventy-two hours after having signed the agreement or 31983
offer to enroll. Cancellation occurs when written notice of the 31984
cancellation is given to the health insuring corporation or its 31985
agents or other representatives. A notice of cancellation mailed 31986
to the health insuring corporation shall be considered to have 31987
been filed on its postmark date. 31988

(G) Nothing in this section shall prohibit healthy lifestyle programs. 31989
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Sec. 1751.34. (A) Each health insuring corporation and each applicant for a certificate of authority under this chapter shall be subject to examination by the superintendent of insurance in accordance with section 3901.07 of the Revised Code. Section 3901.07 of the Revised Code shall govern every aspect of the examination, including the circumstances under and frequency with which it is conducted, the authority of the superintendent and any examiner or other person appointed by the superintendent, the liability for the assessment of expenses incurred in conducting the examination, and the remittance of the assessment to the superintendent's examination fund. 31991
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(B) The superintendent shall make an examination concerning the matters subject to the superintendent's consideration in section 1751.04 of the Revised Code as often as the superintendent considers it necessary for the protection of the interests of the people of this state. The expenses of such examinations shall be assessed against the health insuring corporation being examined in the manner in which expenses of examinations are assessed against an insurance company under section 3901.07 of the Revised Code. Nothing in this division requires the superintendent to make an examination of any of the following: 32002
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(1) A health insuring corporation that covers solely medicaid recipients; 32012
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(2) A health insuring corporation that covers solely medicare beneficiaries; 32014
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(3) A health insuring corporation that covers solely medicaid recipients and medicare beneficiaries; 32016
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~~(4) A health insuring corporation that covers solely~~ 32018

participants of the children's buy-in program;	32019
(5) A health insuring corporation that covers solely medicaid	32020
recipients and participants of the children's buy-in program;	32021
(6) A health insuring corporation that covers solely medicaid	32022
recipients, medicare beneficiaries, and participants of the	32023
children's buy-in program.	32024
(C) An examination, pursuant to section 3901.07 of the	32025
Revised Code, of an insurance company holding a certificate of	32026
authority under this chapter to organize and operate a health	32027
insuring corporation shall include an examination of the health	32028
insuring corporation pursuant to this section and the examination	32029
shall satisfy the requirements of divisions (A) and (B) of this	32030
section.	32031
(D) The superintendent may conduct market conduct	32032
examinations pursuant to section 3901.011 of the Revised Code of	32033
any health insuring corporation as often as the superintendent	32034
considers it necessary for the protection of the interests of	32035
subscribers and enrollees. The expenses of such market conduct	32036
examinations shall be assessed against the health insuring	32037
corporation being examined. All costs, assessments, or fines	32038
collected under this division shall be paid into the state	32039
treasury to the credit of the department of insurance operating	32040
fund.	32041
Sec. 1751.60. (A) Except as provided for in divisions (E) and	32042
(F) of this section, every provider or health care facility that	32043
contracts with a health insuring corporation to provide health	32044
care services to the health insuring corporation's enrollees or	32045
subscribers shall seek compensation for covered services solely	32046
from the health insuring corporation and not, under any	32047
circumstances, from the enrollees or subscribers, except for	32048
approved copayments and deductibles.	32049

(B) No subscriber or enrollee of a health insuring corporation is liable to any contracting provider or health care facility for the cost of any covered health care services, if the subscriber or enrollee has acted in accordance with the evidence of coverage.

(C) Except as provided for in divisions (E) and (F) of this section, every contract between a health insuring corporation and provider or health care facility shall contain a provision approved by the superintendent of insurance requiring the provider or health care facility to seek compensation solely from the health insuring corporation and not, under any circumstances, from the subscriber or enrollee, except for approved copayments and deductibles.

(D) Nothing in this section shall be construed as preventing a provider or health care facility from billing the enrollee or subscriber of a health insuring corporation for noncovered services.

(E) Upon application by a health insuring corporation and a provider or health care facility, the superintendent may waive the requirements of divisions (A) and (C) of this section when, in addition to the reserve requirements contained in section 1751.28 of the Revised Code, the health insuring corporation provides sufficient assurances to the superintendent that the provider or health care facility has been provided with financial guarantees. No waiver of the requirements of divisions (A) and (C) of this section is effective as to enrollees or subscribers for whom the health insuring corporation is compensated under a provider agreement or risk contract entered into pursuant to Chapter 5111. or 5115. of the Revised Code ~~or under the children's buy in program.~~

(F) The requirements of divisions (A) to (C) of this section apply only to health care services provided to an enrollee or

subscriber prior to the effective date of a termination of a 32082
contract between the health insuring corporation and the provider 32083
or health care facility. 32084

Sec. 1761.04. (A) The licensing and operation of a credit 32085
union share guaranty corporation is subject to the regulation of 32086
the superintendent of insurance pursuant to Chapters 3901., 3903., 32087
3905., 3925., 3927., 3929., 3937., 3941., and 3999. of the Revised 32088
Code to the extent such laws are otherwise applicable and are not 32089
in conflict with this chapter. 32090

(B) A credit union share guaranty corporation shall pay, by 32091
the fifteenth day of April of each year, to the superintendent of 32092
credit unions, an annual fee of one-half of one per cent of its 32093
guarantee fund as shown by the corporation's last annual financial 32094
report, but in no event shall such payment exceed ~~five~~ twenty-five 32095
thousand dollars in any calendar year. 32096

(C) In addition to the specific powers and duties given the 32097
superintendent of insurance and the superintendent of credit 32098
unions under this chapter, the superintendents may independently, 32099
pursuant to Chapter 119. of the Revised Code, adopt, amend, and 32100
rescind such rules as are necessary to implement the requirements 32101
of this chapter. 32102

Sec. 1776.83. (A) A limited liability partnership and a 32103
foreign limited liability partnership authorized to transact 32104
business in this state shall file a biennial report in the office 32105
of the secretary of state. The report shall contain all of the 32106
following: 32107

(1) The name of the limited liability partnership and the 32108
state or other jurisdiction under whose laws the foreign limited 32109
liability partnership is formed; 32110

(2) The street address of the partnership's chief executive 32111

office and, if the partnership's chief executive office is not in 32112
this state, the street address of any office of the partnership in 32113
this state; 32114

(3) If the partnership does not have an office in this state, 32115
the name and street address of the partnership's current agent for 32116
service of process. 32117

(B) A partnership shall file a biennial report between the 32118
first day of April and the first day of July of each odd-numbered 32119
year that follows the calendar year in which the partnership files 32120
a statement of qualification or a foreign partnership becomes 32121
authorized to transact business in this state. 32122

(C) The secretary of state may revoke the statement of 32123
qualification of any partnership that fails to file a biennial 32124
report when due or pay the required filing fee. To revoke a 32125
statement, the secretary of state shall provide the partnership at 32126
least sixty days' written notice of the intent to revoke, mailed 32127
to the partnership at its chief executive office set forth in the 32128
last filed statement of qualification or biennial report or sent 32129
by electronic mail to the last electronic mail address provided to 32130
the secretary of state. The notice shall specify the report that 32131
the partnership failed to file, the unpaid fee, and the effective 32132
date of the revocation. The revocation is not effective if the 32133
partnership files the report and pays the fee before the effective 32134
date of the revocation. 32135

(D) A revocation under division (C) of this section affects 32136
only a partnership's status as a limited liability partnership and 32137
is not an event of dissolution of the partnership. 32138

(E) A partnership whose statement of qualification is revoked 32139
may apply to the secretary of state for reinstatement within two 32140
years after the effective date of the revocation. The application 32141
for reinstatement shall state the name of the partnership, the 32142

effective date of the revocation, and that the ground for 32143
revocation either did not exist or has been corrected. 32144

(F) A reinstatement under division (E) of this section 32145
relates back to and takes effect as of the effective date of the 32146
revocation, and the partnership's status as a limited liability 32147
partnership continues as if the revocation had never occurred. 32148

Sec. 1785.06. A professional association, within thirty days 32149
after the thirtieth day of June in each even-numbered year, shall 32150
furnish a statement to the secretary of state showing the names 32151
and post-office addresses of all of the shareholders in the 32152
association and certifying that all of the shareholders are duly 32153
licensed, certificated, or otherwise legally authorized to render 32154
within this state the same professional service for which the 32155
association was organized or, in the case of a combination of 32156
professional services described in division (B) of section 1785.01 32157
of the Revised Code, to render within this state any of the 32158
applicable types of professional services for which the 32159
association was organized. This statement shall be made on a form 32160
that the secretary of state shall prescribe, shall be signed by an 32161
officer of the association, and shall be filed in the office of 32162
the secretary of state. 32163

If any professional association fails to file the biennial 32164
statement within the time required by this section, the secretary 32165
of state shall give notice of the failure by ~~certified~~ ordinary or 32166
electronic mail, ~~return receipt requested~~, to the last known 32167
physical or electronic address of the association or its agent. If 32168
the biennial statement is not filed within thirty days after the 32169
mailing of the notice, the secretary of state, upon the expiration 32170
of that period, shall cancel the association's articles of 32171
incorporation, give notice of the cancellation to the association 32172
by ordinary or electronic mail sent to the last known physical or 32173

electronic address of the association or its agent, and make a 32174
notation of the cancellation on the records of the secretary of 32175
state. 32176

A professional association whose articles have been canceled 32177
pursuant to this section may be reinstated by filing an 32178
application for reinstatement and the required biennial statement 32179
or statements and by paying the reinstatement fee specified in 32180
division (Q) of section 111.16 of the Revised Code. The rights, 32181
privileges, and franchises of a professional association whose 32182
articles have been reinstated are subject to section 1701.922 of 32183
the Revised Code. The secretary of state shall inform the tax 32184
commissioner of all cancellations and reinstatements under this 32185
section. 32186

Sec. 1901.18. (A) Except as otherwise provided in this 32187
division or section 1901.181 of the Revised Code, subject to the 32188
monetary jurisdiction of municipal courts as set forth in section 32189
1901.17 of the Revised Code, a municipal court has original 32190
jurisdiction within its territory in all of the following actions 32191
or proceedings and to perform all of the following functions: 32192

(1) In any civil action, of whatever nature or remedy, of 32193
which judges of county courts have jurisdiction; 32194

(2) In any action or proceeding at law for the recovery of 32195
money or personal property of which the court of common pleas has 32196
jurisdiction; 32197

(3) In any action at law based on contract, to determine, 32198
preserve, and enforce all legal and equitable rights involved in 32199
the contract, to decree an accounting, reformation, or 32200
cancellation of the contract, and to hear and determine all legal 32201
and equitable remedies necessary or proper for a complete 32202
determination of the rights of the parties to the contract; 32203

(4) In any action or proceeding for the sale of personal property under chattel mortgage, lien, encumbrance, or other charge, for the foreclosure and marshalling of liens on personal property of that nature, and for the rendering of personal judgment in the action or proceeding;	32204 32205 32206 32207 32208
(5) In any action or proceeding to enforce the collection of its own judgments or the judgments rendered by any court within the territory to which the municipal court has succeeded, and to subject the interest of a judgment debtor in personal property to satisfy judgments enforceable by the municipal court;	32209 32210 32211 32212 32213
(6) In any action or proceeding in the nature of interpleader;	32214 32215
(7) In any action of replevin;	32216
(8) In any action of forcible entry and detainer;	32217
(9) In any action concerning the issuance and enforcement of temporary protection orders pursuant to section 2919.26 of the Revised Code or protection orders pursuant to section 2903.213 of the Revised Code or the enforcement of protection orders issued by courts of another state, as defined in section 2919.27 of the Revised Code;	32218 32219 32220 32221 32222 32223
(10) If the municipal court has a housing or environmental division, in any action over which the division is given jurisdiction by section 1901.181 of the Revised Code, provided that, except as specified in division (B) of that section, no judge of the court other than the judge of the division shall hear or determine any action over which the division has jurisdiction;	32224 32225 32226 32227 32228 32229
(11) In any action brought pursuant to division (I) of section 3733.11 <u>4781.40</u> of the Revised Code, if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court;	32230 32231 32232 32233

(12) In any civil action as described in division (B)(1) of 32234
section 3767.41 of the Revised Code that relates to a public 32235
nuisance, and, to the extent any provision of this chapter 32236
conflicts or is inconsistent with a provision of that section, the 32237
provision of that section shall control in the civil action. 32238

(B) The Cleveland municipal court also shall have 32239
jurisdiction within its territory in all of the following actions 32240
or proceedings and to perform all of the following functions: 32241

(1) In all actions and proceedings for the sale of real 32242
property under lien of a judgment of the municipal court or a lien 32243
for machinery, material, or fuel furnished or labor performed, 32244
irrespective of amount, and, in those actions and proceedings, the 32245
court may proceed to foreclose and marshal all liens and all 32246
vested or contingent rights, to appoint a receiver, and to render 32247
personal judgment irrespective of amount in favor of any party. 32248

(2) In all actions for the foreclosure of a mortgage on real 32249
property given to secure the payment of money or the enforcement 32250
of a specific lien for money or other encumbrance or charge on 32251
real property, when the amount claimed by the plaintiff does not 32252
exceed fifteen thousand dollars and the real property is situated 32253
within the territory, and, in those actions, the court may proceed 32254
to foreclose all liens and all vested and contingent rights and 32255
may proceed to render judgments and make findings and orders 32256
between the parties in the same manner and to the same extent as 32257
in similar actions in the court of common pleas. 32258

(3) In all actions for the recovery of real property situated 32259
within the territory to the same extent as courts of common pleas 32260
have jurisdiction; 32261

(4) In all actions for injunction to prevent or terminate 32262
violations of the ordinances and regulations of the city of 32263
Cleveland enacted or promulgated under the police power of the 32264

city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 32265
Constitution, over which the court of common pleas has or may have 32266
jurisdiction, and, in those actions, the court may proceed to 32267
render judgments and make findings and orders in the same manner 32268
and to the same extent as in similar actions in the court of 32269
common pleas. 32270

Sec. 1909.11. A county court judge has jurisdiction in any 32271
action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 32272
of the Revised Code if the residential premises that are the 32273
subject of the action are located within the territorial 32274
jurisdiction of the judge's county court district. 32275

Sec. 1923.01. (A) As provided in this chapter, any judge of a 32276
county or municipal court or a court of common pleas, within the 32277
judge's proper area of jurisdiction, may inquire about persons who 32278
make unlawful and forcible entry into lands or tenements and 32279
detain them, and about persons who make a lawful and peaceable 32280
entry into lands or tenements and hold them unlawfully and by 32281
force. If, upon the inquiry, it is found that an unlawful and 32282
forcible entry has been made and the lands or tenements are 32283
detained, or that, after a lawful entry, lands or tenements are 32284
held unlawfully and by force, a judge shall cause the plaintiff in 32285
an action under this chapter to have restitution of the lands or 32286
tenements. 32287

(B) An action shall be brought under this chapter within two 32288
years after the cause of action accrues. 32289

(C) As used in this chapter: 32290

(1) "Tenant" means a person who is entitled under a rental 32291
agreement to the use or occupancy of premises, other than premises 32292
located in a manufactured home park, to the exclusion of others, 32293
except that as used in division (A)(6) of section 1923.02 and 32294

section 1923.051 of the Revised Code, "tenant" includes a 32295
manufactured home park resident. 32296

(2) "Landlord" means the owner, lessor, or sublessor of 32297
premises, or the agent or person the landlord authorizes to manage 32298
premises or to receive rent from a tenant under a rental 32299
agreement, except, if required by the facts of the action to which 32300
the term is applied, "landlord" means a park operator. 32301

(3) "Resident" has the same meaning as in section ~~3733.01~~ 32302
4781.01 of the Revised Code. 32303

(4) "Residential premises" has the same meaning as in section 32304
5321.01 of the Revised Code, except, if required by the facts of 32305
the action to which the term is applied, "residential premises" 32306
has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised 32307
Code. 32308

(5) "Rental agreement" means any agreement or lease, written 32309
or oral, that establishes or modifies the terms, conditions, 32310
rules, or other provisions concerning the use or occupancy of 32311
premises by one of the parties to the agreement or lease, except 32312
that "rental agreement," as used in division (A)(13) of section 32313
1923.02 of the Revised Code and where the context requires as used 32314
in this chapter, means a rental agreement as defined in division 32315
(D) of section 5322.01 of the Revised Code. 32316

(6) "Controlled substance" has the same meaning as in section 32317
3719.01 of the Revised Code. 32318

(7) "School premises" has the same meaning as in section 32319
2925.01 of the Revised Code. 32320

(8) "Sexually oriented offense" and "child-victim oriented 32321
offense" have the same meanings as in section 2950.01 of the 32322
Revised Code. 32323

(9) "Recreational vehicle" and "mobile home" have the same 32324

meanings as in section 4501.01 of the Revised Code. 32325

(10) "Manufactured home" has the same meaning as in section 32326
3781.06 of the Revised Code. 32327

(11) "Manufactured home park" has the same meaning as in 32328
section ~~3733.01~~ 4781.01 of the Revised Code and also means any 32329
tract of land upon which one or two manufactured or mobile homes 32330
used for habitation are parked, either free of charge or for 32331
revenue purposes, pursuant to rental agreements between the owners 32332
of the manufactured or mobile homes and the owner of the tract of 32333
land. 32334

(12) "Park operator" has the same meaning as in section 32335
~~3733.01~~ 4781.01 of the Revised Code and also means a landlord of 32336
premises upon which one or two manufactured or mobile homes used 32337
for habitation are parked, either free of charge or for revenue 32338
purposes, pursuant to rental agreements between the owners of the 32339
manufactured or mobile homes and a landlord who is not licensed as 32340
a manufactured home park operator pursuant to Chapter ~~3733.~~ 4781. 32341
of the Revised Code. 32342

(13) "Personal property" means tangible personal property 32343
other than a manufactured home, mobile home, or recreational 32344
vehicle that is the subject of an action under this chapter. 32345

(14) "Preschool or child day-care center premises" has the 32346
same meaning as in section 2950.034 of the Revised Code. 32347

Sec. 1923.02. (A) Proceedings under this chapter may be had 32348
as follows: 32349

(1) Against tenants or manufactured home park residents 32350
holding over their terms; 32351

(2) Against tenants or manufactured home park residents in 32352
possession under an oral tenancy, who are in default in the 32353
payment of rent as provided in division (B) of this section; 32354

(3) In sales of real estate, on executions, orders, or other 32355
judicial process, when the judgment debtor was in possession at 32356
the time of the rendition of the judgment or decree, by virtue of 32357
which the sale was made; 32358

(4) In sales by executors, administrators, or guardians, and 32359
on partition, when any of the parties to the complaint were in 32360
possession at the commencement of the action, after the sales, so 32361
made on execution or otherwise, have been examined by the proper 32362
court and adjudged legal; 32363

(5) When the defendant is an occupier of lands or tenements, 32364
without color of title, and the complainant has the right of 32365
possession to them; 32366

(6) In any other case of the unlawful and forcible detention 32367
of lands or tenements. For purposes of this division, in addition 32368
to any other type of unlawful and forcible detention of lands or 32369
tenements, such a detention may be determined to exist when both 32370
of the following apply: 32371

(a) A tenant fails to vacate residential premises within 32372
three days after both of the following occur: 32373

(i) The tenant's landlord has actual knowledge of or has 32374
reasonable cause to believe that the tenant, any person in the 32375
tenant's household, or any person on the premises with the consent 32376
of the tenant previously has or presently is engaged in a 32377
violation of Chapter 2925. or 3719. of the Revised Code, or of a 32378
municipal ordinance that is substantially similar to any section 32379
in either of those chapters, which involves a controlled substance 32380
and which occurred in, is occurring in, or otherwise was or is 32381
connected with the premises, whether or not the tenant or other 32382
person has been charged with, has pleaded guilty to or been 32383
convicted of, or has been determined to be a delinquent child for 32384
an act that, if committed by an adult, would be a violation as 32385

described in this division. For purposes of this division, a 32386
landlord has "actual knowledge of or has reasonable cause to 32387
believe" that a tenant, any person in the tenant's household, or 32388
any person on the premises with the consent of the tenant 32389
previously has or presently is engaged in a violation as described 32390
in this division if a search warrant was issued pursuant to 32391
Criminal Rule 41 or Chapter 2933. of the Revised Code; the 32392
affidavit presented to obtain the warrant named or described the 32393
tenant or person as the individual to be searched and particularly 32394
described the tenant's premises as the place to be searched, named 32395
or described one or more controlled substances to be searched for 32396
and seized, stated substantially the offense under Chapter 2925. 32397
or 3719. of the Revised Code or the substantially similar 32398
municipal ordinance that occurred in, is occurring in, or 32399
otherwise was or is connected with the tenant's premises, and 32400
states the factual basis for the affiant's belief that the 32401
controlled substances are located on the tenant's premises; the 32402
warrant was properly executed by a law enforcement officer and any 32403
controlled substance described in the affidavit was found by that 32404
officer during the search and seizure; and, subsequent to the 32405
search and seizure, the landlord was informed by that or another 32406
law enforcement officer of the fact that the tenant or person has 32407
or presently is engaged in a violation as described in this 32408
division and it occurred in, is occurring in, or otherwise was or 32409
is connected with the tenant's premises. 32410

(ii) The landlord gives the tenant the notice required by 32411
division (C) of section 5321.17 of the Revised Code. 32412

(b) The court determines, by a preponderance of the evidence, 32413
that the tenant, any person in the tenant's household, or any 32414
person on the premises with the consent of the tenant previously 32415
has or presently is engaged in a violation as described in 32416
division (A)(6)(a)(i) of this section. 32417

(7) In cases arising out of Chapter 5313. of the Revised Code. In those cases, the court has the authority to declare a forfeiture of the vendee's rights under a land installment contract and to grant any other claims arising out of the contract.

(8) Against tenants who have breached an obligation that is imposed by section 5321.05 of the Revised Code, other than the obligation specified in division (A)(9) of that section, and that materially affects health and safety. Prior to the commencement of an action under this division, notice shall be given to the tenant and compliance secured with section 5321.11 of the Revised Code.

(9) Against tenants who have breached an obligation imposed upon them by a written rental agreement;

(10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a park operator. Nothing in this division precludes the commencement of an action under division (A)(12) of this section when the additional circumstances described in that division apply.

(11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the ~~public health council~~ manufactured homes commission, or of applicable state and local health and safety codes and who have been notified of the violations in compliance with section ~~3733.13~~ 4781.45 of the Revised Code;

(12) Against a manufactured home park resident, or the estate of a manufactured home park resident, who as a result of death or otherwise has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of an action under this division and whose manufactured home or mobile home, or recreational vehicle that is parked in the manufactured

home park, has been left unoccupied for that thirty-day period, 32449
without notice to the park operator and without payment of rent 32450
due under the rental agreement with the park operator; 32451

(13) Against occupants of self-service storage facilities, as 32452
defined in division (A) of section 5322.01 of the Revised Code, 32453
who have breached the terms of a rental agreement or violated 32454
section 5322.04 of the Revised Code; 32455

(14) Against any resident or occupant who, pursuant to a 32456
rental agreement, resides in or occupies residential premises 32457
located within one thousand feet of any school premises or 32458
preschool or child day-care center premises and to whom both of 32459
the following apply: 32460

(a) The resident's or occupant's name appears on the state 32461
registry of sex offenders and child-victim offenders maintained 32462
under section 2950.13 of the Revised Code. 32463

(b) The state registry of sex offenders and child-victim 32464
offenders indicates that the resident or occupant was convicted of 32465
or pleaded guilty to a sexually oriented offense or a child-victim 32466
oriented offense in a criminal prosecution and was not sentenced 32467
to a serious youthful offender dispositional sentence for that 32468
offense. 32469

(15) Against any tenant who permits any person to occupy 32470
residential premises located within one thousand feet of any 32471
school premises or preschool or child day-care center premises if 32472
both of the following apply to the person: 32473

(a) The person's name appears on the state registry of sex 32474
offenders and child-victim offenders maintained under section 32475
2950.13 of the Revised Code. 32476

(b) The state registry of sex offenders and child-victim 32477
offenders indicates that the person was convicted of or pleaded 32478
guilty to a sexually oriented offense or a child-victim oriented 32479

offense in a criminal prosecution and was not sentenced to a 32480
serious youthful offender dispositional sentence for that offense. 32481

(B) If a tenant or manufactured home park resident holding 32482
under an oral tenancy is in default in the payment of rent, the 32483
tenant or resident forfeits the right of occupancy, and the 32484
landlord may, at the landlord's option, terminate the tenancy by 32485
notifying the tenant or resident, as provided in section 1923.04 32486
of the Revised Code, to leave the premises, for the restitution of 32487
which an action may then be brought under this chapter. 32488

(C)(1) If a tenant or any other person with the tenant's 32489
permission resides in or occupies residential premises that are 32490
located within one thousand feet of any school premises and is a 32491
resident or occupant of the type described in division (A)(14) of 32492
this section or a person of the type described in division (A)(15) 32493
of this section, the landlord for those residential premises, upon 32494
discovery that the tenant or other person is a resident, occupant, 32495
or person of that nature, may terminate the rental agreement or 32496
tenancy for those residential premises by notifying the tenant and 32497
all other occupants, as provided in section 1923.04 of the Revised 32498
Code, to leave the premises. 32499

(2) If a landlord is authorized to terminate a rental 32500
agreement or tenancy pursuant to division (C)(1) of this section 32501
but does not so terminate the rental agreement or tenancy, the 32502
landlord is not liable in a tort or other civil action in damages 32503
for any injury, death, or loss to person or property that 32504
allegedly result from that decision. 32505

(D) This chapter does not apply to a student tenant as 32506
defined by division (H) of section 5321.01 of the Revised Code 32507
when the college or university proceeds to terminate a rental 32508
agreement pursuant to section 5321.031 of the Revised Code. 32509

Sec. 1923.061. (A) Any defense in an action under this 32510

chapter may be asserted at trial. 32511

(B) In an action for possession of residential premises based 32512
upon nonpayment of the rent or in an action for rent when the 32513
tenant or manufactured home park resident is in possession, the 32514
tenant or resident may counterclaim for any amount ~~he~~ the tenant 32515
or resident may recover under the rental agreement or under 32516
Chapter ~~3733.~~ 4781. or 5321. of the Revised Code. In that event, 32517
the court from time to time may order the tenant or resident to 32518
pay into court all or part of the past due rent and rent becoming 32519
due during the pendency of the action. After trial and judgment, 32520
the party to whom a net judgment is owed shall be paid first from 32521
the money paid into court, and any balance shall be satisfied as 32522
any other judgment. If no rent remains due after application of 32523
this division, judgment shall be entered for the tenant or 32524
resident in the action for possession. If the tenant or resident 32525
has paid into court an amount greater than that necessary to 32526
satisfy a judgment obtained by the landlord, the balance shall be 32527
returned by the court to the tenant or resident. 32528

Sec. 1923.15. During any proceeding involving residential 32529
premises under this chapter, the court may order an appropriate 32530
governmental agency to inspect the residential premises. If the 32531
agency determines and the court finds conditions which constitute 32532
a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised 32533
Code, and if the premises have been vacated or are to be restored 32534
to the landlord, the court may issue an order forbidding the 32535
re-rental of the property until such conditions are corrected. If 32536
the agency determines and the court finds such conditions, and if 32537
the court finds that the tenant or manufactured home park resident 32538
may remain in possession, the court may order such conditions 32539
corrected. If such conditions have been caused by the tenant or 32540
resident, the court may award damages to the landlord equal to the 32541
reasonable cost of correcting such conditions. 32542

Sec. 2101.08. The probate judge may appoint a ~~stenographic~~ 32543
reporter and fix ~~his~~ the reporter's compensation in the manner 32544
provided for the court of common pleas in sections 2301.18 to 32545
2301.26, ~~inclusive,~~ of the Revised Code. 32546

Sec. 2105.09. (A) The county auditor, unless ~~he~~ the auditor 32547
acts pursuant to division (C) of this section, shall take 32548
possession of real property escheated to the state that is located 32549
in ~~his~~ the auditor's county and outside the incorporated area of a 32550
city. The auditor shall take possession in the name of the state 32551
and sell the property at public auction, at the county seat of the 32552
county, to the highest bidder, after having given thirty days' 32553
notice of the intended sale in a newspaper ~~published within of~~ 32554
general circulation in the county or as provided in section 7.16 32555
of the Revised Code. 32556

On the application of the auditor, the court of common pleas 32557
shall appoint three disinterested freeholders of the county to 32558
appraise the real property. The freeholders shall be governed by 32559
the same rule as appraisers in sheriffs' or administrators' sales. 32560
The auditor shall sell the property at not less than two thirds of 32561
its appraised value and may sell it for cash, or for one-third 32562
cash and the balance in equal annual payments, the deferred 32563
payments to be amply secured. Upon payment of the whole 32564
consideration, the auditor shall execute a deed to the purchaser, 32565
in the name and on behalf of the state. The proceeds of the sale 32566
shall be paid by the auditor to the county treasurer. 32567

If there is a regularly organized agricultural society within 32568
the county, the treasurer shall pay the greater of six hundred 32569
dollars or five per cent of the proceeds, in any case, to the 32570
society. The excess of the proceeds, or the whole thereof if there 32571
is no regularly organized agricultural society within the county, 32572
shall be distributed as follows: 32573

(1) Twenty-five per cent shall be paid equally to the townships of the county;

(2) Seventy per cent shall be paid into the state treasury to the credit of the agro Ohio fund created under section 901.04 of the Revised Code;

(3) Five per cent shall be credited to the county general fund for such lawful purposes as the board of county commissioners provides.

(B) The legislative authority of a city within which are lands escheated to the state, unless it acts pursuant to division (C) of this section, shall take possession of the lands for the city, and the title to the lands shall vest in the city. The city shall use the premises primarily for health, welfare, or recreational purposes, or may lease them at such prices and for such purposes as it considers proper. With the approval of the tax commissioner, the city may sell the lands or any undivided interest in the lands, in the same manner as is provided in the sale of land not needed for any municipal purposes; provided, that the net proceeds from the rent or sale of the premises shall be devoted to health, welfare, or recreational purposes.

(C) As an alternative to the procedure prescribed in divisions (A) and (B) of this section, the county auditor, or if the real property is located within the incorporated area of a city, the legislative authority of that city by an affirmative vote of at least a majority of its members, may request the probate court to direct the administrator or executor of the estate that contains the escheated property to commence an action in the probate court for authority to sell the real property in the manner provided in Chapter 2127. of the Revised Code. The proceeds from the sale of real property that is located outside the incorporated area of a city shall be distributed by the court in the same manner as the proceeds are distributed under division

(A) of this section. The proceeds from the sale of real property 32606
that is located within the incorporated area of a city shall be 32607
distributed by the court in the same manner as the proceeds are 32608
distributed under division (B) of this section. 32609

Sec. 2151.011. (A) As used in the Revised Code: 32610

(1) "Juvenile court" means whichever of the following is 32611
applicable that has jurisdiction under this chapter and Chapter 32612
2152. of the Revised Code: 32613

(a) The division of the court of common pleas specified in 32614
section 2101.022 or 2301.03 of the Revised Code as having 32615
jurisdiction under this chapter and Chapter 2152. of the Revised 32616
Code or as being the juvenile division or the juvenile division 32617
combined with one or more other divisions; 32618

(b) The juvenile court of Cuyahoga county or Hamilton county 32619
that is separately and independently created by section 2151.08 or 32620
Chapter 2153. of the Revised Code and that has jurisdiction under 32621
this chapter and Chapter 2152. of the Revised Code; 32622

(c) If division (A)(1)(a) or (b) of this section does not 32623
apply, the probate division of the court of common pleas. 32624

(2) "Juvenile judge" means a judge of a court having 32625
jurisdiction under this chapter. 32626

(3) "Private child placing agency" means any association, as 32627
defined in section 5103.02 of the Revised Code, that is certified 32628
under section 5103.03 of the Revised Code to accept temporary, 32629
permanent, or legal custody of children and place the children for 32630
either foster care or adoption. 32631

(4) "Private noncustodial agency" means any person, 32632
organization, association, or society certified by the department 32633
of job and family services that does not accept temporary or 32634
permanent legal custody of children, that is privately operated in 32635

this state, and that does one or more of the following:	32636
(a) Receives and cares for children for two or more consecutive weeks;	32637 32638
(b) Participates in the placement of children in certified foster homes;	32639 32640
(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.	32641 32642
(B) As used in this chapter:	32643
(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.	32644 32645 32646 32647 32648 32649
(2) "Adult" means an individual who is eighteen years of age or older.	32650 32651
(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.	32652 32653 32654 32655
(4) <u>"Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.</u>	32656 32657 32658 32659 32660 32661
(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.	32662 32663 32664
(5) (6) "Child" means a person who is under eighteen years of	32665

age, except that the juvenile court has jurisdiction over any 32666
person who is adjudicated an unruly child prior to attaining 32667
eighteen years of age until the person attains twenty-one years of 32668
age, and, for purposes of that jurisdiction related to that 32669
adjudication, a person who is so adjudicated an unruly child shall 32670
be deemed a "child" until the person attains twenty-one years of 32671
age. 32672

~~(6)~~(7) "Child day camp," "child care," "child day-care 32673
center," "part-time child day-care center," "type A family 32674
day-care home," "certified type B family day-care home," "type B 32675
home," "administrator of a child day-care center," "administrator 32676
of a type A family day-care home," "in-home aide," and "authorized 32677
provider" have the same meanings as in section 5104.01 of the 32678
Revised Code. 32679

~~(7)~~(8) "Child care provider" means an individual who is a 32680
child-care staff member or administrator of a child day-care 32681
center, a type A family day-care home, or a type B family day-care 32682
home, or an in-home aide or an individual who is licensed, is 32683
regulated, is approved, operates under the direction of, or 32684
otherwise is certified by the department of job and family 32685
services, department of developmental disabilities, or the early 32686
childhood programs of the department of education. 32687

~~(8)~~(9) "Chronic truant" has the same meaning as in section 32688
2152.02 of the Revised Code. 32689

~~(9)~~(10) "Commit" means to vest custody as ordered by the 32690
court. 32691

~~(10)~~(11) "Counseling" includes both of the following: 32692

(a) General counseling services performed by a public 32693
children services agency or shelter for victims of domestic 32694
violence to assist a child, a child's parents, and a child's 32695
siblings in alleviating identified problems that may cause or have 32696

caused the child to be an abused, neglected, or dependent child. 32697

(b) Psychiatric or psychological therapeutic counseling 32698
services provided to correct or alleviate any mental or emotional 32699
illness or disorder and performed by a licensed psychiatrist, 32700
licensed psychologist, or a person licensed under Chapter 4757. of 32701
the Revised Code to engage in social work or professional 32702
counseling. 32703

~~(11)~~(12) "Custodian" means a person who has legal custody of 32704
a child or a public children services agency or private child 32705
placing agency that has permanent, temporary, or legal custody of 32706
a child. 32707

~~(12)~~(13) "Delinquent child" has the same meaning as in 32708
section 2152.02 of the Revised Code. 32709

~~(13)~~(14) "Detention" means the temporary care of children 32710
pending court adjudication or disposition, or execution of a court 32711
order, in a public or private facility designed to physically 32712
restrict the movement and activities of children. 32713

~~(14)~~(15) "Developmental disability" has the same meaning as 32714
in section 5123.01 of the Revised Code. 32715

~~(15)~~(16) "Differential response approach" means an approach 32716
that a public children services agency may use to respond to 32717
accepted reports of child abuse or neglect with either an 32718
alternative response or a traditional response. 32719

(17) "Foster caregiver" has the same meaning as in section 32720
5103.02 of the Revised Code. 32721

~~(16)~~(18) "Guardian" means a person, association, or 32722
corporation that is granted authority by a probate court pursuant 32723
to Chapter 2111. of the Revised Code to exercise parental rights 32724
over a child to the extent provided in the court's order and 32725
subject to the residual parental rights of the child's parents. 32726

~~(17)~~(19) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

~~(18)~~(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

~~(19)~~(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

~~(20)~~(22) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

~~(21)~~(23) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in

section 5122.01 of the Revised Code. 32758

~~(22)~~(24) "Mental injury" means any behavioral, cognitive, 32759
emotional, or mental disorder in a child caused by an act or 32760
omission that is described in section 2919.22 of the Revised Code 32761
and is committed by the parent or other person responsible for the 32762
child's care. 32763

~~(23)~~(25) "Mentally retarded person" has the same meaning as 32764
in section 5123.01 of the Revised Code. 32765

~~(24)~~(26) "Nonsecure care, supervision, or training" means 32766
care, supervision, or training of a child in a facility that does 32767
not confine or prevent movement of the child within the facility 32768
or from the facility. 32769

~~(25)~~(27) "Of compulsory school age" has the same meaning as 32770
in section 3321.01 of the Revised Code. 32771

~~(26)~~(28) "Organization" means any institution, public, 32772
semipublic, or private, and any private association, society, or 32773
agency located or operating in the state, incorporated or 32774
unincorporated, having among its functions the furnishing of 32775
protective services or care for children, or the placement of 32776
children in certified foster homes or elsewhere. 32777

~~(27)~~(29) "Out-of-home care" means detention facilities, 32778
shelter facilities, certified children's crisis care facilities, 32779
certified foster homes, placement in a prospective adoptive home 32780
prior to the issuance of a final decree of adoption, 32781
organizations, certified organizations, child day-care centers, 32782
type A family day-care homes, child care provided by type B family 32783
day-care home providers and by in-home aides, group home 32784
providers, group homes, institutions, state institutions, 32785
residential facilities, residential care facilities, residential 32786
camps, day camps, public schools, chartered nonpublic schools, 32787
educational service centers, hospitals, and medical clinics that 32788

are responsible for the care, physical custody, or control of 32789
children. 32790

~~(28)~~(30) "Out-of-home care child abuse" means any of the 32791
following when committed by a person responsible for the care of a 32792
child in out-of-home care: 32793

(a) Engaging in sexual activity with a child in the person's 32794
care; 32795

(b) Denial to a child, as a means of punishment, of proper or 32796
necessary subsistence, education, medical care, or other care 32797
necessary for a child's health; 32798

(c) Use of restraint procedures on a child that cause injury 32799
or pain; 32800

(d) Administration of prescription drugs or psychotropic 32801
medication to the child without the written approval and ongoing 32802
supervision of a licensed physician; 32803

(e) Commission of any act, other than by accidental means, 32804
that results in any injury to or death of the child in out-of-home 32805
care or commission of any act by accidental means that results in 32806
an injury to or death of a child in out-of-home care and that is 32807
at variance with the history given of the injury or death. 32808

~~(29)~~(31) "Out-of-home care child neglect" means any of the 32809
following when committed by a person responsible for the care of a 32810
child in out-of-home care: 32811

(a) Failure to provide reasonable supervision according to 32812
the standards of care appropriate to the age, mental and physical 32813
condition, or other special needs of the child; 32814

(b) Failure to provide reasonable supervision according to 32815
the standards of care appropriate to the age, mental and physical 32816
condition, or other special needs of the child, that results in 32817
sexual or physical abuse of the child by any person; 32818

(c) Failure to develop a process for all of the following:	32819
(i) Administration of prescription drugs or psychotropic drugs for the child;	32820 32821
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	32822 32823
(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.	32824 32825 32826
(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;	32827 32828 32829
(e) Confinement of the child to a locked room without monitoring by staff;	32830 32831
(f) Failure to provide ongoing security for all prescription and nonprescription medication;	32832 32833
(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.	32834 32835 32836
(30) <u>(32)</u> "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.	32837 32838 32839 32840 32841 32842
(31) <u>(33)</u> "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.	32843 32844 32845 32846 32847
(32) <u>(34)</u> "Person" means an individual, association,	32848

corporation, or partnership and the state or any of its political subdivisions, departments, or agencies. 32849
32850

~~(33)~~(35) "Person responsible for a child's care in out-of-home care" means any of the following: 32851
32852

(a) Any foster caregiver, in-home aide, or provider; 32853

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic; 32854
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(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school; 32863
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(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children. 32866
32867

~~(34)~~(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction: 32868
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(a) A substantial impairment of vision, speech, or hearing; 32873

(b) A congenital orthopedic impairment; 32874

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause. 32875
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~~(35)~~(37) "Placement for adoption" means the arrangement by a 32878

public children services agency or a private child placing agency 32879
with a person for the care and adoption by that person of a child 32880
of whom the agency has permanent custody. 32881

~~(36)~~(38) "Placement in foster care" means the arrangement by 32882
a public children services agency or a private child placing 32883
agency for the out-of-home care of a child of whom the agency has 32884
temporary custody or permanent custody. 32885

~~(37)~~(39) "Planned permanent living arrangement" means an 32886
order of a juvenile court pursuant to which both of the following 32887
apply: 32888

(a) The court gives legal custody of a child to a public 32889
children services agency or a private child placing agency without 32890
the termination of parental rights. 32891

(b) The order permits the agency to make an appropriate 32892
placement of the child and to enter into a written agreement with 32893
a foster care provider or with another person or agency with whom 32894
the child is placed. 32895

~~(38)~~(40) "Practice of social work" and "practice of 32896
professional counseling" have the same meanings as in section 32897
4757.01 of the Revised Code. 32898

~~(39)~~(41) "Sanction, service, or condition" means a sanction, 32899
service, or condition created by court order following an 32900
adjudication that a child is an unruly child that is described in 32901
division (A)(4) of section 2152.19 of the Revised Code. 32902

~~(40)~~(42) "Protective supervision" means an order of 32903
disposition pursuant to which the court permits an abused, 32904
neglected, dependent, or unruly child to remain in the custody of 32905
the child's parents, guardian, or custodian and stay in the 32906
child's home, subject to any conditions and limitations upon the 32907
child, the child's parents, guardian, or custodian, or any other 32908
person that the court prescribes, including supervision as 32909

directed by the court for the protection of the child. 32910

~~(41)~~(43) "Psychiatrist" has the same meaning as in section 32911
5122.01 of the Revised Code. 32912

~~(42)~~(44) "Psychologist" has the same meaning as in section 32913
4732.01 of the Revised Code. 32914

~~(43)~~(45) "Residential camp" means a program in which the 32915
care, physical custody, or control of children is accepted 32916
overnight for recreational or recreational and educational 32917
purposes. 32918

~~(44)~~(46) "Residential care facility" means an institution, 32919
residence, or facility that is licensed by the department of 32920
mental health under section 5119.22 of the Revised Code and that 32921
provides care for a child. 32922

~~(45)~~(47) "Residential facility" means a home or facility that 32923
is licensed by the department of developmental disabilities under 32924
section 5123.19 of the Revised Code and in which a child with a 32925
developmental disability resides. 32926

~~(46)~~(48) "Residual parental rights, privileges, and 32927
responsibilities" means those rights, privileges, and 32928
responsibilities remaining with the natural parent after the 32929
transfer of legal custody of the child, including, but not 32930
necessarily limited to, the privilege of reasonable visitation, 32931
consent to adoption, the privilege to determine the child's 32932
religious affiliation, and the responsibility for support. 32933

~~(47)~~(49) "School day" means the school day established by the 32934
state board of education pursuant to section 3313.48 of the 32935
Revised Code. 32936

~~(48)~~(50) "School month" and "school year" have the same 32937
meanings as in section 3313.62 of the Revised Code. 32938

~~(49)~~(51) "Secure correctional facility" means a facility 32939

under the direction of the department of youth services that is 32940
designed to physically restrict the movement and activities of 32941
children and used for the placement of children after adjudication 32942
and disposition. 32943

~~(50)~~(52) "Sexual activity" has the same meaning as in section 32944
2907.01 of the Revised Code. 32945

~~(51)~~(53) "Shelter" means the temporary care of children in 32946
physically unrestricted facilities pending court adjudication or 32947
disposition. 32948

~~(52)~~(54) "Shelter for victims of domestic violence" has the 32949
same meaning as in section 3113.33 of the Revised Code. 32950

~~(53)~~(55) "Temporary custody" means legal custody of a child 32951
who is removed from the child's home, which custody may be 32952
terminated at any time at the discretion of the court or, if the 32953
legal custody is granted in an agreement for temporary custody, by 32954
the person who executed the agreement. 32955

(56) "Traditional response" means a public children services 32956
agency's response to a report of child abuse or neglect that 32957
encourages engagement of the family in a comprehensive evaluation 32958
of the child's current and future safety needs and a fact-finding 32959
process to determine whether child abuse or neglect occurred and 32960
the circumstances surrounding the alleged harm or risk of harm. 32961

(C) For the purposes of this chapter, a child shall be 32962
presumed abandoned when the parents of the child have failed to 32963
visit or maintain contact with the child for more than ninety 32964
days, regardless of whether the parents resume contact with the 32965
child after that period of ninety days. 32966

Sec. 2151.312. (A) A child alleged to be or adjudicated an 32967
unruly child may be held only in the following places: 32968

(1) A certified family foster home or a home approved by the 32969

court;	32970
(2) A facility operated by a certified child welfare agency;	32971
(3) Any other suitable place designated by the court.	32972
(B)(1) Except as provided under division (C)(1) of section	32973
2151.311 of the Revised Code, a child alleged to be or adjudicated	32974
a neglected child, an abused child, a dependent child, or an	32975
unruly child may not be held in any of the following facilities:	32976
(a) A state correctional institution, county, multicounty, or	32977
municipal jail or workhouse, or other place in which an adult	32978
convicted of a crime, under arrest, or charged with a crime is	32979
held;	32980
(b) A secure correctional facility.	32981
(2) Except as provided under sections 2151.26 <u>2151.27</u> to	32982
2151.61 <u>2151.59</u> of the Revised Code and division (B)(3) of this	32983
section <u>and except when a case is transferred under section</u>	32984
<u>2152.12 of the Revised Code</u> , a child alleged to be or adjudicated	32985
an unruly child may not be held for more than twenty-four hours in	32986
a detention facility. A child alleged to be or adjudicated a	32987
neglected child, an abused child, or a dependent child shall not	32988
be held in a detention facility.	32989
(3) A child who is alleged to be or adjudicated an unruly	32990
child and who is taken into custody on a Saturday, Sunday, or	32991
legal holiday, as listed in section 1.14 of the Revised Code, may	32992
be held in a detention facility until the next succeeding day that	32993
is not a Saturday, Sunday, or legal holiday.	32994
Sec. 2151.354. (A) If the child is adjudicated an unruly	32995
child, the court may:	32996
(1) Make any of the dispositions authorized under section	32997
2151.353 of the Revised Code;	32998

(2) Place the child on community control under any sanctions, 32999
services, and conditions that the court prescribes, as described 33000
in division (A)(4) of section 2152.19 of the Revised Code, 33001
provided that, if the court imposes a period of community service 33002
upon the child, the period of community service shall not exceed 33003
one hundred seventy-five hours; 33004

(3) Suspend the driver's license, probationary driver's 33005
license, or temporary instruction permit issued to the child for a 33006
period of time prescribed by the court and suspend the 33007
registration of all motor vehicles registered in the name of the 33008
child for a period of time prescribed by the court. A child whose 33009
license or permit is so suspended is ineligible for issuance of a 33010
license or permit during the period of suspension. At the end of 33011
the period of suspension, the child shall not be reissued a 33012
license or permit until the child has paid any applicable 33013
reinstatement fee and complied with all requirements governing 33014
license reinstatement. 33015

(4) Commit the child to the temporary or permanent custody of 33016
the court; 33017

(5) Make any further disposition the court finds proper that 33018
is consistent with sections 2151.312 and 2151.56 to ~~2151.61~~ 33019
2151.59 of the Revised Code; 33020

(6) If, after making a disposition under division (A)(1), 33021
(2), or (3) of this section, the court finds upon further hearing 33022
that the child is not amenable to treatment or rehabilitation 33023
under that disposition, make a disposition otherwise authorized 33024
under divisions (A)(1), (4), (5), and (8) of section 2152.19 of 33025
the Revised Code that is consistent with sections 2151.312 and 33026
2151.56 to ~~2151.61~~ 2151.59 of the Revised Code. 33027

(B) If a child is adjudicated an unruly child for committing 33028
any act that, if committed by an adult, would be a drug abuse 33029

offense, as defined in section 2925.01 of the Revised Code, or a 33030
violation of division (B) of section 2917.11 of the Revised Code, 33031
in addition to imposing, in its discretion, any other order of 33032
disposition authorized by this section, the court shall do both of 33033
the following: 33034

(1) Require the child to participate in a drug abuse or 33035
alcohol abuse counseling program; 33036

(2) Suspend the temporary instruction permit, probationary 33037
driver's license, or driver's license issued to the child for a 33038
period of time prescribed by the court. The court, in its 33039
discretion, may terminate the suspension if the child attends and 33040
satisfactorily completes a drug abuse or alcohol abuse education, 33041
intervention, or treatment program specified by the court. During 33042
the time the child is attending a program as described in this 33043
division, the court shall retain the child's temporary instruction 33044
permit, probationary driver's license, or driver's license, and 33045
the court shall return the permit or license if it terminates the 33046
suspension. 33047

(C)(1) If a child is adjudicated an unruly child for being an 33048
habitual truant, in addition to or in lieu of imposing any other 33049
order of disposition authorized by this section, the court may do 33050
any of the following: 33051

(a) Order the board of education of the child's school 33052
district or the governing board of the educational service center 33053
in the child's school district to require the child to attend an 33054
alternative school if an alternative school has been established 33055
pursuant to section 3313.533 of the Revised Code in the school 33056
district in which the child is entitled to attend school; 33057

(b) Require the child to participate in any academic program 33058
or community service program; 33059

(c) Require the child to participate in a drug abuse or 33060

alcohol abuse counseling program; 33061

(d) Require that the child receive appropriate medical or 33062
psychological treatment or counseling; 33063

(e) Make any other order that the court finds proper to 33064
address the child's habitual truancy, including an order requiring 33065
the child to not be absent without legitimate excuse from the 33066
public school the child is supposed to attend for five or more 33067
consecutive days, seven or more school days in one school month, 33068
or twelve or more school days in a school year and including an 33069
order requiring the child to participate in a truancy prevention 33070
mediation program. 33071

(2) If a child is adjudicated an unruly child for being an 33072
habitual truant and the court determines that the parent, 33073
guardian, or other person having care of the child has failed to 33074
cause the child's attendance at school in violation of section 33075
3321.38 of the Revised Code, in addition to any order of 33076
disposition authorized by this section, all of the following 33077
apply: 33078

(a) The court may require the parent, guardian, or other 33079
person having care of the child to participate in any community 33080
service program, preferably a community service program that 33081
requires the involvement of the parent, guardian, or other person 33082
having care of the child in the school attended by the child. 33083

(b) The court may require the parent, guardian, or other 33084
person having care of the child to participate in a truancy 33085
prevention mediation program. 33086

(c) The court shall warn the parent, guardian, or other 33087
person having care of the child that any subsequent adjudication 33088
of the child as an unruly or delinquent child for being an 33089
habitual or chronic truant may result in a criminal charge against 33090
the parent, guardian, or other person having care of the child for 33091

a violation of division (C) of section 2919.21 or section 2919.24 33092
of the Revised Code. 33093

Sec. 2151.412. (A) Each public children services agency and 33094
private child placing agency shall prepare and maintain a case 33095
plan for any child to whom the agency is providing services and to 33096
whom any of the following applies: 33097

(1) The agency filed a complaint pursuant to section 2151.27 33098
of the Revised Code alleging that the child is an abused, 33099
neglected, or dependent child; 33100

(2) The agency has temporary or permanent custody of the 33101
child; 33102

(3) The child is living at home subject to an order for 33103
protective supervision; 33104

(4) The child is in a planned permanent living arrangement. 33105

Except as provided by division (A)(2) of section 5103.153 of 33106
the Revised Code, a private child placing agency providing 33107
services to a child who is the subject of a voluntary permanent 33108
custody surrender agreement entered into under division (B)(2) of 33109
section 5103.15 of the Revised Code is not required to prepare and 33110
maintain a case plan for that child. 33111

(B) Each public children services agency shall prepare and 33112
maintain a case plan or a family service plan for any child for 33113
whom the agency is providing in-home services pursuant to an 33114
alternative response. 33115

(C)(1) The director of job and family services shall adopt 33116
rules pursuant to Chapter 119. of the Revised Code setting forth 33117
the content and format of case plans required by division (A) of 33118
this section and establishing procedures for developing, 33119
implementing, and changing the case plans. The rules shall at a 33120
minimum comply with the requirements of Title IV-E of the "Social 33121

Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended. 33122

(2) The director of job and family services shall adopt rules 33123
pursuant to Chapter 119. of the Revised Code requiring public 33124
children services agencies and private child placing agencies to 33125
maintain case plans for children and their families who are 33126
receiving services in their homes from the agencies and for whom 33127
case plans are not required by division (A) of this section. The 33128
rules for public children services agencies shall include the 33129
requirements for case plans or family service plans maintained for 33130
children and their families who are receiving services in their 33131
homes from public children services agencies pursuant to an 33132
alternative response. The agencies shall maintain case plans and 33133
family service plans as required by those rules; however, the case 33134
plans and family service plans shall not be subject to any other 33135
provision of this section except as specifically required by the 33136
rules. 33137

~~(C)~~(D) Each public children services agency and private child 33138
placing agency that is required by division (A) of this section to 33139
maintain a case plan shall file the case plan with the court prior 33140
to the child's adjudicatory hearing but no later than thirty days 33141
after the earlier of the date on which the complaint in the case 33142
was filed or the child was first placed into shelter care. If the 33143
agency does not have sufficient information prior to the 33144
adjudicatory hearing to complete any part of the case plan, the 33145
agency shall specify in the case plan the additional information 33146
necessary to complete each part of the case plan and the steps 33147
that will be taken to obtain that information. All parts of the 33148
case plan shall be completed by the earlier of thirty days after 33149
the adjudicatory hearing or the date of the dispositional hearing 33150
for the child. 33151

~~(D)~~(E) Any agency that is required by division (A) of this 33152
section to prepare a case plan shall attempt to obtain an 33153

agreement among all parties, including, but not limited to, the 33154
parents, guardian, or custodian of the child and the guardian ad 33155
litem of the child regarding the content of the case plan. If all 33156
parties agree to the content of the case plan and the court 33157
approves it, the court shall journalize it as part of its 33158
dispositional order. If the agency cannot obtain an agreement upon 33159
the contents of the case plan or the court does not approve it, 33160
the parties shall present evidence on the contents of the case 33161
plan at the dispositional hearing. The court, based upon the 33162
evidence presented at the dispositional hearing and the best 33163
interest of the child, shall determine the contents of the case 33164
plan and journalize it as part of the dispositional order for the 33165
child. 33166

~~(E)~~(F)(1) All parties, including the parents, guardian, or 33167
custodian of the child, are bound by the terms of the journalized 33168
case plan. A party that fails to comply with the terms of the 33169
journalized case plan may be held in contempt of court. 33170

(2) Any party may propose a change to a substantive part of 33171
the case plan, including, but not limited to, the child's 33172
placement and the visitation rights of any party. A party 33173
proposing a change to the case plan shall file the proposed change 33174
with the court and give notice of the proposed change in writing 33175
before the end of the day after the day of filing it to all 33176
parties and the child's guardian ad litem. All parties and the 33177
guardian ad litem shall have seven days from the date the notice 33178
is sent to object to and request a hearing on the proposed change. 33179

(a) If it receives a timely request for a hearing, the court 33180
shall schedule a hearing pursuant to section 2151.417 of the 33181
Revised Code to be held no later than thirty days after the 33182
request is received by the court. The court shall give notice of 33183
the date, time, and location of the hearing to all parties and the 33184
guardian ad litem. The agency may implement the proposed change 33185

after the hearing, if the court approves it. The agency shall not 33186
implement the proposed change unless it is approved by the court. 33187

(b) If it does not receive a timely request for a hearing, 33188
the court may approve the proposed change without a hearing. If 33189
the court approves the proposed change without a hearing, it shall 33190
journalize the case plan with the change not later than fourteen 33191
days after the change is filed with the court. If the court does 33192
not approve the proposed change to the case plan, it shall 33193
schedule a hearing to be held pursuant to section 2151.417 of the 33194
Revised Code no later than thirty days after the expiration of the 33195
fourteen-day time period and give notice of the date, time, and 33196
location of the hearing to all parties and the guardian ad litem 33197
of the child. If, despite the requirements of division ~~(E)~~(F)(2) 33198
of this section, the court neither approves and journalizes the 33199
proposed change nor conducts a hearing, the agency may implement 33200
the proposed change not earlier than fifteen days after it is 33201
submitted to the court. 33202

(3) If an agency has reasonable cause to believe that a child 33203
is suffering from illness or injury and is not receiving proper 33204
care and that an appropriate change in the child's case plan is 33205
necessary to prevent immediate or threatened physical or emotional 33206
harm, to believe that a child is in immediate danger from the 33207
child's surroundings and that an immediate change in the child's 33208
case plan is necessary to prevent immediate or threatened physical 33209
or emotional harm to the child, or to believe that a parent, 33210
guardian, custodian, or other member of the child's household has 33211
abused or neglected the child and that the child is in danger of 33212
immediate or threatened physical or emotional harm from that 33213
person unless the agency makes an appropriate change in the 33214
child's case plan, it may implement the change without prior 33215
agreement or a court hearing and, before the end of the next day 33216
after the change is made, give all parties, the guardian ad litem 33217

of the child, and the court notice of the change. Before the end 33218
of the third day after implementing the change in the case plan, 33219
the agency shall file a statement of the change with the court and 33220
give notice of the filing accompanied by a copy of the statement 33221
to all parties and the guardian ad litem. All parties and the 33222
guardian ad litem shall have ten days from the date the notice is 33223
sent to object to and request a hearing on the change. 33224

(a) If it receives a timely request for a hearing, the court 33225
shall schedule a hearing pursuant to section 2151.417 of the 33226
Revised Code to be held no later than thirty days after the 33227
request is received by the court. The court shall give notice of 33228
the date, time, and location of the hearing to all parties and the 33229
guardian ad litem. The agency shall continue to administer the 33230
case plan with the change after the hearing, if the court approves 33231
the change. If the court does not approve the change, the court 33232
shall make appropriate changes to the case plan and shall 33233
journalize the case plan. 33234

(b) If it does not receive a timely request for a hearing, 33235
the court may approve the change without a hearing. If the court 33236
approves the change without a hearing, it shall journalize the 33237
case plan with the change within fourteen days after receipt of 33238
the change. If the court does not approve the change to the case 33239
plan, it shall schedule a hearing under section 2151.417 of the 33240
Revised Code to be held no later than thirty days after the 33241
expiration of the fourteen-day time period and give notice of the 33242
date, time, and location of the hearing to all parties and the 33243
guardian ad litem of the child. 33244

~~(F)~~(G)(1) All case plans for children in temporary custody 33245
shall have the following general goals: 33246

(a) Consistent with the best interest and special needs of 33247
the child, to achieve a safe out-of-home placement in the least 33248
restrictive, most family-like setting available and in close 33249

proximity to the home from which the child was removed or the home 33250
in which the child will be permanently placed; 33251

(b) To eliminate with all due speed the need for the 33252
out-of-home placement so that the child can safely return home. 33253

(2) The director of job and family services shall adopt rules 33254
pursuant to Chapter 119. of the Revised Code setting forth the 33255
general goals of case plans for children subject to dispositional 33256
orders for protective supervision, a planned permanent living 33257
arrangement, or permanent custody. 33258

~~(G)~~(H) In the agency's development of a case plan and the 33259
court's review of the case plan, the child's health and safety 33260
shall be the paramount concern. The agency and the court shall be 33261
guided by the following general priorities: 33262

(1) A child who is residing with or can be placed with the 33263
child's parents within a reasonable time should remain in their 33264
legal custody even if an order of protective supervision is 33265
required for a reasonable period of time; 33266

(2) If both parents of the child have abandoned the child, 33267
have relinquished custody of the child, have become incapable of 33268
supporting or caring for the child even with reasonable 33269
assistance, or have a detrimental effect on the health, safety, 33270
and best interest of the child, the child should be placed in the 33271
legal custody of a suitable member of the child's extended family; 33272

(3) If a child described in division ~~(G)~~(H)(2) of this 33273
section has no suitable member of the child's extended family to 33274
accept legal custody, the child should be placed in the legal 33275
custody of a suitable nonrelative who shall be made a party to the 33276
proceedings after being given legal custody of the child; 33277

(4) If the child has no suitable member of the child's 33278
extended family to accept legal custody of the child and no 33279
suitable nonrelative is available to accept legal custody of the 33280

child and, if the child temporarily cannot or should not be placed 33281
with the child's parents, guardian, or custodian, the child should 33282
be placed in the temporary custody of a public children services 33283
agency or a private child placing agency; 33284

(5) If the child cannot be placed with either of the child's 33285
parents within a reasonable period of time or should not be placed 33286
with either, if no suitable member of the child's extended family 33287
or suitable nonrelative is available to accept legal custody of 33288
the child, and if the agency has a reasonable expectation of 33289
placing the child for adoption, the child should be committed to 33290
the permanent custody of the public children services agency or 33291
private child placing agency; 33292

(6) If the child is to be placed for adoption or foster care, 33293
the placement shall not be delayed or denied on the basis of the 33294
child's or adoptive or foster family's race, color, or national 33295
origin. 33296

~~(H)~~(I) The case plan for a child in temporary custody shall 33297
include at a minimum the following requirements if the child is or 33298
has been the victim of abuse or neglect or if the child witnessed 33299
the commission in the child's household of abuse or neglect 33300
against a sibling of the child, a parent of the child, or any 33301
other person in the child's household: 33302

(1) A requirement that the child's parents, guardian, or 33303
custodian participate in mandatory counseling; 33304

(2) A requirement that the child's parents, guardian, or 33305
custodian participate in any supportive services that are required 33306
by or provided pursuant to the child's case plan. 33307

~~(I)~~(J) A case plan may include, as a supplement, a plan for 33308
locating a permanent family placement. The supplement shall not be 33309
considered part of the case plan for purposes of division ~~(D)~~(E) 33310
of this section. 33311

Sec. 2151.421. (A)(1)(a) No person described in division 33312
(A)(1)(b) of this section who is acting in an official or 33313
professional capacity and knows, or has reasonable cause to 33314
suspect based on facts that would cause a reasonable person in a 33315
similar position to suspect, that a child under eighteen years of 33316
age or a mentally retarded, developmentally disabled, or 33317
physically impaired child under twenty-one years of age has 33318
suffered or faces a threat of suffering any physical or mental 33319
wound, injury, disability, or condition of a nature that 33320
reasonably indicates abuse or neglect of the child shall fail to 33321
immediately report that knowledge or reasonable cause to suspect 33322
to the entity or persons specified in this division. Except as 33323
provided in section 5120.173 of the Revised Code, the person 33324
making the report shall make it to the public children services 33325
agency or a municipal or county peace officer in the county in 33326
which the child resides or in which the abuse or neglect is 33327
occurring or has occurred. In the circumstances described in 33328
section 5120.173 of the Revised Code, the person making the report 33329
shall make it to the entity specified in that section. 33330

(b) Division (A)(1)(a) of this section applies to any person 33331
who is an attorney; physician, including a hospital intern or 33332
resident; dentist; podiatrist; practitioner of a limited branch of 33333
medicine as specified in section 4731.15 of the Revised Code; 33334
registered nurse; licensed practical nurse; visiting nurse; other 33335
health care professional; licensed psychologist; licensed school 33336
psychologist; independent marriage and family therapist or 33337
marriage and family therapist; speech pathologist or audiologist; 33338
coroner; administrator or employee of a child day-care center; 33339
administrator or employee of a residential camp or child day camp; 33340
administrator or employee of a certified child care agency or 33341
other public or private children services agency; school teacher; 33342
school employee; school authority; person engaged in social work 33343

or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section

with respect to that communication, if all of the following apply: 33376

(a) The client or patient, at the time of the communication, 33377
is either a child under eighteen years of age or a mentally 33378
retarded, developmentally disabled, or physically impaired person 33379
under twenty-one years of age. 33380

(b) The attorney or physician knows, or has reasonable cause 33381
to suspect based on facts that would cause a reasonable person in 33382
similar position to suspect, as a result of the communication or 33383
any observations made during that communication, that the client 33384
or patient has suffered or faces a threat of suffering any 33385
physical or mental wound, injury, disability, or condition of a 33386
nature that reasonably indicates abuse or neglect of the client or 33387
patient. 33388

(c) The abuse or neglect does not arise out of the client's 33389
or patient's attempt to have an abortion without the notification 33390
of her parents, guardian, or custodian in accordance with section 33391
2151.85 of the Revised Code. 33392

(4)(a) No cleric and no person, other than a volunteer, 33393
designated by any church, religious society, or faith acting as a 33394
leader, official, or delegate on behalf of the church, religious 33395
society, or faith who is acting in an official or professional 33396
capacity, who knows, or has reasonable cause to believe based on 33397
facts that would cause a reasonable person in a similar position 33398
to believe, that a child under eighteen years of age or a mentally 33399
retarded, developmentally disabled, or physically impaired child 33400
under twenty-one years of age has suffered or faces a threat of 33401
suffering any physical or mental wound, injury, disability, or 33402
condition of a nature that reasonably indicates abuse or neglect 33403
of the child, and who knows, or has reasonable cause to believe 33404
based on facts that would cause a reasonable person in a similar 33405
position to believe, that another cleric or another person, other 33406
than a volunteer, designated by a church, religious society, or 33407

faith acting as a leader, official, or delegate on behalf of the 33408
church, religious society, or faith caused, or poses the threat of 33409
causing, the wound, injury, disability, or condition that 33410
reasonably indicates abuse or neglect shall fail to immediately 33411
report that knowledge or reasonable cause to believe to the entity 33412
or persons specified in this division. Except as provided in 33413
section 5120.173 of the Revised Code, the person making the report 33414
shall make it to the public children services agency or a 33415
municipal or county peace officer in the county in which the child 33416
resides or in which the abuse or neglect is occurring or has 33417
occurred. In the circumstances described in section 5120.173 of 33418
the Revised Code, the person making the report shall make it to 33419
the entity specified in that section. 33420

(b) Except as provided in division (A)(4)(c) of this section, 33421
a cleric is not required to make a report pursuant to division 33422
(A)(4)(a) of this section concerning any communication the cleric 33423
receives from a penitent in a cleric-penitent relationship, if, in 33424
accordance with division (C) of section 2317.02 of the Revised 33425
Code, the cleric could not testify with respect to that 33426
communication in a civil or criminal proceeding. 33427

(c) The penitent in a cleric-penitent relationship described 33428
in division (A)(4)(b) of this section is deemed to have waived any 33429
testimonial privilege under division (C) of section 2317.02 of the 33430
Revised Code with respect to any communication the cleric receives 33431
from the penitent in that cleric-penitent relationship, and the 33432
cleric shall make a report pursuant to division (A)(4)(a) of this 33433
section with respect to that communication, if all of the 33434
following apply: 33435

(i) The penitent, at the time of the communication, is either 33436
a child under eighteen years of age or a mentally retarded, 33437
developmentally disabled, or physically impaired person under 33438
twenty-one years of age. 33439

(ii) The cleric knows, or has reasonable cause to believe 33440
based on facts that would cause a reasonable person in a similar 33441
position to believe, as a result of the communication or any 33442
observations made during that communication, the penitent has 33443
suffered or faces a threat of suffering any physical or mental 33444
wound, injury, disability, or condition of a nature that 33445
reasonably indicates abuse or neglect of the penitent. 33446

(iii) The abuse or neglect does not arise out of the 33447
penitent's attempt to have an abortion performed upon a child 33448
under eighteen years of age or upon a mentally retarded, 33449
developmentally disabled, or physically impaired person under 33450
twenty-one years of age without the notification of her parents, 33451
guardian, or custodian in accordance with section 2151.85 of the 33452
Revised Code. 33453

(d) Divisions (A)(4)(a) and (c) of this section do not apply 33454
in a cleric-penitent relationship when the disclosure of any 33455
communication the cleric receives from the penitent is in 33456
violation of the sacred trust. 33457

(e) As used in divisions (A)(1) and (4) of this section, 33458
"cleric" and "sacred trust" have the same meanings as in section 33459
2317.02 of the Revised Code. 33460

(B) Anyone who knows, or has reasonable cause to suspect 33461
based on facts that would cause a reasonable person in similar 33462
circumstances to suspect, that a child under eighteen years of age 33463
or a mentally retarded, developmentally disabled, or physically 33464
impaired person under twenty-one years of age has suffered or 33465
faces a threat of suffering any physical or mental wound, injury, 33466
disability, or other condition of a nature that reasonably 33467
indicates abuse or neglect of the child may report or cause 33468
reports to be made of that knowledge or reasonable cause to 33469
suspect to the entity or persons specified in this division. 33470
Except as provided in section 5120.173 of the Revised Code, a 33471

person making a report or causing a report to be made under this 33472
division shall make it or cause it to be made to the public 33473
children services agency or to a municipal or county peace 33474
officer. In the circumstances described in section 5120.173 of the 33475
Revised Code, a person making a report or causing a report to be 33476
made under this division shall make it or cause it to be made to 33477
the entity specified in that section. 33478

(C) Any report made pursuant to division (A) or (B) of this 33479
section shall be made forthwith either by telephone or in person 33480
and shall be followed by a written report, if requested by the 33481
receiving agency or officer. The written report shall contain: 33482

(1) The names and addresses of the child and the child's 33483
parents or the person or persons having custody of the child, if 33484
known; 33485

(2) The child's age and the nature and extent of the child's 33486
injuries, abuse, or neglect that is known or reasonably suspected 33487
or believed, as applicable, to have occurred or of the threat of 33488
injury, abuse, or neglect that is known or reasonably suspected or 33489
believed, as applicable, to exist, including any evidence of 33490
previous injuries, abuse, or neglect; 33491

(3) Any other information that might be helpful in 33492
establishing the cause of the injury, abuse, or neglect that is 33493
known or reasonably suspected or believed, as applicable, to have 33494
occurred or of the threat of injury, abuse, or neglect that is 33495
known or reasonably suspected or believed, as applicable, to 33496
exist. 33497

Any person, who is required by division (A) of this section 33498
to report child abuse or child neglect that is known or reasonably 33499
suspected or believed to have occurred, may take or cause to be 33500
taken color photographs of areas of trauma visible on a child and, 33501
if medically indicated, cause to be performed radiological 33502

examinations of the child. 33503

(D) As used in this division, "children's advocacy center" 33504
and "sexual abuse of a child" have the same meanings as in section 33505
2151.425 of the Revised Code. 33506

(1) When a municipal or county peace officer receives a 33507
report concerning the possible abuse or neglect of a child or the 33508
possible threat of abuse or neglect of a child, upon receipt of 33509
the report, the municipal or county peace officer who receives the 33510
report shall refer the report to the appropriate public children 33511
services agency. 33512

(2) When a public children services agency receives a report 33513
pursuant to this division or division (A) or (B) of this section, 33514
upon receipt of the report, the public children services agency 33515
shall do both of the following: 33516

(a) Comply with section 2151.422 of the Revised Code; 33517

(b) If the county served by the agency is also served by a 33518
children's advocacy center and the report alleges sexual abuse of 33519
a child or another type of abuse of a child that is specified in 33520
the memorandum of understanding that creates the center as being 33521
within the center's jurisdiction, comply regarding the report with 33522
the protocol and procedures for referrals and investigations, with 33523
the coordinating activities, and with the authority or 33524
responsibility for performing or providing functions, activities, 33525
and services stipulated in the interagency agreement entered into 33526
under section 2151.428 of the Revised Code relative to that 33527
center. 33528

(E) No township, municipal, or county peace officer shall 33529
remove a child about whom a report is made pursuant to this 33530
section from the child's parents, stepparents, or guardian or any 33531
other persons having custody of the child without consultation 33532
with the public children services agency, unless, in the judgment 33533

of the officer, and, if the report was made by physician, the 33534
physician, immediate removal is considered essential to protect 33535
the child from further abuse or neglect. The agency that must be 33536
consulted shall be the agency conducting the investigation of the 33537
report as determined pursuant to section 2151.422 of the Revised 33538
Code. 33539

(F)(1) Except as provided in section 2151.422 of the Revised 33540
Code or in an interagency agreement entered into under section 33541
2151.428 of the Revised Code that applies to the particular 33542
report, the public children services agency shall investigate, 33543
within twenty-four hours, each report of child abuse or child 33544
neglect that is known or reasonably suspected or believed to have 33545
occurred and of a threat of child abuse or child neglect that is 33546
known or reasonably suspected or believed to exist that is 33547
referred to it under this section to determine the circumstances 33548
surrounding the injuries, abuse, or neglect or the threat of 33549
injury, abuse, or neglect, the cause of the injuries, abuse, 33550
neglect, or threat, and the person or persons responsible. The 33551
investigation shall be made in cooperation with the law 33552
enforcement agency and in accordance with the memorandum of 33553
understanding prepared under division (J) of this section. A 33554
representative of the public children services agency shall, at 33555
the time of initial contact with the person subject to the 33556
investigation, inform the person of the specific complaints or 33557
allegations made against the person. The information shall be 33558
given in a manner that is consistent with division (H)(1) of this 33559
section and protects the rights of the person making the report 33560
under this section. 33561

A failure to make the investigation in accordance with the 33562
memorandum is not grounds for, and shall not result in, the 33563
dismissal of any charges or complaint arising from the report or 33564
the suppression of any evidence obtained as a result of the report 33565

and does not give, and shall not be construed as giving, any 33566
rights or any grounds for appeal or post-conviction relief to any 33567
person. The public children services agency shall report each case 33568
to the uniform statewide automated child welfare information 33569
system that the department of job and family services shall 33570
maintain in accordance with section 5101.13 of the Revised Code. 33571
The public children services agency shall submit a report of its 33572
investigation, in writing, to the law enforcement agency. 33573

(2) The public children services agency shall make any 33574
recommendations to the county prosecuting attorney or city 33575
director of law that it considers necessary to protect any 33576
children that are brought to its attention. 33577

(G)(1)(a) Except as provided in division (H)(3) of this 33578
section, anyone or any hospital, institution, school, health 33579
department, or agency participating in the making of reports under 33580
division (A) of this section, anyone or any hospital, institution, 33581
school, health department, or agency participating in good faith 33582
in the making of reports under division (B) of this section, and 33583
anyone participating in good faith in a judicial proceeding 33584
resulting from the reports, shall be immune from any civil or 33585
criminal liability for injury, death, or loss to person or 33586
property that otherwise might be incurred or imposed as a result 33587
of the making of the reports or the participation in the judicial 33588
proceeding. 33589

(b) Notwithstanding section 4731.22 of the Revised Code, the 33590
physician-patient privilege shall not be a ground for excluding 33591
evidence regarding a child's injuries, abuse, or neglect, or the 33592
cause of the injuries, abuse, or neglect in any judicial 33593
proceeding resulting from a report submitted pursuant to this 33594
section. 33595

(2) In any civil or criminal action or proceeding in which it 33596
is alleged and proved that participation in the making of a report 33597

under this section was not in good faith or participation in a 33598
judicial proceeding resulting from a report made under this 33599
section was not in good faith, the court shall award the 33600
prevailing party reasonable attorney's fees and costs and, if a 33601
civil action or proceeding is voluntarily dismissed, may award 33602
reasonable attorney's fees and costs to the party against whom the 33603
civil action or proceeding is brought. 33604

(H)(1) Except as provided in divisions (H)(4) and (N) of this 33605
section, a report made under this section is confidential. The 33606
information provided in a report made pursuant to this section and 33607
the name of the person who made the report shall not be released 33608
for use, and shall not be used, as evidence in any civil action or 33609
proceeding brought against the person who made the report. Nothing 33610
in this division shall preclude the use of reports of other 33611
incidents of known or suspected abuse or neglect in a civil action 33612
or proceeding brought pursuant to division (M) of this section 33613
against a person who is alleged to have violated division (A)(1) 33614
of this section, provided that any information in a report that 33615
would identify the child who is the subject of the report or the 33616
maker of the report, if the maker of the report is not the 33617
defendant or an agent or employee of the defendant, has been 33618
redacted. In a criminal proceeding, the report is admissible in 33619
evidence in accordance with the Rules of Evidence and is subject 33620
to discovery in accordance with the Rules of Criminal Procedure. 33621

(2) No person shall permit or encourage the unauthorized 33622
dissemination of the contents of any report made under this 33623
section. 33624

(3) A person who knowingly makes or causes another person to 33625
make a false report under division (B) of this section that 33626
alleges that any person has committed an act or omission that 33627
resulted in a child being an abused child or a neglected child is 33628
guilty of a violation of section 2921.14 of the Revised Code. 33629

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death. On the request of the review board, the agency or peace officer may, at its discretion, make the report available to the review board. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section, including a report alleging sexual abuse of a child or another type of abuse of a child referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I) Any report that is required by this section, other than a report that is made to the state highway patrol as described in

section 5120.173 of the Revised Code, shall result in protective 33662
services and emergency supportive services being made available by 33663
the public children services agency on behalf of the children 33664
about whom the report is made, in an effort to prevent further 33665
neglect or abuse, to enhance their welfare, and, whenever 33666
possible, to preserve the family unit intact. The agency required 33667
to provide the services shall be the agency conducting the 33668
investigation of the report pursuant to section 2151.422 of the 33669
Revised Code. 33670

(J)(1) Each public children services agency shall prepare a 33671
memorandum of understanding that is signed by all of the 33672
following: 33673

(a) If there is only one juvenile judge in the county, the 33674
juvenile judge of the county or the juvenile judge's 33675
representative; 33676

(b) If there is more than one juvenile judge in the county, a 33677
juvenile judge or the juvenile judges' representative selected by 33678
the juvenile judges or, if they are unable to do so for any 33679
reason, the juvenile judge who is senior in point of service or 33680
the senior juvenile judge's representative; 33681

(c) The county peace officer; 33682

(d) All chief municipal peace officers within the county; 33683

(e) Other law enforcement officers handling child abuse and 33684
neglect cases in the county; 33685

(f) The prosecuting attorney of the county; 33686

(g) If the public children services agency is not the county 33687
department of job and family services, the county department of 33688
job and family services; 33689

(h) The county humane society; 33690

(i) If the public children services agency participated in 33691

the execution of a memorandum of understanding under section 33692
2151.426 of the Revised Code establishing a children's advocacy 33693
center, each participating member of the children's advocacy 33694
center established by the memorandum. 33695

(2) A memorandum of understanding shall set forth the normal 33696
operating procedure to be employed by all concerned officials in 33697
the execution of their respective responsibilities under this 33698
section and division (C) of section 2919.21, division (B)(1) of 33699
section 2919.22, division (B) of section 2919.23, and section 33700
2919.24 of the Revised Code and shall have as two of its primary 33701
goals the elimination of all unnecessary interviews of children 33702
who are the subject of reports made pursuant to division (A) or 33703
(B) of this section and, when feasible, providing for only one 33704
interview of a child who is the subject of any report made 33705
pursuant to division (A) or (B) of this section. A failure to 33706
follow the procedure set forth in the memorandum by the concerned 33707
officials is not grounds for, and shall not result in, the 33708
dismissal of any charges or complaint arising from any reported 33709
case of abuse or neglect or the suppression of any evidence 33710
obtained as a result of any reported child abuse or child neglect 33711
and does not give, and shall not be construed as giving, any 33712
rights or any grounds for appeal or post-conviction relief to any 33713
person. 33714

(3) A memorandum of understanding shall include all of the 33715
following: 33716

(a) The roles and responsibilities for handling emergency and 33717
nonemergency cases of abuse and neglect; 33718

(b) Standards and procedures to be used in handling and 33719
coordinating investigations of reported cases of child abuse and 33720
reported cases of child neglect, methods to be used in 33721
interviewing the child who is the subject of the report and who 33722
allegedly was abused or neglected, and standards and procedures 33723

addressing the categories of persons who may interview the child 33724
who is the subject of the report and who allegedly was abused or 33725
neglected. 33726

(4) If a public children services agency participated in the 33727
execution of a memorandum of understanding under section 2151.426 33728
of the Revised Code establishing a children's advocacy center, the 33729
agency shall incorporate the contents of that memorandum in the 33730
memorandum prepared pursuant to this section. 33731

(5) The clerk of the court of common pleas in the county may 33732
sign the memorandum of understanding prepared under division 33733
(J)(1) of this section. If the clerk signs the memorandum of 33734
understanding, the clerk shall execute all relevant 33735
responsibilities as required of officials specified in the 33736
memorandum. 33737

(K)(1) Except as provided in division (K)(4) of this section, 33738
a person who is required to make a report pursuant to division (A) 33739
of this section may make a reasonable number of requests of the 33740
public children services agency that receives or is referred the 33741
report, or of the children's advocacy center that is referred the 33742
report if the report is referred to a children's advocacy center 33743
pursuant to an interagency agreement entered into under section 33744
2151.428 of the Revised Code, to be provided with the following 33745
information: 33746

(a) Whether the agency or center has initiated an 33747
investigation of the report; 33748

(b) Whether the agency or center is continuing to investigate 33749
the report; 33750

(c) Whether the agency or center is otherwise involved with 33751
the child who is the subject of the report; 33752

(d) The general status of the health and safety of the child 33753
who is the subject of the report; 33754

(e) Whether the report has resulted in the filing of a 33755
complaint in juvenile court or of criminal charges in another 33756
court. 33757

(2) A person may request the information specified in 33758
division (K)(1) of this section only if, at the time the report is 33759
made, the person's name, address, and telephone number are 33760
provided to the person who receives the report. 33761

When a municipal or county peace officer or employee of a 33762
public children services agency receives a report pursuant to 33763
division (A) or (B) of this section the recipient of the report 33764
shall inform the person of the right to request the information 33765
described in division (K)(1) of this section. The recipient of the 33766
report shall include in the initial child abuse or child neglect 33767
report that the person making the report was so informed and, if 33768
provided at the time of the making of the report, shall include 33769
the person's name, address, and telephone number in the report. 33770

Each request is subject to verification of the identity of 33771
the person making the report. If that person's identity is 33772
verified, the agency shall provide the person with the information 33773
described in division (K)(1) of this section a reasonable number 33774
of times, except that the agency shall not disclose any 33775
confidential information regarding the child who is the subject of 33776
the report other than the information described in those 33777
divisions. 33778

(3) A request made pursuant to division (K)(1) of this 33779
section is not a substitute for any report required to be made 33780
pursuant to division (A) of this section. 33781

(4) If an agency other than the agency that received or was 33782
referred the report is conducting the investigation of the report 33783
pursuant to section 2151.422 of the Revised Code, the agency 33784
conducting the investigation shall comply with the requirements of 33785

division (K) of this section. 33786

(L) The director of job and family services shall adopt rules 33787
in accordance with Chapter 119. of the Revised Code to implement 33788
this section. The department of job and family services may enter 33789
into a plan of cooperation with any other governmental entity to 33790
aid in ensuring that children are protected from abuse and 33791
neglect. The department shall make recommendations to the attorney 33792
general that the department determines are necessary to protect 33793
children from child abuse and child neglect. 33794

(M) Whoever violates division (A) of this section is liable 33795
for compensatory and exemplary damages to the child who would have 33796
been the subject of the report that was not made. A person who 33797
brings a civil action or proceeding pursuant to this division 33798
against a person who is alleged to have violated division (A)(1) 33799
of this section may use in the action or proceeding reports of 33800
other incidents of known or suspected abuse or neglect, provided 33801
that any information in a report that would identify the child who 33802
is the subject of the report or the maker of the report, if the 33803
maker is not the defendant or an agent or employee of the 33804
defendant, has been redacted. 33805

(N)(1) As used in this division: 33806

(a) "Out-of-home care" includes a nonchartered nonpublic 33807
school if the alleged child abuse or child neglect, or alleged 33808
threat of child abuse or child neglect, described in a report 33809
received by a public children services agency allegedly occurred 33810
in or involved the nonchartered nonpublic school and the alleged 33811
perpetrator named in the report holds a certificate, permit, or 33812
license issued by the state board of education under section 33813
3301.071 or Chapter 3319. of the Revised Code. 33814

(b) "Administrator, director, or other chief administrative 33815
officer" means the superintendent of the school district if the 33816

out-of-home care entity subject to a report made pursuant to this 33817
section is a school operated by the district. 33818

(2) No later than the end of the day following the day on 33819
which a public children services agency receives a report of 33820
alleged child abuse or child neglect, or a report of an alleged 33821
threat of child abuse or child neglect, that allegedly occurred in 33822
or involved an out-of-home care entity, the agency shall provide 33823
written notice of the allegations contained in and the person 33824
named as the alleged perpetrator in the report to the 33825
administrator, director, or other chief administrative officer of 33826
the out-of-home care entity that is the subject of the report 33827
unless the administrator, director, or other chief administrative 33828
officer is named as an alleged perpetrator in the report. If the 33829
administrator, director, or other chief administrative officer of 33830
an out-of-home care entity is named as an alleged perpetrator in a 33831
report of alleged child abuse or child neglect, or a report of an 33832
alleged threat of child abuse or child neglect, that allegedly 33833
occurred in or involved the out-of-home care entity, the agency 33834
shall provide the written notice to the owner or governing board 33835
of the out-of-home care entity that is the subject of the report. 33836
The agency shall not provide witness statements or police or other 33837
investigative reports. 33838

(3) No later than three days after the day on which a public 33839
children services agency that conducted the investigation as 33840
determined pursuant to section 2151.422 of the Revised Code makes 33841
a disposition of an investigation involving a report of alleged 33842
child abuse or child neglect, or a report of an alleged threat of 33843
child abuse or child neglect, that allegedly occurred in or 33844
involved an out-of-home care entity, the agency shall send written 33845
notice of the disposition of the investigation to the 33846
administrator, director, or other chief administrative officer and 33847
the owner or governing board of the out-of-home care entity. The 33848

agency shall not provide witness statements or police or other 33849
investigative reports. 33850

(O) As used in this section, "investigation" means the public 33851
children services agency's response to an accepted report of child 33852
abuse or neglect through either an alternative response or a 33853
traditional response. 33854

Sec. 2151.424. (A) If a child has been placed in a certified 33855
foster home or is in the custody of a relative of the child, other 33856
than a parent of the child, a court, prior to conducting any 33857
hearing pursuant to division ~~(E)~~(F)(2) or (3) of section 2151.412 33858
or section 2151.28, 2151.33, 2151.35, 2151.414, 2151.415, 33859
2151.416, or 2151.417 of the Revised Code with respect to the 33860
child, shall notify the foster caregiver or relative of the date, 33861
time, and place of the hearing. At the hearing, the foster 33862
caregiver or relative shall have the right to present evidence. 33863

(B) If a public children services agency or private child 33864
placing agency has permanent custody of a child and a petition to 33865
adopt the child has been filed under Chapter 3107. of the Revised 33866
Code, the agency, prior to conducting a review under section 33867
2151.416 of the Revised Code, or a court, prior to conducting a 33868
hearing under division ~~(E)~~(F)(2) or (3) of section 2151.412 or 33869
section 2151.416 or 2151.417 of the Revised Code, shall notify the 33870
prospective adoptive parent of the date, time, and place of the 33871
review or hearing. At the review or hearing, the prospective 33872
adoptive parent shall have the right to present evidence. 33873

(C) The notice and the opportunity to present evidence do not 33874
make the foster caregiver, relative, or prospective adoptive 33875
parent a party in the action or proceeding pursuant to which the 33876
review or hearing is conducted. 33877

Sec. 2151.429. (A) The differential response approach, as 33878

defined in section 2151.011 of the Revised Code, pursued by a 33879
public children services agency shall include two response 33880
pathways, the traditional response pathway and the alternative 33881
response pathway. The director of job and family services shall 33882
adopt rules pursuant to Chapter 119. of the Revised Code setting 33883
forth the procedures and criteria for public children services 33884
agencies to assign and reassign response pathways. 33885

(B) The agency shall use the traditional response for the 33886
following types of accepted reports: 33887

(1) Physical abuse resulting in serious injury or that 33888
creates a serious and immediate risk to a child's health and 33889
safety. 33890

(2) Sexual abuse. 33891

(3) Child fatality. 33892

(4) Reports requiring a specialized assessment as identified 33893
by rule adopted by the department. 33894

(5) Reports requiring a third party investigative procedure 33895
as identified by rule adopted by the department. 33896

(C) For all other child abuse and neglect reports, an 33897
alternative response shall be the preferred response, whenever 33898
appropriate and in accordance with rules adopted by the 33899
department. 33900

Sec. 2151.56. The "interstate compact for juveniles" is 33901
hereby ratified, enacted into law, and entered into by the state 33902
of Ohio as a party to the compact with any other state that has 33903
legally joined in the compact as follows: 33904

INTERSTATE COMPACT FOR JUVENILES 33905

Article I -- Purpose 33906

The compacting states to this interstate compact for 33907

juveniles recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. 33908
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It is the policy of the compacting states that the activities conducted by the interstate commission for juveniles created by this compact are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact. 33920
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It is the purpose of this compact, through means of joint and cooperative action among the compacting states, to do all of the following: 33929
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(A) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; 33932
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(B) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; 33936
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<u>(C) Return juveniles who have run away, absconded, or escaped</u>	33939
<u>from supervision or control or have been accused of an offense to</u>	33940
<u>the state requesting their return;</u>	33941
<u>(D) Make contracts for the cooperative institutionalization</u>	33942
<u>in public facilities in member states for delinquent youth needing</u>	33943
<u>special services;</u>	33944
<u>(E) Provide for the effective tracking and supervision of</u>	33945
<u>juveniles;</u>	33946
<u>(F) Equitably allocate the costs, benefits, and obligations</u>	33947
<u>of the compacting states;</u>	33948
<u>(G) Establish procedures to manage the movement between</u>	33949
<u>states of juvenile offenders released to the community under the</u>	33950
<u>jurisdiction of courts, juvenile departments, or any other</u>	33951
<u>criminal or juvenile justice agency that has jurisdiction over</u>	33952
<u>juvenile offenders;</u>	33953
<u>(H) Ensure immediate notice to jurisdictions where defined</u>	33954
<u>offenders are authorized to travel or to relocate across state</u>	33955
<u>lines;</u>	33956
<u>(I) Establish procedures to resolve pending charges, such as</u>	33957
<u>detainers, against juvenile offenders prior to transfer or release</u>	33958
<u>to the community under the terms of this compact;</u>	33959
<u>(J) Establish a system of uniform data collection on</u>	33960
<u>information pertaining to juveniles subject to this compact that</u>	33961
<u>allows access by authorized juvenile justice and criminal justice</u>	33962
<u>officials and regular reporting of compact activities to heads of</u>	33963
<u>state executive, judicial, and legislative branches and juvenile</u>	33964
<u>justice and criminal justice administrators;</u>	33965
<u>(K) Monitor compliance with rules governing interstate</u>	33966
<u>movement of juveniles and initiate interventions to address and</u>	33967
<u>correct noncompliance;</u>	33968

(L) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; 33969
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(M) Coordinate the implementation and operation of this compact with the interstate compact for the placement of children, the interstate compact for adult offender supervision, and other compacts affecting juveniles, particularly in those cases where concurrent or overlapping supervision issues arise. 33972
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Article II -- Definitions 33977

As used in this compact, unless the context clearly requires a different construction: 33978
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(A) "Bylaws" means those bylaws established by the interstate commission for its governance or for directing or controlling its actions or conduct. 33980
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(B) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact who is responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission under this compact, and policies adopted by the state council under this compact. 33983
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(C) "Compacting state" means any state that has enacted the enabling legislation for this compact. 33990
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(D) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact. 33992
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(E) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children. 33995
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(F) "Interstate commission for juveniles" or "interstate commission" means the interstate commission for juveniles created 33997
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by Article III of this compact. 33999

(G) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the interstate commission, including any of the following: 34000

(1) An "accused delinquent," which means a person charged with a violation of a law or municipal ordinance that, if committed by an adult, would be a criminal offense; 34003

(2) An "adjudicated delinquent," which means a person found to have committed a violation of a law or municipal ordinance that, if committed by an adult, would be a criminal offense; 34006

(3) An "accused status offender," which means a person charged with a violation of a law or municipal ordinance that would not be a criminal offense if committed by an adult; 34009

(4) An "adjudicated status offender," which means a person found to have committed a violation of a law or municipal ordinance that would not be a criminal offense if committed by an adult; 34012

(5) A "nonoffender," which means a person in need of supervision who is not an accused or adjudicated status offender or delinquent. 34016

(H) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact. 34019

(I) "Probation or parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states. 34021

(J) "Rule" means a written statement by the interstate commission promulgated pursuant to Article VI of this compact that is of general applicability, that implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the 34024

interstate commission, and that has the force and effect of 34029
statutory law in a compacting state, and includes the amendment, 34030
repeal, or suspension of an existing rule. 34031

(K) "State" means a state of the United States, the District 34032
of Columbia or its designee, the Commonwealth of Puerto Rico, the 34033
U.S. Virgin Islands, Guam, American Samoa, and the Northern 34034
Marianas Islands. 34035

Article III -- Interstate Commission for Juveniles 34036

(A) The compacting states hereby create the "interstate 34037
commission for juveniles." The commission shall be a body 34038
corporate and joint agency of the compacting states. The 34039
commission shall have all the responsibilities, powers, and duties 34040
set forth in this compact, and any additional powers that may be 34041
conferred upon it by subsequent action of the respective 34042
legislatures of the compacting states in accordance with the terms 34043
of this compact. 34044

(B) The interstate commission shall consist of commissioners 34045
appointed by the appropriate appointing authority in each state 34046
pursuant to the rules and requirements of each compacting state 34047
and in consultation with the state council for interstate juvenile 34048
supervision created in the state in accordance with this compact. 34049
The commissioners are the voting representatives of each state. 34050
The commissioner for a state shall be the compact administrator or 34051
designee from that state who shall serve on the interstate 34052
commission in such capacity under or pursuant to the applicable 34053
law of the compacting state. 34054

(C) In addition to the commissioners, the interstate 34055
commission also shall include individuals who are not 34056
commissioners but who are members of interested organizations. The 34057
noncommissioner members shall include a member of the national 34058
organizations of governors, legislators, state chief justices, 34059
attorneys general, interstate compact for adult offender 34060

supervision, interstate compact for the placement of children, 34061
juvenile justice and juvenile corrections officials, and crime 34062
victims. All noncommissioner members of the interstate commission 34063
shall be ex officio, nonvoting members. The interstate commission 34064
may provide in its bylaws for such additional ex officio, 34065
nonvoting members, including members of other national 34066
organizations, in such numbers as shall be determined by the 34067
commission. 34068

(D) Each compacting state represented at any meeting of the 34069
interstate commission is entitled to one vote. A majority of the 34070
compacting states shall constitute a quorum for the transaction of 34071
business, unless a larger quorum is required by the bylaws of the 34072
interstate commission. 34073

(E) The interstate commission shall meet at least once each 34074
calendar year. The chairperson may call additional meetings and, 34075
upon the request of a simple majority of the compacting states, 34076
shall call additional meetings. Public notice shall be given of 34077
all meetings, and all meetings, shall be open to the public. 34078

(F) The interstate commission shall establish an executive 34079
committee, which shall include commission officers, members, and 34080
others as determined by the interstate commission's bylaws. The 34081
executive committee shall have the power to act on behalf of the 34082
interstate commission during periods when the interstate 34083
commission is not in session, with the exception of any rulemaking 34084
or amendment to the compact. The executive committee shall do all 34085
of the following: 34086

(1) Oversee the day-to-day activities of the administration 34087
of the compact, managed by an executive director and interstate 34088
commission staff; 34089

(2) Administer enforcement and compliance with the provisions 34090
of this compact and the interstate commission's bylaws and rules; 34091

(3) Perform any other duties as directed by the interstate commission or set forth in its bylaws. 34092
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(G) Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council for interstate juvenile supervision for the state, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The interstate commission's bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. 34094
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(H) The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent the information or official records would adversely affect personal privacy rights or proprietary interests. 34107
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(I) Public notice shall be given of all meetings of the interstate commission, and all of its meetings shall be open to the public, except as set forth in the commission's rules or as otherwise provided in this compact. The interstate commission and any of its committees may close a meeting to the public when it determines by two-thirds vote that an open meeting would be likely to do any of the following: 34114
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(1) Relate solely to the interstate commission's internal personnel practices and procedures; 34121
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<u>(2) Disclose matters specifically exempted from disclosure by statute;</u>	34123
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<u>(3) Disclose trade secrets or commercial or financial information that is privileged or confidential;</u>	34125
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<u>(4) Involve accusing any person of a crime or formally censuring any person;</u>	34127
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<u>(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;</u>	34129
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<u>(6) Disclose investigative records compiled for law enforcement purposes;</u>	34132
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<u>(7) Disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;</u>	34134
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<u>(8) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity;</u>	34139
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<u>(9) Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.</u>	34142
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<u>(J) For every meeting closed pursuant to division (I) of this Article of this compact, the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and that provide a full and accurate summary of any actions taken, and the reasons for the actions, including a</u>	34145
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description of each of the views expressed on any item and the 34153
record of any roll call vote (reflected in the vote of each member 34154
on the question). All documents considered in connection with any 34155
action shall be identified in those minutes. 34156

(K) The interstate commission shall collect standardized data 34157
concerning the interstate movement of juveniles as directed 34158
through its rules, which shall specify the data to be collected, 34159
the means of collection and data exchange, and reporting 34160
requirements. Such methods of data collection, exchange, and 34161
reporting shall insofar as is reasonably possible conform to 34162
up-to-date technology and coordinate the interstate commission's 34163
information functions with the appropriate repository of records. 34164

Article IV -- Powers and Duties of the Interstate Commission 34165

The interstate commission shall maintain its corporate books 34166
and records in accordance with its bylaws. 34167

The interstate commission shall have all of the following 34168
powers and duties: 34169

(A) To provide for dispute resolution among compacting 34170
states; 34171

(B) To promulgate rules to affect the purposes and 34172
obligations as enumerated in this compact, which rules shall have 34173
the force and effect of statutory law and shall be binding in the 34174
compacting states to the extent and in the manner provided in this 34175
compact; 34176

(C) To oversee, supervise, and coordinate the interstate 34177
movement of juveniles, subject to the terms of this compact and 34178
any bylaws adopted and rules promulgated by the interstate 34179
commission; 34180

(D) To enforce compliance with the provisions of this 34181
compact, the rules promulgated by the interstate commission, and 34182
the interstate commission's bylaws, using all necessary and proper 34183

<u>means, including but not limited to the use of judicial process;</u>	34184
<u>(E) To establish and maintain offices, which shall be located</u>	34185
<u>within one or more of the compacting states;</u>	34186
<u>(F) To purchase and maintain insurance and bonds;</u>	34187
<u>(G) To borrow, accept, hire, or contract for services of</u>	34188
<u>personnel;</u>	34189
<u>(H) To establish and appoint committees and hire staff that</u>	34190
<u>it considers necessary for the carrying out of its functions,</u>	34191
<u>including, but not limited to, an executive committee as required</u>	34192
<u>by Article III of this compact, which executive committee shall</u>	34193
<u>have the power to act on behalf of the interstate commission in</u>	34194
<u>carrying out its powers and duties under this compact;</u>	34195
<u>(I) To elect or appoint officers, attorneys, employees,</u>	34196
<u>agents, or consultants, to fix their compensation, define their</u>	34197
<u>duties, and determine their qualifications, and to establish the</u>	34198
<u>interstate commission's personnel policies and programs relating</u>	34199
<u>to, inter alia, conflicts of interest, rates of compensation, and</u>	34200
<u>qualifications of personnel;</u>	34201
<u>(J) To accept any and all donations and grants of money,</u>	34202
<u>equipment, supplies, materials, and services and to receive,</u>	34203
<u>utilize, and dispose of same;</u>	34204
<u>(K) To lease, purchase, accept contributions or donations of,</u>	34205
<u>or otherwise to own, hold, improve, or use any real property,</u>	34206
<u>personal property, or mixed real and personal property;</u>	34207
<u>(L) To sell, convey, mortgage, pledge, lease, exchange,</u>	34208
<u>abandon, or otherwise dispose of any real property, personal</u>	34209
<u>property, or mixed real and personal property;</u>	34210
<u>(M) To establish a budget and make expenditures and levy dues</u>	34211
<u>as provided in Article VIII of this compact;</u>	34212
<u>(N) To sue and be sued;</u>	34213

<u>(O) To adopt a seal and bylaws governing the management and operation of the interstate commission;</u>	34214
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<u>(P) To perform any functions that may be necessary or appropriate to achieve the purposes of this compact;</u>	34216
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<u>(Q) To report annually to the legislatures, governors, judiciary, and state councils for interstate juvenile supervision of the compacting states concerning the activities of the interstate commission during the preceding year, and with the annual reports also including any recommendations that may have been adopted by the interstate commission.</u>	34218
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<u>(R) To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.</u>	34224
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<u>(S) To establish uniform standards of the reporting, collecting and exchanging of data.</u>	34227
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<u>Article V -- Organization and Operation of the Interstate Commission</u>	34229
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<u>Section A. Bylaws</u>	34231
<u>The interstate commission, by a majority of the members present and voting and within twelve months after the first interstate commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact, including, but not limited to, bylaws that do all of the following:</u>	34232
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<u>(1) Establish the fiscal year of the interstate commission;</u>	34238
<u>(2) Establish an executive committee and any other committees that may be necessary;</u>	34239
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<u>(3) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the interstate commission;</u>	34241
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<u>(4) Provide reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each such meeting;</u>	34244
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<u>(5) Establish the titles and responsibilities of the officers of the interstate commission;</u>	34247
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<u>(6) Provide a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of this compact after the payment or reserving of all of its debts and obligations, or both;</u>	34249
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<u>(7) Provide start-up rules for initial administration of this compact;</u>	34253
	34254
<u>(8) Establish standards and procedures for compliance and technical assistance in carrying out this compact.</u>	34255
	34256
<u>Section B. Officers and Staff</u>	34257
<u>(1) The interstate commission, by a majority of the members, shall elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the interstate commission's bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.</u>	34258
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<u>(2) The interstate commission, through its executive committee, shall appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the interstate commission considers appropriate. The executive director shall serve as secretary to the interstate commission but</u>	34270
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shall not be a member of the interstate commission. The executive 34275
director shall hire and supervise such other staff as may be 34276
authorized by the interstate commission. 34277

Section C. Qualified Immunity, Defense, and Indemnification 34278

(1) Except as otherwise provided in this subsection, the 34279
interstate commission's executive director and each of its 34280
employees shall be immune from suit and liability, either 34281
personally or in the executive director's or employee's official 34282
capacity, for any claim for damage to or loss of property or 34283
personal injury or other civil liability caused or arising out of 34284
or relating to any actual or alleged act, error, or omission that 34285
occurred, or that the executive director or employee had a 34286
reasonable basis for believing occurred, within the scope of 34287
commission employment, duties, or responsibilities. The executive 34288
director or an employee shall not be protected from suit or 34289
liability for any damage, loss, injury, or liability caused by the 34290
executive director's or employee's willful and wanton misconduct 34291
of any such person. 34292

(2) The liability of any commissioner, or the employee or 34293
agent of a commissioner, acting within the scope of such person's 34294
employment or duties for acts, errors, or omissions occurring 34295
within such person's state may not exceed the limits of liability 34296
set forth under the constitution and laws of that state for state 34297
officials, employees, and agents. Nothing in this subsection shall 34298
be construed to protect any such person from suit or liability for 34299
any damage, loss, injury, or liability caused by the intentional 34300
or willful and wanton misconduct of any such person. 34301

(3) Except as otherwise provided in this subsection, the 34302
interstate commission shall defend the executive director or the 34303
employees or representatives of the interstate commission and, 34304
subject to the approval of the attorney general of the state 34305
represented by any commissioner of a compacting state, shall 34306

defend such commissioner or the commissioner's representatives or 34307
employees in any civil action seeking to impose liability arising 34308
out of any actual or alleged act, error, or omission that occurred 34309
within the scope of interstate commission employment, duties, or 34310
responsibilities, or that the defendant had a reasonable basis for 34311
believing occurred within the scope of interstate commission 34312
employment, duties, or responsibilities. The duty to defend 34313
described in this division does not apply if the actual or alleged 34314
act, error, or omission in question resulted from intentional or 34315
willful and wanton misconduct on the part of the executive 34316
director, employee, or representative of the interstate commission 34317
or the commissioner of a compacting state or the commissioner's 34318
representatives or employees. 34319

(4) Except as otherwise provided in this subsection, the 34320
interstate commission shall indemnify and hold the commissioner of 34321
a compacting state, or the commissioner's representatives or 34322
employees, or the interstate commission's representatives or 34323
employees, harmless in the amount of any settlement or judgment 34324
obtained against such persons arising out of any actual or alleged 34325
act, error, or omission that occurred within the scope of 34326
interstate commission employment, duties, or responsibilities, or 34327
that such persons had a reasonable basis for believing occurred 34328
within the scope of interstate commission employment, duties, or 34329
responsibilities. The duty to indemnify and hold harmless 34330
described in this division does not apply if the actual or alleged 34331
act, error, or omission in question resulted from intentional or 34332
willful and wanton misconduct on the part of the commissioner of a 34333
compacting state or the commissioner's representatives or 34334
employees or the interstate commission's representatives or 34335
employees. 34336

Article VI -- Rulemaking Functions of the Interstate Commission 34337

(A) The interstate commission shall promulgate and publish 34338

rules in order to effectively and efficiently achieve the purposes 34339
of this compact. 34340

(B) Rulemaking shall occur pursuant to the criteria set forth 34341
in this Article and the bylaws and rules adopted pursuant thereto. 34342
The rulemaking shall substantially conform to the principles of 34343
the "Model State Administrative Procedures Act," 1981 Act, Uniform 34344
Laws Annotated, Vol. 15, p. 1 (2000), or another administrative 34345
procedures act, as the interstate commission determines 34346
appropriate consistent with due process requirements under the 34347
United States Constitution as now or hereafter interpreted by the 34348
United States Supreme Court. All rules and amendments shall become 34349
binding as of the date specified, as published with the final 34350
version of the rule as approved by the interstate commission. 34351

(C) When promulgating a rule, the interstate commission, at a 34352
minimum, shall do all of the following: 34353

(1) Publish the proposed rule's entire text stating the 34354
reason or reasons for that proposed rule; 34355

(2) Allow and invite any and all persons to submit written 34356
data, facts, opinions, and arguments, which information shall be 34357
added to the record and be made publicly available; 34358

(3) Provide an opportunity for an informal hearing, if 34359
petitioned by ten or more persons; 34360

(4) Promulgate a final rule and its effective date, if 34361
appropriate, based on input from state or local officials, or 34362
interested parties. 34363

(D) When the interstate commission promulgates a rule, not 34364
later than sixty days after the rule is promulgated, any 34365
interested person may file a petition in the United States 34366
district court for the District of Columbia or in the federal 34367
district court where the interstate commission's principal office 34368
is located, for judicial review of the rule. If the court finds 34369

that the interstate commission's action is not supported by 34370
substantial evidence in the rulemaking record, the court shall 34371
hold the rule unlawful and set it aside. For purposes of this 34372
division, evidence is substantial if it would be considered 34373
substantial evidence under the "Model State Administrative 34374
Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 34375
(2000). 34376

(E) If a majority of the legislatures of the compacting 34377
states rejects a rule, those states, by enactment of a statute or 34378
resolution in the same manner used to adopt the compact, may cause 34379
that such rule shall have no further force and effect in any 34380
compacting state. 34381

(F) The existing rules governing the operation of the 34382
interstate compact on juveniles that is superseded by this compact 34383
shall be null and void twelve months after the first meeting of 34384
the interstate commission created under this compact. 34385

(G) Upon determination by the interstate commission that a 34386
state of emergency exists, it may promulgate an emergency rule. An 34387
emergency rule so promulgated shall become effective immediately 34388
upon adoption, provided that the usual rulemaking procedures 34389
specified in this Article shall be retroactively applied to the 34390
emergency rule as soon as reasonably possible, but not later than 34391
ninety days after the effective date of the emergency rule. 34392

Article VII -- Oversight, Enforcement, and Dispute Resolution by 34393
the Interstate Commission 34394

A Oversight and Enforcement 34395

(1) The interstate commission shall oversee the 34396
administration and operations of the interstate movement of 34397
juveniles subject to this compact in the compacting states and 34398
shall monitor such activities being administered in noncompacting 34399
states that may significantly affect compacting states. 34400

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate this compact's purposes and intent. The provisions of this compact and the rules promulgated under it shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in the proceeding and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

(1) The compacting states shall report to the interstate commission on all issues and activities necessary for the administration of this compact and on all issues and activities pertaining to compliance with the provisions of this compact and the interstate commission's bylaws and rules.

(2) The interstate commission, upon the request of a compacting state, shall attempt to resolve any disputes or other issues that are subject to this compact and that may arise among compacting states and between compacting and non-compacting states. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

Article VIII -- Finance 34432

(A) The interstate commission shall pay or provide for the 34433
payment of the reasonable expenses of its establishment, 34434
organization, and ongoing activities. 34435

(B) The interstate commission shall levy on and collect an 34436
annual assessment from each compacting state to cover the cost of 34437
the internal operations and activities of the interstate 34438
commission and its staff. The annual assessment shall be in a 34439
total amount sufficient to cover the interstate commission's 34440
annual budget as approved each year. The aggregate annual 34441
assessment amount shall be allocated based upon a formula to be 34442
determined by the interstate commission, taking into consideration 34443
the population of each compacting state and the volume of 34444
interstate movement of juveniles in each compacting state. The 34445
interstate commission shall promulgate a rule binding upon all 34446
compacting states that governs the assessment. 34447

(C) The interstate commission shall not incur any obligations 34448
of any kind prior to securing the funds adequate to meet the 34449
obligations. The interstate commission shall not pledge the credit 34450
of any of the compacting states, except by and with the authority 34451
of the compacting state. 34452

(D) The interstate commission shall keep accurate accounts of 34453
all receipts and disbursements. The receipts and disbursements of 34454
the interstate commission shall be subject to the audit and 34455
accounting procedures established under its bylaws. However, all 34456
receipts and disbursements of funds handled by the interstate 34457
commission shall be audited yearly by a certified or licensed 34458
public accountant and the report of the audit shall be included in 34459
and become part of the annual report of the interstate commission. 34460

Article IX -- The State Council 34461

Each compacting state shall create a state council for 34462
interstate juvenile supervision. While each compacting state may 34463

determine the membership of its own state council, its membership 34464
must include at least one representative from the legislative, 34465
judicial, and executive branches of government, victims groups, 34466
and the compact administrator or designee. Each compacting state 34467
retains the right to determine the qualifications of the compact 34468
administrator for the state. Each state council shall advise and 34469
may exercise oversight and advocacy concerning that state's 34470
participation in interstate commission activities and other duties 34471
as may be determined by that state, including but not limited to, 34472
development of policy concerning operations and procedures of the 34473
compact within that state. 34474

Article X - Compacting States, Effective Date, and Amendment 34475

(A) Any state, as defined in Article II of this compact, is 34476
eligible to become a compacting state. 34477

(B) This compact shall become effective and binding upon 34478
legislative enactment of the compact into law by no less than 34479
thirty-five of the states. The initial effective date shall be the 34480
later of July 1, 2004, or upon enactment into law by the 34481
thirty-fifth jurisdiction. Thereafter, this compact shall become 34482
effective and binding as to any other compacting state upon 34483
enactment of this compact into law by that state. The governors of 34484
non-compacting states or their designees shall be invited to 34485
participate in the activities of the interstate commission on a 34486
non-voting basis prior to adoption of this compact by all states. 34487

(C) The interstate commission may propose amendments to this 34488
compact for enactment by the compacting states. No amendment shall 34489
become effective and binding upon the interstate commission and 34490
the compacting states unless and until it is enacted into law by 34491
unanimous consent of the compacting states. 34492

Article XI - Withdrawal, Default, Termination, and Judicial 34493
Enforcement 34494

Section A. Withdrawal 34495

(1) Once effective, this compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from this compact by specifically repealing the statute that enacted this compact into law. 34496
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(2) The effective date of withdrawal of a compacting state is the effective date of the state's repeal of the statute that enacted this compact into law. 34500
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(3) A compacting state that withdraws from this compact shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of the interstate commission's receipt of the notice from the withdrawing state. 34503
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(4) A compacting state that withdraws from this compact is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. 34510
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(5) If a compacting state withdraws from this compact, reinstatement of the withdrawing state following withdrawal shall occur upon the withdrawing state reenacting this compact or upon such later date as determined by the interstate commission. 34515
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Section B. Technical Assistance, Fines, Suspension, Termination, and Default 34519
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(1) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or under the interstate commission's bylaws or duly promulgated rules, the interstate commission may impose one or more of the following penalties: 34521
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(a) Remedial training and technical assistance as directed by 34527
the interstate commission; 34528

(b) Alternative dispute resolution; 34529

(c) Fines, fees, and costs in such amounts as are deemed to 34530
be reasonable as fixed by the interstate commission; 34531

(d) Suspension or termination of membership in this compact, 34532
provided that suspension or termination of membership shall be 34533
imposed only after all other reasonable means of securing 34534
compliance under the bylaws and rules have been exhausted and the 34535
interstate commission has therefore determined that the offending 34536
state is in default. Immediate notice of suspension shall be given 34537
by the interstate commission to the governor of the defaulting 34538
state, its chief justice or the chief judicial officer, the 34539
majority and minority leaders of its state legislature, and the 34540
state council for interstate juvenile supervision. The grounds for 34541
default include, but are not limited to, failure of a compacting 34542
state to perform such obligations or responsibilities imposed upon 34543
it by this compact, by the interstate commission's bylaws, or by 34544
its duly promulgated rules, and any other grounds designated in 34545
commission bylaws and rules. The interstate commission shall 34546
immediately notify the defaulting state in writing of the penalty 34547
imposed by the interstate commission and of the default pending a 34548
cure of the default. The interstate commission shall stipulate the 34549
conditions and the time period within which the defaulting state 34550
must cure its default. If the defaulting state fails to cure the 34551
default within the time period specified by the interstate 34552
commission, the defaulting state shall be terminated from this 34553
compact upon an affirmative vote of a majority of the compacting 34554
states and all rights, privileges, and benefits conferred by this 34555
compact shall be terminated from the effective date of 34556
termination. 34557

(2) Within sixty days of the effective date of termination of 34558

a defaulting compacting state, the interstate commission shall 34559
notify the defaulting state's governor, its chief justice or chief 34560
judicial officer, the majority and minority leaders of its state 34561
legislature, and the state council for interstate juvenile 34562
supervision of the termination. 34563

(3) A defaulting compacting state is responsible for all 34564
assessments, obligations, and liabilities incurred through the 34565
effective date of termination, including any obligations the 34566
performance of which extends beyond the effective date of 34567
termination. 34568

(4) The interstate commission shall not bear any costs 34569
relating to a defaulting compacting state unless otherwise 34570
mutually agreed upon in writing between the interstate commission 34571
and the defaulting state. 34572

(5) If a defaulting compacting state is terminated, 34573
reinstatement of the defaulting state following termination 34574
requires both a reenactment of the compact by the defaulting state 34575
and the approval of the interstate commission pursuant to its 34576
rules. 34577

Section C. Judicial Enforcement 34578

The interstate commission, by majority vote of the members, 34579
may initiate legal action against any compacting state to enforce 34580
compliance with the provisions of this compact, and the interstate 34581
commission's duly promulgated rules and bylaws. Any such action, 34582
if initiated, shall be initiated in the United States district 34583
court for the District of Columbia or, at the discretion of the 34584
interstate commission, in the federal district where the 34585
interstate commission has its offices. In the event judicial 34586
enforcement is necessary, the prevailing party shall be awarded 34587
all costs of the litigation including reasonable attorney's fees. 34588

D Dissolution of Compact 34589

(1) This compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in this compact to one compacting state. 34590
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(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the interstate commission shall be concluded, and any surplus funds shall be distributed in accordance with the interstate commission's bylaws. 34593
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Article XII - Severability and Construction 34598

(A) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable. 34599
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(B) The provisions of this compact shall be liberally construed to effectuate its purposes. 34603
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Article XIII - Binding Effect of Compact and Other Laws 34605

Section A. Other Laws 34606

(1) Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact. 34607
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(2) All compacting states' laws, other than state constitutions and other interstate compacts, conflicting with this compact are superseded to the extent of the conflict. 34610
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Section B. Binding Effect of the Compact 34613

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states. 34614
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(2) All agreements between the interstate commission and the compacting states are binding in accordance with their terms. 34617
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(3) Upon the request of a party to a conflict over the 34619

meaning or interpretation of interstate commission actions, and 34620
upon a majority vote of the compacting states, the interstate 34621
commission may issue advisory opinions regarding that meaning or 34622
interpretation. 34623

(4) In the event any provision of this compact exceeds the 34624
constitutional limits imposed on the legislature of any compacting 34625
state, the obligations, duties, powers, or jurisdiction sought to 34626
be conferred by that provision upon the interstate commission 34627
shall be ineffective and such obligations, duties, powers, or 34628
jurisdiction shall remain in the compacting state and shall be 34629
exercised by the agency of that state to which such obligations, 34630
duties, powers, or jurisdiction are delegated by law in effect at 34631
the time this compact becomes effective. 34632

Article XIV - Financial Reimbursement 34633

The state agency responsible for administering this compact 34634
shall have the legal authority to recoup fines, fees and costs 34635
imposed by the interstate commission as stated in Article XI, 34636
Section B, Subsection (1)(c) of this compact when the default in 34637
performance is the result of a decision made by an entity outside 34638
the jurisdiction of the agency administering this compact. 34639

Sec. 2151.57. (A) As used in sections 2151.57 to 2151.59 of 34640
the Revised Code: 34641

(1) "Interstate compact for juveniles" means the interstate 34642
compact for juveniles ratified, enacted into law, and entered into 34643
by this state pursuant to section 2151.56 of the Revised Code. 34644

(2) "Bylaws," "commissioner," "compact administrator," and 34645
"interstate commission for juveniles" have the same meanings as in 34646
section 2151.56 of the Revised Code. 34647

(B) The state council for interstate juvenile supervision is 34648
hereby established within the department of youth services. The 34649

council shall consist of the following members: 34650

(1) One member who is the compact administrator or the 34651
designee of the compact administrator; 34652

(2) One member of the house of representatives appointed by 34653
the speaker of the house of representatives; 34654

(3) One member of the senate appointed by the president of 34655
the senate; 34656

(4) One member who is a representative of the executive 34657
branch of state government, in addition to the member described in 34658
division (B)(1) of this section, appointed by the governor; 34659

(5) One member who is a representative of the judiciary, who 34660
shall be a juvenile court judge appointed by the chief justice of 34661
the supreme court; 34662

(6) One member who is a person who represents an organization 34663
that advocates for the rights of victims of crime or a delinquent 34664
act, appointed by the governor. 34665

(C) The state council for interstate juvenile supervision 34666
shall advise and may exercise oversight and advocacy concerning 34667
this state's participation in activities of the interstate 34668
commission for juveniles, shall develop policy for this state 34669
concerning operations and procedures of the interstate compact for 34670
juveniles within this state, and shall perform other duties 34671
assigned to state councils under that compact. 34672

Sec. 2151.58. (A) The governor shall appoint the director of 34673
youth services as the compact administrator for the interstate 34674
compact for juveniles. 34675

(B) The governor shall appoint the compact administrator or 34676
shall allow the compact administrator to appoint a designee to 34677
serve as the commissioner from this state on the interstate 34678
commission for juveniles. 34679

Sec. 2151.59. (A) The department of youth services is the state agency responsible for administering the interstate compact for juveniles in this state. 34680
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(B) The department of youth services shall pay all of the following: 34683
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(1) The annual assessment charged to this state for participating in the interstate compact for juveniles; 34685
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(2) All fines, fees, or costs assessed against this state by the interstate commission for juveniles for any default in the performance of this state's obligations or responsibilities under the compact, the bylaws, or rules duly promulgated under the compact. 34687
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Sec. 2152.26. (A) Except as provided in divisions (B) and (F) of this section, a child alleged to be or adjudicated a delinquent child or a juvenile traffic offender may be held only in the following places: 34692
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(1) A certified foster home or a home approved by the court; 34696

(2) A facility operated by a certified child welfare agency; 34697

(3) Any other suitable place designated by the court. 34698

(B) In addition to the places listed in division (A) of this section, a child alleged to be or adjudicated a delinquent child may be held in a detention facility for delinquent children that is under the direction or supervision of the court or other public authority or of a private agency and approved by the court and a child adjudicated a delinquent child may be held in accordance with division (F)(2) of this section in a facility of a type specified in that division. Division (B) of this section does not apply to a child alleged to be or adjudicated a delinquent child for chronic truancy, unless the child violated a lawful court 34699
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order made pursuant to division (A)(6) of section 2152.19 of the Revised Code. Division (B) of this section also does not apply to a child alleged to be or adjudicated a delinquent child for being an habitual truant who previously has been adjudicated an unruly child for being an habitual truant, unless the child violated a lawful court order made pursuant to division (C)(1)(e) of section 2151.354 of the Revised Code.

(C)(1) Except as provided under division (C)(1) of section 2151.311 of the Revised Code or division (A)(5) of section 2152.21 of the Revised Code, a child alleged to be or adjudicated a juvenile traffic offender may not be held in any of the following facilities:

(a) A state correctional institution, county, multicounty, or municipal jail or workhouse, or other place in which an adult convicted of crime, under arrest, or charged with a crime is held.

(b) A secure correctional facility.

(2) Except as provided under this section, sections 2151.56 to ~~2151.61~~ 2151.59, and divisions (A)(5) and (6) of section 2152.21 of the Revised Code, a child alleged to be or adjudicated a juvenile traffic offender may not be held for more than twenty-four hours in a detention facility.

(D) Except as provided in division (F) of this section or in division (C) of section 2151.311, in division (C)(2) of section 5139.06 and section 5120.162, or in division (B) of section 5120.16 of the Revised Code, a child who is alleged to be or is adjudicated a delinquent child may not be held in a state correctional institution, county, multicounty, or municipal jail or workhouse, or other place where an adult convicted of crime, under arrest, or charged with crime is held.

(E) Unless the detention is pursuant to division (F) of this section or division (C) of section 2151.311, division (C)(2) of

section 5139.06 and section 5120.162, or division (B) of section 34740
5120.16 of the Revised Code, the official in charge of the 34741
institution, jail, workhouse, or other facility shall inform the 34742
court immediately when a child, who is or appears to be under the 34743
age of eighteen years, is received at the facility, and shall 34744
deliver the child to the court upon request or transfer the child 34745
to a detention facility designated by the court. 34746

(F)(1) If a case is transferred to another court for criminal 34747
prosecution pursuant to section 2152.12 of the Revised Code, the 34748
child may be transferred for detention pending the criminal 34749
prosecution in a jail or other facility in accordance with the law 34750
governing the detention of persons charged with crime. Any child 34751
so held shall be confined in a manner that keeps the child beyond 34752
the range of touch of all adult detainees. The child shall be 34753
supervised at all times during the detention. 34754

(2) If a person is adjudicated a delinquent child or juvenile 34755
traffic offender and the court makes a disposition of the person 34756
under this chapter, at any time after the person attains eighteen 34757
years of age, the person may be held under that disposition in 34758
places other than those specified in division (A) of this section, 34759
including, but not limited to, a county, multicounty, or municipal 34760
jail or workhouse, or other place where an adult convicted of 34761
crime, under arrest, or charged with crime is held. 34762

(3)(a) A person alleged to be a delinquent child may be held 34763
in places other than those specified in division (A) of this 34764
section, including, but not limited to, a county, multicounty, or 34765
municipal jail, if the delinquent act that the child allegedly 34766
committed would be a felony if committed by an adult, and if 34767
either of the following applies: 34768

(i) The person attains eighteen years of age before the 34769
person is arrested or apprehended for that act. 34770

(ii) The person is arrested or apprehended for that act 34771
before the person attains eighteen years of age, but the person 34772
attains eighteen years of age before the court orders a 34773
disposition in the case. 34774

(b) If, pursuant to division (F)(3)(a) of this section, a 34775
person is held in a place other than a place specified in division 34776
(A) of this section, the person has the same rights to bail as an 34777
adult charged with the same offense who is confined in a jail 34778
pending trial. 34779

Sec. 2152.72. (A) This section applies only to a child who is 34780
or previously has been adjudicated a delinquent child for an act 34781
to which any of the following applies: 34782

(1) The act is a violation of section 2903.01, 2903.02, 34783
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2907.02, 2907.03, or 34784
2907.05 of the Revised Code. 34785

(2) The act is a violation of section 2923.01 of the Revised 34786
Code and involved an attempt to commit aggravated murder or 34787
murder. 34788

(3) The act would be a felony if committed by an adult, and 34789
the court determined that the child, if an adult, would be guilty 34790
of a specification found in section 2941.141, 2941.144, or 34791
2941.145 of the Revised Code or in another section of the Revised 34792
Code that relates to the possession or use of a firearm during the 34793
commission of the act for which the child was adjudicated a 34794
delinquent child. 34795

(4) The act would be an offense of violence that is a felony 34796
if committed by an adult, and the court determined that the child, 34797
if an adult, would be guilty of a specification found in section 34798
2941.1411 of the Revised Code or in another section of the Revised 34799
Code that relates to the wearing or carrying of body armor during 34800

the commission of the act for which the child was adjudicated a delinquent child. 34801
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(B)(1) Except as provided in division (E) of this section, a public children services agency, private child placing agency, private noncustodial agency, or court, the department of youth services, or another private or government entity shall not place a child in a certified foster home or for adoption until it provides the foster caregivers or prospective adoptive parents with all of the following: 34803
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(a) A written report describing the child's social history; 34810

(b) A written report describing all the acts committed by the child the entity knows of that resulted in the child being adjudicated a delinquent child and the disposition made by the court, unless the records pertaining to the acts have been sealed pursuant to section 2151.356 of the Revised Code; 34811
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(c) A written report describing any other violent act committed by the child of which the entity is aware; 34816
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(d) The substantial and material conclusions and recommendations of any psychiatric or psychological examination conducted on the child or, if no psychological or psychiatric examination of the child is available, the substantial and material conclusions and recommendations of an examination to detect mental and emotional disorders conducted in compliance with the requirements of Chapter 4757. of the Revised Code by an independent social worker, social worker, professional clinical counselor, or professional counselor licensed under that chapter. The entity shall not provide any part of a psychological, psychiatric, or mental and emotional disorder examination to the foster caregivers or prospective adoptive parents other than the substantial and material conclusions. 34818
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(2) Notwithstanding sections 2151.356 to 2151.358 of the 34831

Revised Code, if records of an adjudication that a child is a delinquent child have been sealed pursuant to those sections and an entity knows the records have been sealed, the entity shall provide the foster caregivers or prospective adoptive parents a written statement that the records of a prior adjudication have been sealed.

(C)(1) The entity that places the child in a certified foster home or for adoption shall conduct a psychological examination of the child unless either of the following applies:

(a) An entity is not required to conduct the examination if an examination was conducted no more than one year prior to the child's placement, and division (C)(1)(b) of this section does not apply.

(b) An entity is not required to conduct the examination if a foster caregiver seeks to adopt the foster caregiver's foster child, and an examination was conducted no more than two years prior to the date the foster caregiver seeks to adopt the child.

(2) No later than sixty days after placing the child, the entity shall provide the foster caregiver or prospective adoptive parents a written report detailing the substantial and material conclusions and recommendations of the examination conducted pursuant to this division.

(D)(1) Except as provided in divisions (D)(2) and (3) of this section, the expenses of conducting the examinations and preparing the reports and assessment required by division (B) or (C) of this section shall be paid by the entity that places the child in the certified foster home or for adoption.

(2) When a juvenile court grants temporary or permanent custody of a child pursuant to any section of the Revised Code, including section 2151.33, 2151.353, 2151.354, or 2152.19 of the Revised Code, to a public children services agency or private

child placing agency, the court shall provide the agency the 34863
information described in division (B) of this section, pay the 34864
expenses of preparing that information, and, if a new examination 34865
is required to be conducted, pay the expenses of conducting the 34866
examination described in division (C) of this section. On receipt 34867
of the information described in division (B) of this section, the 34868
agency shall provide to the court written acknowledgment that the 34869
agency received the information. The court shall keep the 34870
acknowledgment and provide a copy to the agency. On the motion of 34871
the agency, the court may terminate the order granting temporary 34872
or permanent custody of the child to that agency, if the court 34873
does not provide the information described in division (B) of this 34874
section. 34875

(3) If one of the following entities is placing a child in a 34876
certified foster home or for adoption with the assistance of or by 34877
contracting with a public children services agency, private child 34878
placing agency, or a private noncustodial agency, the entity shall 34879
provide the agency with the information described in division (B) 34880
of this section, pay the expenses of preparing that information, 34881
and, if a new examination is required to be conducted, pay the 34882
expenses of conducting the examination described in division (C) 34883
of this section: 34884

(a) The department of youth services if the placement is 34885
pursuant to any section of the Revised Code including section 34886
2152.22, 5139.06, 5139.07, 5139.38, or 5139.39 of the Revised 34887
Code; 34888

(b) A juvenile court with temporary or permanent custody of a 34889
child pursuant to section 2151.354 or 2152.19 of the Revised Code; 34890

(c) A public children services agency or private child 34891
placing agency with temporary or permanent custody of the child. 34892

The agency receiving the information described in division 34893

(B) of this section shall provide the entity described in division 34894
(D)(3)(a) to (c) of this section that sent the information written 34895
acknowledgment that the agency received the information and 34896
provided it to the foster caregivers or prospective adoptive 34897
parents. The entity shall keep the acknowledgment and provide a 34898
copy to the agency. An entity that places a child in a certified 34899
foster home or for adoption with the assistance of or by 34900
contracting with an agency remains responsible to provide the 34901
information described in division (B) of this section to the 34902
foster caregivers or prospective adoptive parents unless the 34903
entity receives written acknowledgment that the agency provided 34904
the information. 34905

(E) If a child is placed in a certified foster home as a 34906
result of an emergency removal of the child from home pursuant to 34907
division (D) of section 2151.31 of the Revised Code, an emergency 34908
change in the child's case plan pursuant to division ~~(E)~~(F)(3) of 34909
section 2151.412 of the Revised Code, or an emergency placement by 34910
the department of youth services pursuant to this chapter or 34911
Chapter 5139. of the Revised Code, the entity that places the 34912
child in the certified foster home shall provide the information 34913
described in division (B) of this section no later than ninety-six 34914
hours after the child is placed in the certified foster home. 34915

(F) On receipt of the information described in divisions (B) 34916
and (C) of this section, the foster caregiver or prospective 34917
adoptive parents shall provide to the entity that places the child 34918
in the foster caregiver's or prospective adoptive parents' home a 34919
written acknowledgment that the foster caregiver or prospective 34920
adoptive parents received the information. The entity shall keep 34921
the acknowledgment and provide a copy to the foster caregiver or 34922
prospective adoptive parents. 34923

(G) No person employed by an entity subject to this section 34924
and made responsible by that entity for the child's placement in a 34925

certified foster home or for adoption shall fail to provide the 34926
foster caregivers or prospective adoptive parents with the 34927
information required by divisions (B) and (C) of this section. 34928

(H) It is not a violation of any duty of confidentiality 34929
provided for in the Revised Code or a code of professional 34930
responsibility for a person or government entity to provide the 34931
substantial and material conclusions and recommendations of a 34932
psychiatric or psychological examination, or an examination to 34933
detect mental and emotional disorders, in accordance with division 34934
(B)(1)(d) or (C) of this section. 34935

(I) As used in this section: 34936

(1) "Body armor" has the same meaning as in section 2941.1411 34937
of the Revised Code. 34938

(2) "Firearm" has the same meaning as in section 2923.11 of 34939
the Revised Code. 34940

Sec. 2301.03. (A) In Franklin county, the judges of the court 34941
of common pleas whose terms begin on January 1, 1953, January 2, 34942
1953, January 5, 1969, January 5, 1977, and January 2, 1997, and 34943
successors, shall have the same qualifications, exercise the same 34944
powers and jurisdiction, and receive the same compensation as 34945
other judges of the court of common pleas of Franklin county and 34946
shall be elected and designated as judges of the court of common 34947
pleas, division of domestic relations. They shall have all the 34948
powers relating to juvenile courts, and all cases under Chapters 34949
2151. and 2152. of the Revised Code, all parentage proceedings 34950
under Chapter 3111. of the Revised Code over which the juvenile 34951
court has jurisdiction, and all divorce, dissolution of marriage, 34952
legal separation, and annulment cases shall be assigned to them. 34953
In addition to the judge's regular duties, the judge who is senior 34954
in point of service shall serve on the children services board and 34955
the county advisory board and shall be the administrator of the 34956

domestic relations division and its subdivisions and departments. 34957
34958

(B) In Hamilton county: 34959

(1) The judge of the court of common pleas, whose term begins 34960
on January 1, 1957, and successors, and the judge of the court of 34961
common pleas, whose term begins on February 14, 1967, and 34962
successors, shall be the juvenile judges as provided in Chapters 34963
2151. and 2152. of the Revised Code, with the powers and 34964
jurisdiction conferred by those chapters. 34965

(2) The judges of the court of common pleas whose terms begin 34966
on January 5, 1957, January 16, 1981, and July 1, 1991, and 34967
successors, shall be elected and designated as judges of the court 34968
of common pleas, division of domestic relations, and shall have 34969
assigned to them all divorce, dissolution of marriage, legal 34970
separation, and annulment cases coming before the court. On or 34971
after the first day of July and before the first day of August of 34972
1991 and each year thereafter, a majority of the judges of the 34973
division of domestic relations shall elect one of the judges of 34974
the division as administrative judge of that division. If a 34975
majority of the judges of the division of domestic relations are 34976
unable for any reason to elect an administrative judge for the 34977
division before the first day of August, a majority of the judges 34978
of the Hamilton county court of common pleas, as soon as possible 34979
after that date, shall elect one of the judges of the division of 34980
domestic relations as administrative judge of that division. The 34981
term of the administrative judge shall begin on the earlier of the 34982
first day of August of the year in which the administrative judge 34983
is elected or the date on which the administrative judge is 34984
elected by a majority of the judges of the Hamilton county court 34985
of common pleas and shall terminate on the date on which the 34986
administrative judge's successor is elected in the following year. 34987

In addition to the judge's regular duties, the administrative 34988

judge of the division of domestic relations shall be the 34989
administrator of the domestic relations division and its 34990
subdivisions and departments and shall have charge of the 34991
employment, assignment, and supervision of the personnel of the 34992
division engaged in handling, servicing, or investigating divorce, 34993
dissolution of marriage, legal separation, and annulment cases, 34994
including any referees considered necessary by the judges in the 34995
discharge of their various duties. 34996

The administrative judge of the division of domestic 34997
relations also shall designate the title, compensation, expense 34998
allowances, hours, leaves of absence, and vacations of the 34999
personnel of the division, and shall fix the duties of its 35000
personnel. The duties of the personnel, in addition to those 35001
provided for in other sections of the Revised Code, shall include 35002
the handling, servicing, and investigation of divorce, dissolution 35003
of marriage, legal separation, and annulment cases and counseling 35004
and conciliation services that may be made available to persons 35005
requesting them, whether or not the persons are parties to an 35006
action pending in the division. 35007

The board of county commissioners shall appropriate the sum 35008
of money each year as will meet all the administrative expenses of 35009
the division of domestic relations, including reasonable expenses 35010
of the domestic relations judges and the division counselors and 35011
other employees designated to conduct the handling, servicing, and 35012
investigation of divorce, dissolution of marriage, legal 35013
separation, and annulment cases, conciliation and counseling, and 35014
all matters relating to those cases and counseling, and the 35015
expenses involved in the attendance of division personnel at 35016
domestic relations and welfare conferences designated by the 35017
division, and the further sum each year as will provide for the 35018
adequate operation of the division of domestic relations. 35019

The compensation and expenses of all employees and the salary 35020

and expenses of the judges shall be paid by the county treasurer 35021
from the money appropriated for the operation of the division, 35022
upon the warrant of the county auditor, certified to by the 35023
administrative judge of the division of domestic relations. 35024

The summonses, warrants, citations, subpoenas, and other 35025
writs of the division may issue to a bailiff, constable, or staff 35026
investigator of the division or to the sheriff of any county or 35027
any marshal, constable, or police officer, and the provisions of 35028
law relating to the subpoenaing of witnesses in other cases shall 35029
apply insofar as they are applicable. When a summons, warrant, 35030
citation, subpoena, or other writ is issued to an officer, other 35031
than a bailiff, constable, or staff investigator of the division, 35032
the expense of serving it shall be assessed as a part of the costs 35033
in the case involved. 35034

(3) The judge of the court of common pleas of Hamilton county 35035
whose term begins on January 3, 1997, and the successors to that 35036
judge shall each be elected and designated as the drug court judge 35037
of the court of common pleas of Hamilton county. The drug court 35038
judge may accept or reject any case referred to the drug court 35039
judge under division (B)(3) of this section. After the drug court 35040
judge accepts a referred case, the drug court judge has full 35041
authority over the case, including the authority to conduct 35042
arraignment, accept pleas, enter findings and dispositions, 35043
conduct trials, order treatment, and if treatment is not 35044
successfully completed pronounce and enter sentence. 35045

A judge of the general division of the court of common pleas 35046
of Hamilton county and a judge of the Hamilton county municipal 35047
court may refer to the drug court judge any case, and any 35048
companion cases, the judge determines meet the criteria described 35049
under divisions (B)(3)(a) and (b) of this section. If the drug 35050
court judge accepts referral of a referred case, the case, and any 35051
companion cases, shall be transferred to the drug court judge. A 35052

judge may refer a case meeting the criteria described in divisions 35053
(B)(3)(a) and (b) of this section that involves a violation of a 35054
condition of a community control sanction to the drug court judge, 35055
and, if the drug court judge accepts the referral, the referring 35056
judge and the drug court judge have concurrent jurisdiction over 35057
the case. 35058

A judge of the general division of the court of common pleas 35059
of Hamilton county and a judge of the Hamilton county municipal 35060
court may refer a case to the drug court judge under division 35061
(B)(3) of this section if the judge determines that both of the 35062
following apply: 35063

(a) One of the following applies: 35064

(i) The case involves a drug abuse offense, as defined in 35065
section 2925.01 of the Revised Code, that is a felony of the third 35066
or fourth degree if the offense is committed prior to July 1, 35067
1996, a felony of the third, fourth, or fifth degree if the 35068
offense is committed on or after July 1, 1996, or a misdemeanor. 35069

(ii) The case involves a theft offense, as defined in section 35070
2913.01 of the Revised Code, that is a felony of the third or 35071
fourth degree if the offense is committed prior to July 1, 1996, a 35072
felony of the third, fourth, or fifth degree if the offense is 35073
committed on or after July 1, 1996, or a misdemeanor, and the 35074
defendant is drug or alcohol dependent or in danger of becoming 35075
drug or alcohol dependent and would benefit from treatment. 35076

(b) All of the following apply: 35077

(i) The case involves an offense for which a community 35078
control sanction may be imposed or is a case in which a mandatory 35079
prison term or a mandatory jail term is not required to be 35080
imposed. 35081

(ii) The defendant has no history of violent behavior. 35082

(iii) The defendant has no history of mental illness.	35083
(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.	35084 35085
(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.	35086 35087
(vi) The defendant has no acute health condition.	35088
(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.	35089 35090
(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.	35091 35092 35093 35094 35095 35096 35097 35098 35099 35100 35101
(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.	35102 35103 35104 35105
(C)(1) In Lorain county:	35106
(a) The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, and the judge of the court of common pleas whose term begins on February 9, 2009, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of	35107 35108 35109 35110 35111 35112

Lorain county and shall be elected and designated as the judges of 35113
the court of common pleas, division of domestic relations. The 35114
judges of the court of common pleas whose terms begin on January 35115
3, 1959, January 4, 1989, and January 2, 1999, and successors, 35116
shall have all of the powers relating to juvenile courts, and all 35117
cases under Chapters 2151. and 2152. of the Revised Code, all 35118
parentage proceedings over which the juvenile court has 35119
jurisdiction, and all divorce, dissolution of marriage, legal 35120
separation, and annulment cases shall be assigned to them, except 35121
cases that for some special reason are assigned to some other 35122
judge of the court of common pleas. From February 9, 2009, through 35123
September 28, 2009, the judge of the court of common pleas whose 35124
term begins on February 9, 2009, shall have all the powers 35125
relating to juvenile courts, and cases under Chapters 2151. and 35126
2152. of the Revised Code, parentage proceedings over which the 35127
juvenile court has jurisdiction, and divorce, dissolution of 35128
marriage, legal separation, and annulment cases shall be assigned 35129
to that judge, except cases that for some special reason are 35130
assigned to some other judge of the court of common pleas. 35131

(b) From January 1, 2006, through September 28, 2009, the 35132
judges of the court of common pleas, division of domestic 35133
relations, in addition to the powers and jurisdiction set forth in 35134
division (C)(1)(a) of this section, shall have jurisdiction over 35135
matters that are within the jurisdiction of the probate court 35136
under Chapter 2101. and other provisions of the Revised Code. 35137

(c) The judge of the court of common pleas, division of 35138
domestic relations, whose term begins on February 9, 2009, is the 35139
successor to the probate judge who was elected in 2002 for a term 35140
that began on February 9, 2003. After September 28, 2009, the 35141
judge of the court of common pleas, division of domestic 35142
relations, whose term begins on February 9, 2009, shall be the 35143
probate judge. 35144

(2)(a) From February 9, 2009, through September 28, 2009, 35145
with respect to Lorain county, all references in law to the 35146
probate court shall be construed as references to the court of 35147
common pleas, division of domestic relations, and all references 35148
to the probate judge shall be construed as references to the 35149
judges of the court of common pleas, division of domestic 35150
relations. 35151

(b) From February 9, 2009, through September 28, 2009, with 35152
respect to Lorain county, all references in law to the clerk of 35153
the probate court shall be construed as references to the judge 35154
who is serving pursuant to Rule 4 of the Rules of Superintendence 35155
for the Courts of Ohio as the administrative judge of the court of 35156
common pleas, division of domestic relations. 35157

(D) In Lucas county: 35158

(1) The judges of the court of common pleas whose terms begin 35159
on January 1, 1955, and January 3, 1965, and successors, shall 35160
have the same qualifications, exercise the same powers and 35161
jurisdiction, and receive the same compensation as other judges of 35162
the court of common pleas of Lucas county and shall be elected and 35163
designated as judges of the court of common pleas, division of 35164
domestic relations. All divorce, dissolution of marriage, legal 35165
separation, and annulment cases shall be assigned to them. 35166

The judge of the division of domestic relations, senior in 35167
point of service, shall be considered as the presiding judge of 35168
the court of common pleas, division of domestic relations, and 35169
shall be charged exclusively with the assignment and division of 35170
the work of the division and the employment and supervision of all 35171
other personnel of the domestic relations division. 35172

(2) The judges of the court of common pleas whose terms begin 35173
on January 5, 1977, and January 2, 1991, and successors shall have 35174
the same qualifications, exercise the same powers and 35175

jurisdiction, and receive the same compensation as other judges of 35176
the court of common pleas of Lucas county, shall be elected and 35177
designated as judges of the court of common pleas, juvenile 35178
division, and shall be the juvenile judges as provided in Chapters 35179
2151. and 2152. of the Revised Code with the powers and 35180
jurisdictions conferred by those chapters. In addition to the 35181
judge's regular duties, the judge of the court of common pleas, 35182
juvenile division, senior in point of service, shall be the 35183
administrator of the juvenile division and its subdivisions and 35184
departments and shall have charge of the employment, assignment, 35185
and supervision of the personnel of the division engaged in 35186
handling, servicing, or investigating juvenile cases, including 35187
any referees considered necessary by the judges of the division in 35188
the discharge of their various duties. 35189

The judge of the court of common pleas, juvenile division, 35190
senior in point of service, also shall designate the title, 35191
compensation, expense allowance, hours, leaves of absence, and 35192
vacation of the personnel of the division and shall fix the duties 35193
of the personnel of the division. The duties of the personnel, in 35194
addition to other statutory duties include the handling, 35195
servicing, and investigation of juvenile cases and counseling and 35196
conciliation services that may be made available to persons 35197
requesting them, whether or not the persons are parties to an 35198
action pending in the division. 35199

(3) If one of the judges of the court of common pleas, 35200
division of domestic relations, or one of the judges of the 35201
juvenile division is sick, absent, or unable to perform that 35202
judge's judicial duties or the volume of cases pending in that 35203
judge's division necessitates it, the duties shall be performed by 35204
the judges of the other of those divisions. 35205

(E) In Mahoning county: 35206

(1) The judge of the court of common pleas whose term began 35207

on January 1, 1955, and successors, shall have the same 35208
qualifications, exercise the same powers and jurisdiction, and 35209
receive the same compensation as other judges of the court of 35210
common pleas of Mahoning county, shall be elected and designated 35211
as judge of the court of common pleas, division of domestic 35212
relations, and shall be assigned all the divorce, dissolution of 35213
marriage, legal separation, and annulment cases coming before the 35214
court. In addition to the judge's regular duties, the judge of the 35215
court of common pleas, division of domestic relations, shall be 35216
the administrator of the domestic relations division and its 35217
subdivisions and departments and shall have charge of the 35218
employment, assignment, and supervision of the personnel of the 35219
division engaged in handling, servicing, or investigating divorce, 35220
dissolution of marriage, legal separation, and annulment cases, 35221
including any referees considered necessary in the discharge of 35222
the various duties of the judge's office. 35223

The judge also shall designate the title, compensation, 35224
expense allowances, hours, leaves of absence, and vacations of the 35225
personnel of the division and shall fix the duties of the 35226
personnel of the division. The duties of the personnel, in 35227
addition to other statutory duties, include the handling, 35228
servicing, and investigation of divorce, dissolution of marriage, 35229
legal separation, and annulment cases and counseling and 35230
conciliation services that may be made available to persons 35231
requesting them, whether or not the persons are parties to an 35232
action pending in the division. 35233

(2) The judge of the court of common pleas whose term began 35234
on January 2, 1969, and successors, shall have the same 35235
qualifications, exercise the same powers and jurisdiction, and 35236
receive the same compensation as other judges of the court of 35237
common pleas of Mahoning county, shall be elected and designated 35238
as judge of the court of common pleas, juvenile division, and 35239

shall be the juvenile judge as provided in Chapters 2151. and 35240
2152. of the Revised Code, with the powers and jurisdictions 35241
conferred by those chapters. In addition to the judge's regular 35242
duties, the judge of the court of common pleas, juvenile division, 35243
shall be the administrator of the juvenile division and its 35244
subdivisions and departments and shall have charge of the 35245
employment, assignment, and supervision of the personnel of the 35246
division engaged in handling, servicing, or investigating juvenile 35247
cases, including any referees considered necessary by the judge in 35248
the discharge of the judge's various duties. 35249

The judge also shall designate the title, compensation, 35250
expense allowances, hours, leaves of absence, and vacation of the 35251
personnel of the division and shall fix the duties of the 35252
personnel of the division. The duties of the personnel, in 35253
addition to other statutory duties, include the handling, 35254
servicing, and investigation of juvenile cases and counseling and 35255
conciliation services that may be made available to persons 35256
requesting them, whether or not the persons are parties to an 35257
action pending in the division. 35258

(3) If a judge of the court of common pleas, division of 35259
domestic relations or juvenile division, is sick, absent, or 35260
unable to perform that judge's judicial duties, or the volume of 35261
cases pending in that judge's division necessitates it, that 35262
judge's duties shall be performed by another judge of the court of 35263
common pleas. 35264

(F) In Montgomery county: 35265

(1) The judges of the court of common pleas whose terms begin 35266
on January 2, 1953, and January 4, 1977, and successors, shall 35267
have the same qualifications, exercise the same powers and 35268
jurisdiction, and receive the same compensation as other judges of 35269
the court of common pleas of Montgomery county and shall be 35270
elected and designated as judges of the court of common pleas, 35271

division of domestic relations. These judges shall have assigned 35272
to them all divorce, dissolution of marriage, legal separation, 35273
and annulment cases. 35274

The judge of the division of domestic relations, senior in 35275
point of service, shall be charged exclusively with the assignment 35276
and division of the work of the division and shall have charge of 35277
the employment and supervision of the personnel of the division 35278
engaged in handling, servicing, or investigating divorce, 35279
dissolution of marriage, legal separation, and annulment cases, 35280
including any necessary referees, except those employees who may 35281
be appointed by the judge, junior in point of service, under this 35282
section and sections 2301.12, and 2301.18, ~~and 2301.19~~ of the 35283
Revised Code. The judge of the division of domestic relations, 35284
senior in point of service, also shall designate the title, 35285
compensation, expense allowances, hours, leaves of absence, and 35286
vacation of the personnel of the division and shall fix their 35287
duties. 35288

(2) The judges of the court of common pleas whose terms begin 35289
on January 1, 1953, and January 1, 1993, and successors, shall 35290
have the same qualifications, exercise the same powers and 35291
jurisdiction, and receive the same compensation as other judges of 35292
the court of common pleas of Montgomery county, shall be elected 35293
and designated as judges of the court of common pleas, juvenile 35294
division, and shall be, and have the powers and jurisdiction of, 35295
the juvenile judge as provided in Chapters 2151. and 2152. of the 35296
Revised Code. 35297

In addition to the judge's regular duties, the judge of the 35298
court of common pleas, juvenile division, senior in point of 35299
service, shall be the administrator of the juvenile division and 35300
its subdivisions and departments and shall have charge of the 35301
employment, assignment, and supervision of the personnel of the 35302
juvenile division, including any necessary referees, who are 35303

engaged in handling, servicing, or investigating juvenile cases. 35304
The judge, senior in point of service, also shall designate the 35305
title, compensation, expense allowances, hours, leaves of absence, 35306
and vacation of the personnel of the division and shall fix their 35307
duties. The duties of the personnel, in addition to other 35308
statutory duties, shall include the handling, servicing, and 35309
investigation of juvenile cases and of any counseling and 35310
conciliation services that are available upon request to persons, 35311
whether or not they are parties to an action pending in the 35312
division. 35313

If one of the judges of the court of common pleas, division 35314
of domestic relations, or one of the judges of the court of common 35315
pleas, juvenile division, is sick, absent, or unable to perform 35316
that judge's duties or the volume of cases pending in that judge's 35317
division necessitates it, the duties of that judge may be 35318
performed by the judge or judges of the other of those divisions. 35319

(G) In Richland county: 35320

(1) The judge of the court of common pleas whose term begins 35321
on January 1, 1957, and successors, shall have the same 35322
qualifications, exercise the same powers and jurisdiction, and 35323
receive the same compensation as the other judges of the court of 35324
common pleas of Richland county and shall be elected and 35325
designated as judge of the court of common pleas, division of 35326
domestic relations. That judge shall be assigned and hear all 35327
divorce, dissolution of marriage, legal separation, and annulment 35328
cases, all domestic violence cases arising under section 3113.31 35329
of the Revised Code, and all post-decree proceedings arising from 35330
any case pertaining to any of those matters. The division of 35331
domestic relations has concurrent jurisdiction with the juvenile 35332
division of the court of common pleas of Richland county to 35333
determine the care, custody, or control of any child not a ward of 35334
another court of this state, and to hear and determine a request 35335

for an order for the support of any child if the request is not 35336
ancillary to an action for divorce, dissolution of marriage, 35337
annulment, or legal separation, a criminal or civil action 35338
involving an allegation of domestic violence, or an action for 35339
support brought under Chapter 3115. of the Revised Code. Except in 35340
cases that are subject to the exclusive original jurisdiction of 35341
the juvenile court, the judge of the division of domestic 35342
relations shall be assigned and hear all cases pertaining to 35343
paternity or parentage, the care, custody, or control of children, 35344
parenting time or visitation, child support, or the allocation of 35345
parental rights and responsibilities for the care of children, all 35346
proceedings arising under Chapter 3111. of the Revised Code, all 35347
proceedings arising under the uniform interstate family support 35348
act contained in Chapter 3115. of the Revised Code, and all 35349
post-decree proceedings arising from any case pertaining to any of 35350
those matters. 35351

In addition to the judge's regular duties, the judge of the 35352
court of common pleas, division of domestic relations, shall be 35353
the administrator of the domestic relations division and its 35354
subdivisions and departments. The judge shall have charge of the 35355
employment, assignment, and supervision of the personnel of the 35356
domestic relations division, including any magistrates the judge 35357
considers necessary for the discharge of the judge's duties. The 35358
judge shall also designate the title, compensation, expense 35359
allowances, hours, leaves of absence, vacation, and other 35360
employment-related matters of the personnel of the division and 35361
shall fix their duties. 35362

(2) The judge of the court of common pleas whose term begins 35363
on January 3, 2005, and successors, shall have the same 35364
qualifications, exercise the same powers and jurisdiction, and 35365
receive the same compensation as other judges of the court of 35366
common pleas of Richland county, shall be elected and designated 35367

as judge of the court of common pleas, juvenile division, and 35368
shall be, and have the powers and jurisdiction of, the juvenile 35369
judge as provided in Chapters 2151. and 2152. of the Revised Code. 35370
Except in cases that are subject to the exclusive original 35371
jurisdiction of the juvenile court, the judge of the juvenile 35372
division shall not have jurisdiction or the power to hear, and 35373
shall not be assigned, any case pertaining to paternity or 35374
parentage, the care, custody, or control of children, parenting 35375
time or visitation, child support, or the allocation of parental 35376
rights and responsibilities for the care of children or any 35377
post-decree proceeding arising from any case pertaining to any of 35378
those matters. The judge of the juvenile division shall not have 35379
jurisdiction or the power to hear, and shall not be assigned, any 35380
proceeding under the uniform interstate family support act 35381
contained in Chapter 3115. of the Revised Code. 35382

In addition to the judge's regular duties, the judge of the 35383
juvenile division shall be the administrator of the juvenile 35384
division and its subdivisions and departments. The judge shall 35385
have charge of the employment, assignment, and supervision of the 35386
personnel of the juvenile division who are engaged in handling, 35387
servicing, or investigating juvenile cases, including any 35388
magistrates whom the judge considers necessary for the discharge 35389
of the judge's various duties. 35390

The judge of the juvenile division also shall designate the 35391
title, compensation, expense allowances, hours, leaves of absence, 35392
and vacation of the personnel of the division and shall fix their 35393
duties. The duties of the personnel, in addition to other 35394
statutory duties, include the handling, servicing, and 35395
investigation of juvenile cases and providing any counseling, 35396
conciliation, and mediation services that the court makes 35397
available to persons, whether or not the persons are parties to an 35398
action pending in the court, who request the services. 35399

(H) In Stark county, the judges of the court of common pleas 35400
whose terms begin on January 1, 1953, January 2, 1959, and January 35401
1, 1993, and successors, shall have the same qualifications, 35402
exercise the same powers and jurisdiction, and receive the same 35403
compensation as other judges of the court of common pleas of Stark 35404
county and shall be elected and designated as judges of the court 35405
of common pleas, division of domestic relations. They shall have 35406
all the powers relating to juvenile courts, and all cases under 35407
Chapters 2151. and 2152. of the Revised Code, all parentage 35408
proceedings over which the juvenile court has jurisdiction, and 35409
all divorce, dissolution of marriage, legal separation, and 35410
annulment cases, except cases that are assigned to some other 35411
judge of the court of common pleas for some special reason, shall 35412
be assigned to the judges. 35413

The judge of the division of domestic relations, second most 35414
senior in point of service, shall have charge of the employment 35415
and supervision of the personnel of the division engaged in 35416
handling, servicing, or investigating divorce, dissolution of 35417
marriage, legal separation, and annulment cases, and necessary 35418
referees required for the judge's respective court. 35419

The judge of the division of domestic relations, senior in 35420
point of service, shall be charged exclusively with the 35421
administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 35422
of the Revised Code and with the assignment and division of the 35423
work of the division and the employment and supervision of all 35424
other personnel of the division, including, but not limited to, 35425
that judge's necessary referees, but excepting those employees who 35426
may be appointed by the judge second most senior in point of 35427
service. The senior judge further shall serve in every other 35428
position in which the statutes permit or require a juvenile judge 35429
to serve. 35430

(I) In Summit county: 35431

(1) The judges of the court of common pleas whose terms begin 35432
on January 4, 1967, and January 6, 1993, and successors, shall 35433
have the same qualifications, exercise the same powers and 35434
jurisdiction, and receive the same compensation as other judges of 35435
the court of common pleas of Summit county and shall be elected 35436
and designated as judges of the court of common pleas, division of 35437
domestic relations. The judges of the division of domestic 35438
relations shall have assigned to them and hear all divorce, 35439
dissolution of marriage, legal separation, and annulment cases 35440
that come before the court. Except in cases that are subject to 35441
the exclusive original jurisdiction of the juvenile court, the 35442
judges of the division of domestic relations shall have assigned 35443
to them and hear all cases pertaining to paternity, custody, 35444
visitation, child support, or the allocation of parental rights 35445
and responsibilities for the care of children and all post-decree 35446
proceedings arising from any case pertaining to any of those 35447
matters. The judges of the division of domestic relations shall 35448
have assigned to them and hear all proceedings under the uniform 35449
interstate family support act contained in Chapter 3115. of the 35450
Revised Code. 35451

The judge of the division of domestic relations, senior in 35452
point of service, shall be the administrator of the domestic 35453
relations division and its subdivisions and departments and shall 35454
have charge of the employment, assignment, and supervision of the 35455
personnel of the division, including any necessary referees, who 35456
are engaged in handling, servicing, or investigating divorce, 35457
dissolution of marriage, legal separation, and annulment cases. 35458
That judge also shall designate the title, compensation, expense 35459
allowances, hours, leaves of absence, and vacations of the 35460
personnel of the division and shall fix their duties. The duties 35461
of the personnel, in addition to other statutory duties, shall 35462
include the handling, servicing, and investigation of divorce, 35463
dissolution of marriage, legal separation, and annulment cases and 35464

of any counseling and conciliation services that are available 35465
upon request to all persons, whether or not they are parties to an 35466
action pending in the division. 35467

(2) The judge of the court of common pleas whose term begins 35468
on January 1, 1955, and successors, shall have the same 35469
qualifications, exercise the same powers and jurisdiction, and 35470
receive the same compensation as other judges of the court of 35471
common pleas of Summit county, shall be elected and designated as 35472
judge of the court of common pleas, juvenile division, and shall 35473
be, and have the powers and jurisdiction of, the juvenile judge as 35474
provided in Chapters 2151. and 2152. of the Revised Code. Except 35475
in cases that are subject to the exclusive original jurisdiction 35476
of the juvenile court, the judge of the juvenile division shall 35477
not have jurisdiction or the power to hear, and shall not be 35478
assigned, any case pertaining to paternity, custody, visitation, 35479
child support, or the allocation of parental rights and 35480
responsibilities for the care of children or any post-decree 35481
proceeding arising from any case pertaining to any of those 35482
matters. The judge of the juvenile division shall not have 35483
jurisdiction or the power to hear, and shall not be assigned, any 35484
proceeding under the uniform interstate family support act 35485
contained in Chapter 3115. of the Revised Code. 35486

The juvenile judge shall be the administrator of the juvenile 35487
division and its subdivisions and departments and shall have 35488
charge of the employment, assignment, and supervision of the 35489
personnel of the juvenile division, including any necessary 35490
referees, who are engaged in handling, servicing, or investigating 35491
juvenile cases. The judge also shall designate the title, 35492
compensation, expense allowances, hours, leaves of absence, and 35493
vacation of the personnel of the division and shall fix their 35494
duties. The duties of the personnel, in addition to other 35495
statutory duties, shall include the handling, servicing, and 35496

investigation of juvenile cases and of any counseling and 35497
conciliation services that are available upon request to persons, 35498
whether or not they are parties to an action pending in the 35499
division. 35500

(J) In Trumbull county, the judges of the court of common 35501
pleas whose terms begin on January 1, 1953, and January 2, 1977, 35502
and successors, shall have the same qualifications, exercise the 35503
same powers and jurisdiction, and receive the same compensation as 35504
other judges of the court of common pleas of Trumbull county and 35505
shall be elected and designated as judges of the court of common 35506
pleas, division of domestic relations. They shall have all the 35507
powers relating to juvenile courts, and all cases under Chapters 35508
2151. and 2152. of the Revised Code, all parentage proceedings 35509
over which the juvenile court has jurisdiction, and all divorce, 35510
dissolution of marriage, legal separation, and annulment cases 35511
shall be assigned to them, except cases that for some special 35512
reason are assigned to some other judge of the court of common 35513
pleas. 35514

(K) In Butler county: 35515

(1) The judges of the court of common pleas whose terms begin 35516
on January 1, 1957, and January 4, 1993, and successors, shall 35517
have the same qualifications, exercise the same powers and 35518
jurisdiction, and receive the same compensation as other judges of 35519
the court of common pleas of Butler county and shall be elected 35520
and designated as judges of the court of common pleas, division of 35521
domestic relations. The judges of the division of domestic 35522
relations shall have assigned to them all divorce, dissolution of 35523
marriage, legal separation, and annulment cases coming before the 35524
court, except in cases that for some special reason are assigned 35525
to some other judge of the court of common pleas. The judges of 35526
the division of domestic relations also have concurrent 35527
jurisdiction with judges of the juvenile division of the court of 35528

common pleas of Butler county with respect to and may hear cases 35529
to determine the custody, support, or custody and support of a 35530
child who is born of issue of a marriage and who is not the ward 35531
of another court of this state, cases commenced by a party of the 35532
marriage to obtain an order requiring support of any child when 35533
the request for that order is not ancillary to an action for 35534
divorce, dissolution of marriage, annulment, or legal separation, 35535
a criminal or civil action involving an allegation of domestic 35536
violence, an action for support under Chapter 3115. of the Revised 35537
Code, or an action that is within the exclusive original 35538
jurisdiction of the juvenile division of the court of common pleas 35539
of Butler county and that involves an allegation that the child is 35540
an abused, neglected, or dependent child, and post-decree 35541
proceedings and matters arising from those types of cases. The 35542
judge senior in point of service shall be charged with the 35543
assignment and division of the work of the division and with the 35544
employment and supervision of all other personnel of the domestic 35545
relations division. 35546

The judge senior in point of service also shall designate the 35547
title, compensation, expense allowances, hours, leaves of absence, 35548
and vacations of the personnel of the division and shall fix their 35549
duties. The duties of the personnel, in addition to other 35550
statutory duties, shall include the handling, servicing, and 35551
investigation of divorce, dissolution of marriage, legal 35552
separation, and annulment cases and providing any counseling and 35553
conciliation services that the division makes available to 35554
persons, whether or not the persons are parties to an action 35555
pending in the division, who request the services. 35556

(2) The judges of the court of common pleas whose terms begin 35557
on January 3, 1987, and January 2, 2003, and successors, shall 35558
have the same qualifications, exercise the same powers and 35559
jurisdiction, and receive the same compensation as other judges of 35560

the court of common pleas of Butler county, shall be elected and 35561
designated as judges of the court of common pleas, juvenile 35562
division, and shall be the juvenile judges as provided in Chapters 35563
2151. and 2152. of the Revised Code, with the powers and 35564
jurisdictions conferred by those chapters. Except in cases that 35565
are subject to the exclusive original jurisdiction of the juvenile 35566
court, the judges of the juvenile division shall not have 35567
jurisdiction or the power to hear and shall not be assigned, but 35568
shall have the limited ability and authority to certify, any case 35569
commenced by a party of a marriage to determine the custody, 35570
support, or custody and support of a child who is born of issue of 35571
the marriage and who is not the ward of another court of this 35572
state when the request for the order in the case is not ancillary 35573
to an action for divorce, dissolution of marriage, annulment, or 35574
legal separation. The judge of the court of common pleas, juvenile 35575
division, who is senior in point of service, shall be the 35576
administrator of the juvenile division and its subdivisions and 35577
departments. The judge, senior in point of service, shall have 35578
charge of the employment, assignment, and supervision of the 35579
personnel of the juvenile division who are engaged in handling, 35580
servicing, or investigating juvenile cases, including any referees 35581
whom the judge considers necessary for the discharge of the 35582
judge's various duties. 35583

The judge, senior in point of service, also shall designate 35584
the title, compensation, expense allowances, hours, leaves of 35585
absence, and vacation of the personnel of the division and shall 35586
fix their duties. The duties of the personnel, in addition to 35587
other statutory duties, include the handling, servicing, and 35588
investigation of juvenile cases and providing any counseling and 35589
conciliation services that the division makes available to 35590
persons, whether or not the persons are parties to an action 35591
pending in the division, who request the services. 35592

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

(2) The administrative judge is administrator of the domestic relations division and its subdivisions and departments and has the following powers concerning division personnel:

(a) Full charge of the employment, assignment, and supervision;

(b) Sole determination of compensation, duties, expenses, allowances, hours, leaves, and vacations.

(3) "Division personnel" include persons employed or referees engaged in hearing, servicing, investigating, counseling, or conciliating divorce, dissolution of marriage, legal separation and annulment matters.

(M) In Lake county:

(1) The judge of the court of common pleas whose term begins

on January 2, 1961, and successors, shall have the same 35624
qualifications, exercise the same powers and jurisdiction, and 35625
receive the same compensation as the other judges of the court of 35626
common pleas of Lake county and shall be elected and designated as 35627
judge of the court of common pleas, division of domestic 35628
relations. The judge shall be assigned all the divorce, 35629
dissolution of marriage, legal separation, and annulment cases 35630
coming before the court, except in cases that for some special 35631
reason are assigned to some other judge of the court of common 35632
pleas. The judge shall be charged with the assignment and division 35633
of the work of the division and with the employment and 35634
supervision of all other personnel of the domestic relations 35635
division. 35636

The judge also shall designate the title, compensation, 35637
expense allowances, hours, leaves of absence, and vacations of the 35638
personnel of the division and shall fix their duties. The duties 35639
of the personnel, in addition to other statutory duties, shall 35640
include the handling, servicing, and investigation of divorce, 35641
dissolution of marriage, legal separation, and annulment cases and 35642
providing any counseling and conciliation services that the 35643
division makes available to persons, whether or not the persons 35644
are parties to an action pending in the division, who request the 35645
services. 35646

(2) The judge of the court of common pleas whose term begins 35647
on January 4, 1979, and successors, shall have the same 35648
qualifications, exercise the same powers and jurisdiction, and 35649
receive the same compensation as other judges of the court of 35650
common pleas of Lake county, shall be elected and designated as 35651
judge of the court of common pleas, juvenile division, and shall 35652
be the juvenile judge as provided in Chapters 2151. and 2152. of 35653
the Revised Code, with the powers and jurisdictions conferred by 35654
those chapters. The judge of the court of common pleas, juvenile 35655

division, shall be the administrator of the juvenile division and 35656
its subdivisions and departments. The judge shall have charge of 35657
the employment, assignment, and supervision of the personnel of 35658
the juvenile division who are engaged in handling, servicing, or 35659
investigating juvenile cases, including any referees whom the 35660
judge considers necessary for the discharge of the judge's various 35661
duties. 35662

The judge also shall designate the title, compensation, 35663
expense allowances, hours, leaves of absence, and vacation of the 35664
personnel of the division and shall fix their duties. The duties 35665
of the personnel, in addition to other statutory duties, include 35666
the handling, servicing, and investigation of juvenile cases and 35667
providing any counseling and conciliation services that the 35668
division makes available to persons, whether or not the persons 35669
are parties to an action pending in the division, who request the 35670
services. 35671

(3) If a judge of the court of common pleas, division of 35672
domestic relations or juvenile division, is sick, absent, or 35673
unable to perform that judge's judicial duties or the volume of 35674
cases pending in the judge's division necessitates it, the duties 35675
of that judge shall be performed by the other judges of the 35676
domestic relations and juvenile divisions. 35677

(N) In Erie county: 35678

(1) The judge of the court of common pleas whose term begins 35679
on January 2, 1971, and the successors to that judge whose terms 35680
begin before January 2, 2007, shall have the same qualifications, 35681
exercise the same powers and jurisdiction, and receive the same 35682
compensation as the other judge of the court of common pleas of 35683
Erie county and shall be elected and designated as judge of the 35684
court of common pleas, division of domestic relations. The judge 35685
shall have all the powers relating to juvenile courts, and shall 35686
be assigned all cases under Chapters 2151. and 2152. of the 35687

Revised Code, parentage proceedings over which the juvenile court 35688
has jurisdiction, and divorce, dissolution of marriage, legal 35689
separation, and annulment cases, except cases that for some 35690
special reason are assigned to some other judge. 35691

On or after January 2, 2007, the judge of the court of common 35692
pleas who is elected in 2006 shall be the successor to the judge 35693
of the domestic relations division whose term expires on January 35694
1, 2007, shall be designated as judge of the court of common 35695
pleas, juvenile division, and shall be the juvenile judge as 35696
provided in Chapters 2151. and 2152. of the Revised Code with the 35697
powers and jurisdictions conferred by those chapters. 35698

(2) The judge of the court of common pleas, general division, 35699
whose term begins on January 1, 2005, and successors, the judge of 35700
the court of common pleas, general division whose term begins on 35701
January 2, 2005, and successors, and the judge of the court of 35702
common pleas, general division, whose term begins February 9, 35703
2009, and successors, shall have assigned to them, in addition to 35704
all matters that are within the jurisdiction of the general 35705
division of the court of common pleas, all divorce, dissolution of 35706
marriage, legal separation, and annulment cases coming before the 35707
court, and all matters that are within the jurisdiction of the 35708
probate court under Chapter 2101., and other provisions, of the 35709
Revised Code. 35710

(0) In Greene county: 35711

(1) The judge of the court of common pleas whose term begins 35712
on January 1, 1961, and successors, shall have the same 35713
qualifications, exercise the same powers and jurisdiction, and 35714
receive the same compensation as the other judges of the court of 35715
common pleas of Greene county and shall be elected and designated 35716
as the judge of the court of common pleas, division of domestic 35717
relations. The judge shall be assigned all divorce, dissolution of 35718
marriage, legal separation, annulment, uniform reciprocal support 35719

enforcement, and domestic violence cases and all other cases 35720
related to domestic relations, except cases that for some special 35721
reason are assigned to some other judge of the court of common 35722
pleas. 35723

The judge shall be charged with the assignment and division 35724
of the work of the division and with the employment and 35725
supervision of all other personnel of the division. The judge also 35726
shall designate the title, compensation, hours, leaves of absence, 35727
and vacations of the personnel of the division and shall fix their 35728
duties. The duties of the personnel of the division, in addition 35729
to other statutory duties, shall include the handling, servicing, 35730
and investigation of divorce, dissolution of marriage, legal 35731
separation, and annulment cases and the provision of counseling 35732
and conciliation services that the division considers necessary 35733
and makes available to persons who request the services, whether 35734
or not the persons are parties in an action pending in the 35735
division. The compensation for the personnel shall be paid from 35736
the overall court budget and shall be included in the 35737
appropriations for the existing judges of the general division of 35738
the court of common pleas. 35739

(2) The judge of the court of common pleas whose term begins 35740
on January 1, 1995, and successors, shall have the same 35741
qualifications, exercise the same powers and jurisdiction, and 35742
receive the same compensation as the other judges of the court of 35743
common pleas of Greene county, shall be elected and designated as 35744
judge of the court of common pleas, juvenile division, and, on or 35745
after January 1, 1995, shall be the juvenile judge as provided in 35746
Chapters 2151. and 2152. of the Revised Code with the powers and 35747
jurisdiction conferred by those chapters. The judge of the court 35748
of common pleas, juvenile division, shall be the administrator of 35749
the juvenile division and its subdivisions and departments. The 35750
judge shall have charge of the employment, assignment, and 35751

supervision of the personnel of the juvenile division who are 35752
engaged in handling, servicing, or investigating juvenile cases, 35753
including any referees whom the judge considers necessary for the 35754
discharge of the judge's various duties. 35755

The judge also shall designate the title, compensation, 35756
expense allowances, hours, leaves of absence, and vacation of the 35757
personnel of the division and shall fix their duties. The duties 35758
of the personnel, in addition to other statutory duties, include 35759
the handling, servicing, and investigation of juvenile cases and 35760
providing any counseling and conciliation services that the court 35761
makes available to persons, whether or not the persons are parties 35762
to an action pending in the court, who request the services. 35763

(3) If one of the judges of the court of common pleas, 35764
general division, is sick, absent, or unable to perform that 35765
judge's judicial duties or the volume of cases pending in the 35766
general division necessitates it, the duties of that judge of the 35767
general division shall be performed by the judge of the division 35768
of domestic relations and the judge of the juvenile division. 35769

(P) In Portage county, the judge of the court of common 35770
pleas, whose term begins January 2, 1987, and successors, shall 35771
have the same qualifications, exercise the same powers and 35772
jurisdiction, and receive the same compensation as the other 35773
judges of the court of common pleas of Portage county and shall be 35774
elected and designated as judge of the court of common pleas, 35775
division of domestic relations. The judge shall be assigned all 35776
divorce, dissolution of marriage, legal separation, and annulment 35777
cases coming before the court, except in cases that for some 35778
special reason are assigned to some other judge of the court of 35779
common pleas. The judge shall be charged with the assignment and 35780
division of the work of the division and with the employment and 35781
supervision of all other personnel of the domestic relations 35782
division. 35783

The judge also shall designate the title, compensation, 35784
expense allowances, hours, leaves of absence, and vacations of the 35785
personnel of the division and shall fix their duties. The duties 35786
of the personnel, in addition to other statutory duties, shall 35787
include the handling, servicing, and investigation of divorce, 35788
dissolution of marriage, legal separation, and annulment cases and 35789
providing any counseling and conciliation services that the 35790
division makes available to persons, whether or not the persons 35791
are parties to an action pending in the division, who request the 35792
services. 35793

(Q) In Clermont county, the judge of the court of common 35794
pleas, whose term begins January 2, 1987, and successors, shall 35795
have the same qualifications, exercise the same powers and 35796
jurisdiction, and receive the same compensation as the other 35797
judges of the court of common pleas of Clermont county and shall 35798
be elected and designated as judge of the court of common pleas, 35799
division of domestic relations. The judge shall be assigned all 35800
divorce, dissolution of marriage, legal separation, and annulment 35801
cases coming before the court, except in cases that for some 35802
special reason are assigned to some other judge of the court of 35803
common pleas. The judge shall be charged with the assignment and 35804
division of the work of the division and with the employment and 35805
supervision of all other personnel of the domestic relations 35806
division. 35807

The judge also shall designate the title, compensation, 35808
expense allowances, hours, leaves of absence, and vacations of the 35809
personnel of the division and shall fix their duties. The duties 35810
of the personnel, in addition to other statutory duties, shall 35811
include the handling, servicing, and investigation of divorce, 35812
dissolution of marriage, legal separation, and annulment cases and 35813
providing any counseling and conciliation services that the 35814
division makes available to persons, whether or not the persons 35815

are parties to an action pending in the division, who request the 35816
services. 35817

(R) In Warren county, the judge of the court of common pleas, 35818
whose term begins January 1, 1987, and successors, shall have the 35819
same qualifications, exercise the same powers and jurisdiction, 35820
and receive the same compensation as the other judges of the court 35821
of common pleas of Warren county and shall be elected and 35822
designated as judge of the court of common pleas, division of 35823
domestic relations. The judge shall be assigned all divorce, 35824
dissolution of marriage, legal separation, and annulment cases 35825
coming before the court, except in cases that for some special 35826
reason are assigned to some other judge of the court of common 35827
pleas. The judge shall be charged with the assignment and division 35828
of the work of the division and with the employment and 35829
supervision of all other personnel of the domestic relations 35830
division. 35831

The judge also shall designate the title, compensation, 35832
expense allowances, hours, leaves of absence, and vacations of the 35833
personnel of the division and shall fix their duties. The duties 35834
of the personnel, in addition to other statutory duties, shall 35835
include the handling, servicing, and investigation of divorce, 35836
dissolution of marriage, legal separation, and annulment cases and 35837
providing any counseling and conciliation services that the 35838
division makes available to persons, whether or not the persons 35839
are parties to an action pending in the division, who request the 35840
services. 35841

(S) In Licking county, the judges of the court of common 35842
pleas, whose terms begin on January 1, 1991, and January 1, 2005, 35843
and successors, shall have the same qualifications, exercise the 35844
same powers and jurisdiction, and receive the same compensation as 35845
the other judges of the court of common pleas of Licking county 35846
and shall be elected and designated as judges of the court of 35847

common pleas, division of domestic relations. The judges shall be 35848
assigned all divorce, dissolution of marriage, legal separation, 35849
and annulment cases, all cases arising under Chapter 3111. of the 35850
Revised Code, all proceedings involving child support, the 35851
allocation of parental rights and responsibilities for the care of 35852
children and the designation for the children of a place of 35853
residence and legal custodian, parenting time, and visitation, and 35854
all post-decree proceedings and matters arising from those cases 35855
and proceedings, except in cases that for some special reason are 35856
assigned to another judge of the court of common pleas. The 35857
administrative judge of the division of domestic relations shall 35858
be charged with the assignment and division of the work of the 35859
division and with the employment and supervision of the personnel 35860
of the division. 35861

The administrative judge of the division of domestic 35862
relations shall designate the title, compensation, expense 35863
allowances, hours, leaves of absence, and vacations of the 35864
personnel of the division and shall fix the duties of the 35865
personnel of the division. The duties of the personnel of the 35866
division, in addition to other statutory duties, shall include the 35867
handling, servicing, and investigation of divorce, dissolution of 35868
marriage, legal separation, and annulment cases, cases arising 35869
under Chapter 3111. of the Revised Code, and proceedings involving 35870
child support, the allocation of parental rights and 35871
responsibilities for the care of children and the designation for 35872
the children of a place of residence and legal custodian, 35873
parenting time, and visitation and providing any counseling and 35874
conciliation services that the division makes available to 35875
persons, whether or not the persons are parties to an action 35876
pending in the division, who request the services. 35877

(T) In Allen county, the judge of the court of common pleas, 35878
whose term begins January 1, 1993, and successors, shall have the 35879

same qualifications, exercise the same powers and jurisdiction, 35880
and receive the same compensation as the other judges of the court 35881
of common pleas of Allen county and shall be elected and 35882
designated as judge of the court of common pleas, division of 35883
domestic relations. The judge shall be assigned all divorce, 35884
dissolution of marriage, legal separation, and annulment cases, 35885
all cases arising under Chapter 3111. of the Revised Code, all 35886
proceedings involving child support, the allocation of parental 35887
rights and responsibilities for the care of children and the 35888
designation for the children of a place of residence and legal 35889
custodian, parenting time, and visitation, and all post-decree 35890
proceedings and matters arising from those cases and proceedings, 35891
except in cases that for some special reason are assigned to 35892
another judge of the court of common pleas. The judge shall be 35893
charged with the assignment and division of the work of the 35894
division and with the employment and supervision of the personnel 35895
of the division. 35896

The judge shall designate the title, compensation, expense 35897
allowances, hours, leaves of absence, and vacations of the 35898
personnel of the division and shall fix the duties of the 35899
personnel of the division. The duties of the personnel of the 35900
division, in addition to other statutory duties, shall include the 35901
handling, servicing, and investigation of divorce, dissolution of 35902
marriage, legal separation, and annulment cases, cases arising 35903
under Chapter 3111. of the Revised Code, and proceedings involving 35904
child support, the allocation of parental rights and 35905
responsibilities for the care of children and the designation for 35906
the children of a place of residence and legal custodian, 35907
parenting time, and visitation, and providing any counseling and 35908
conciliation services that the division makes available to 35909
persons, whether or not the persons are parties to an action 35910
pending in the division, who request the services. 35911

(U) In Medina county, the judge of the court of common pleas 35912
whose term begins January 1, 1995, and successors, shall have the 35913
same qualifications, exercise the same powers and jurisdiction, 35914
and receive the same compensation as other judges of the court of 35915
common pleas of Medina county and shall be elected and designated 35916
as judge of the court of common pleas, division of domestic 35917
relations. The judge shall be assigned all divorce, dissolution of 35918
marriage, legal separation, and annulment cases, all cases arising 35919
under Chapter 3111. of the Revised Code, all proceedings involving 35920
child support, the allocation of parental rights and 35921
responsibilities for the care of children and the designation for 35922
the children of a place of residence and legal custodian, 35923
parenting time, and visitation, and all post-decree proceedings 35924
and matters arising from those cases and proceedings, except in 35925
cases that for some special reason are assigned to another judge 35926
of the court of common pleas. The judge shall be charged with the 35927
assignment and division of the work of the division and with the 35928
employment and supervision of the personnel of the division. 35929

The judge shall designate the title, compensation, expense 35930
allowances, hours, leaves of absence, and vacations of the 35931
personnel of the division and shall fix the duties of the 35932
personnel of the division. The duties of the personnel, in 35933
addition to other statutory duties, include the handling, 35934
servicing, and investigation of divorce, dissolution of marriage, 35935
legal separation, and annulment cases, cases arising under Chapter 35936
3111. of the Revised Code, and proceedings involving child 35937
support, the allocation of parental rights and responsibilities 35938
for the care of children and the designation for the children of a 35939
place of residence and legal custodian, parenting time, and 35940
visitation, and providing counseling and conciliation services 35941
that the division makes available to persons, whether or not the 35942
persons are parties to an action pending in the division, who 35943
request the services. 35944

(V) In Fairfield county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Fairfield county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge also has concurrent jurisdiction with the probate-juvenile division of the court of common pleas of Fairfield county with respect to and may hear cases to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state, cases that are commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases.

The judge of the domestic relations division shall be charged 35978
with the assignment and division of the work of the division and 35979
with the employment and supervision of the personnel of the 35980
division. 35981

The judge shall designate the title, compensation, expense 35982
allowances, hours, leaves of absence, and vacations of the 35983
personnel of the division and shall fix the duties of the 35984
personnel of the division. The duties of the personnel of the 35985
division, in addition to other statutory duties, shall include the 35986
handling, servicing, and investigation of divorce, dissolution of 35987
marriage, legal separation, and annulment cases, cases arising 35988
under Chapter 3111. of the Revised Code, and proceedings involving 35989
child support, the allocation of parental rights and 35990
responsibilities for the care of children and the designation for 35991
the children of a place of residence and legal custodian, 35992
parenting time, and visitation, and providing any counseling and 35993
conciliation services that the division makes available to 35994
persons, regardless of whether the persons are parties to an 35995
action pending in the division, who request the services. When the 35996
judge hears a case to determine the custody of a child, as defined 35997
in section 2151.011 of the Revised Code, who is not the ward of 35998
another court of this state or a case that is commenced by a 35999
parent, guardian, or custodian of a child, as defined in section 36000
2151.011 of the Revised Code, to obtain an order requiring a 36001
parent of the child to pay child support for that child when the 36002
request for that order is not ancillary to an action for divorce, 36003
dissolution of marriage, annulment, or legal separation, a 36004
criminal or civil action involving an allegation of domestic 36005
violence, an action for support under Chapter 3115. of the Revised 36006
Code, or an action that is within the exclusive original 36007
jurisdiction of the probate-juvenile division of the court of 36008
common pleas of Fairfield county and that involves an allegation 36009
that the child is an abused, neglected, or dependent child, the 36010

duties of the personnel of the domestic relations division also 36011
include the handling, servicing, and investigation of those types 36012
of cases. 36013

(W)(1) In Clark county, the judge of the court of common 36014
pleas whose term begins on January 2, 1995, and successors, shall 36015
have the same qualifications, exercise the same powers and 36016
jurisdiction, and receive the same compensation as other judges of 36017
the court of common pleas of Clark county and shall be elected and 36018
designated as judge of the court of common pleas, domestic 36019
relations division. The judge shall have all the powers relating 36020
to juvenile courts, and all cases under Chapters 2151. and 2152. 36021
of the Revised Code and all parentage proceedings under Chapter 36022
3111. of the Revised Code over which the juvenile court has 36023
jurisdiction shall be assigned to the judge of the division of 36024
domestic relations. All divorce, dissolution of marriage, legal 36025
separation, annulment, uniform reciprocal support enforcement, and 36026
other cases related to domestic relations shall be assigned to the 36027
domestic relations division, and the presiding judge of the court 36028
of common pleas shall assign the cases to the judge of the 36029
domestic relations division and the judges of the general 36030
division. 36031

(2) In addition to the judge's regular duties, the judge of 36032
the division of domestic relations shall serve on the children 36033
services board and the county advisory board. 36034

(3) If the judge of the court of common pleas of Clark 36035
county, division of domestic relations, is sick, absent, or unable 36036
to perform that judge's judicial duties or if the presiding judge 36037
of the court of common pleas of Clark county determines that the 36038
volume of cases pending in the division of domestic relations 36039
necessitates it, the duties of the judge of the division of 36040
domestic relations shall be performed by the judges of the general 36041
division or probate division of the court of common pleas of Clark 36042

county, as assigned for that purpose by the presiding judge of 36043
that court, and the judges so assigned shall act in conjunction 36044
with the judge of the division of domestic relations of that 36045
court. 36046

(X) In Scioto county, the judge of the court of common pleas 36047
whose term begins January 2, 1995, and successors, shall have the 36048
same qualifications, exercise the same powers and jurisdiction, 36049
and receive the same compensation as other judges of the court of 36050
common pleas of Scioto county and shall be elected and designated 36051
as judge of the court of common pleas, division of domestic 36052
relations. The judge shall be assigned all divorce, dissolution of 36053
marriage, legal separation, and annulment cases, all cases arising 36054
under Chapter 3111. of the Revised Code, all proceedings involving 36055
child support, the allocation of parental rights and 36056
responsibilities for the care of children and the designation for 36057
the children of a place of residence and legal custodian, 36058
parenting time, visitation, and all post-decree proceedings and 36059
matters arising from those cases and proceedings, except in cases 36060
that for some special reason are assigned to another judge of the 36061
court of common pleas. The judge shall be charged with the 36062
assignment and division of the work of the division and with the 36063
employment and supervision of the personnel of the division. 36064

The judge shall designate the title, compensation, expense 36065
allowances, hours, leaves of absence, and vacations of the 36066
personnel of the division and shall fix the duties of the 36067
personnel of the division. The duties of the personnel, in 36068
addition to other statutory duties, include the handling, 36069
servicing, and investigation of divorce, dissolution of marriage, 36070
legal separation, and annulment cases, cases arising under Chapter 36071
3111. of the Revised Code, and proceedings involving child 36072
support, the allocation of parental rights and responsibilities 36073
for the care of children and the designation for the children of a 36074

place of residence and legal custodian, parenting time, and 36075
visitation, and providing counseling and conciliation services 36076
that the division makes available to persons, whether or not the 36077
persons are parties to an action pending in the division, who 36078
request the services. 36079

(Y) In Auglaize county, the judge of the probate and juvenile 36080
divisions of the Auglaize county court of common pleas also shall 36081
be the administrative judge of the domestic relations division of 36082
the court and shall be assigned all divorce, dissolution of 36083
marriage, legal separation, and annulment cases coming before the 36084
court. The judge shall have all powers as administrator of the 36085
domestic relations division and shall have charge of the personnel 36086
engaged in handling, servicing, or investigating divorce, 36087
dissolution of marriage, legal separation, and annulment cases, 36088
including any referees considered necessary for the discharge of 36089
the judge's various duties. 36090

(Z)(1) In Marion county, the judge of the court of common 36091
pleas whose term begins on February 9, 1999, and the successors to 36092
that judge, shall have the same qualifications, exercise the same 36093
powers and jurisdiction, and receive the same compensation as the 36094
other judges of the court of common pleas of Marion county and 36095
shall be elected and designated as judge of the court of common 36096
pleas, domestic relations-juvenile-probate division. Except as 36097
otherwise specified in this division, that judge, and the 36098
successors to that judge, shall have all the powers relating to 36099
juvenile courts, and all cases under Chapters 2151. and 2152. of 36100
the Revised Code, all cases arising under Chapter 3111. of the 36101
Revised Code, all divorce, dissolution of marriage, legal 36102
separation, and annulment cases, all proceedings involving child 36103
support, the allocation of parental rights and responsibilities 36104
for the care of children and the designation for the children of a 36105
place of residence and legal custodian, parenting time, and 36106

visitation, and all post-decree proceedings and matters arising 36107
from those cases and proceedings shall be assigned to that judge 36108
and the successors to that judge. Except as provided in division 36109
(Z)(2) of this section and notwithstanding any other provision of 36110
any section of the Revised Code, on and after February 9, 2003, 36111
the judge of the court of common pleas of Marion county whose term 36112
begins on February 9, 1999, and the successors to that judge, 36113
shall have all the powers relating to the probate division of the 36114
court of common pleas of Marion county in addition to the powers 36115
previously specified in this division, and shall exercise 36116
concurrent jurisdiction with the judge of the probate division of 36117
that court over all matters that are within the jurisdiction of 36118
the probate division of that court under Chapter 2101., and other 36119
provisions, of the Revised Code in addition to the jurisdiction of 36120
the domestic relations-juvenile-probate division of that court 36121
otherwise specified in division (Z)(1) of this section. 36122

(2) The judge of the domestic relations-juvenile-probate 36123
division of the court of common pleas of Marion county or the 36124
judge of the probate division of the court of common pleas of 36125
Marion county, whichever of those judges is senior in total length 36126
of service on the court of common pleas of Marion county, 36127
regardless of the division or divisions of service, shall serve as 36128
the clerk of the probate division of the court of common pleas of 36129
Marion county. 36130

(3) On and after February 9, 2003, all references in law to 36131
"the probate court," "the probate judge," "the juvenile court," or 36132
"the judge of the juvenile court" shall be construed, with respect 36133
to Marion county, as being references to both "the probate 36134
division" and "the domestic relations-juvenile-probate division" 36135
and as being references to both "the judge of the probate 36136
division" and "the judge of the domestic relations- 36137
juvenile-probate division." On and after February 9, 2003, all 36138

references in law to "the clerk of the probate court" shall be 36139
construed, with respect to Marion county, as being references to 36140
the judge who is serving pursuant to division (Z)(2) of this 36141
section as the clerk of the probate division of the court of 36142
common pleas of Marion county. 36143

(AA) In Muskingum county, the judge of the court of common 36144
pleas whose term begins on January 2, 2003, and successors, shall 36145
have the same qualifications, exercise the same powers and 36146
jurisdiction, and receive the same compensation as the other 36147
judges of the court of common pleas of Muskingum county and shall 36148
be elected and designated as the judge of the court of common 36149
pleas, division of domestic relations. The judge shall be assigned 36150
all divorce, dissolution of marriage, legal separation, and 36151
annulment cases, all cases arising under Chapter 3111. of the 36152
Revised Code, all proceedings involving child support, the 36153
allocation of parental rights and responsibilities for the care of 36154
children and the designation for the children of a place of 36155
residence and legal custodian, parenting time, and visitation, and 36156
all post-decree proceedings and matters arising from those cases 36157
and proceedings, except in cases that for some special reason are 36158
assigned to another judge of the court of common pleas. The judge 36159
shall be charged with the assignment and division of the work of 36160
the division and with the employment and supervision of the 36161
personnel of the division. 36162

The judge shall designate the title, compensation, expense 36163
allowances, hours, leaves of absence, and vacations of the 36164
personnel of the division and shall fix the duties of the 36165
personnel of the division. The duties of the personnel of the 36166
division, in addition to other statutory duties, shall include the 36167
handling, servicing, and investigation of divorce, dissolution of 36168
marriage, legal separation, and annulment cases, cases arising 36169
under Chapter 3111. of the Revised Code, and proceedings involving 36170

child support, the allocation of parental rights and 36171
responsibilities for the care of children and the designation for 36172
the children of a place of residence and legal custodian, 36173
parenting time, and visitation and providing any counseling and 36174
conciliation services that the division makes available to 36175
persons, whether or not the persons are parties to an action 36176
pending in the division, who request the services. 36177

(BB) In Henry county, the judge of the court of common pleas 36178
whose term begins on January 1, 2005, and successors, shall have 36179
the same qualifications, exercise the same powers and 36180
jurisdiction, and receive the same compensation as the other judge 36181
of the court of common pleas of Henry county and shall be elected 36182
and designated as the judge of the court of common pleas, division 36183
of domestic relations. The judge shall have all of the powers 36184
relating to juvenile courts, and all cases under Chapter 2151. or 36185
2152. of the Revised Code, all parentage proceedings arising under 36186
Chapter 3111. of the Revised Code over which the juvenile court 36187
has jurisdiction, all divorce, dissolution of marriage, legal 36188
separation, and annulment cases, all proceedings involving child 36189
support, the allocation of parental rights and responsibilities 36190
for the care of children and the designation for the children of a 36191
place of residence and legal custodian, parenting time, and 36192
visitation, and all post-decree proceedings and matters arising 36193
from those cases and proceedings shall be assigned to that judge, 36194
except in cases that for some special reason are assigned to the 36195
other judge of the court of common pleas. 36196

(CC)(1) In Logan county, the judge of the court of common 36197
pleas whose term begins January 2, 2005, and the successors to 36198
that judge, shall have the same qualifications, exercise the same 36199
powers and jurisdiction, and receive the same compensation as the 36200
other judges of the court of common pleas of Logan county and 36201
shall be elected and designated as judge of the court of common 36202

pleas, domestic relations-juvenile-probate division. Except as 36203
otherwise specified in this division, that judge, and the 36204
successors to that judge, shall have all the powers relating to 36205
juvenile courts, and all cases under Chapters 2151. and 2152. of 36206
the Revised Code, all cases arising under Chapter 3111. of the 36207
Revised Code, all divorce, dissolution of marriage, legal 36208
separation, and annulment cases, all proceedings involving child 36209
support, the allocation of parental rights and responsibilities 36210
for the care of children and designation for the children of a 36211
place of residence and legal custodian, parenting time, and 36212
visitation, and all post-decree proceedings and matters arising 36213
from those cases and proceedings shall be assigned to that judge 36214
and the successors to that judge. Notwithstanding any other 36215
provision of any section of the Revised Code, on and after January 36216
2, 2005, the judge of the court of common pleas of Logan county 36217
whose term begins on January 2, 2005, and the successors to that 36218
judge, shall have all the powers relating to the probate division 36219
of the court of common pleas of Logan county in addition to the 36220
powers previously specified in this division and shall exercise 36221
concurrent jurisdiction with the judge of the probate division of 36222
that court over all matters that are within the jurisdiction of 36223
the probate division of that court under Chapter 2101., and other 36224
provisions, of the Revised Code in addition to the jurisdiction of 36225
the domestic relations-juvenile-probate division of that court 36226
otherwise specified in division (CC)(1) of this section. 36227

(2) The judge of the domestic relations-juvenile-probate 36228
division of the court of common pleas of Logan county or the 36229
probate judge of the court of common pleas of Logan county who is 36230
elected as the administrative judge of the probate division of the 36231
court of common pleas of Logan county pursuant to Rule 4 of the 36232
Rules of Superintendence shall be the clerk of the probate 36233
division and juvenile division of the court of common pleas of 36234
Logan county. The clerk of the court of common pleas who is 36235

elected pursuant to section 2303.01 of the Revised Code shall keep 36236
all of the journals, records, books, papers, and files pertaining 36237
to the domestic relations cases. 36238

(3) On and after January 2, 2005, all references in law to 36239
"the probate court," "the probate judge," "the juvenile court," or 36240
"the judge of the juvenile court" shall be construed, with respect 36241
to Logan county, as being references to both "the probate 36242
division" and the "domestic relations-juvenile-probate division" 36243
and as being references to both "the judge of the probate 36244
division" and the "judge of the domestic 36245
relations-juvenile-probate division." On and after January 2, 36246
2005, all references in law to "the clerk of the probate court" 36247
shall be construed, with respect to Logan county, as being 36248
references to the judge who is serving pursuant to division 36249
(CC)(2) of this section as the clerk of the probate division of 36250
the court of common pleas of Logan county. 36251

(DD)(1) In Champaign county, the judge of the court of common 36252
pleas whose term begins February 9, 2003, and the judge of the 36253
court of common pleas whose term begins February 10, 2009, and the 36254
successors to those judges, shall have the same qualifications, 36255
exercise the same powers and jurisdiction, and receive the same 36256
compensation as the other judges of the court of common pleas of 36257
Champaign county and shall be elected and designated as judges of 36258
the court of common pleas, domestic relations-juvenile-probate 36259
division. Except as otherwise specified in this division, those 36260
judges, and the successors to those judges, shall have all the 36261
powers relating to juvenile courts, and all cases under Chapters 36262
2151. and 2152. of the Revised Code, all cases arising under 36263
Chapter 3111. of the Revised Code, all divorce, dissolution of 36264
marriage, legal separation, and annulment cases, all proceedings 36265
involving child support, the allocation of parental rights and 36266
responsibilities for the care of children and the designation for 36267

the children of a place of residence and legal custodian, 36268
parenting time, and visitation, and all post-decree proceedings 36269
and matters arising from those cases and proceedings shall be 36270
assigned to those judges and the successors to those judges. 36271
Notwithstanding any other provision of any section of the Revised 36272
Code, on and after February 9, 2009, the judges designated by this 36273
division as judges of the court of common pleas of Champaign 36274
county, domestic relations-juvenile-probate division, and the 36275
successors to those judges, shall have all the powers relating to 36276
probate courts in addition to the powers previously specified in 36277
this division and shall exercise jurisdiction over all matters 36278
that are within the jurisdiction of probate courts under Chapter 36279
2101., and other provisions, of the Revised Code in addition to 36280
the jurisdiction of the domestic relations-juvenile-probate 36281
division otherwise specified in division (DD)(1) of this section. 36282

(2) On and after February 9, 2009, all references in law to 36283
"the probate court," "the probate judge," "the juvenile court," or 36284
"the judge of the juvenile court" shall be construed with respect 36285
to Champaign county as being references to the "domestic 36286
relations-juvenile-probate division" and as being references to 36287
the "judge of the domestic relations-juvenile-probate division." 36288
On and after February 9, 2009, all references in law to "the clerk 36289
of the probate court" shall be construed with respect to Champaign 36290
county as being references to the judge who is serving pursuant to 36291
Rule 4 of the Rules of Superintendence for the Courts of Ohio as 36292
the administrative judge of the court of common pleas, domestic 36293
relations-juvenile-probate division. 36294

(EE) If a judge of the court of common pleas, division of 36295
domestic relations, or juvenile judge, of any of the counties 36296
mentioned in this section is sick, absent, or unable to perform 36297
that judge's judicial duties or the volume of cases pending in the 36298
judge's division necessitates it, the duties of that judge shall 36299

be performed by another judge of the court of common pleas of that 36300
county, assigned for that purpose by the presiding judge of the 36301
court of common pleas of that county to act in place of or in 36302
conjunction with that judge, as the case may require. 36303

Sec. 2301.18. The court of common pleas shall appoint a 36304
~~stenographic~~ reporter as the official ~~shorthand~~ reporter of ~~such~~ 36305
~~the~~ court, ~~who shall hold the appointment~~ for a term not exceeding 36306
three years ~~from the date thereof~~, unless removed by the court, 36307
after a good cause shown, for neglect of duty, misconduct in 36308
office, or incompetency. ~~Such~~ The court of common pleas may 36309
appoint assistant reporters as the business of the court requires, 36310
for terms not exceeding three years under one appointment. The 36311
official ~~shorthand~~ reporter and assistant reporters shall take an 36312
oath faithfully and impartially to discharge the duties of ~~such~~ 36313
~~position~~ their positions. 36314

Sec. 2301.20. ~~Upon the trial of a~~ All civil ~~or~~ and criminal 36315
~~action~~ actions in the court of common pleas, ~~if either party to~~ 36316
~~the action or his attorney requests the services of a shorthand~~ 36317
~~reporter, the trial judge shall grant the request, or may order a~~ 36318
~~full report of the testimony or other proceedings. In either case,~~ 36319
~~the shorthand shall be recorded.~~ The reporter shall take accurate 36320
~~shorthand~~ notes of, or shall electronically record, the oral 36321
testimony ~~or other oral proceedings~~. The notes and electronic 36322
records shall be filed in the office of the official ~~shorthand~~ 36323
reporter and carefully preserved for either of the following 36324
periods of time: 36325

(A) If the action is not a capital case, the notes and 36326
electronic records shall be preserved for the period of time 36327
specified by the court of common pleas, which period of time shall 36328
not be longer than the period of time that the other records of 36329
the particular action are required to be kept+. 36330

(B) If the action is a capital case, the notes and electronic records shall be preserved for the longer of ten years or until the final disposition of the action.

Sec. 2301.21. In every case ~~reported~~ recorded as provided in section 2301.20 of the Revised Code, there shall be taxed for each day's service of the official or assistant ~~shorthand~~ reporters a fee of twenty-five dollars, to be collected as other costs in the case. The fees so collected shall be paid quarterly by the clerk of the court of common pleas in which the cases were tried into the treasury of the county and shall be credited by the county treasurer to the general fund.

Sec. 2301.22. Each ~~shorthand~~ reporter shall receive such compensation as the court of common pleas making the appointment fixes. ~~Such That~~ That compensation shall be in place of all per diem compensation in ~~such those~~ those courts. In case ~~such the~~ the appointment is for a term of less than one year, ~~such the~~ the court may allow a per diem compensation to be fixed by the court, plus actual and necessary expenses incurred, for each day ~~such shorthand the~~ the reporter is actually engaged in taking testimony or performing other duties under the orders of ~~such the~~ the court, which allowance shall be in full payment for all services so rendered.

The county auditor shall issue warrants on the county treasurer for the payment of ~~such the~~ the compensation under this section in equal monthly installments, ~~when if~~ if the compensation is allowed annually, and ~~when~~ in case of services per diem, for the amount of the bill approved by the court, from the general fund upon the presentation of a certified copy of the journal entry of appointment and compensation of ~~such shorthand the~~ the reporters.

Sec. 2301.23. When ~~shorthand~~ notes have been taken or an electronic recording has been made in a case as provided in

section 2301.20 of the Revised Code, if the court⁷ or either party 36361
to the suit ~~or his attorney~~, requests written transcripts of any 36362
portion of ~~such notes in longhand~~ the proceeding, the ~~shorthand~~ 36363
reporter reporting the case shall make full and accurate 36364
transcripts of the notes ~~for the use of such court or party or~~ 36365
electronic recording. The court may direct the official ~~shorthand~~ 36366
reporter to furnish to the court and the parties copies of 36367
decisions rendered and charges delivered by the court in pending 36368
cases. 36369

When the compensation for transcripts, copies of decisions, 36370
or charges is taxed as a part of the costs, ~~such the~~ transcripts, 36371
copies of decisions, and charges shall remain on file with the 36372
papers of the case. 36373

Sec. 2301.24. The compensation of ~~shorthand~~ reporters for 36374
making written transcripts ~~and copies~~ as provided in section 36375
2301.23 of the Revised Code shall be fixed by ~~the judges of the~~ 36376
court of common pleas of the county ~~wherein~~ in which the trial is 36377
~~had held~~. Such if more than one transcript of the same testimony 36378
or proceeding is ordered, the reporter shall make copies of the 36379
transcript at cost pursuant to division (B)(1) of section 149.43 36380
of the Revised Code, or shall provide an electronic copy of the 36381
transcript free of charge. The compensation shall be paid 36382
~~forthwith~~ by the party for whose benefit a transcript is made. The 36383
compensation for transcripts ~~of testimony~~ requested by the 36384
prosecuting attorney ~~during trial~~ or an indigent defendant in 36385
criminal cases or by the trial judge⁷ in either civil or criminal 36386
cases, and for copies of decisions and charges furnished by 36387
direction of the court shall be paid from the county treasury⁷ and 36388
taxed and collected as costs. 36389

Sec. 2301.25. When ordered by the prosecuting attorney or the 36390
defendant in a criminal ~~trial~~, case or when ordered by a judge of 36391

the court of common pleas ~~for his use~~, in either civil or criminal 36392
cases, the costs of transcripts ~~mentioned in section 2301.23 of~~ 36393
~~the Revised Code~~, shall be taxed as costs in the case, collected 36394
as other costs, whether ~~such~~ the transcripts have been prepaid or 36395
not, as provided by section 2301.24 of the Revised Code, ~~and~~ paid 36396
by the clerk of the court of common pleas, quarterly, into the 36397
county treasury, and credited to the general fund. If, upon final 36398
judgment, the costs or any part ~~thereof shall be~~ of the costs are 36399
adjudged against a defendant in a criminal case, ~~he~~ the defendant 36400
shall be allowed credit on the cost bill of the amount paid ~~by him~~ 36401
for the transcript ~~he ordered~~ and, if the costs are finally 36402
adjudged against the state, the defendant shall have ~~his~~ the 36403
defendant's deposit refunded. ~~When more than one transcript of the~~ 36404
~~same testimony or proceedings is ordered at the same time by the~~ 36405
~~same party, or by the court, the compensation for making such~~ 36406
additional transcript shall be one half the compensation allowed 36407
for the first copy, and shall be paid for in the same manner 36408
except that where ordered by the same party only the cost of the 36409
original shall be taxed as costs. All ~~such~~ transcripts shall be 36410
taken and received as prima-facie evidence of their correctness. 36411
~~When~~ If the testimony of witnesses is taken before the grand jury 36412
by ~~shorthand~~ reporters, they shall receive for ~~such~~ the 36413
transcripts ~~as are ordered by the prosecuting attorney~~ the same 36414
compensation ~~per folio~~ and be paid ~~therefor~~ in the same manner as 36415
provided in this section and section 2301.24 of the Revised Code. 36416
36417

Sec. 2301.26. ~~Shorthand reporters~~ Reporters appointed under 36418
~~sections~~ section 2301.18 ~~and 2301.19~~ of the Revised Code, may be 36419
appointed referees to take and report evidence in causes pending 36420
in any of the courts of this state. In the taking of evidence as 36421
~~such~~ referees, ~~they~~ the reporters may administer oaths to 36422
witnesses. They shall be furnished by the board of county 36423

commissioners with a suitable room in the courthouse, and with 36424
~~stationery~~, supplies and ~~other~~ equipment necessary in for the 36425
proper discharge of their duties and for the preservation of their 36426
~~stenographic~~ notes and electronic records. ~~Such~~ The notes and 36427
electronic records shall be the property of the county and 36428
carefully preserved in the office of the ~~shorthand~~ reporters. 36429

Sec. 2305.01. Except as otherwise provided by this section or 36430
section 2305.03 of the Revised Code, the court of common pleas has 36431
original jurisdiction in all civil cases in which the sum or 36432
matter in dispute exceeds the exclusive original jurisdiction of 36433
county courts and appellate jurisdiction from the decisions of 36434
boards of county commissioners. The court of common pleas shall 36435
not have jurisdiction, in any tort action to which the amounts 36436
apply, to award punitive or exemplary damages that exceed the 36437
amounts set forth in section 2315.21 of the Revised Code. The 36438
court of common pleas shall not have jurisdiction in any tort 36439
action to which the limits apply to enter judgment on an award of 36440
compensatory damages for noneconomic loss in excess of the limits 36441
set forth in section 2315.18 of the Revised Code. 36442

The court of common pleas may on its own motion transfer for 36443
trial any action in the court to any municipal court in the county 36444
having concurrent jurisdiction of the subject matter of, and the 36445
parties to, the action, if the amount sought by the plaintiff does 36446
not exceed one thousand dollars and if the judge or presiding 36447
judge of the municipal court concurs in the proposed transfer. 36448
Upon the issuance of an order of transfer, the clerk of courts 36449
shall remove to the designated municipal court the entire case 36450
file. Any untaxed portion of the common pleas deposit for court 36451
costs shall be remitted to the municipal court by the clerk of 36452
courts to be applied in accordance with section 1901.26 of the 36453
Revised Code, and the costs taxed by the municipal court shall be 36454
added to any costs taxed in the common pleas court. 36455

The court of common pleas has jurisdiction in any action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the Revised Code if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court.

The courts of common pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington counties have jurisdiction beyond the north or northwest shore of the Ohio river extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent state. Each of those courts of common pleas has concurrent jurisdiction on the Ohio river with any adjacent court of common pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio river and that has jurisdiction on the Ohio river under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A)(1) An attorney, concerning a communication made to the attorney by a client in that relation or the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily testifies or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply concerning a communication between a client who has

since died and the deceased client's attorney if the communication 36487
is relevant to a dispute between parties who claim through that 36488
deceased client, regardless of whether the claims are by testate 36489
or intestate succession or by inter vivos transaction, and the 36490
dispute addresses the competency of the deceased client when the 36491
deceased client executed a document that is the basis of the 36492
dispute or whether the deceased client was a victim of fraud, 36493
undue influence, or duress when the deceased client executed a 36494
document that is the basis of the dispute. 36495

(2) An attorney, concerning a communication made to the 36496
attorney by a client in that relationship or the attorney's advice 36497
to a client, except that if the client is an insurance company, 36498
the attorney may be compelled to testify, subject to an in camera 36499
inspection by a court, about communications made by the client to 36500
the attorney or by the attorney to the client that are related to 36501
the attorney's aiding or furthering an ongoing or future 36502
commission of bad faith by the client, if the party seeking 36503
disclosure of the communications has made a prima facie showing of 36504
bad faith, fraud, or criminal misconduct by the client. 36505

(B)(1) A physician or a dentist concerning a communication 36506
made to the physician or dentist by a patient in that relation or 36507
the physician's or dentist's advice to a patient, except as 36508
otherwise provided in this division, division (B)(2), and division 36509
(B)(3) of this section, and except that, if the patient is deemed 36510
by section 2151.421 of the Revised Code to have waived any 36511
testimonial privilege under this division, the physician may be 36512
compelled to testify on the same subject. 36513

The testimonial privilege established under this division 36514
does not apply, and a physician or dentist may testify or may be 36515
compelled to testify, in any of the following circumstances: 36516

(a) In any civil action, in accordance with the discovery 36517
provisions of the Rules of Civil Procedure in connection with a 36518

civil action, or in connection with a claim under Chapter 4123. of 36519
the Revised Code, under any of the following circumstances: 36520

(i) If the patient or the guardian or other legal 36521
representative of the patient gives express consent; 36522

(ii) If the patient is deceased, the spouse of the patient or 36523
the executor or administrator of the patient's estate gives 36524
express consent; 36525

(iii) If a medical claim, dental claim, chiropractic claim, 36526
or optometric claim, as defined in section 2305.113 of the Revised 36527
Code, an action for wrongful death, any other type of civil 36528
action, or a claim under Chapter 4123. of the Revised Code is 36529
filed by the patient, the personal representative of the estate of 36530
the patient if deceased, or the patient's guardian or other legal 36531
representative. 36532

(b) In any civil action concerning court-ordered treatment or 36533
services received by a patient, if the court-ordered treatment or 36534
services were ordered as part of a case plan journalized under 36535
section 2151.412 of the Revised Code or the court-ordered 36536
treatment or services are necessary or relevant to dependency, 36537
neglect, or abuse or temporary or permanent custody proceedings 36538
under Chapter 2151. of the Revised Code. 36539

(c) In any criminal action concerning any test or the results 36540
of any test that determines the presence or concentration of 36541
alcohol, a drug of abuse, a combination of them, a controlled 36542
substance, or a metabolite of a controlled substance in the 36543
patient's whole blood, blood serum or plasma, breath, urine, or 36544
other bodily substance at any time relevant to the criminal 36545
offense in question. 36546

(d) In any criminal action against a physician or dentist. In 36547
such an action, the testimonial privilege established under this 36548
division does not prohibit the admission into evidence, in 36549

accordance with the Rules of Evidence, of a patient's medical or 36550
dental records or other communications between a patient and the 36551
physician or dentist that are related to the action and obtained 36552
by subpoena, search warrant, or other lawful means. A court that 36553
permits or compels a physician or dentist to testify in such an 36554
action or permits the introduction into evidence of patient 36555
records or other communications in such an action shall require 36556
that appropriate measures be taken to ensure that the 36557
confidentiality of any patient named or otherwise identified in 36558
the records is maintained. Measures to ensure confidentiality that 36559
may be taken by the court include sealing its records or deleting 36560
specific information from its records. 36561

(e)(i) If the communication was between a patient who has 36562
since died and the deceased patient's physician or dentist, the 36563
communication is relevant to a dispute between parties who claim 36564
through that deceased patient, regardless of whether the claims 36565
are by testate or intestate succession or by inter vivos 36566
transaction, and the dispute addresses the competency of the 36567
deceased patient when the deceased patient executed a document 36568
that is the basis of the dispute or whether the deceased patient 36569
was a victim of fraud, undue influence, or duress when the 36570
deceased patient executed a document that is the basis of the 36571
dispute. 36572

(ii) If neither the spouse of a patient nor the executor or 36573
administrator of that patient's estate gives consent under 36574
division (B)(1)(a)(ii) of this section, testimony or the 36575
disclosure of the patient's medical records by a physician, 36576
dentist, or other health care provider under division (B)(1)(e)(i) 36577
of this section is a permitted use or disclosure of protected 36578
health information, as defined in 45 C.F.R. 160.103, and an 36579
authorization or opportunity to be heard shall not be required. 36580

(iii) Division (B)(1)(e)(i) of this section does not require 36581

a mental health professional to disclose psychotherapy notes, as 36582
defined in 45 C.F.R. 164.501. 36583

(iv) An interested person who objects to testimony or 36584
disclosure under division (B)(1)(e)(i) of this section may seek a 36585
protective order pursuant to Civil Rule 26. 36586

(v) A person to whom protected health information is 36587
disclosed under division (B)(1)(e)(i) of this section shall not 36588
use or disclose the protected health information for any purpose 36589
other than the litigation or proceeding for which the information 36590
was requested and shall return the protected health information to 36591
the covered entity or destroy the protected health information, 36592
including all copies made, at the conclusion of the litigation or 36593
proceeding. 36594

(2)(a) If any law enforcement officer submits a written 36595
statement to a health care provider that states that an official 36596
criminal investigation has begun regarding a specified person or 36597
that a criminal action or proceeding has been commenced against a 36598
specified person, that requests the provider to supply to the 36599
officer copies of any records the provider possesses that pertain 36600
to any test or the results of any test administered to the 36601
specified person to determine the presence or concentration of 36602
alcohol, a drug of abuse, a combination of them, a controlled 36603
substance, or a metabolite of a controlled substance in the 36604
person's whole blood, blood serum or plasma, breath, or urine at 36605
any time relevant to the criminal offense in question, and that 36606
conforms to section 2317.022 of the Revised Code, the provider, 36607
except to the extent specifically prohibited by any law of this 36608
state or of the United States, shall supply to the officer a copy 36609
of any of the requested records the provider possesses. If the 36610
health care provider does not possess any of the requested 36611
records, the provider shall give the officer a written statement 36612
that indicates that the provider does not possess any of the 36613

requested records. 36614

(b) If a health care provider possesses any records of the 36615
type described in division (B)(2)(a) of this section regarding the 36616
person in question at any time relevant to the criminal offense in 36617
question, in lieu of personally testifying as to the results of 36618
the test in question, the custodian of the records may submit a 36619
certified copy of the records, and, upon its submission, the 36620
certified copy is qualified as authentic evidence and may be 36621
admitted as evidence in accordance with the Rules of Evidence. 36622
Division (A) of section 2317.422 of the Revised Code does not 36623
apply to any certified copy of records submitted in accordance 36624
with this division. Nothing in this division shall be construed to 36625
limit the right of any party to call as a witness the person who 36626
administered the test to which the records pertain, the person 36627
under whose supervision the test was administered, the custodian 36628
of the records, the person who made the records, or the person 36629
under whose supervision the records were made. 36630

(3)(a) If the testimonial privilege described in division 36631
(B)(1) of this section does not apply as provided in division 36632
(B)(1)(a)(iii) of this section, a physician or dentist may be 36633
compelled to testify or to submit to discovery under the Rules of 36634
Civil Procedure only as to a communication made to the physician 36635
or dentist by the patient in question in that relation, or the 36636
physician's or dentist's advice to the patient in question, that 36637
related causally or historically to physical or mental injuries 36638
that are relevant to issues in the medical claim, dental claim, 36639
chiropractic claim, or optometric claim, action for wrongful 36640
death, other civil action, or claim under Chapter 4123. of the 36641
Revised Code. 36642

(b) If the testimonial privilege described in division (B)(1) 36643
of this section does not apply to a physician or dentist as 36644
provided in division (B)(1)(c) of this section, the physician or 36645

dentist, in lieu of personally testifying as to the results of the 36646
test in question, may submit a certified copy of those results, 36647
and, upon its submission, the certified copy is qualified as 36648
authentic evidence and may be admitted as evidence in accordance 36649
with the Rules of Evidence. Division (A) of section 2317.422 of 36650
the Revised Code does not apply to any certified copy of results 36651
submitted in accordance with this division. Nothing in this 36652
division shall be construed to limit the right of any party to 36653
call as a witness the person who administered the test in 36654
question, the person under whose supervision the test was 36655
administered, the custodian of the results of the test, the person 36656
who compiled the results, or the person under whose supervision 36657
the results were compiled. 36658

(4) The testimonial privilege described in division (B)(1) of 36659
this section is not waived when a communication is made by a 36660
physician to a pharmacist or when there is communication between a 36661
patient and a pharmacist in furtherance of the physician-patient 36662
relation. 36663

(5)(a) As used in divisions (B)(1) to (4) of this section, 36664
"communication" means acquiring, recording, or transmitting any 36665
information, in any manner, concerning any facts, opinions, or 36666
statements necessary to enable a physician or dentist to diagnose, 36667
treat, prescribe, or act for a patient. A "communication" may 36668
include, but is not limited to, any medical or dental, office, or 36669
hospital communication such as a record, chart, letter, 36670
memorandum, laboratory test and results, x-ray, photograph, 36671
financial statement, diagnosis, or prognosis. 36672

(b) As used in division (B)(2) of this section, "health care 36673
provider" means a hospital, ambulatory care facility, long-term 36674
care facility, pharmacy, emergency facility, or health care 36675
practitioner. 36676

(c) As used in division (B)(5)(b) of this section: 36677

(i) "Ambulatory care facility" means a facility that provides 36678
medical, diagnostic, or surgical treatment to patients who do not 36679
require hospitalization, including a dialysis center, ambulatory 36680
surgical facility, cardiac catheterization facility, diagnostic 36681
imaging center, extracorporeal shock wave lithotripsy center, home 36682
health agency, inpatient hospice, birthing center, radiation 36683
therapy center, emergency facility, and an urgent care center. 36684
"Ambulatory health care facility" does not include the private 36685
office of a physician or dentist, whether the office is for an 36686
individual or group practice. 36687

(ii) "Emergency facility" means a hospital emergency 36688
department or any other facility that provides emergency medical 36689
services. 36690

(iii) "Health care practitioner" has the same meaning as in 36691
section 4769.01 of the Revised Code. 36692

(iv) "Hospital" has the same meaning as in section 3727.01 of 36693
the Revised Code. 36694

(v) "Long-term care facility" means a nursing home, 36695
residential care facility, or home for the aging, as those terms 36696
are defined in section 3721.01 of the Revised Code; an adult care 36697
facility, as defined in section ~~3722.01~~ 5119.70 of the Revised 36698
Code; a nursing facility or intermediate care facility for the 36699
mentally retarded, as those terms are defined in section 5111.20 36700
of the Revised Code; a facility or portion of a facility certified 36701
as a skilled nursing facility under Title XVIII of the "Social 36702
Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 36703

(vi) "Pharmacy" has the same meaning as in section 4729.01 of 36704
the Revised Code. 36705

(d) As used in divisions (B)(1) and (2) of this section, 36706
"drug of abuse" has the same meaning as in section 4506.01 of the 36707
Revised Code. 36708

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section 36709
apply to doctors of medicine, doctors of osteopathic medicine, 36710
doctors of podiatry, and dentists. 36711

(7) Nothing in divisions (B)(1) to (6) of this section 36712
affects, or shall be construed as affecting, the immunity from 36713
civil liability conferred by section 307.628 of the Revised Code 36714
or the immunity from civil liability conferred by section 2305.33 36715
of the Revised Code upon physicians who report an employee's use 36716
of a drug of abuse, or a condition of an employee other than one 36717
involving the use of a drug of abuse, to the employer of the 36718
employee in accordance with division (B) of that section. As used 36719
in division (B)(7) of this section, "employee," "employer," and 36720
"physician" have the same meanings as in section 2305.33 of the 36721
Revised Code. 36722

(C)(1) A cleric, when the cleric remains accountable to the 36723
authority of that cleric's church, denomination, or sect, 36724
concerning a confession made, or any information confidentially 36725
communicated, to the cleric for a religious counseling purpose in 36726
the cleric's professional character. The cleric may testify by 36727
express consent of the person making the communication, except 36728
when the disclosure of the information is in violation of a sacred 36729
trust and except that, if the person voluntarily testifies or is 36730
deemed by division (A)(4)(c) of section 2151.421 of the Revised 36731
Code to have waived any testimonial privilege under this division, 36732
the cleric may be compelled to testify on the same subject except 36733
when disclosure of the information is in violation of a sacred 36734
trust. 36735

(2) As used in division (C) of this section: 36736

(a) "Cleric" means a member of the clergy, rabbi, priest, 36737
Christian Science practitioner, or regularly ordained, accredited, 36738
or licensed minister of an established and legally cognizable 36739
church, denomination, or sect. 36740

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent

social worker, marriage and family therapist or independent 36772
marriage and family therapist, or registered under Chapter 4757. 36773
of the Revised Code as a social work assistant concerning a 36774
confidential communication received from a client in that relation 36775
or the person's advice to a client unless any of the following 36776
applies: 36777

(a) The communication or advice indicates clear and present 36778
danger to the client or other persons. For the purposes of this 36779
division, cases in which there are indications of present or past 36780
child abuse or neglect of the client constitute a clear and 36781
present danger. 36782

(b) The client gives express consent to the testimony. 36783

(c) If the client is deceased, the surviving spouse or the 36784
executor or administrator of the estate of the deceased client 36785
gives express consent. 36786

(d) The client voluntarily testifies, in which case the 36787
school guidance counselor or person licensed or registered under 36788
Chapter 4757. of the Revised Code may be compelled to testify on 36789
the same subject. 36790

(e) The court in camera determines that the information 36791
communicated by the client is not germane to the counselor-client, 36792
marriage and family therapist-client, or social worker-client 36793
relationship. 36794

(f) A court, in an action brought against a school, its 36795
administration, or any of its personnel by the client, rules after 36796
an in-camera inspection that the testimony of the school guidance 36797
counselor is relevant to that action. 36798

(g) The testimony is sought in a civil action and concerns 36799
court-ordered treatment or services received by a patient as part 36800
of a case plan journalized under section 2151.412 of the Revised 36801
Code or the court-ordered treatment or services are necessary or 36802

relevant to dependency, neglect, or abuse or temporary or 36803
permanent custody proceedings under Chapter 2151. of the Revised 36804
Code. 36805

(2) Nothing in division (G)(1) of this section shall relieve 36806
a school guidance counselor or a person licensed or registered 36807
under Chapter 4757. of the Revised Code from the requirement to 36808
report information concerning child abuse or neglect under section 36809
2151.421 of the Revised Code. 36810

(H) A mediator acting under a mediation order issued under 36811
division (A) of section 3109.052 of the Revised Code or otherwise 36812
issued in any proceeding for divorce, dissolution, legal 36813
separation, annulment, or the allocation of parental rights and 36814
responsibilities for the care of children, in any action or 36815
proceeding, other than a criminal, delinquency, child abuse, child 36816
neglect, or dependent child action or proceeding, that is brought 36817
by or against either parent who takes part in mediation in 36818
accordance with the order and that pertains to the mediation 36819
process, to any information discussed or presented in the 36820
mediation process, to the allocation of parental rights and 36821
responsibilities for the care of the parents' children, or to the 36822
awarding of parenting time rights in relation to their children; 36823

(I) A communications assistant, acting within the scope of 36824
the communication assistant's authority, when providing 36825
telecommunications relay service pursuant to section 4931.06 of 36826
the Revised Code or Title II of the "Communications Act of 1934," 36827
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 36828
made through a telecommunications relay service. Nothing in this 36829
section shall limit the obligation of a communications assistant 36830
to divulge information or testify when mandated by federal law or 36831
regulation or pursuant to subpoena in a criminal proceeding. 36832

Nothing in this section shall limit any immunity or privilege 36833
granted under federal law or regulation. 36834

(J)(1) A chiropractor in a civil proceeding concerning a 36835
communication made to the chiropractor by a patient in that 36836
relation or the chiropractor's advice to a patient, except as 36837
otherwise provided in this division. The testimonial privilege 36838
established under this division does not apply, and a chiropractor 36839
may testify or may be compelled to testify, in any civil action, 36840
in accordance with the discovery provisions of the Rules of Civil 36841
Procedure in connection with a civil action, or in connection with 36842
a claim under Chapter 4123. of the Revised Code, under any of the 36843
following circumstances: 36844

(a) If the patient or the guardian or other legal 36845
representative of the patient gives express consent. 36846

(b) If the patient is deceased, the spouse of the patient or 36847
the executor or administrator of the patient's estate gives 36848
express consent. 36849

(c) If a medical claim, dental claim, chiropractic claim, or 36850
optometric claim, as defined in section 2305.113 of the Revised 36851
Code, an action for wrongful death, any other type of civil 36852
action, or a claim under Chapter 4123. of the Revised Code is 36853
filed by the patient, the personal representative of the estate of 36854
the patient if deceased, or the patient's guardian or other legal 36855
representative. 36856

(2) If the testimonial privilege described in division (J)(1) 36857
of this section does not apply as provided in division (J)(1)(c) 36858
of this section, a chiropractor may be compelled to testify or to 36859
submit to discovery under the Rules of Civil Procedure only as to 36860
a communication made to the chiropractor by the patient in 36861
question in that relation, or the chiropractor's advice to the 36862
patient in question, that related causally or historically to 36863
physical or mental injuries that are relevant to issues in the 36864
medical claim, dental claim, chiropractic claim, or optometric 36865
claim, action for wrongful death, other civil action, or claim 36866

under Chapter 4123. of the Revised Code. 36867

(3) The testimonial privilege established under this division 36868
does not apply, and a chiropractor may testify or be compelled to 36869
testify, in any criminal action or administrative proceeding. 36870

(4) As used in this division, "communication" means 36871
acquiring, recording, or transmitting any information, in any 36872
manner, concerning any facts, opinions, or statements necessary to 36873
enable a chiropractor to diagnose, treat, or act for a patient. A 36874
communication may include, but is not limited to, any 36875
chiropractic, office, or hospital communication such as a record, 36876
chart, letter, memorandum, laboratory test and results, x-ray, 36877
photograph, financial statement, diagnosis, or prognosis. 36878

(K)(1) Except as provided under division (K)(2) of this 36879
section, a critical incident stress management team member 36880
concerning a communication received from an individual who 36881
receives crisis response services from the team member, or the 36882
team member's advice to the individual, during a debriefing 36883
session. 36884

(2) The testimonial privilege established under division 36885
(K)(1) of this section does not apply if any of the following are 36886
true: 36887

(a) The communication or advice indicates clear and present 36888
danger to the individual who receives crisis response services or 36889
to other persons. For purposes of this division, cases in which 36890
there are indications of present or past child abuse or neglect of 36891
the individual constitute a clear and present danger. 36892

(b) The individual who received crisis response services 36893
gives express consent to the testimony. 36894

(c) If the individual who received crisis response services 36895
is deceased, the surviving spouse or the executor or administrator 36896
of the estate of the deceased individual gives express consent. 36897

(d) The individual who received crisis response services 36898
voluntarily testifies, in which case the team member may be 36899
compelled to testify on the same subject. 36900

(e) The court in camera determines that the information 36901
communicated by the individual who received crisis response 36902
services is not germane to the relationship between the individual 36903
and the team member. 36904

(f) The communication or advice pertains or is related to any 36905
criminal act. 36906

(3) As used in division (K) of this section: 36907

(a) "Crisis response services" means consultation, risk 36908
assessment, referral, and on-site crisis intervention services 36909
provided by a critical incident stress management team to 36910
individuals affected by crisis or disaster. 36911

(b) "Critical incident stress management team member" or 36912
"team member" means an individual specially trained to provide 36913
crisis response services as a member of an organized community or 36914
local crisis response team that holds membership in the Ohio 36915
critical incident stress management network. 36916

(c) "Debriefing session" means a session at which crisis 36917
response services are rendered by a critical incident stress 36918
management team member during or after a crisis or disaster. 36919

(L)(1) Subject to division (L)(2) of this section and except 36920
as provided in division (L)(3) of this section, an employee 36921
assistance professional, concerning a communication made to the 36922
employee assistance professional by a client in the employee 36923
assistance professional's official capacity as an employee 36924
assistance professional. 36925

(2) Division (L)(1) of this section applies to an employee 36926
assistance professional who meets either or both of the following 36927

requirements:	36928
(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;	36929 36930
(b) Has education, training, and experience in all of the following:	36931 36932
(i) Providing workplace-based services designed to address employer and employee productivity issues;	36933 36934
(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	36935 36936 36937 36938
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	36939 36940 36941 36942
(iv) Selecting and evaluating available community resources;	36943
(v) Making appropriate referrals;	36944
(vi) Local and national employee assistance agreements;	36945
(vii) Client confidentiality.	36946
(3) Division (L)(1) of this section does not apply to any of the following:	36947 36948
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	36949 36950 36951 36952
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	36953 36954 36955
(c) A communication that is made by a client who is an	36956

unemancipated minor or an adult adjudicated to be incompetent and 36957
indicates that the client was the victim of a crime or abuse; 36958

(d) A civil proceeding to determine an individual's mental 36959
competency or a criminal action in which a plea of not guilty by 36960
reason of insanity is entered; 36961

(e) A civil or criminal malpractice action brought against 36962
the employee assistance professional; 36963

(f) When the employee assistance professional has the express 36964
consent of the client or, if the client is deceased or disabled, 36965
the client's legal representative; 36966

(g) When the testimonial privilege otherwise provided by 36967
division (L)(1) of this section is abrogated under law. 36968

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 36969
2317.41 of the Revised Code but subject to division (B) of this 36970
section, the records, or copies or photographs of the records, of 36971
a hospital, homes required to be licensed pursuant to section 36972
3721.01 of the Revised Code, and adult care facilities required to 36973
be licensed pursuant to Chapter ~~3722.~~ 5119. of the Revised Code, 36974
in lieu of the testimony in open court of their custodian, person 36975
who made them, or person under whose supervision they were made, 36976
may be qualified as authentic evidence if any such person endorses 36977
thereon the person's verified certification identifying such 36978
records, giving the mode and time of their preparation, and 36979
stating that they were prepared in the usual course of the 36980
business of the institution. Such records, copies, or photographs 36981
may not be qualified by certification as provided in this section 36982
unless the party intending to offer them delivers a copy of them, 36983
or of their relevant portions, to the attorney of record for each 36984
adverse party not less than five days before trial. Nothing in 36985
this section shall be construed to limit the right of any party to 36986
call the custodian, person who made such records, or person under 36987

whose supervision they were made, as a witness. 36988

(B) Division (A) of this section does not apply to any 36989
certified copy of the results of any test given to determine the 36990
presence or concentration of alcohol, a drug of abuse, a 36991
combination of them, a controlled substance, or a metabolite of a 36992
controlled substance in a patient's whole blood, blood serum or 36993
plasma, breath, or urine at any time relevant to a criminal 36994
offense that is submitted in a criminal action or proceeding in 36995
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 36996
of the Revised Code. 36997

Sec. 2319.27. Except as section 147.08 of the Revised Code 36998
governs the fees chargeable by a notary public for services 36999
rendered in connection with depositions, the fees and expenses 37000
chargeable for the taking and certifying of a deposition by a 37001
person who is authorized to do so in this state, including, but 37002
not limited to, a ~~shorthand~~ reporter, stenographer, or person 37003
described in Civil Rule 28, may be established by that person 37004
subject to the qualification specified in this section, and may be 37005
different than the fees and expenses charged for the taking and 37006
certifying of depositions by similar persons in other areas of 37007
this state. Unless, prior to the taking and certifying of a 37008
deposition, the parties who request it agree that the fees or 37009
expenses to be charged may exceed the usual and customary fees or 37010
expenses charged in the particular community for similar services, 37011
such a person shall not charge fees or expenses in connection with 37012
the taking and certifying of the deposition that exceed those 37013
usual and customary fees and expenses. 37014

The person taking and certifying a deposition may retain the 37015
deposition until the fees and expenses that ~~he~~ the person charged 37016
are paid. ~~He~~ The person also shall tax the costs, if any, of a 37017
sheriff or other officer who serves any process in connection with 37018

the taking of a deposition and the fees of the witnesses, and, if 37019
directed by a person entitled to those costs or fees, may retain 37020
the deposition until those costs or fees are paid. 37021

Sec. 2329.26. (A) Lands and tenements taken in execution 37022
shall not be sold until all of the following occur: 37023

(1)(a) Except as otherwise provided in division (A)(1)(b) of 37024
this section, the judgment creditor who seeks the sale of the 37025
lands and tenements or the judgment creditor's attorney does both 37026
of the following: 37027

(i) Causes a written notice of the date, time, and place of 37028
the sale to be served in accordance with divisions (A) and (B) of 37029
Civil Rule 5 upon the judgment debtor and upon each other party to 37030
the action in which the judgment giving rise to the execution was 37031
rendered; 37032

(ii) At least seven calendar days prior to the date of the 37033
sale, files with the clerk of the court that rendered the judgment 37034
giving rise to the execution a copy of the written notice 37035
described in division (A)(1)(a)(i) of this section with proof of 37036
service endorsed on the copy in the form described in division (D) 37037
of Civil Rule 5. 37038

(b) Service of the written notice described in division 37039
(A)(1)(a)(i) of this section is not required to be made upon any 37040
party who is in default for failure to appear in the action in 37041
which the judgment giving rise to the execution was rendered. 37042

(2) The officer taking the lands and tenements gives public 37043
notice of the date, time, and place of the sale for at least three 37044
weeks before the day of sale by advertisement in a newspaper 37045
~~published in and~~ of general circulation in the county. The 37046
newspaper shall meet the requirements of section 7.12 of the 37047
Revised Code. The court ordering the sale may designate in the 37048

order of sale the newspaper in which this public notice shall be 37049
published, ~~and this public notice is subject to division (A) of~~ 37050
~~section 2329.27 of the Revised Code.~~ 37051

(3) The officer taking the lands and tenements shall collect 37052
the purchaser's information required by section 2329.271 of the 37053
Revised Code. 37054

(B) A sale of lands and tenements taken in execution may be 37055
set aside in accordance with division (A) or (B) of section 37056
2329.27 of the Revised Code. 37057

Sec. 2335.05. In all cases or proceedings not specified in 37058
sections 2335.06 and 2335.08 of the Revised Code, except as 37059
otherwise provided in section 2335.061 of the Revised Code, each 37060
person subpoenaed as a witness shall be allowed one dollar for 37061
each day's attendance and the mileage allowed in courts of record. 37062
~~When~~ If not subpoenaed each person called upon to testify in a 37063
case or proceeding shall receive twenty-five cents. Such fee shall 37064
be taxed in the bill of costs, and if incurred in a state or 37065
ordinance case, or in a proceeding before a public officer, board, 37066
or commission, the fee shall be paid out of the proper public 37067
treasury, upon the certificate of the court, officer, board, or 37068
commission conducting the proceeding. 37069

Sec. 2335.06. ~~Each~~ (A) Except as otherwise provided in 37070
section 2335.061 of the Revised Code, each witness in civil cases 37071
shall receive the following fees: 37072

~~(A)(1)~~ Twelve dollars for each full day's attendance and six 37073
dollars for each half day's attendance at a court of record, 37074
mayor's court, or before a person authorized to take depositions, 37075
to be taxed in the bill of costs. Each witness shall also receive 37076
reimbursement for each mile necessarily traveled to and from the 37077
witness's place of residence to the place of giving testimony, to 37078

be taxed in the bill of costs. The board of county commissioners 37079
of each county shall set the reimbursement rate for each mile 37080
necessarily traveled by a witness in a civil case in the common 37081
pleas court, any division of the common pleas court, a county 37082
court, or a county-operated municipal court. The rate shall not 37083
exceed fifty and one-half cents for each mile. 37084

~~(B)~~(2) For attending a coroner's inquest, the same fees and 37085
mileage provided by division (A)(1) of this section, payable from 37086
the county treasury on the certificate of the coroner. 37087

~~(C)~~(B) As used in this section, "full day's attendance" means 37088
a day on which a witness is required or requested to be present at 37089
proceedings before and after twelve noon regardless of whether the 37090
witness actually testifies; "half day's attendance" means a day on 37091
which a witness is required or requested to be present at 37092
proceedings either before or after twelve noon, but not both, 37093
regardless of whether the witness actually testifies. 37094

Sec. 2335.061. (A) As used in this section: 37095

(1) "Coroner" has the same meaning as in section 313.01 of 37096
the Revised Code, and includes the following: 37097

(a) The coroner of a county other than a county in which the 37098
death occurred or the dead human body was found if the coroner of 37099
that other county performed services for the county in which the 37100
death occurred or the dead human body was found; 37101

(b) A medical examiner appointed by the governing authority 37102
of a county to perform the duties of a coroner set forth in 37103
Chapter 313. of the Revised Code. 37104

(2) "Deposition fee" means the amount derived by multiplying 37105
the hourly rate by the number of hours a coroner or deputy coroner 37106
spent preparing for and giving expert testimony at a deposition in 37107
a civil action pursuant to this section. 37108

<u>(3) "Deputy coroner" means a pathologist serving as a deputy coroner.</u>	37109
	37110
<u>(4) "Expert testimony" means testimony given by a coroner or deputy coroner as an expert witness pursuant to this section and the Rules of Evidence.</u>	37111
	37112
	37113
<u>(5) "Fact testimony" means testimony given by a coroner or deputy coroner regarding the performance of the duties of the coroner as set forth in Chapter 313. of the Revised Code. "Fact testimony" does not include expert testimony.</u>	37114
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	37117
<u>(6) "Hourly rate" means the compensation established in sections 325.15 and 325.18 of the Revised Code for a coroner without a private practice of medicine at the class 8 level for calendar year 2001 and thereafter, divided by two thousand eighty.</u>	37118
	37119
	37120
	37121
<u>(7) "Testimonial fee" means the amount derived by multiplying the hourly rate by six and multiplying the product by the number of hours that a coroner or deputy coroner spent preparing for and giving expert testimony at a trial or hearing in a civil action pursuant to this section.</u>	37122
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	37126
<u>(B)(1) A party may subpoena a coroner or deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action only upon filing with the court a notice that includes all of the following:</u>	37127
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	37130
<u>(a) The name of the coroner or deputy coroner whose testimony is sought;</u>	37131
	37132
<u>(b) A brief statement of the issues upon which the party seeks expert testimony from the coroner or deputy coroner;</u>	37133
	37134
<u>(c) An acknowledgment by the party that the giving of expert testimony by the coroner or deputy coroner at the trial, hearing, or deposition is governed by this section and that the party will comply with all of the requirements of this section;</u>	37135
	37136
	37137
	37138

(d) A statement of the obligations of the coroner or deputy coroner under division (C) of this section. 37139
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(2) The notice under division (B)(1) of this section shall be served together with the subpoena. 37141
37142

(C) A party that obtains the expert testimony of a coroner or deputy coroner at a trial, hearing, or deposition in a civil action pursuant to division (B) or (D) of this section shall pay to the treasury of the county in which the coroner or deputy coroner holds office or is appointed or employed a testimonial fee or deposition fee, whichever is applicable, within thirty days after receiving the statement described in this division. Upon the conclusion of the coroner's or deputy coroner's expert testimony, the coroner or deputy coroner shall file a statement with the court on behalf of the county in which the coroner or deputy coroner holds office or is appointed or employed showing the fee due and how the coroner or deputy coroner calculated the fee. The coroner or deputy coroner shall serve a copy of the statement on each of the parties. 37143
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(D) For good cause shown, the court may permit a coroner or deputy coroner who has not been served with a subpoena under division (B) of this section to give expert testimony at a trial, hearing, or deposition in a civil action. Unless good cause is shown, the failure of a party to file with the court the notice described in division (B)(1) of this section prohibits the party from having a coroner or deputy coroner subpoenaed to give expert testimony at a trial, hearing, or deposition in a civil action or from otherwise calling the coroner or a deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action. 37157
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(E) In the event of a dispute as to the contents of the notice filed by a party under division (B) of this section or as to the nature of the testimony sought from or given by a coroner 37168
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or a deputy coroner at a trial, hearing, or deposition in a civil 37171
action, the court shall determine whether the testimony sought 37172
from or given by the coroner or deputy coroner is expert testimony 37173
or fact testimony. In making this determination, the court shall 37174
consider all of the following: 37175

(1) The definitions of "expert testimony" and "fact 37176
testimony" set forth in this section; 37177

(2) All applicable rules of evidence; 37178

(3) Any other information that the court considers relevant. 37179

(F) Nothing in this section shall be construed to alter, 37180
amend, or supersede the requirements of the Rules of Civil 37181
Procedure or the Rules of Evidence. 37182

Sec. 2501.16. (A) Each court of appeals may appoint one or 37183
more official ~~shorthand~~ reporters, law clerks, secretaries, and 37184
any other employees that the court considers necessary for its 37185
efficient operation. 37186

The clerk of the court of common pleas, acting as the clerk 37187
of the court of appeals for the county, shall perform the duties 37188
otherwise performed and collect the fees otherwise collected by 37189
the clerk of the court of common pleas, as set forth in section 37190
2303.03 of the Revised Code, and shall maintain the files and 37191
records of the court. The clerk of the court of common pleas, 37192
acting as the clerk of the court of appeals for the county, may 37193
refuse to accept for filing any pleading or paper submitted for 37194
filing by a person who has been found to be a vexatious litigator 37195
under section 2323.52 of the Revised Code and who has failed to 37196
obtain leave from the court of appeals to proceed under that 37197
section. The overhead expenses pertaining to the office of the 37198
clerk of the court of common pleas that result from the clerk's 37199
acting as clerk of the court of appeals for the county, other than 37200

wages and salaries, shall be paid from the funds provided under 37201
sections 2501.18 and 2501.181 of the Revised Code. 37202

Each officer and employee appointed pursuant to this section 37203
shall take an oath of office, serve at the pleasure of the court, 37204
and perform any duties that the court directs. Each ~~shorthand~~ 37205
reporter shall have the powers that are vested in official 37206
~~shorthand~~ reporters of the court of common pleas under sections 37207
2301.18 to 2301.26 of the Revised Code. Whenever an opinion, per 37208
curiam, or report of a case has been prepared in accordance with 37209
section 2503.20 of the Revised Code, the official ~~shorthand~~ 37210
reporter immediately shall forward one copy of the opinion, per 37211
curiam, or report to the reporter of the supreme court, without 37212
expense to the reporter. 37213

(B) The court of appeals may determine that, for the 37214
efficient operation of the court, additional funds are necessary 37215
to acquire and pay for special projects of the court, including, 37216
but not limited to, the acquisition of additional facilities or 37217
the rehabilitation of existing facilities, the acquisition of 37218
equipment, the hiring and training of staff, the employment of 37219
magistrates, the training and education of judges, acting judges, 37220
and magistrates, community service programs, and other related 37221
services. Upon that determination, the court by rule may charge a 37222
fee, in addition to all other court costs, on the filing of each 37223
case or cause over which the court has jurisdiction. 37224

If the court of appeals offers a special program or service 37225
in cases of a specific type, the court by rule may assess an 37226
additional charge in a case of that type, over and above court 37227
costs, to cover the special program or service. The court shall 37228
adjust the special assessment periodically, but not retroactively, 37229
so that the amount assessed in those cases does not exceed the 37230
actual cost of providing the service or program. 37231

All moneys collected under division (B) of this section shall 37232

be paid to the county treasurer of the county selected as the 37233
principal seat of that court of appeals for deposit into either a 37234
general special projects fund or a fund established for a specific 37235
special project. Moneys from a fund of that nature shall be 37236
disbursed upon an order of the court in an amount no greater than 37237
the actual cost to the court of a project. If a specific fund is 37238
terminated because of the discontinuance of a program or service 37239
established under division (B) of this section, the court may 37240
order that moneys remaining in the fund be transferred to an 37241
account established under this division for a similar purpose. 37242

Sec. 2501.17. Each officer and employee of a court of appeals 37243
appointed under section 2501.16 of the Revised Code shall receive 37244
the compensation that is fixed by the court of appeals and payable 37245
from the state treasury upon the certificate of the presiding or 37246
administrative judge of the district in which the officer or 37247
employee serves. The additional amount of compensation that the 37248
clerk of the court of common pleas receives for acting as the 37249
clerk of the court of appeals in ~~his~~ the clerk's county and 37250
assuming the duties of that office and that is equal to one-eighth 37251
of the annual compensation that ~~he~~ the clerk receives pursuant to 37252
sections 325.08 and 325.18 of the Revised Code for being the clerk 37253
of the court of common pleas is payable from the state treasury 37254
upon the certificate of the presiding or administrative judge of 37255
the district in which the clerk serves. 37256

~~Shorthand reporters~~ Reporters may receive additional 37257
compensation for transcripts of evidence, the fee for the 37258
transcripts to be fixed by the judges of the court of appeals and 37259
paid and collected in the same manner as the fees for transcripts 37260
furnished by official ~~shorthand~~ reporters of the court of common 37261
pleas under section 2301.24 of the Revised Code. ~~Shorthand~~ 37262
~~reporters~~ Reporters appointed for a term of less than one year 37263
shall receive a per diem compensation of not less than thirty 37264

dollars per day. All ~~shorthand~~ reporters shall receive their 37265
actual expenses for traveling when attending court in any county 37266
other than that in which they reside, to be paid as provided by 37267
section ~~2301.24~~ 2301.22 of the Revised Code. 37268

Sec. 2743.09. The clerk of the court of claims shall do all 37269
of the following: 37270

(A) Administer oaths and take and certify affidavits, 37271
depositions, and acknowledgments of powers of attorney and other 37272
instruments in writing; 37273

(B) Prepare the dockets, enter and record the orders, 37274
judgments, decisions, awards, and proceedings of the court of 37275
claims and the court of claims commissioners, and issue writs and 37276
process; 37277

(C) Maintain an office in Franklin county in rooms provided 37278
by the supreme court for that purpose; 37279

(D) Keep an appearance docket of civil actions, claims for an 37280
award of reparations, and appeals from decisions of the court of 37281
claims commissioners. The clerk may refuse to accept for filing 37282
any pleading or paper that relates to a civil action in the court 37283
of claims and that is submitted for filing by a person who has 37284
been found to be a vexatious litigator under section 2323.52 of 37285
the Revised Code and who has failed to obtain leave to proceed 37286
under that section. 37287

Upon the commencement of an action or claim, the clerk shall 37288
assign it a number. This number shall be placed on the first page, 37289
and every continuation page, of the appearance docket that 37290
concerns the particular action or claim. In addition, this number 37291
and the names of the parties shall be placed on the case file, and 37292
every paper filed in the action or claim. 37293

At the time the action is commenced the clerk shall enter in 37294

the appearance docket the names of the parties in full and the names of counsel and shall index the action alphabetically by the last name of each party. Thereafter, the clerk shall chronologically note in the appearance docket all process issued and returns, pleas, motions, papers filed in the action, orders, verdicts, and judgments. The notations shall be brief but shall show the date of filing, substance, and journal volume and page of each order, verdict, and judgment. An action is commenced for purposes of this division by the filing of a complaint, including a form complaint under section 2743.10 of the Revised Code or a petition for removal.

At the time an appeal for an award of reparations is commenced, the clerk shall enter the full names of the claimant, the victim, and the attorneys in the appearance docket and shall index the claim alphabetically by the last name of the claimant and the victim. Thereafter, the clerk shall chronologically note in the appearance docket all process issued and returns, motions, papers filed in the claim, orders, decisions, and awards. The notations shall be brief but shall show the date of filing, substance, and journal volume and page of each order.

(E) Keep all original papers filed in an action or claim in a separate file folder and a journal in which all orders, verdicts, and judgments of the court and commissioners shall be recorded;

(F) Charge and collect fees pursuant to section 2303.20 of the Revised Code, keep a cashbook in which the clerk shall enter the amounts received, make a report to the clerk of the supreme court each quarter of the fees received during the preceding quarter, and pay them monthly into the state treasury;

(G) Appoint stenographers, ~~shorthand~~ reporters, and other clerical personnel;

(H) Under the direction of the chief justice, establish

procedures for hearing and determining appeals for an award of 37326
reparations pursuant to sections 2743.51 to 2743.72 of the Revised 37327
Code. 37328

Sec. 2744.05. Notwithstanding any other provisions of the 37329
Revised Code or rules of a court to the contrary, in an action 37330
against a political subdivision to recover damages for injury, 37331
death, or loss to person or property caused by an act or omission 37332
in connection with a governmental or proprietary function: 37333

(A) Punitive or exemplary damages shall not be awarded. 37334

(B)(1) If a claimant receives or is entitled to receive 37335
benefits for injuries or loss allegedly incurred from a policy or 37336
policies of insurance or any other source, the benefits shall be 37337
disclosed to the court, and the amount of the benefits shall be 37338
deducted from any award against a political subdivision recovered 37339
by that claimant. No insurer or other person is entitled to bring 37340
an action under a subrogation provision in an insurance or other 37341
contract against a political subdivision with respect to those 37342
benefits. 37343

The amount of the benefits shall be deducted from an award 37344
against a political subdivision under division (B)(1) of this 37345
section regardless of whether the claimant may be under an 37346
obligation to pay back the benefits upon recovery, in whole or in 37347
part, for the claim. A claimant whose benefits have been deducted 37348
from an award under division (B)(1) of this section is not 37349
considered fully compensated and shall not be required to 37350
reimburse a subrogated claim for benefits deducted from an award 37351
pursuant to division (B)(1) of this section. 37352

(2) Nothing in division (B)(1) of this section shall be 37353
construed to do either of the following: 37354

(a) Limit the rights of a beneficiary under a life insurance 37355

policy or the rights of sureties under fidelity or surety bonds; 37356

(b) Prohibit the department of job and family services from 37357
recovering from the political subdivision, pursuant to section 37358
5101.58 of the Revised Code, the cost of medical assistance 37359
benefits provided under ~~sections 5101.5211 to 5101.5216~~ or Chapter 37360
5107.7 or 5111. of the Revised Code. 37361

(C)(1) There shall not be any limitation on compensatory 37362
damages that represent the actual loss of the person who is 37363
awarded the damages. However, except in wrongful death actions 37364
brought pursuant to Chapter 2125. of the Revised Code, damages 37365
that arise from the same cause of action, transaction or 37366
occurrence, or series of transactions or occurrences and that do 37367
not represent the actual loss of the person who is awarded the 37368
damages shall not exceed two hundred fifty thousand dollars in 37369
favor of any one person. The limitation on damages that do not 37370
represent the actual loss of the person who is awarded the damages 37371
provided in this division does not apply to court costs that are 37372
awarded to a plaintiff, or to interest on a judgment rendered in 37373
favor of a plaintiff, in an action against a political 37374
subdivision. 37375

(2) As used in this division, "the actual loss of the person 37376
who is awarded the damages" includes all of the following: 37377

(a) All wages, salaries, or other compensation lost by the 37378
person injured as a result of the injury, including wages, 37379
salaries, or other compensation lost as of the date of a judgment 37380
and future expected lost earnings of the person injured; 37381

(b) All expenditures of the person injured or another person 37382
on behalf of the person injured for medical care or treatment, for 37383
rehabilitation services, or for other care, treatment, services, 37384
products, or accommodations that were necessary because of the 37385
injury; 37386

(c) All expenditures to be incurred in the future, as 37387
determined by the court, by the person injured or another person 37388
on behalf of the person injured for medical care or treatment, for 37389
rehabilitation services, or for other care, treatment, services, 37390
products, or accommodations that will be necessary because of the 37391
injury; 37392

(d) All expenditures of a person whose property was injured 37393
or destroyed or of another person on behalf of the person whose 37394
property was injured or destroyed in order to repair or replace 37395
the property that was injured or destroyed; 37396

(e) All expenditures of the person injured or of the person 37397
whose property was injured or destroyed or of another person on 37398
behalf of the person injured or of the person whose property was 37399
injured or destroyed in relation to the actual preparation or 37400
presentation of the claim involved; 37401

(f) Any other expenditures of the person injured or of the 37402
person whose property was injured or destroyed or of another 37403
person on behalf of the person injured or of the person whose 37404
property was injured or destroyed that the court determines 37405
represent an actual loss experienced because of the personal or 37406
property injury or property loss. 37407

"The actual loss of the person who is awarded the damages" 37408
does not include any fees paid or owed to an attorney for any 37409
services rendered in relation to a personal or property injury or 37410
property loss, and does not include any damages awarded for pain 37411
and suffering, for the loss of society, consortium, companionship, 37412
care, assistance, attention, protection, advice, guidance, 37413
counsel, instruction, training, or education of the person 37414
injured, for mental anguish, or for any other intangible loss. 37415

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 37416
Revised Code: 37417

(A) "Care facility" means any of the following:	37418
(1) Any "home" as defined in section 3721.10 or 5111.20 of the Revised Code;	37419 37420
(2) Any "residential facility" as defined in section 5123.19 of the Revised Code;	37421 37422
(3) Any institution or facility operated or provided by the department of mental health or by the department of developmental disabilities pursuant to sections 5119.02 and 5123.03 of the Revised Code;	37423 37424 37425 37426
(4) Any "residential facility" as defined in section 5119.22 of the Revised Code;	37427 37428
(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;	37429 37430 37431
(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others;	37432 37433 37434 37435 37436
(7) Any "adult care facility" as defined in section 3722.01 <u>5119.70</u> of the Revised Code;	37437 37438
(8) Any adult foster home certified by the department of aging or its designee under section 173.36 <u>5119.692</u> of the Revised Code.	37439 37440 37441
(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.	37442 37443 37444 37445
(C)(1) "Gross neglect" means knowingly failing to provide a person with any treatment, care, goods, or service that is	37446 37447

necessary to maintain the health or safety of the person when the 37448
failure results in physical harm or serious physical harm to the 37449
person. 37450

(2) "Neglect" means recklessly failing to provide a person 37451
with any treatment, care, goods, or service that is necessary to 37452
maintain the health or safety of the person when the failure 37453
results in serious physical harm to the person. 37454

(D) "Inappropriate use of a physical or chemical restraint, 37455
medication, or isolation" means the use of physical or chemical 37456
restraint, medication, or isolation as punishment, for staff 37457
convenience, excessively, as a substitute for treatment, or in 37458
quantities that preclude habilitation and treatment. 37459

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a 37460
violation of section 2919.27 of the Revised Code or of a municipal 37461
ordinance that is substantially similar to that section, the court 37462
may order an evaluation of the mental condition of the defendant 37463
if the court determines that either of the following criteria 37464
apply: 37465

(i) If the alleged violation is a violation of a protection 37466
order issued or consent agreement approved pursuant to section 37467
2919.26 or 3113.31 of the Revised Code, that the violation 37468
allegedly involves conduct by the defendant that caused physical 37469
harm to the person or property of a family or household member 37470
covered by the order or agreement, or conduct by the defendant 37471
that caused a family or household member to believe that the 37472
defendant would cause physical harm to that member or that 37473
member's property. 37474

(ii) If the alleged violation is a violation of a protection 37475
order issued pursuant to section 2903.213 or 2903.214 of the 37476
Revised Code or a protection order issued by a court of another 37477
state, that the violation allegedly involves conduct by the 37478

defendant that caused physical harm to the person or property of 37479
the person covered by the order, or conduct by the defendant that 37480
caused the person covered by the order to believe that the 37481
defendant would cause physical harm to that person or that 37482
person's property. 37483

(b) If a defendant is charged with a violation of section 37484
2903.211 of the Revised Code or of a municipal ordinance that is 37485
substantially similar to that section, the court may order an 37486
evaluation of the mental condition of the defendant. 37487

(2) An evaluation ordered under division (A)(1) of this 37488
section shall be completed no later than thirty days from the date 37489
the order is entered pursuant to that division. In that order, the 37490
court shall do either of the following: 37491

(a) Order that the evaluation of the mental condition of the 37492
defendant be preceded by an examination conducted either by a 37493
forensic center that is designated by the department of mental 37494
health to conduct examinations and make evaluations of defendants 37495
charged with violations of section 2903.211 or 2919.27 of the 37496
Revised Code or of substantially similar municipal ordinances in 37497
the area in which the court is located, or by any other program or 37498
facility that is designated by the department of mental health or 37499
the department of developmental disabilities to conduct 37500
examinations and make evaluations of defendants charged with 37501
violations of section 2903.211 or 2919.27 of the Revised Code or 37502
of substantially similar municipal ordinances, and that is 37503
operated by either department or is certified by either department 37504
as being in compliance with the standards established under 37505
division ~~(I)~~(H) of section 5119.01 of the Revised Code or division 37506
(C) of section 5123.04 of the Revised Code. 37507

(b) Designate a center, program, or facility other than one 37508
designated by the department of mental health or the department of 37509
developmental disabilities, as described in division (A)(2)(a) of 37510

this section, to conduct the evaluation and preceding examination 37511
of the mental condition of the defendant. 37512

Whether the court acts pursuant to division (A)(2)(a) or (b) 37513
of this section, the court may designate examiners other than the 37514
personnel of the center, program, facility, or department involved 37515
to make the evaluation and preceding examination of the mental 37516
condition of the defendant. 37517

(B) If the court considers that additional evaluations of the 37518
mental condition of a defendant are necessary following the 37519
evaluation authorized by division (A) of this section, the court 37520
may order up to two additional similar evaluations. These 37521
evaluations shall be completed no later than thirty days from the 37522
date the applicable court order is entered. If more than one 37523
evaluation of the mental condition of the defendant is ordered 37524
under this division, the prosecutor and the defendant may 37525
recommend to the court an examiner whom each prefers to perform 37526
one of the evaluations and preceding examinations. 37527

(C)(1) The court may order a defendant who has been released 37528
on bail to submit to an examination under division (A) or (B) of 37529
this section. The examination shall be conducted either at the 37530
detention facility in which the defendant would have been confined 37531
if the defendant had not been released on bail, or, if so 37532
specified by the center, program, facility, or examiners involved, 37533
at the premises of the center, program, or facility. Additionally, 37534
the examination shall be conducted at the times established by the 37535
examiners involved. If such a defendant refuses to submit to an 37536
examination or a complete examination as required by the court or 37537
the center, program, facility, or examiners involved, the court 37538
may amend the conditions of the bail of the defendant and order 37539
the sheriff to take the defendant into custody and deliver the 37540
defendant to the detention facility in which the defendant would 37541
have been confined if the defendant had not been released on bail, 37542

or, if so specified by the center, program, facility, or examiners 37543
involved, to the premises of the center, program, or facility, for 37544
purposes of the examination. 37545

(2) A defendant who has not been released on bail shall be 37546
examined at the detention facility in which the defendant is 37547
confined or, if so specified by the center, program, facility, or 37548
examiners involved, at the premises of the center, program, or 37549
facility. 37550

(D) The examiner of the mental condition of a defendant under 37551
division (A) or (B) of this section shall file a written report 37552
with the court within thirty days after the entry of an order for 37553
the evaluation of the mental condition of the defendant. The 37554
report shall contain the findings of the examiner; the facts in 37555
reasonable detail on which the findings are based; the opinion of 37556
the examiner as to the mental condition of the defendant; the 37557
opinion of the examiner as to whether the defendant represents a 37558
substantial risk of physical harm to other persons as manifested 37559
by evidence of recent homicidal or other violent behavior, 37560
evidence of recent threats that placed other persons in reasonable 37561
fear of violent behavior and serious physical harm, or evidence of 37562
present dangerousness; and the opinion of the examiner as to the 37563
types of treatment or counseling that the defendant needs. The 37564
court shall provide copies of the report to the prosecutor and 37565
defense counsel. 37566

(E) The costs of any evaluation and preceding examination of 37567
a defendant that is ordered pursuant to division (A) or (B) of 37568
this section shall be taxed as court costs in the criminal case. 37569

(F) If the examiner considers it necessary in order to make 37570
an accurate evaluation of the mental condition of a defendant, an 37571
examiner under division (A) or (B) of this section may request any 37572
family or household member of the defendant to provide the 37573
examiner with information. A family or household member may, but 37574

is not required to, provide information to the examiner upon 37575
receipt of the request. 37576

(G) As used in this section: 37577

(1) "Bail" includes a recognizance. 37578

(2) "Examiner" means a psychiatrist, a licensed independent 37579
social worker who is employed by a forensic center that is 37580
certified as being in compliance with the standards established 37581
under division ~~(I)~~(H) of section 5119.01 or division (C) of 37582
section 5123.04 of the Revised Code, a licensed professional 37583
clinical counselor who is employed at a forensic center that is 37584
certified as being in compliance with such standards, or a 37585
licensed clinical psychologist, except that in order to be an 37586
examiner, a licensed clinical psychologist shall meet the criteria 37587
of division (I)(1) of section 5122.01 of the Revised Code or be 37588
employed to conduct examinations by the department of mental 37589
health or by a forensic center certified as being in compliance 37590
with the standards established under division ~~(I)~~(H) of section 37591
5119.01 or division (C) of section 5123.04 of the Revised Code 37592
that is designated by the department of mental health. 37593

(3) "Family or household member" has the same meaning as in 37594
section 2919.25 of the Revised Code. 37595

(4) "Prosecutor" has the same meaning as in section 2935.01 37596
of the Revised Code. 37597

(5) "Psychiatrist" and "licensed clinical psychologist" have 37598
the same meanings as in section 5122.01 of the Revised Code. 37599

(6) "Protection order issued by a court of another state" has 37600
the same meaning as in section 2919.27 of the Revised Code. 37601

Sec. 2939.11. The official ~~shorthand~~ reporter of the county, 37602
or any ~~shorthand~~ reporter designated by the court of common pleas, 37603
at the request of the prosecuting attorney, or any such reporter 37604

designated by the attorney general in investigations conducted by 37605
~~him~~ the attorney general, may take ~~shorthand~~ notes of, or 37606
electronically record, testimony before the grand jury, and 37607
furnish a transcript to the prosecuting attorney or the attorney 37608
general, and to no other person. The ~~shorthand~~ reporter shall 37609
withdraw from the jury room before the jurors begin to express 37610
their views or take their vote on the matter before them. Such 37611
reporter shall take an oath to be administered by the judge after 37612
the grand jury is sworn, imposing an obligation of secrecy to not 37613
disclose any testimony taken or heard except to the grand jury, 37614
prosecuting attorney, or attorney general, unless called upon in 37615
court to make disclosures. 37616

Sec. 2945.371. (A) If the issue of a defendant's competence 37617
to stand trial is raised or if a defendant enters a plea of not 37618
guilty by reason of insanity, the court may order one or more 37619
evaluations of the defendant's present mental condition or, in the 37620
case of a plea of not guilty by reason of insanity, of the 37621
defendant's mental condition at the time of the offense charged. 37622
An examiner shall conduct the evaluation. 37623

(B) If the court orders more than one evaluation under 37624
division (A) of this section, the prosecutor and the defendant may 37625
recommend to the court an examiner whom each prefers to perform 37626
one of the evaluations. If a defendant enters a plea of not guilty 37627
by reason of insanity and if the court does not designate an 37628
examiner recommended by the defendant, the court shall inform the 37629
defendant that the defendant may have independent expert 37630
evaluation and that, if the defendant is unable to obtain 37631
independent expert evaluation, it will be obtained for the 37632
defendant at public expense if the defendant is indigent. 37633

(C) If the court orders an evaluation under division (A) of 37634
this section, the defendant shall be available at the times and 37635

places established by the examiners who are to conduct the 37636
evaluation. The court may order a defendant who has been released 37637
on bail or recognizance to submit to an evaluation under this 37638
section. If a defendant who has been released on bail or 37639
recognizance refuses to submit to a complete evaluation, the court 37640
may amend the conditions of bail or recognizance and order the 37641
sheriff to take the defendant into custody and deliver the 37642
defendant to a center, program, or facility operated or certified 37643
by the department of mental health or the department of 37644
developmental disabilities where the defendant may be held for 37645
evaluation for a reasonable period of time not to exceed twenty 37646
days. 37647

(D) A defendant who has not been released on bail or 37648
recognizance may be evaluated at the defendant's place of 37649
detention. Upon the request of the examiner, the court may order 37650
the sheriff to transport the defendant to a program or facility 37651
operated or certified by the department of mental health or the 37652
department of developmental disabilities, where the defendant may 37653
be held for evaluation for a reasonable period of time not to 37654
exceed twenty days, and to return the defendant to the place of 37655
detention after the evaluation. A municipal court may make an 37656
order under this division only upon the request of a certified 37657
forensic center examiner. 37658

(E) If a court orders the evaluation to determine a 37659
defendant's mental condition at the time of the offense charged, 37660
the court shall inform the examiner of the offense with which the 37661
defendant is charged. 37662

(F) In conducting an evaluation of a defendant's mental 37663
condition at the time of the offense charged, the examiner shall 37664
consider all relevant evidence. If the offense charged involves 37665
the use of force against another person, the relevant evidence to 37666
be considered includes, but is not limited to, any evidence that 37667

the defendant suffered, at the time of the commission of the 37668
offense, from the "battered woman syndrome." 37669

(G) The examiner shall file a written report with the court 37670
within thirty days after entry of a court order for evaluation, 37671
and the court shall provide copies of the report to the prosecutor 37672
and defense counsel. The report shall include all of the 37673
following: 37674

(1) The examiner's findings; 37675

(2) The facts in reasonable detail on which the findings are 37676
based; 37677

(3) If the evaluation was ordered to determine the 37678
defendant's competence to stand trial, all of the following 37679
findings or recommendations that are applicable: 37680

(a) Whether the defendant is capable of understanding the 37681
nature and objective of the proceedings against the defendant or 37682
of assisting in the defendant's defense; 37683

(b) If the examiner's opinion is that the defendant is 37684
incapable of understanding the nature and objective of the 37685
proceedings against the defendant or of assisting in the 37686
defendant's defense, whether the defendant presently is mentally 37687
ill or mentally retarded and, if the examiner's opinion is that 37688
the defendant presently is mentally retarded, whether the 37689
defendant appears to be a mentally retarded person subject to 37690
institutionalization by court order; 37691

(c) If the examiner's opinion is that the defendant is 37692
incapable of understanding the nature and objective of the 37693
proceedings against the defendant or of assisting in the 37694
defendant's defense, the examiner's opinion as to the likelihood 37695
of the defendant becoming capable of understanding the nature and 37696
objective of the proceedings against the defendant and of 37697
assisting in the defendant's defense within one year if the 37698

defendant is provided with a course of treatment; 37699

(d) If the examiner's opinion is that the defendant is 37700
incapable of understanding the nature and objective of the 37701
proceedings against the defendant or of assisting in the 37702
defendant's defense and that the defendant presently is mentally 37703
ill or mentally retarded, the examiner's recommendation as to the 37704
least restrictive ~~treatment~~ placement or commitment alternative, 37705
consistent with the defendant's treatment needs for restoration to 37706
competency and with the safety of the community; 37707

(e) If the defendant is charged with a misdemeanor offense 37708
that is not an offense of violence and the examiner's opinion is 37709
that the defendant is incapable of understanding the nature and 37710
objective of the proceedings against the defendant or of assisting 37711
in the defendant's defense and that the defendant is presently 37712
mentally ill or mentally retarded, the examiner's recommendation 37713
as to whether the defendant is amenable to engagement in mental 37714
health treatment or developmental disability services. 37715

(4) If the evaluation was ordered to determine the 37716
defendant's mental condition at the time of the offense charged, 37717
the examiner's findings as to whether the defendant, at the time 37718
of the offense charged, did not know, as a result of a severe 37719
mental disease or defect, the wrongfulness of the defendant's acts 37720
charged. 37721

(H) If the examiner's report filed under division (G) of this 37722
section indicates that in the examiner's opinion the defendant is 37723
incapable of understanding the nature and objective of the 37724
proceedings against the defendant or of assisting in the 37725
defendant's defense and that in the examiner's opinion the 37726
defendant appears to be a mentally retarded person subject to 37727
institutionalization by court order, the court shall order the 37728
defendant to undergo a separate mental retardation evaluation 37729
conducted by a psychologist designated by the director of 37730

developmental disabilities. Divisions (C) to (F) of this section 37731
apply in relation to a separate mental retardation evaluation 37732
conducted under this division. The psychologist appointed under 37733
this division to conduct the separate mental retardation 37734
evaluation shall file a written report with the court within 37735
thirty days after the entry of the court order requiring the 37736
separate mental retardation evaluation, and the court shall 37737
provide copies of the report to the prosecutor and defense 37738
counsel. The report shall include all of the information described 37739
in divisions (G)(1) to (4) of this section. If the court orders a 37740
separate mental retardation evaluation of a defendant under this 37741
division, the court shall not conduct a hearing under divisions 37742
(B) to (H) of section 2945.37 of the Revised Code regarding that 37743
defendant until a report of the separate mental retardation 37744
evaluation conducted under this division has been filed. Upon the 37745
filing of that report, the court shall conduct the hearing within 37746
the period of time specified in division (C) of section 2945.37 of 37747
the Revised Code. 37748

(I) An examiner appointed under divisions (A) and (B) of this 37749
section or under division (H) of this section to evaluate a 37750
defendant to determine the defendant's competence to stand trial 37751
also may be appointed to evaluate a defendant who has entered a 37752
plea of not guilty by reason of insanity, but an examiner of that 37753
nature shall prepare separate reports on the issue of competence 37754
to stand trial and the defense of not guilty by reason of 37755
insanity. 37756

(J) No statement that a defendant makes in an evaluation or 37757
hearing under divisions (A) to (H) of this section relating to the 37758
defendant's competence to stand trial or to the defendant's mental 37759
condition at the time of the offense charged shall be used against 37760
the defendant on the issue of guilt in any criminal action or 37761
proceeding, but, in a criminal action or proceeding, the 37762

prosecutor or defense counsel may call as a witness any person who 37763
evaluated the defendant or prepared a report pursuant to a 37764
referral under this section. Neither the appointment nor the 37765
testimony of an examiner appointed under this section precludes 37766
the prosecutor or defense counsel from calling other witnesses or 37767
presenting other evidence on competency or insanity issues. 37768

(K) Persons appointed as examiners under divisions (A) and 37769
(B) of this section or under division (H) of this section shall be 37770
paid a reasonable amount for their services and expenses, as 37771
certified by the court. The certified amount shall be paid by the 37772
county in the case of county courts and courts of common pleas and 37773
by the legislative authority, as defined in section 1901.03 of the 37774
Revised Code, in the case of municipal courts. 37775

Sec. 2945.38. (A) If the issue of a defendant's competence to 37776
stand trial is raised and if the court, upon conducting the 37777
hearing provided for in section 2945.37 of the Revised Code, finds 37778
that the defendant is competent to stand trial, the defendant 37779
shall be proceeded against as provided by law. If the court finds 37780
the defendant competent to stand trial and the defendant is 37781
receiving psychotropic drugs or other medication, the court may 37782
authorize the continued administration of the drugs or medication 37783
or other appropriate treatment in order to maintain the 37784
defendant's competence to stand trial, unless the defendant's 37785
attending physician advises the court against continuation of the 37786
drugs, other medication, or treatment. 37787

(B)(1)(a) If, after taking into consideration all relevant 37788
reports, information, and other evidence, the court finds that the 37789
defendant is incompetent to stand trial and that there is a 37790
substantial probability that the defendant will become competent 37791
to stand trial within one year if the defendant is provided with a 37792
course of treatment, the court shall order the defendant to 37793

undergo treatment. If the defendant has been charged with a felony 37794
offense and if, after taking into consideration all relevant 37795
reports, information, and other evidence, the court finds that the 37796
defendant is incompetent to stand trial, but the court is unable 37797
at that time to determine whether there is a substantial 37798
probability that the defendant will become competent to stand 37799
trial within one year if the defendant is provided with a course 37800
of treatment, the court shall order continuing evaluation and 37801
treatment of the defendant for a period not to exceed four months 37802
to determine whether there is a substantial probability that the 37803
defendant will become competent to stand trial within one year if 37804
the defendant is provided with a course of treatment. 37805

(b) The court order for the defendant to undergo treatment or 37806
continuing evaluation and treatment under division (B)(1)(a) of 37807
this section shall specify that the defendant, if determined to 37808
require mental health treatment or continuing evaluation and 37809
treatment, shall be committed to the department of mental health 37810
for treatment or continuing evaluation and treatment shall occur 37811
at a hospital, facility, or agency, as determined to be clinically 37812
appropriate by the department of mental health and, if determined 37813
to require treatment or continuing evaluation and treatment for a 37814
developmental disability, shall receive treatment or continuing 37815
evaluation and treatment at an institution or facility operated by 37816
the department of ~~mental health or the department of~~ developmental 37817
disabilities, at a facility certified by ~~either of those~~ 37818
~~departments~~ the department of developmental disabilities as being 37819
qualified to treat ~~mental illness or~~ mental retardation, at a 37820
public or private community mental ~~health or mental~~ retardation 37821
facility, or by a ~~psychiatrist or another~~ mental health or mental 37822
retardation professional. The order may restrict the defendant's 37823
freedom of movement as the court considers necessary. The 37824
prosecutor in the defendant's case shall send to the chief 37825
clinical officer of the hospital ~~or~~, facility, or agency where the 37826

defendant is placed by the department of mental health, or to the 37827
managing officer of the institution, the director of the ~~program~~ 37828
facility, or the person to which the defendant is committed, 37829
copies of relevant police reports and other background information 37830
that pertains to the defendant and is available to the prosecutor 37831
unless the prosecutor determines that the release of any of the 37832
information in the police reports or any of the other background 37833
information to unauthorized persons would interfere with the 37834
effective prosecution of any person or would create a substantial 37835
risk of harm to any person. 37836

In committing the defendant to the department of mental 37837
health, the court shall consider the extent to which the person is 37838
a danger to the person and to others, the need for security, and 37839
the type of crime involved and, if the court finds that 37840
restrictions on the defendant's freedom of movement are necessary, 37841
shall specify the least restrictive limitations on the person's 37842
freedom of movement determined to be necessary to protect public 37843
safety. In determining ~~placement~~ commitment alternatives for 37844
defendants determined to require treatment or continuing 37845
evaluation and treatment for developmental disabilities, the court 37846
shall consider the extent to which the person is a danger to the 37847
person and to others, the need for security, and the type of crime 37848
involved and shall order the least restrictive alternative 37849
available that is consistent with public safety and treatment 37850
goals. In weighing these factors, the court shall give preference 37851
to protecting public safety. 37852

(c) If the defendant is found incompetent to stand trial, if 37853
the chief clinical officer of the hospital ~~or~~, facility, or agency 37854
where the defendant is placed, or the managing officer of the 37855
institution, the director of the ~~program~~ facility, or the person 37856
to which the defendant is committed for treatment or continuing 37857
evaluation and treatment under division (B)(1)(b) of this section 37858

determines that medication is necessary to restore the defendant's 37859
competency to stand trial, and if the defendant lacks the capacity 37860
to give informed consent or refuses medication, the chief clinical 37861
officer of the hospital, facility, or agency where the defendant 37862
is placed, or the managing officer of the institution, the 37863
director of the facility, or the person to which the defendant is 37864
committed for treatment or continuing evaluation and treatment may 37865
petition the court for authorization for the involuntary 37866
administration of medication. The court shall hold a hearing on 37867
the petition within five days of the filing of the petition if the 37868
petition was filed in a municipal court or a county court 37869
regarding an incompetent defendant charged with a misdemeanor or 37870
within ten days of the filing of the petition if the petition was 37871
filed in a court of common pleas regarding an incompetent 37872
defendant charged with a felony offense. Following the hearing, 37873
the court may authorize the involuntary administration of 37874
medication or may dismiss the petition. 37875

(d) If the defendant is charged with a misdemeanor offense 37876
that is not an offense of violence, the prosecutor may hold the 37877
charges in abeyance while the defendant engages in mental health 37878
treatment or developmental disability services. 37879

(2) If the court finds that the defendant is incompetent to 37880
stand trial and that, even if the defendant is provided with a 37881
course of treatment, there is not a substantial probability that 37882
the defendant will become competent to stand trial within one 37883
year, the court shall order the discharge of the defendant, unless 37884
upon motion of the prosecutor or on its own motion, the court 37885
either seeks to retain jurisdiction over the defendant pursuant to 37886
section 2945.39 of the Revised Code or files an affidavit in the 37887
probate court for the civil commitment of the defendant pursuant 37888
to Chapter 5122. or 5123. of the Revised Code alleging that the 37889
defendant is a mentally ill person subject to hospitalization by 37890

court order or a mentally retarded person subject to 37891
institutionalization by court order. If an affidavit is filed in 37892
the probate court, the trial court shall send to the probate court 37893
copies of all written reports of the defendant's mental condition 37894
that were prepared pursuant to section 2945.371 of the Revised 37895
Code. 37896

The trial court may issue the temporary order of detention 37897
that a probate court may issue under section 5122.11 or 5123.71 of 37898
the Revised Code, to remain in effect until the probable cause or 37899
initial hearing in the probate court. Further proceedings in the 37900
probate court are civil proceedings governed by Chapter 5122. or 37901
5123. of the Revised Code. 37902

(C) No defendant shall be required to undergo treatment, 37903
including any continuing evaluation and treatment, under division 37904
(B)(1) of this section for longer than whichever of the following 37905
periods is applicable: 37906

(1) One year, if the most serious offense with which the 37907
defendant is charged is one of the following offenses: 37908

(a) Aggravated murder, murder, or an offense of violence for 37909
which a sentence of death or life imprisonment may be imposed; 37910

(b) An offense of violence that is a felony of the first or 37911
second degree; 37912

(c) A conspiracy to commit, an attempt to commit, or 37913
complicity in the commission of an offense described in division 37914
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 37915
complicity is a felony of the first or second degree. 37916

(2) Six months, if the most serious offense with which the 37917
defendant is charged is a felony other than a felony described in 37918
division (C)(1) of this section; 37919

(3) Sixty days, if the most serious offense with which the 37920

defendant is charged is a misdemeanor of the first or second 37921
degree; 37922

(4) Thirty days, if the most serious offense with which the 37923
defendant is charged is a misdemeanor of the third or fourth 37924
degree, a minor misdemeanor, or an unclassified misdemeanor. 37925

(D) Any defendant who is committed pursuant to this section 37926
shall not voluntarily admit the defendant or be voluntarily 37927
admitted to a hospital or institution pursuant to section 5122.02, 37928
5122.15, 5123.69, or 5123.76 of the Revised Code. 37929

(E) Except as otherwise provided in this division, a 37930
defendant who is charged with an offense and is committed by the 37931
court under this section to a hospital the department of mental 37932
health with restrictions on the defendant's freedom of movement or 37933
either is committed to an institution by the court under this 37934
section or facility for the treatment of developmental 37935
disabilities shall not be granted unsupervised on-grounds 37936
movement, supervised off-grounds movement, or nonsecured status 37937
except in accordance with the court order. The court may grant a 37938
defendant supervised off-grounds movement to obtain medical 37939
treatment or specialized habilitation treatment services if the 37940
person who supervises the treatment or the continuing evaluation 37941
and treatment of the defendant ordered under division (B)(1)(a) of 37942
this section informs the court that the treatment or continuing 37943
evaluation and treatment cannot be provided at the hospital or 37944
facility where the defendant is placed by the department of mental 37945
health or the institution or facility to which the defendant is 37946
committed. The chief clinical officer of the hospital or facility 37947
where the defendant is placed by the department of mental health 37948
or the managing officer of the institution or director of the 37949
facility to which the defendant is committed, or a designee of 37950
either any of those persons, may grant a defendant movement to a 37951
medical facility for an emergency medical situation with 37952

appropriate supervision to ensure the safety of the defendant, 37953
staff, and community during that emergency medical situation. The 37954
chief clinical officer of the hospital or facility where the 37955
defendant is placed by the department of mental health or the 37956
managing officer of the institution or director of the facility to 37957
which the defendant is committed shall notify the court within 37958
twenty-four hours of the defendant's movement to the medical 37959
facility for an emergency medical situation under this division. 37960

(F) The person who supervises the treatment or continuing 37961
evaluation and treatment of a defendant ordered to undergo 37962
treatment or continuing evaluation and treatment under division 37963
(B)(1)(a) of this section shall file a written report with the 37964
court at the following times: 37965

(1) Whenever the person believes the defendant is capable of 37966
understanding the nature and objective of the proceedings against 37967
the defendant and of assisting in the defendant's defense; 37968

(2) For a felony offense, fourteen days before expiration of 37969
the maximum time for treatment as specified in division (C) of 37970
this section and fourteen days before the expiration of the 37971
maximum time for continuing evaluation and treatment as specified 37972
in division (B)(1)(a) of this section, and, for a misdemeanor 37973
offense, ten days before the expiration of the maximum time for 37974
treatment, as specified in division (C) of this section; 37975

(3) At a minimum, after each six months of treatment; 37976

(4) Whenever the person who supervises the treatment or 37977
continuing evaluation and treatment of a defendant ordered under 37978
division (B)(1)(a) of this section believes that there is not a 37979
substantial probability that the defendant will become capable of 37980
understanding the nature and objective of the proceedings against 37981
the defendant or of assisting in the defendant's defense even if 37982
the defendant is provided with a course of treatment. 37983

(G) A report under division (F) of this section shall contain 37984
the examiner's findings, the facts in reasonable detail on which 37985
the findings are based, and the examiner's opinion as to the 37986
defendant's capability of understanding the nature and objective 37987
of the proceedings against the defendant and of assisting in the 37988
defendant's defense. If, in the examiner's opinion, the defendant 37989
remains incapable of understanding the nature and objective of the 37990
proceedings against the defendant and of assisting in the 37991
defendant's defense and there is a substantial probability that 37992
the defendant will become capable of understanding the nature and 37993
objective of the proceedings against the defendant and of 37994
assisting in the defendant's defense if the defendant is provided 37995
with a course of treatment, if in the examiner's opinion the 37996
defendant remains mentally ill or mentally retarded, and if the 37997
maximum time for treatment as specified in division (C) of this 37998
section has not expired, the report also shall contain the 37999
examiner's recommendation as to the least restrictive ~~treatment~~ 38000
placement or commitment alternative that is consistent with the 38001
defendant's treatment needs for restoration to competency and with 38002
the safety of the community. The court shall provide copies of the 38003
report to the prosecutor and defense counsel. 38004

(H) If a defendant is committed pursuant to division (B)(1) 38005
of this section, within ten days after the treating physician of 38006
the defendant or the examiner of the defendant who is employed or 38007
retained by the treating facility advises that there is not a 38008
substantial probability that the defendant will become capable of 38009
understanding the nature and objective of the proceedings against 38010
the defendant or of assisting in the defendant's defense even if 38011
the defendant is provided with a course of treatment, within ten 38012
days after the expiration of the maximum time for treatment as 38013
specified in division (C) of this section, within ten days after 38014
the expiration of the maximum time for continuing evaluation and 38015
treatment as specified in division (B)(1)(a) of this section, 38016

within thirty days after a defendant's request for a hearing that 38017
is made after six months of treatment, or within thirty days after 38018
being advised by the treating physician or examiner that the 38019
defendant is competent to stand trial, whichever is the earliest, 38020
the court shall conduct another hearing to determine if the 38021
defendant is competent to stand trial and shall do whichever of 38022
the following is applicable: 38023

(1) If the court finds that the defendant is competent to 38024
stand trial, the defendant shall be proceeded against as provided 38025
by law. 38026

(2) If the court finds that the defendant is incompetent to 38027
stand trial, but that there is a substantial probability that the 38028
defendant will become competent to stand trial if the defendant is 38029
provided with a course of treatment, and the maximum time for 38030
treatment as specified in division (C) of this section has not 38031
expired, the court, after consideration of the examiner's 38032
recommendation, shall order that treatment be continued, may 38033
change the ~~facility or program at which the treatment is to be~~ 38034
continued least restrictive limitations on the defendant's freedom 38035
of movement, and, if applicable, shall specify whether the 38036
treatment for developmental disabilities is to be continued at the 38037
same or a different facility or ~~program~~ institution. 38038

(3) If the court finds that the defendant is incompetent to 38039
stand trial, if the defendant is charged with an offense listed in 38040
division (C)(1) of this section, and if the court finds that there 38041
is not a substantial probability that the defendant will become 38042
competent to stand trial even if the defendant is provided with a 38043
course of treatment, or if the maximum time for treatment relative 38044
to that offense as specified in division (C) of this section has 38045
expired, further proceedings shall be as provided in sections 38046
2945.39, 2945.401, and 2945.402 of the Revised Code. 38047

(4) If the court finds that the defendant is incompetent to 38048

stand trial, if the most serious offense with which the defendant 38049
is charged is a misdemeanor or a felony other than a felony listed 38050
in division (C)(1) of this section, and if the court finds that 38051
there is not a substantial probability that the defendant will 38052
become competent to stand trial even if the defendant is provided 38053
with a course of treatment, or if the maximum time for treatment 38054
relative to that offense as specified in division (C) of this 38055
section has expired, the court shall dismiss the indictment, 38056
information, or complaint against the defendant. A dismissal under 38057
this division is not a bar to further prosecution based on the 38058
same conduct. The court shall discharge the defendant unless the 38059
court or prosecutor files an affidavit in probate court for civil 38060
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 38061
If an affidavit for civil commitment is filed, the court may 38062
detain the defendant for ten days pending civil commitment. All of 38063
the following provisions apply to persons charged with a 38064
misdemeanor or a felony other than a felony listed in division 38065
(C)(1) of this section who are committed by the probate court 38066
subsequent to the court's or prosecutor's filing of an affidavit 38067
for civil commitment under authority of this division: 38068

(a) The chief clinical officer of the entity, hospital, or 38069
facility, the managing officer of the institution, ~~the director of~~ 38070
~~the program~~, or the person to which the defendant is committed or 38071
admitted shall do all of the following: 38072

(i) Notify the prosecutor, in writing, of the discharge of 38073
the defendant, send the notice at least ten days prior to the 38074
discharge unless the discharge is by the probate court, and state 38075
in the notice the date on which the defendant will be discharged; 38076

(ii) Notify the prosecutor, in writing, when the defendant is 38077
absent without leave or is granted unsupervised, off-grounds 38078
movement, and send this notice promptly after the discovery of the 38079
absence without leave or prior to the granting of the 38080

unsupervised, off-grounds movement, whichever is applicable; 38081

(iii) Notify the prosecutor, in writing, of the change of the 38082
defendant's commitment or admission to voluntary status, send the 38083
notice promptly upon learning of the change to voluntary status, 38084
and state in the notice the date on which the defendant was 38085
committed or admitted on a voluntary status. 38086

(b) Upon receiving notice that the defendant will be granted 38087
unsupervised, off-grounds movement, the prosecutor either shall 38088
re-indict the defendant or promptly notify the court that the 38089
prosecutor does not intend to prosecute the charges against the 38090
defendant. 38091

(I) If a defendant is convicted of a crime and sentenced to a 38092
jail or workhouse, the defendant's sentence shall be reduced by 38093
the total number of days the defendant is confined for evaluation 38094
to determine the defendant's competence to stand trial or 38095
treatment under this section and sections 2945.37 and 2945.371 of 38096
the Revised Code or by the total number of days the defendant is 38097
confined for evaluation to determine the defendant's mental 38098
condition at the time of the offense charged. 38099

Sec. 2945.39. (A) If a defendant who is charged with an 38100
offense described in division (C)(1) of section 2945.38 of the 38101
Revised Code is found incompetent to stand trial, after the 38102
expiration of the maximum time for treatment as specified in 38103
division (C) of that section or after the court finds that there 38104
is not a substantial probability that the defendant will become 38105
competent to stand trial even if the defendant is provided with a 38106
course of treatment, one of the following applies: 38107

(1) The court or the prosecutor may file an affidavit in 38108
probate court for civil commitment of the defendant in the manner 38109
provided in Chapter 5122. or 5123. of the Revised Code. If the 38110
court or prosecutor files an affidavit for civil commitment, the 38111

court may detain the defendant for ten days pending civil 38112
commitment. If the probate court commits the defendant subsequent 38113
to the court's or prosecutor's filing of an affidavit for civil 38114
commitment, the chief clinical officer of the entity, hospital, or 38115
facility, the managing officer of the institution, ~~the director of~~ 38116
~~the program~~, or the person to which the defendant is committed or 38117
admitted shall send to the prosecutor the notices described in 38118
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 38119
Code within the periods of time and under the circumstances 38120
specified in those divisions. 38121

(2) On the motion of the prosecutor or on its own motion, the 38122
court may retain jurisdiction over the defendant if, at a hearing, 38123
the court finds both of the following by clear and convincing 38124
evidence: 38125

(a) The defendant committed the offense with which the 38126
defendant is charged. 38127

(b) The defendant is a mentally ill person subject to 38128
hospitalization by court order or a mentally retarded person 38129
subject to institutionalization by court order. 38130

(B) In making its determination under division (A)(2) of this 38131
section as to whether to retain jurisdiction over the defendant, 38132
the court may consider all relevant evidence, including, but not 38133
limited to, any relevant psychiatric, psychological, or medical 38134
testimony or reports, the acts constituting the offense charged, 38135
and any history of the defendant that is relevant to the 38136
defendant's ability to conform to the law. 38137

(C) If the court conducts a hearing as described in division 38138
(A)(2) of this section and if the court does not make both 38139
findings described in divisions (A)(2)(a) and (b) of this section 38140
by clear and convincing evidence, the court shall dismiss the 38141
indictment, information, or complaint against the defendant. Upon 38142

the dismissal, the court shall discharge the defendant unless the 38143
court or prosecutor files an affidavit in probate court for civil 38144
commitment of the defendant pursuant to Chapter 5122. or 5123. of 38145
the Revised Code. If the court or prosecutor files an affidavit 38146
for civil commitment, the court may order that the defendant be 38147
detained for up to ten days pending the civil commitment. If the 38148
probate court commits the defendant subsequent to the court's or 38149
prosecutor's filing of an affidavit for civil commitment, the 38150
chief clinical officer of the entity, hospital, or facility, the 38151
managing officer of the institution, ~~the director of the program,~~ 38152
or the person to which the defendant is committed or admitted 38153
shall send to the prosecutor the notices described in divisions 38154
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 38155
within the periods of time and under the circumstances specified 38156
in those divisions. A dismissal of charges under this division is 38157
not a bar to further criminal proceedings based on the same 38158
conduct. 38159

(D)(1) If the court conducts a hearing as described in 38160
division (A)(2) of this section and if the court makes the 38161
findings described in divisions (A)(2)(a) and (b) of this section 38162
by clear and convincing evidence, the court shall commit the 38163
defendant, if determined to require mental health treatment, to a 38164
hospital operated by the department of mental health for treatment 38165
at a hospital, facility, or agency as determined clinically 38166
appropriate by the department of mental health or, if determined 38167
to require treatment for developmental disabilities, to a facility 38168
operated by the department of developmental disabilities, or 38169
another ~~medical or psychiatric~~ facility, as appropriate. In 38170
committing the defendant to the department of mental health, the 38171
court shall specify the least restrictive limitations on the 38172
defendant's freedom of movement determined to be necessary to 38173
protect public safety. In determining the place and nature of the 38174
commitment to a facility operated by the department of 38175

developmental disabilities or another facility for treatment of 38176
developmental disabilities, the court shall order the least 38177
restrictive commitment alternative available that is consistent 38178
with public safety and the welfare of the defendant. In weighing 38179
these factors, the court shall give preference to protecting 38180
public safety. 38181

(2) If a court makes a commitment of a defendant under 38182
division (D)(1) of this section, the prosecutor shall send to the 38183
hospital, facility, or agency where the defendant is placed by the 38184
department of mental health or to the defendant's place of 38185
commitment all reports of the defendant's current mental condition 38186
and, except as otherwise provided in this division, any other 38187
relevant information, including, but not limited to, a transcript 38188
of the hearing held pursuant to division (A)(2) of this section, 38189
copies of relevant police reports, and copies of any prior arrest 38190
and conviction records that pertain to the defendant and that the 38191
prosecutor possesses. The prosecutor shall send the reports of the 38192
defendant's current mental condition in every case of commitment, 38193
and, unless the prosecutor determines that the release of any of 38194
the other relevant information to unauthorized persons would 38195
interfere with the effective prosecution of any person or would 38196
create a substantial risk of harm to any person, the prosecutor 38197
also shall send the other relevant information. ~~Upon admission of~~ 38198
~~a defendant committed under division (D)(1) of this section, the~~ 38199
~~place of commitment shall send to the board of alcohol, drug~~ 38200
~~addiction, and mental health services or the community mental~~ 38201
~~health board serving the county in which the charges against the~~ 38202
~~defendant were filed a copy of all reports of the defendant's~~ 38203
~~current mental condition and a copy of the other relevant~~ 38204
~~information provided by the prosecutor under this division,~~ 38205
~~including, if provided, a transcript of the hearing held pursuant~~ 38206
~~to division (A)(2) of this section, the relevant police reports,~~ 38207
~~and the prior arrest and conviction records that pertain to the~~ 38208

~~defendant and that the prosecutor possesses.~~ 38209

(3) If a court makes a commitment under division (D)(1) of 38210
this section, all further proceedings shall be in accordance with 38211
sections 2945.401 and 2945.402 of the Revised Code. 38212

Sec. 2945.40. (A) If a person is found not guilty by reason 38213
of insanity, the verdict shall state that finding, and the trial 38214
court shall conduct a full hearing to determine whether the person 38215
is a mentally ill person subject to hospitalization by court order 38216
or a mentally retarded person subject to institutionalization by 38217
court order. Prior to the hearing, if the trial judge believes 38218
that there is probable cause that the person found not guilty by 38219
reason of insanity is a mentally ill person subject to 38220
hospitalization by court order or mentally retarded person subject 38221
to institutionalization by court order, the trial judge may issue 38222
a temporary order of detention for that person to remain in effect 38223
for ten court days or until the hearing, whichever occurs first. 38224

Any person detained pursuant to a temporary order of 38225
detention issued under this division shall be held in a suitable 38226
facility, taking into consideration the place and type of 38227
confinement prior to and during trial. 38228

(B) The court shall hold the hearing under division (A) of 38229
this section to determine whether the person found not guilty by 38230
reason of insanity is a mentally ill person subject to 38231
hospitalization by court order or a mentally retarded person 38232
subject to institutionalization by court order within ten court 38233
days after the finding of not guilty by reason of insanity. 38234
Failure to conduct the hearing within the ten-day period shall 38235
cause the immediate discharge of the respondent, unless the judge 38236
grants a continuance for not longer than ten court days for good 38237
cause shown or for any period of time upon motion of the 38238
respondent. 38239

(C) If a person is found not guilty by reason of insanity, 38240
the person has the right to attend all hearings conducted pursuant 38241
to sections 2945.37 to 2945.402 of the Revised Code. At any 38242
hearing conducted pursuant to one of those sections, the court 38243
shall inform the person that the person has all of the following 38244
rights: 38245

(1) The right to be represented by counsel and to have that 38246
counsel provided at public expense if the person is indigent, with 38247
the counsel to be appointed by the court under Chapter 120. of the 38248
Revised Code or under the authority recognized in division (C) of 38249
section 120.06, division (E) of section 120.16, division (E) of 38250
section 120.26, or section 2941.51 of the Revised Code; 38251

(2) The right to have independent expert evaluation and to 38252
have that independent expert evaluation provided at public expense 38253
if the person is indigent; 38254

(3) The right to subpoena witnesses and documents, to present 38255
evidence on the person's behalf, and to cross-examine witnesses 38256
against the person; 38257

(4) The right to testify in the person's own behalf and to 38258
not be compelled to testify; 38259

(5) The right to have copies of any relevant medical or 38260
mental health document in the custody of the state or of any place 38261
of commitment other than a document for which the court finds that 38262
the release to the person of information contained in the document 38263
would create a substantial risk of harm to any person. 38264

(D) The hearing under division (A) of this section shall be 38265
open to the public, and the court shall conduct the hearing in 38266
accordance with the Rules of Civil Procedure. The court shall make 38267
and maintain a full transcript and record of the hearing 38268
proceedings. The court may consider all relevant evidence, 38269
including, but not limited to, any relevant psychiatric, 38270

psychological, or medical testimony or reports, the acts 38271
constituting the offense in relation to which the person was found 38272
not guilty by reason of insanity, and any history of the person 38273
that is relevant to the person's ability to conform to the law. 38274

(E) Upon completion of the hearing under division (A) of this 38275
section, if the court finds there is not clear and convincing 38276
evidence that the person is a mentally ill person subject to 38277
hospitalization by court order or a mentally retarded person 38278
subject to institutionalization by court order, the court shall 38279
discharge the person, unless a detainer has been placed upon the 38280
person by the department of rehabilitation and correction, in 38281
which case the person shall be returned to that department. 38282

(F) If, at the hearing under division (A) of this section, 38283
the court finds by clear and convincing evidence that the person 38284
is a mentally ill person subject to hospitalization by court order 38285
~~or, the court shall commit the person to the department of mental~~ 38286
~~health for placement in a hospital, facility, or agency as~~ 38287
~~determined clinically appropriate by the department of mental~~ 38288
~~health. If, at the hearing under division (A) of this section, the~~ 38289
~~court finds by clear and convincing evidence that the person is a~~ 38290
mentally retarded person subject to institutionalization by court 38291
order, it shall commit the person to a ~~hospital operated by the~~ 38292
~~department of mental health, a facility operated by the department~~ 38293
~~of developmental disabilities, or another medical or psychiatric~~ 38294
facility, as appropriate, ~~and further.~~ Further proceedings shall 38295
be in accordance with sections 2945.401 and 2945.402 of the 38296
Revised Code. In committing the person to the department of mental 38297
health, the court shall specify the least restrictive limitations 38298
to the defendant's freedom of movement determined to be necessary 38299
to protect public safety. In determining the place and nature of 38300
the commitment of a mentally retarded person subject to 38301
institutionalization by court order, the court shall order the 38302

least restrictive commitment alternative available that is 38303
consistent with public safety and the welfare of the person. In 38304
weighing these factors, the court shall give preference to 38305
protecting public safety. 38306

(G) If a court makes a commitment of a person under division 38307
(F) of this section, the prosecutor shall send to the hospital, 38308
facility, or agency where the person is placed by the department 38309
of mental health or to the defendant's place of commitment all 38310
reports of the person's current mental condition, and, except as 38311
otherwise provided in this division, any other relevant 38312
information, including, but not limited to, a transcript of the 38313
hearing held pursuant to division (A) of this section, copies of 38314
relevant police reports, and copies of any prior arrest and 38315
conviction records that pertain to the person and that the 38316
prosecutor possesses. The prosecutor shall send the reports of the 38317
person's current mental condition in every case of commitment, 38318
and, unless the prosecutor determines that the release of any of 38319
the other relevant information to unauthorized persons would 38320
interfere with the effective prosecution of any person or would 38321
create a substantial risk of harm to any person, the prosecutor 38322
also shall send the other relevant information. ~~Upon admission of~~ 38323
~~a person committed under division (F) of this section, the place~~ 38324
~~of commitment shall send to the board of alcohol, drug addiction,~~ 38325
~~and mental health services or the community mental health board~~ 38326
~~serving the county in which the charges against the person were~~ 38327
~~filed a copy of all reports of the person's current mental~~ 38328
~~condition and a copy of the other relevant information provided by~~ 38329
~~the prosecutor under this division, including, if provided, a~~ 38330
~~transcript of the hearing held pursuant to division (A) of this~~ 38331
~~section, the relevant police reports, and the prior arrest and~~ 38332
~~conviction records that pertain to the person and that the~~ 38333
~~prosecutor possesses.~~ 38334

(H) A person who is committed pursuant to this section shall 38335
not voluntarily admit the person or be voluntarily admitted to a 38336
hospital or institution pursuant to section 5122.02, 5122.15, 38337
5123.69, or 5123.76 of the Revised Code. 38338

Sec. 2945.401. (A) A defendant found incompetent to stand 38339
trial and committed pursuant to section 2945.39 of the Revised 38340
Code or a person found not guilty by reason of insanity and 38341
committed pursuant to section 2945.40 of the Revised Code shall 38342
remain subject to the jurisdiction of the trial court pursuant to 38343
that commitment, and to the provisions of this section, until the 38344
final termination of the commitment as described in division 38345
(J)(1) of this section. If the jurisdiction is terminated under 38346
this division because of the final termination of the commitment 38347
resulting from the expiration of the maximum prison term or term 38348
of imprisonment described in division (J)(1)(b) of this section, 38349
the court or prosecutor may file an affidavit for the civil 38350
commitment of the defendant or person pursuant to Chapter 5122. or 38351
5123. of the Revised Code. 38352

(B) A hearing conducted under any provision of sections 38353
2945.37 to 2945.402 of the Revised Code shall not be conducted in 38354
accordance with Chapters 5122. and 5123. of the Revised Code. Any 38355
person who is committed pursuant to section 2945.39 or 2945.40 of 38356
the Revised Code shall not voluntarily admit the person or be 38357
voluntarily admitted to a hospital or institution pursuant to 38358
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 38359
All other provisions of Chapters 5122. and 5123. of the Revised 38360
Code regarding hospitalization or institutionalization shall apply 38361
to the extent they are not in conflict with this chapter. A 38362
commitment under section 2945.39 or 2945.40 of the Revised Code 38363
shall not be terminated and the conditions of the commitment shall 38364
not be changed except as otherwise provided in division (D)(2) of 38365
this section with respect to a mentally retarded person subject to 38366

institutionalization by court order or except by order of the trial court.

(C) The ~~hospital, department of mental health or the institution or facility, or program~~ to which a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code shall report in writing to the trial court, at the times specified in this division, as to whether the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order and, in the case of a defendant committed under section 2945.39 of the Revised Code, as to whether the defendant remains incompetent to stand trial. The ~~hospital department, institution, or facility, or program~~ shall make the reports after the initial six months of treatment and every two years after the initial report is made. The trial court shall provide copies of the reports to the prosecutor and to the counsel for the defendant or person. Within thirty days after its receipt pursuant to this division of a report from ~~a hospital the department, institution, or facility, or program~~, the trial court shall hold a hearing on the continued commitment of the defendant or person or on any changes in the conditions of the commitment of the defendant or person. The defendant or person may request a change in the conditions of confinement, and the trial court shall conduct a hearing on that request if six months or more have elapsed since the most recent hearing was conducted under this section.

(D)(1) Except as otherwise provided in division (D)(2) of this section, when a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code, at any time after evaluating the risks to public safety and the welfare of the defendant or person, the ~~chief clinical officer~~ designee of the department of mental health or the managing officer of the

institution or director of the ~~hospital, facility, or program~~ to 38399
which the defendant or person is committed may recommend a 38400
termination of the defendant's or person's commitment or a change 38401
in the conditions of the defendant's or person's commitment. 38402

Except as otherwise provided in division (D)(2) of this 38403
section, if the ~~chief clinical officer~~ designee of the department 38404
of mental health recommends on-grounds unsupervised movement, 38405
off-grounds supervised movement, or nonsecured status for the 38406
defendant or person or termination of the defendant's or person's 38407
commitment, the following provisions apply: 38408

(a) If the ~~chief clinical officer~~ department's designee 38409
recommends on-grounds unsupervised movement or off-grounds 38410
supervised movement, the ~~chief clinical officer~~ department's 38411
designee shall file with the trial court an application for 38412
approval of the movement and shall send a copy of the application 38413
to the prosecutor. Within fifteen days after receiving the 38414
application, the prosecutor may request a hearing on the 38415
application and, if a hearing is requested, shall so inform the 38416
~~chief clinical officer~~ department's designee. If the prosecutor 38417
does not request a hearing within the fifteen-day period, the 38418
trial court shall approve the application by entering its order 38419
approving the requested movement or, within five days after the 38420
expiration of the fifteen-day period, shall set a date for a 38421
hearing on the application. If the prosecutor requests a hearing 38422
on the application within the fifteen-day period, the trial court 38423
shall hold a hearing on the application within thirty days after 38424
the hearing is requested. If the trial court, within five days 38425
after the expiration of the fifteen-day period, sets a date for a 38426
hearing on the application, the trial court shall hold the hearing 38427
within thirty days after setting the hearing date. At least 38428
fifteen days before any hearing is held under this division, the 38429
trial court shall give the prosecutor written notice of the date, 38430

time, and place of the hearing. At the conclusion of each hearing 38431
conducted under this division, the trial court either shall 38432
approve or disapprove the application and shall enter its order 38433
accordingly. 38434

(b) If the ~~chief clinical officer~~ department's designee 38435
recommends termination of the defendant's or person's commitment 38436
at any time or if the ~~chief clinical officer~~ department's designee 38437
recommends the first of any nonsecured status for the defendant or 38438
person, the ~~chief clinical officer~~ department's designee shall 38439
send written notice of this recommendation to the trial court and 38440
to the local forensic center. The local forensic center shall 38441
evaluate the committed defendant or person and, within thirty days 38442
after its receipt of the written notice, shall submit to the trial 38443
court and the ~~chief clinical officer~~ department's designee a 38444
written report of the evaluation. The trial court shall provide a 38445
copy of the ~~chief clinical officer's~~ department's designee's 38446
written notice and of the local forensic center's written report 38447
to the prosecutor and to the counsel for the defendant or person. 38448
Upon the local forensic center's submission of the report to the 38449
trial court and the ~~chief clinical officer~~ department's designee, 38450
all of the following apply: 38451

(i) If the forensic center disagrees with the recommendation 38452
of the ~~chief clinical officer~~ department's designee, it shall 38453
inform the ~~chief clinical officer~~ department's designee and the 38454
trial court of its decision and the reasons for the decision. The 38455
~~chief clinical officer~~ department's designee, after consideration 38456
of the forensic center's decision, shall either withdraw, proceed 38457
with, or modify and proceed with the recommendation. If the ~~chief~~ 38458
~~clinical officer~~ department's designee proceeds with, or modifies 38459
and proceeds with, the recommendation, the ~~chief clinical officer~~ 38460
department's designee shall proceed in accordance with division 38461
(D)(1)(b)(iii) of this section. 38462

(ii) If the forensic center agrees with the recommendation of the ~~chief clinical officer~~ department's designee, it shall inform the ~~chief clinical officer~~ department's designee and the trial court of its decision and the reasons for the decision, and the ~~chief clinical officer~~ department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(iii) If the forensic center disagrees with the recommendation of the ~~chief clinical officer~~ department's designee and the ~~chief clinical officer~~ department's designee proceeds with, or modifies and proceeds with, the recommendation or if the forensic center agrees with the recommendation of the ~~chief clinical officer~~ department's designee, the ~~chief clinical officer~~ department's designee shall work with the ~~board~~ community mental health agencies, programs, facilities, or boards of alcohol, drug addiction, and mental health services ~~or community mental health board serving the area, as appropriate,~~ to develop a plan to implement the recommendation. If the defendant or person is on medication, the plan shall include, but shall not be limited to, a system to monitor the defendant's or person's compliance with the prescribed medication treatment plan. The system shall include a schedule that clearly states when the defendant or person shall report for a medication compliance check. The medication compliance checks shall be based upon the effective duration of the prescribed medication, taking into account the route by which it is taken, and shall be scheduled at intervals sufficiently close together to detect a potential increase in mental illness symptoms that the medication is intended to prevent.

The ~~chief clinical officer, after consultation with the board of alcohol, drug addiction, and mental health services or the community mental health board serving the area,~~ department's designee shall send the recommendation and plan developed under

division (D)(1)(b)(iii) of this section, in writing, to the trial 38495
court, the prosecutor and the counsel for the committed defendant 38496
or person. The trial court shall conduct a hearing on the 38497
recommendation and plan developed under division (D)(1)(b)(iii) of 38498
this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this 38499
section apply regarding the hearing. 38500

(c) If the ~~chief clinical officer's~~ department's designee's 38501
recommendation is for nonsecured status or termination of 38502
commitment, the prosecutor may obtain an independent expert 38503
evaluation of the defendant's or person's mental condition, and 38504
the trial court may continue the hearing on the recommendation for 38505
a period of not more than thirty days to permit time for the 38506
evaluation. 38507

The prosecutor may introduce the evaluation report or present 38508
other evidence at the hearing in accordance with the Rules of 38509
Evidence. 38510

(d) The trial court shall schedule the hearing on a ~~chief~~ 38511
~~clinical officer's~~ department's designee's recommendation for 38512
nonsecured status or termination of commitment and shall give 38513
reasonable notice to the prosecutor and the counsel for the 38514
defendant or person. Unless continued for independent evaluation 38515
at the prosecutor's request or for other good cause, the hearing 38516
shall be held within thirty days after the trial court's receipt 38517
of the recommendation and plan. 38518

(2)(a) Division (D)(1) of this section does not apply to 38519
on-grounds unsupervised movement of a defendant or person who has 38520
been committed under section 2945.39 or 2945.40 of the Revised 38521
Code, who is a mentally retarded person subject to 38522
institutionalization by court order, and who is being provided 38523
residential habilitation, care, and treatment in a facility 38524
operated by the department of developmental disabilities. 38525

(b) If, pursuant to section 2945.39 of the Revised Code, the trial court commits a defendant who is found incompetent to stand trial and who is a mentally retarded person subject to institutionalization by court order, if the defendant is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities, if an individual who is conducting a survey for the department of health to determine the facility's compliance with the certification requirements of the medicaid program under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the defendant's receipt of the residential habilitation, care, and treatment in the facility as being inappropriate under the certification requirements, if the defendant's receipt of the residential habilitation, care, and treatment in the facility potentially jeopardizes the facility's continued receipt of federal medicaid moneys, and if as a result of the citation the chief clinical officer of the facility determines that the conditions of the defendant's commitment should be changed, the department of developmental disabilities may cause the defendant to be removed from the particular facility and, after evaluating the risks to public safety and the welfare of the defendant and after determining whether another type of placement is consistent with the certification requirements, may place the defendant in another facility that the department selects as an appropriate facility for the defendant's continued receipt of residential habilitation, care, and treatment and that is a no less secure setting than the facility in which the defendant had been placed at the time of the citation. Within three days after the defendant's removal and alternative placement under the circumstances described in division (D)(2)(b) of this section, the department of developmental disabilities shall notify the trial court and the prosecutor in writing of the removal and alternative

placement. 38559

The trial court shall set a date for a hearing on the removal 38560
and alternative placement, and the hearing shall be held within 38561
twenty-one days after the trial court's receipt of the notice from 38562
the department of developmental disabilities. At least ten days 38563
before the hearing is held, the trial court shall give the 38564
prosecutor, the department of developmental disabilities, and the 38565
counsel for the defendant written notice of the date, time, and 38566
place of the hearing. At the hearing, the trial court shall 38567
consider the citation issued by the individual who conducted the 38568
survey for the department of health to be prima-facie evidence of 38569
the fact that the defendant's commitment to the particular 38570
facility was inappropriate under the certification requirements of 38571
the medicaid program under Chapter 5111. of the Revised Code and 38572
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 38573
U.S.C.A. 301, as amended, and potentially jeopardizes the 38574
particular facility's continued receipt of federal medicaid 38575
moneys. At the conclusion of the hearing, the trial court may 38576
approve or disapprove the defendant's removal and alternative 38577
placement. If the trial court approves the defendant's removal and 38578
alternative placement, the department of developmental 38579
disabilities may continue the defendant's alternative placement. 38580
If the trial court disapproves the defendant's removal and 38581
alternative placement, it shall enter an order modifying the 38582
defendant's removal and alternative placement, but that order 38583
shall not require the department of developmental disabilities to 38584
replace the defendant for purposes of continued residential 38585
habilitation, care, and treatment in the facility associated with 38586
the citation issued by the individual who conducted the survey for 38587
the department of health. 38588

(E) In making a determination under this section regarding 38589
nonsecured status or termination of commitment, the trial court 38590

shall consider all relevant factors, including, but not limited to, all of the following: 38591
38592

(1) Whether, in the trial court's view, the defendant or person currently represents a substantial risk of physical harm to the defendant or person or others; 38593
38594
38595

(2) Psychiatric and medical testimony as to the current mental and physical condition of the defendant or person; 38596
38597

(3) Whether the defendant or person has insight into the defendant's or person's condition so that the defendant or person will continue treatment as prescribed or seek professional assistance as needed; 38598
38599
38600
38601

(4) The grounds upon which the state relies for the proposed commitment; 38602
38603

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society; 38604
38605
38606

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered. 38607
38608
38609
38610
38611
38612

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code. 38613
38614
38615
38616

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows: 38617
38618

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person 38619
38620

remains a mentally ill person subject to hospitalization by court 38621
order or a mentally retarded person subject to 38622
institutionalization by court order; 38623

(2) For a recommendation for a change in the conditions of 38624
the commitment to a less restrictive status, to show by clear and 38625
convincing evidence that the proposed change represents a threat 38626
to public safety or a threat to the safety of any person. 38627

(H) In a hearing held pursuant to division (C) or (D)(1) or 38628
(2) of this section, the prosecutor shall represent the state or 38629
the public interest. 38630

(I) At the conclusion of a hearing conducted under division 38631
(D)(1) of this section regarding a recommendation from the ~~chief~~ 38632
~~clinical officer~~ designee of the department of mental health, 38633
managing officer of the institution, or director of a ~~hospital,~~ 38634
~~program, or~~ facility, the trial court may approve, disapprove, or 38635
modify the recommendation and shall enter an order accordingly. 38636

(J)(1) A defendant or person who has been committed pursuant 38637
to section 2945.39 or 2945.40 of the Revised Code continues to be 38638
under the jurisdiction of the trial court until the final 38639
termination of the commitment. For purposes of division (J) of 38640
this section, the final termination of a commitment occurs upon 38641
the earlier of one of the following: 38642

(a) The defendant or person no longer is a mentally ill 38643
person subject to hospitalization by court order or a mentally 38644
retarded person subject to institutionalization by court order, as 38645
determined by the trial court; 38646

(b) The expiration of the maximum prison term or term of 38647
imprisonment that the defendant or person could have received if 38648
the defendant or person had been convicted of the most serious 38649
offense with which the defendant or person is charged or in 38650
relation to which the defendant or person was found not guilty by 38651

reason of insanity; 38652

(c) The trial court enters an order terminating the 38653
commitment under the circumstances described in division 38654
(J)(2)(a)(ii) of this section. 38655

(2)(a) If a defendant is found incompetent to stand trial and 38656
committed pursuant to section 2945.39 of the Revised Code, if 38657
neither of the circumstances described in divisions (J)(1)(a) and 38658
(b) of this section applies to that defendant, and if a report 38659
filed with the trial court pursuant to division (C) of this 38660
section indicates that the defendant presently is competent to 38661
stand trial or if, at any other time during the period of the 38662
defendant's commitment, the prosecutor, the counsel for the 38663
defendant, or the ~~chief clinical officer~~ designee of the 38664
department of mental health or the managing officer of the 38665
institution or director of the ~~hospital, facility, or program~~ to 38666
which the defendant is committed files an application with the 38667
trial court alleging that the defendant presently is competent to 38668
stand trial and requesting a hearing on the competency issue or 38669
the trial court otherwise has reasonable cause to believe that the 38670
defendant presently is competent to stand trial and determines on 38671
its own motion to hold a hearing on the competency issue, the 38672
trial court shall schedule a hearing on the competency of the 38673
defendant to stand trial, shall give the prosecutor, the counsel 38674
for the defendant, and the ~~chief clinical officer~~ department's 38675
designee or the managing officer of the institution or the 38676
director of the facility to which the defendant is committed 38677
notice of the date, time, and place of the hearing at least 38678
fifteen days before the hearing, and shall conduct the hearing 38679
within thirty days of the filing of the application or of its own 38680
motion. If, at the conclusion of the hearing, the trial court 38681
determines that the defendant presently is capable of 38682
understanding the nature and objective of the proceedings against 38683

the defendant and of assisting in the defendant's defense, the 38684
trial court shall order that the defendant is competent to stand 38685
trial and shall be proceeded against as provided by law with 38686
respect to the applicable offenses described in division (C)(1) of 38687
section 2945.38 of the Revised Code and shall enter whichever of 38688
the following additional orders is appropriate: 38689

(i) If the trial court determines that the defendant remains 38690
a mentally ill person subject to hospitalization by court order or 38691
a mentally retarded person subject to institutionalization by 38692
court order, the trial court shall order that the defendant's 38693
commitment to the ~~hospital, department of mental health or to an~~ 38694
institution or facility, or program for the treatment of 38695
developmental disabilities be continued during the pendency of the 38696
trial on the applicable offenses described in division (C)(1) of 38697
section 2945.38 of the Revised Code. 38698

(ii) If the trial court determines that the defendant no 38699
longer is a mentally ill person subject to hospitalization by 38700
court order or a mentally retarded person subject to 38701
institutionalization by court order, the trial court shall order 38702
that the defendant's commitment to the ~~hospital, department of~~ 38703
mental health or to an institution or facility, or program for the 38704
treatment of developmental disabilities shall not be continued 38705
during the pendency of the trial on the applicable offenses 38706
described in division (C)(1) of section 2945.38 of the Revised 38707
Code. This order shall be a final termination of the commitment 38708
for purposes of division (J)(1)(c) of this section. 38709

(b) If, at the conclusion of the hearing described in 38710
division (J)(2)(a) of this section, the trial court determines 38711
that the defendant remains incapable of understanding the nature 38712
and objective of the proceedings against the defendant or of 38713
assisting in the defendant's defense, the trial court shall order 38714
that the defendant continues to be incompetent to stand trial, 38715

that the defendant's commitment to the ~~hospital, department of~~ 38716
~~mental health or to an institution or facility, or program for the~~ 38717
~~treatment of developmental disabilities~~ shall be continued, and 38718
that the defendant remains subject to the jurisdiction of the 38719
trial court pursuant to that commitment, and to the provisions of 38720
this section, until the final termination of the commitment as 38721
described in division (J)(1) of this section. 38722

Sec. 2945.402. (A) In approving a conditional release, the 38723
trial court may set any conditions on the release with respect to 38724
the treatment, evaluation, counseling, or control of the defendant 38725
or person that the court considers necessary to protect the public 38726
safety and the welfare of the defendant or person. The trial court 38727
may revoke a defendant's or person's conditional release and order 38728
~~rehospitalization~~ reinstatement of the previous placement or 38729
reinstitutionalization at any time the conditions of the release 38730
have not been satisfied, provided that the revocation shall be in 38731
accordance with this section. 38732

(B) A conditional release is a commitment. The hearings on 38733
continued commitment as described in section 2945.401 of the 38734
Revised Code apply to a defendant or person on conditional 38735
release. 38736

(C) A person, agency, or facility that is assigned to monitor 38737
a defendant or person on conditional release immediately shall 38738
notify the trial court on learning that the defendant or person 38739
being monitored has violated the terms of the conditional release. 38740
Upon learning of any violation of the terms of the conditional 38741
release, the trial court may issue a temporary order of detention 38742
or, if necessary, an arrest warrant for the defendant or person. 38743
Within ten court days after the defendant's or person's detention 38744
or arrest, the trial court shall conduct a hearing to determine 38745
whether the conditional release should be modified or terminated. 38746

At the hearing, the defendant or person shall have the same rights 38747
as are described in division (C) of section 2945.40 of the Revised 38748
Code. The trial court may order a continuance of the ten-court-day 38749
period for no longer than ten days for good cause shown or for any 38750
period on motion of the defendant or person. If the trial court 38751
fails to conduct the hearing within the ten-court-day period and 38752
does not order a continuance in accordance with this division, the 38753
defendant or person shall be restored to the prior conditional 38754
release status. 38755

(D) The trial court shall give all parties reasonable notice 38756
of a hearing conducted under this section. At the hearing, the 38757
prosecutor shall present the case demonstrating that the defendant 38758
or person violated the terms of the conditional release. If the 38759
court finds by a preponderance of the evidence that the defendant 38760
or person violated the terms of the conditional release, the court 38761
may continue, modify, or terminate the conditional release and 38762
shall enter its order accordingly. 38763

Sec. 2949.14. Upon conviction of a nonindigent person for a 38764
felony, the clerk of the court of common pleas shall make and 38765
certify under ~~his~~ the clerk's hand and seal of the court, a 38766
complete itemized bill of the costs made in such prosecution, 38767
including the sum paid by the board of county commissioners, 38768
certified by the county auditor, for the arrest and return of the 38769
person on the requisition of the governor, or on the request of 38770
the governor to the president of the United States, or on the 38771
return of the fugitive by a designated agent pursuant to a waiver 38772
of extradition except in cases of parole violation. ~~Such bill of~~ 38773
~~costs shall be presented by such clerk to the prosecuting~~ 38774
~~attorney, who shall examine each item therein charged and certify~~ 38775
~~to it if correct and legal. Upon certification by the prosecuting~~ 38776
~~attorney, the~~ The clerk shall attempt to collect the costs from 38777
the person convicted. 38778

Sec. 3109.16. The children's trust fund board, upon the 38779
recommendation of the director of job and family services, shall 38780
approve the employment of an executive director who will 38781
administer the programs of the board. The department of job and 38782
family services shall provide budgetary, procurement, accounting, 38783
and other related management functions for the board and may adopt 38784
rules in accordance with Chapter 119. of the Revised Code for 38785
these purposes. An amount not to exceed three per cent of the 38786
total amount of fees deposited in the children's trust fund in 38787
each fiscal year may be used for costs directly related to these 38788
administrative functions of the department. Each fiscal year, the 38789
board shall approve a budget for administrative expenditures for 38790
the next fiscal year. 38791

The board may request that the department adopt rules the 38792
board considers necessary for the purpose of carrying out the 38793
board's responsibilities under this section, and the department 38794
may adopt those rules. The department may, after consultation with 38795
the board and the executive director, adopt any other rules to 38796
assist the board in carrying out its responsibilities under this 38797
section. In either case, the rules shall be adopted under Chapter 38798
119. of the Revised Code. 38799

The board shall meet at least quarterly at the call of the 38800
chairperson to conduct its official business. All business 38801
transactions of the board shall be conducted in public meetings. 38802
Eight members of the board constitute a quorum. A majority of the 38803
board members is required to adopt the state plan for the 38804
allocation of funds from the children's trust fund. A majority of 38805
the quorum is required to make all other decisions of the board. 38806

The board may apply for and accept federal and other funds 38807
for the purpose of funding child abuse and child neglect 38808
prevention programs. In addition, the board may accept gifts and 38809

donations from any source, including individuals, philanthropic 38810
foundations or organizations, corporations, or corporation 38811
endowments. The acceptance and use of federal funds shall not 38812
entail any commitment or pledge of state funds, nor obligate the 38813
general assembly to continue the programs or activities for which 38814
the federal funds are made available. All funds received in the 38815
manner described in this section shall be transmitted to the 38816
treasurer of state, who shall credit them to the children's trust 38817
fund created in section 3109.14 of the Revised Code. 38818

Sec. 3109.17. (A) For each fiscal biennium, the children's 38819
trust fund board shall establish a biennial state plan for 38820
comprehensive child abuse and child neglect prevention. The plan 38821
shall be transmitted to the governor, the president and minority 38822
leader of the senate, and the speaker and minority leader of the 38823
house of representatives and shall be made available to the 38824
general public. The board may define in the state plan the term 38825
"effective public notice." If the board does not define that term 38826
in the state plan, the board shall include in the state plan the 38827
definition of "effective public notice" specified in rules adopted 38828
by the department of job and family services. 38829

(B) In developing and carrying out the state plan, the 38830
children's trust fund board shall, in accordance with rules 38831
adopted by the department pursuant to Chapter 119. of the Revised 38832
Code, do all of the following: 38833

(1) Ensure that an opportunity exists for assistance through 38834
child abuse and child neglect prevention programs to persons 38835
throughout the state of various social and economic backgrounds; 38836

(2) Before the thirtieth day of October of each year, notify 38837
each child abuse and child neglect prevention advisory board of 38838
the amount estimated to be allocated to that advisory board for 38839
the following fiscal year; 38840

(3) Develop criteria for county or district local allocation plans, including criteria for determining the plans' effectiveness;

(4) Review, and approve or disapprove, county or district local allocation plans, as described in section 3109.171 of the Revised Code;

(5) Allocate funds to each child abuse and child neglect prevention advisory board for the purpose of funding child abuse and child neglect prevention programs. Funds shall be allocated among advisory boards according to a formula based on the ratio of the number of children under age eighteen in the county or multicounty district to the number of children under age eighteen in the state, as shown in the most recent federal decennial census of population. Subject to the availability of funds and except as provided in section 3109.171 of the Revised Code, each advisory board shall receive a minimum of ten thousand dollars per fiscal year. In the case of an advisory board that serves a multicounty district, the advisory board shall receive, subject to available funds and except as provided in section 3109.171 of the Revised Code, a minimum of ten thousand dollars per fiscal year for each county in the district. Funds shall be disbursed to the advisory boards twice annually. At least fifty per cent of the funds allocated to an advisory board for a fiscal year shall be disbursed to the advisory board not later than the thirtieth day of September. The remainder of the funds allocated to the advisory board for that fiscal year shall be disbursed before the thirty-first day of March.

The board shall specify the criteria child abuse and child neglect prevention advisory boards are to use in reviewing applications under division (F)(3) of section 3109.18 of the Revised Code.

(6) Allocate funds to entities other than child abuse and

child neglect prevention advisory boards for the purpose of 38873
funding child abuse and child neglect prevention programs that 38874
have statewide significance and that have been approved by the 38875
children's trust fund board; 38876

(7) Allocate funds to children's crisis care facilities as 38877
defined in section 5103.13 of the Revised Code that have been 38878
approved by the children's trust fund board. The board shall 38879
subtract the amount of any funds allocated to a children's crisis 38880
care facility from the amount allocated pursuant to division 38881
(B)(5) of this section to the child abuse and child neglect 38882
prevention advisory board that serves the county or multicounty 38883
district in which the facility is located. 38884

(8) Provide for the monitoring of expenditures from the 38885
children's trust fund and of programs that receive money from the 38886
children's trust fund; 38887

~~(8)~~(9) Establish reporting requirements for advisory boards; 38888

~~(9)~~(10) Collaborate with appropriate persons and government 38889
entities and facilitate the exchange of information among those 38890
persons and entities for the purpose of child abuse and child 38891
neglect prevention; 38892

~~(10)~~(11) Provide for the education of the public and 38893
professionals for the purpose of child abuse and child neglect 38894
prevention; 38895

~~(11)~~(12) Create and provide to each advisory board a 38896
children's trust fund grant application form; 38897

~~(12)~~(13) Specify the information to be included in a 38898
semiannual and an annual report completed by a children's advocacy 38899
center for which a child abuse and child neglect prevention 38900
advisory board uses funds allocated to the advisory board under 38901
section 3109.172 of the Revised Code, and each other person or 38902
entity that is a recipient of a children's trust fund grant under 38903

division (K)(1) of section 3109.18 of the Revised Code. 38904

(C) The children's trust fund board shall prepare a report 38905
for each fiscal biennium that delineates the expenditure of money 38906
from the children's trust fund. On or before January 1, 2002, and 38907
on or before the first day of January of a year that follows the 38908
end of a fiscal biennium of this state, the board shall file a 38909
copy of the report with the governor, the president and minority 38910
leader of the senate, and the speaker and minority leader of the 38911
house of representatives. 38912

(D) The children's trust fund board shall develop a list of 38913
all state and federal sources of funding that might be available 38914
for establishing, operating, or establishing and operating a 38915
children's advocacy center under sections 2151.425 to 2151.428 of 38916
the Revised Code. The board periodically shall update the list as 38917
necessary. The board shall maintain, or provide for the 38918
maintenance of, the list at an appropriate location. That location 38919
may be the offices of the department of job and family services. 38920
The board shall provide the list upon request to any children's 38921
advocacy center or to any person or entity identified in section 38922
2151.426 of the Revised Code as a person or entity that may 38923
participate in the establishment of a children's advocacy center. 38924

Sec. 3111.04. (A) An action to determine the existence or 38925
nonexistence of the father and child relationship may be brought 38926
by the child or the child's personal representative, the child's 38927
mother or her personal representative, a man alleged or alleging 38928
himself to be the child's father, the child support enforcement 38929
agency of the county in which the child resides if the child's 38930
mother, father, or alleged father is a recipient of public 38931
assistance or of services under Title IV-D of the "Social Security 38932
Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the 38933
alleged father's personal representative. 38934

(B) An agreement does not bar an action under this section.	38935
(C) If an action under this section is brought before the birth of the child and if the action is contested, all proceedings, except service of process and the taking of depositions to perpetuate testimony, may be stayed until after the birth.	38936 38937 38938 38939 38940
(D) A recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.	38941 38942 38943 38944 38945 38946 38947 38948 38949 38950 38951 38952 38953
(E) As used in this section, "public assistance" means all of the following:	38954 38955
(1) Medicaid under Chapter 5111. of the Revised Code;	38956
(2) Ohio works first under Chapter 5107. of the Revised Code;	38957
(3) Disability financial assistance under Chapter 5115. of the Revised Code;	38958 38959
(4) Children's buy-in program under sections 5101.5211 to 5101.5216 of the Revised Code.	38960 38961
Sec. 3113.06. No father, or mother when she is charged with the maintenance, of a child under eighteen years of age, or a mentally or physically handicapped child under age twenty-one, who	38962 38963 38964

is legally a ward of a public children services agency or is the 38965
recipient of aid pursuant to ~~sections 5101.5211 to 5101.5216 or~~ 38966
Chapter 5107. or 5115. of the Revised Code, shall neglect or 38967
refuse to pay such agency the reasonable cost of maintaining such 38968
child when such father or mother is able to do so by reason of 38969
property, labor, or earnings. 38970

An offense under this section shall be held committed in the 38971
county in which the agency is located. The agency shall file 38972
charges against any parent who violates this section, unless the 38973
agency files charges under section 2919.21 of the Revised Code, or 38974
unless charges of nonsupport are filed by a relative or guardian 38975
of the child, or unless an action to enforce support is brought 38976
under Chapter 3115. of the Revised Code. 38977

Sec. 3119.54. A party to a child support order issued in 38978
accordance with section 3119.30 of the Revised Code shall notify 38979
any physician, hospital, or other provider of medical services 38980
that provides medical services to the child who is the subject of 38981
the child support order of the number of any health insurance or 38982
health care policy, contract, or plan that covers the child if the 38983
child is eligible for medical assistance under ~~sections 5101.5211~~ 38984
~~to 5101.5216 or~~ Chapter 5111. of the Revised Code. The party shall 38985
include in the notice the name and address of the insurer. Any 38986
physician, hospital, or other provider of medical services for 38987
which medical assistance is available under ~~sections 5101.5211 to~~ 38988
~~5101.5216 or~~ Chapter 5111. of the Revised Code who is notified 38989
under this section of the existence of a health insurance or 38990
health care policy, contract, or plan with coverage for children 38991
who are eligible for medical assistance shall first bill the 38992
insurer for any services provided for those children. If the 38993
insurer fails to pay all or any part of a claim filed under this 38994
section and the services for which the claim is filed are covered 38995
by ~~sections 5101.5211 to 5101.5216 or~~ Chapter 5111. of the Revised 38996

Code, the physician, hospital, or other medical services provider 38997
shall bill the remaining unpaid costs of the services in 38998
accordance with ~~sections 5101.5211 to 5101.5216~~ or Chapter 5111. 38999
of the Revised Code. 39000

Sec. 3121.48. The office of child support shall ~~maintain~~ 39001
administer a separate account fund for the deposit of support 39002
payments it receives as trustee for remittance to the persons 39003
entitled to receive the support payments. The fund shall be in the 39004
custody of the treasurer of state, but shall not be part of the 39005
state treasury. 39006

Sec. 3123.44. (A) Notice shall be sent to an individual 39007
described in section 3123.42 of the Revised Code in compliance 39008
with section 3121.23 of the Revised Code. The notice shall specify 39009
that a court or child support enforcement agency has determined 39010
the individual to be in default under a child support order or 39011
that the individual is an obligor who has failed to comply with a 39012
subpoena or warrant issued by a court or agency with respect to a 39013
proceeding to enforce a child support order, that a notice 39014
containing the individual's name and social security number or 39015
other identification number may be sent to every board that has 39016
authority to issue or has issued the individual a license, and 39017
that, if the board receives that notice and determines that the 39018
individual is the individual named in that notice and the board 39019
has not received notice under section 3123.45 or 3123.46 of the 39020
Revised Code, all of the following will occur: 39021

~~(A)~~(1) The board will not issue any license to the individual 39022
or renew any license of the individual. 39023

~~(B)~~(2) The board will suspend any license of the individual 39024
if it determines that the individual is the individual named in 39025
the notice sent to the board under section 3123.43 of the Revised 39026

Code. 39027

~~(C)~~(3) If the individual is the individual named in the 39028
notice, the board will not issue any license to the individual, 39029
and will not reinstate a suspended license, until the board 39030
receives a notice under section 3123.45 or 3123.46 of the Revised 39031
Code. 39032

(B) If an agency makes the determination described in 39033
division (A) of section 3123.42 of the Revised Code, it shall not 39034
send the notice described in division (A) of this section unless 39035
both of the following are the case: 39036

(1) At least ninety days have elapsed since the final and 39037
enforceable determination of default; 39038

(2) In the preceding ninety days, the obligor has failed to 39039
pay at least fifty per cent of the arrearage through means other 39040
than those described in sections 3123.81 to 3123.85 of the Revised 39041
Code. 39042

(C) The department of job and family services shall adopt 39043
rules pursuant to section 3123.63 of the Revised Code establishing 39044
a uniform pre-suspension notice form that shall be used by 39045
agencies that send notice as required by this section. 39046

Sec. 3123.45. A child support enforcement agency that sent a 39047
notice to a board of an individual's default under a child support 39048
order shall send to each board to which the agency sent the notice 39049
a further notice that the individual is not in default if it 39050
determines that the individual is not in default or any of the 39051
following occurs: 39052

(A) The individual makes full payment to the office of child 39053
support in the department of job and family services or, pursuant 39054
to sections 3125.27 to 3125.30 of the Revised Code, the child 39055
support enforcement agency of the arrearage that was the basis for 39056

the court or agency determination that the individual was in 39057
default. 39058

(B) ~~An~~ The individual has presented to the agency sufficient 39059
evidence of current employment or of an account in a financial 39060
institution, the agency has confirmed the individual's employment 39061
or the existence of the account, and an appropriate withholding or 39062
deduction notice ~~or other appropriate order~~ described in section 39063
3121.03, ~~3121.04, 3121.05, 3121.06, or 3121.12~~ of the Revised Code 39064
has been issued to collect current support and any arrearage due 39065
under the child support order that was in default, ~~and the~~ 39066
~~individual is complying with the notice or order.~~ 39067

(C) ~~A new child support order has been issued or the child~~ 39068
~~support order that was in default, has been modified to collect~~ 39069
~~current support and any arrearage due under the child support~~ 39070
~~order that was in default, and the individual is complying with~~ 39071
~~the new or modified child support order~~ The individual presents 39072
evidence to the agency sufficient to establish that the individual 39073
is unable to work due to circumstances beyond the individual's 39074
control. 39075

The agency shall send the notice under this section not later 39076
than seven days after the agency determines the individual is not 39077
in default or that any of the circumstances specified in this 39078
section has occurred. 39079

Sec. 3123.55. (A) Notice shall be sent to the individual 39080
described in section ~~3123.54~~ 3123.53 of the Revised Code in 39081
compliance with section 3121.23 of the Revised Code. The notice 39082
shall specify that a court or child support enforcement agency has 39083
determined the individual to be in default under a child support 39084
order or that the individual is an obligor under a child support 39085
order who has failed to comply with a subpoena or warrant issued 39086
by a court or agency with respect to a proceeding to enforce a 39087

child support order, that a notice containing the individual's 39088
name and social security number or other identification number may 39089
be sent to the registrar of motor vehicles, and that, if the 39090
registrar receives that notice and determines that the individual 39091
is the individual named in that notice and the registrar has not 39092
received notice under section 3123.56 or 3123.57 of the Revised 39093
Code, all of the following will occur: 39094

~~(A)~~(1) The registrar and all deputy registrars will be 39095
prohibited from issuing to the individual a driver's or commercial 39096
driver's license, motorcycle operator's license or endorsement, or 39097
temporary instruction permit or commercial driver's temporary 39098
instruction permit. 39099

~~(B)~~(2) The registrar and all deputy registrars will be 39100
prohibited from renewing for the individual a driver's or 39101
commercial driver's license, motorcycle operator's license or 39102
endorsement, or commercial driver's temporary instruction permit. 39103

~~(C)~~(3) If the individual holds a driver's or commercial 39104
driver's license, motorcycle operator's license or endorsement, or 39105
temporary instruction permit or commercial driver's temporary 39106
instruction permit, the registrar will impose a class F suspension 39107
under division (B)(6) of section 4510.02 of the Revised Code if 39108
the registrar determines that the individual is the individual 39109
named in the notice sent pursuant to section 3123.54 of the 39110
Revised Code. 39111

~~(D)~~(4) If the individual is the individual named in the 39112
notice, the individual will not be issued or have renewed any 39113
license, endorsement, or permit, and no suspension will be lifted 39114
with respect to any license, endorsement, or permit listed in this 39115
section until the registrar receives a notice under section 39116
3123.56 or 3123.57 of the Revised Code. 39117

(B) If an agency makes the determination described in 39118

division (A) of section 3123.53 of the Revised Code, it shall not 39119
send the notice described in division (A) of this section unless 39120
both of the following are the case: 39121

(1) At least ninety days have elapsed since the final and 39122
enforceable determination of default; 39123

(2) In the preceding ninety days, the obligor has failed to 39124
pay at least fifty per cent of the arrearage through means other 39125
than those described in sections 3123.81 to 3123.85 of the Revised 39126
Code. 39127

(C) The department of job and family services shall adopt 39128
rules pursuant to section 3123.63 of the Revised Code establishing 39129
a uniform pre-suspension notice form that shall be used by 39130
agencies that send notice as required by this section. 39131

Sec. 3123.56. A child support enforcement agency that sent a 39132
notice under section 3123.54 of the Revised Code of an 39133
individual's default under a child support order shall send to the 39134
registrar of motor vehicles a notice that the individual is not in 39135
default if it determines that the individual is not in default or 39136
any of the following occurs: 39137

(A) The individual makes full payment to the office of child 39138
support or, pursuant to sections 3125.27 to 3125.30 of the Revised 39139
Code, to the child support enforcement agency of the arrearage 39140
that was the basis for the court or agency determination that the 39141
individual was in default. 39142

(B) ~~An~~ The individual has presented to the agency sufficient 39143
evidence of current employment or of an account in a financial 39144
institution, the agency has confirmed the individual's employment 39145
or the existence of the account, and an appropriate withholding or 39146
deduction notice or other appropriate order described in section 39147
3121.03, ~~3121.04, 3121.05, 3121.06, or 3121.12~~ of the Revised Code 39148

has been issued to collect current support and any arrearage due 39149
under the child support order that was in default, ~~and the~~ 39150
~~individual is complying with the notice or order.~~ 39151

(C) ~~A new child support order has been issued or the child~~ 39152
~~support order that was in default has been modified to collect~~ 39153
~~current support and any arrearage due under the child support~~ 39154
~~order that was in default, and the individual is complying with~~ 39155
~~the new or modified child support order~~ The individual presents 39156
evidence to the agency sufficient to establish that the individual 39157
is unable to work due to circumstances beyond the individual's 39158
control. 39159

The agency shall send the notice under this section not later 39160
than seven days after it determines the individual is not in 39161
default or that any of the circumstances specified in this section 39162
has occurred. 39163

Sec. 3123.58. (A) On receipt of a notice pursuant to section 39164
3123.54 of the Revised Code, the registrar of motor vehicles shall 39165
determine whether the individual named in the notice holds or has 39166
applied for a driver's license or commercial driver's license, 39167
motorcycle operator's license or endorsement, or temporary 39168
instruction permit or commercial driver's temporary instruction 39169
permit. If the registrar determines that the individual holds or 39170
has applied for a license, permit, or endorsement and the 39171
individual is the individual named in the notice and does not 39172
receive a notice pursuant to section 3123.56 or 3123.57 of the 39173
Revised Code, the registrar immediately shall provide notice of 39174
the determination to each deputy registrar. The registrar or a 39175
deputy registrar may not issue to the individual a driver's or 39176
commercial driver's license, motorcycle operator's license or 39177
endorsement, or temporary instruction permit or commercial 39178
driver's temporary instruction permit and may not renew for the 39179

individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or commercial driver's temporary instruction permit. The registrar or a deputy registrar also shall impose a class F suspension of the license, permit, or endorsement held by the individual under division (B)(6) of section 4510.02 of the Revised Code.

~~(B) Prior to the date specified in section 3123.52 of the Revised Code, the registrar of motor vehicles or a deputy registrar shall do only the following with respect to an individual if the registrar makes the determination required under division (A) of this section and no notice is received concerning the individual under section 3123.56 or 3123.57 of the Revised Code:~~

~~(1) Refuse to issue or renew the individual's commercial driver's license or commercial driver's temporary instruction permit;~~

~~(2) Impose a class F suspension under division (B)(6) of section 4510.02 of the Revised Code on the individual with respect to the license or permit held by the individual.~~

Sec. 3123.59. Not later than seven days after receipt of a notice pursuant to section 3123.56 or 3123.57 of the Revised Code, the registrar of motor vehicles shall notify each deputy registrar of the notice. The registrar and each deputy registrar shall then, if the individual otherwise is eligible for the license, permit, or endorsement and wants the license, permit, or endorsement, issue a license, permit, or endorsement to, or renew a license, permit, or endorsement of, the individual, or, if the registrar imposed a class F suspension of the individual's license, permit, or endorsement pursuant to division (A) of section 3123.58 of the Revised Code, remove the suspension. ~~On and after the date specified in section 3123.52 of the Revised Code, the registrar or~~

~~a deputy registrar shall remove, after receipt of a notice under section 3123.56 or 3123.57 of the Revised Code, a class F suspension imposed on an individual with respect to a license or permit pursuant to division (B) of section 3123.58 of the Revised Code.~~ The registrar or a deputy registrar may charge a fee of not more than twenty-five dollars for issuing or renewing or removing the suspension of a license, permit, or endorsement pursuant to this section. The fees collected by the registrar pursuant to this section shall be paid into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

Sec. 3123.591. A child support enforcement agency may, pursuant to rules adopted under section 3123.63 of the Revised Code, direct the registrar of motor vehicles to eliminate from the abstract maintained by the bureau of motor vehicles any reference to the suspension of an individual's license, permit, or endorsement imposed under section 3123.58 of the Revised Code.

Sec. 3123.63. The director of job and family services ~~may~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 3123.41 to 3123.50, ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60, and 3123.62 of the Revised Code. The rules shall include both of the following:

(A) Requirements concerning the contents of, and the conditions for issuance of, a notice required by section 3123.44 or 3123.55 of the Revised Code. The rules shall require the contents of the notice to include information about the effect of a license suspension and appropriate steps that an individual can take to avoid license suspension.

(B) Requirements concerning the authority of a child support enforcement agency to direct the registrar of motor vehicles to eliminate from the abstract maintained by the bureau of motor

vehicles any reference to the suspension of an individual's 39241
license, permit, or endorsement imposed under section 3123.58 of 39242
the Revised Code. 39243

Sec. 3301.07. The state board of education shall exercise 39244
under the acts of the general assembly general supervision of the 39245
system of public education in the state. In addition to the powers 39246
otherwise imposed on the state board under the provisions of law, 39247
the board shall have the powers described in this section. 39248

(A) The state board shall exercise policy forming, planning, 39249
and evaluative functions for the public schools of the state 39250
except as otherwise provided by law. 39251

(B)(1) The state board shall exercise leadership in the 39252
improvement of public education in this state, and administer the 39253
educational policies of this state relating to public schools, and 39254
relating to instruction and instructional material, building and 39255
equipment, transportation of pupils, administrative 39256
responsibilities of school officials and personnel, and finance 39257
and organization of school districts, educational service centers, 39258
and territory. Consultative and advisory services in such matters 39259
shall be provided by the board to school districts and educational 39260
service centers of this state. 39261

(2) The state board also shall develop a standard of 39262
financial reporting which shall be used by each school district 39263
board of education and educational service center governing board 39264
to make its financial information and annual budgets for each 39265
school building under its control available to the public in a 39266
format understandable by the average citizen. The format shall 39267
show, among other things, at the district and educational service 39268
center level or at the school building level, as determined 39269
appropriate by the department of education, revenue by source; 39270
expenditures for salaries, wages, and benefits of employees, 39271

showing such amounts separately for classroom teachers, other 39272
employees required to hold licenses issued pursuant to sections 39273
3319.22 to 3319.31 of the Revised Code, and all other employees; 39274
expenditures other than for personnel, by category, including 39275
utilities, textbooks and other educational materials, equipment, 39276
permanent improvements, pupil transportation, extracurricular 39277
athletics, and other extracurricular activities; and per pupil 39278
expenditures. 39279

(C) The state board shall administer and supervise the 39280
allocation and distribution of all state and federal funds for 39281
public school education under the provisions of law, and may 39282
prescribe such systems of accounting as are necessary and proper 39283
to this function. It may require county auditors and treasurers, 39284
boards of education, educational service center governing boards, 39285
treasurers of such boards, teachers, and other school officers and 39286
employees, or other public officers or employees, to file with it 39287
such reports as it may prescribe relating to such funds, or to the 39288
management and condition of such funds. 39289

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, 39290
XLVII, and LI of the Revised Code a reference is made to standards 39291
prescribed under this section or division (D) of this section, 39292
that reference shall be construed to refer to the standards 39293
prescribed under division (D)(2) of this section, unless the 39294
context specifically indicates a different meaning or intent. 39295

(2) The state board shall formulate and prescribe minimum 39296
standards to be applied to all elementary and secondary schools in 39297
this state for the purpose of requiring a general education of 39298
high quality. Such standards shall provide adequately for: the 39299
licensing of teachers, administrators, and other professional 39300
personnel and their assignment according to training and 39301
qualifications; efficient and effective instructional materials 39302
and equipment, including library facilities; the proper 39303

organization, administration, and supervision of each school, 39304
including regulations for preparing all necessary records and 39305
reports and the preparation of a statement of policies and 39306
objectives for each school; buildings, grounds, health and 39307
sanitary facilities and services; admission of pupils, and such 39308
requirements for their promotion from grade to grade as will 39309
assure that they are capable and prepared for the level of study 39310
to which they are certified; requirements for graduation; and such 39311
other factors as the board finds necessary. 39312

In the formulation and administration of such standards for 39313
nonpublic schools the board shall also consider the particular 39314
needs, methods and objectives of those schools, provided they do 39315
not conflict with the provision of a general education of a high 39316
quality and provided that regular procedures shall be followed for 39317
promotion from grade to grade of pupils who have met the 39318
educational requirements prescribed. 39319

In the formulation and administration of such standards as 39320
they relate to instructional materials and equipment in public 39321
schools, including library materials, the board shall require that 39322
the material and equipment be aligned with and promote skills 39323
expected under the statewide academic standards adopted under 39324
section 3301.079 of the Revised Code. 39325

(3) In addition to the minimum standards required by division 39326
(D)(2) of this section, the state board ~~shall~~ may formulate and 39327
prescribe the following additional minimum operating standards for 39328
school districts: 39329

(a) Standards for the effective and efficient organization, 39330
administration, and supervision of each school district so that it 39331
becomes a thinking and learning organization according to 39332
principles of systems design and collaborative professional 39333
learning communities research as defined by the superintendent of 39334
public instruction, including a focus on the personalized and 39335

individualized needs of each student; a shared responsibility 39336
among school boards, administrators, faculty, and staff to develop 39337
a common vision, mission, and set of guiding principles; a shared 39338
responsibility among school boards, administrators, faculty, and 39339
staff to engage in a process of collective inquiry, action 39340
orientation, and experimentation to ensure the academic success of 39341
all students; commitment to teaching and learning strategies that 39342
utilize technological tools and emphasize inter-disciplinary, 39343
real-world, project-based, and technology-oriented learning 39344
experiences to meet the individual needs of every student; 39345
commitment to high expectations for every student and commitment 39346
to closing the achievement gap so that all students achieve core 39347
knowledge and skills in accordance with the statewide academic 39348
standards adopted under section 3301.079 of the Revised Code; 39349
commitment to the use of assessments to diagnose the needs of each 39350
student; effective connections and relationships with families and 39351
others that support student success; and commitment to the use of 39352
positive behavior intervention supports throughout a district to 39353
ensure a safe and secure learning environment for all students; 39354

(b) Standards for the establishment of business advisory 39355
councils under section 3313.82 of the Revised Code; 39356

(c) Standards for school district ~~organizational units, as~~ 39357
~~defined in sections 3306.02 and 3306.04 of the Revised Code,~~ 39358
buildings that may require: 39359

(i) The effective and efficient organization, administration, 39360
and supervision of each school district ~~organizational unit~~ 39361
building so that it becomes a thinking and learning organization 39362
according to principles of systems design and collaborative 39363
professional learning communities research as defined by the state 39364
superintendent, including a focus on the personalized and 39365
individualized needs of each student; a shared responsibility 39366
among ~~organizational unit~~ building administrators, faculty, and 39367

staff to develop a common vision, mission, and set of guiding 39368
principles; a shared responsibility among ~~organizational unit~~ 39369
building administrators, faculty, and staff to engage in a process 39370
of collective inquiry, action orientation, and experimentation to 39371
ensure the academic success of all students; commitment to job 39372
embedded professional development and professional mentoring and 39373
coaching; established periods of time for teachers to pursue 39374
planning time for the development of lesson plans, professional 39375
development, and shared learning; commitment to effective 39376
management strategies that allow administrators reasonable access 39377
to classrooms for observation and professional development 39378
experiences; commitment to teaching and learning strategies that 39379
utilize technological tools and emphasize inter-disciplinary, 39380
real-world, project-based, and technology-oriented learning 39381
experiences to meet the individual needs of every student; 39382
commitment to high expectations for every student and commitment 39383
to closing the achievement gap so that all students achieve core 39384
knowledge and skills in accordance with the statewide academic 39385
standards adopted under section 3301.079 of the Revised Code; 39386
commitment to the use of assessments to diagnose the needs of each 39387
student; effective connections and relationships with families and 39388
others that support student success; commitment to the use of 39389
positive behavior intervention supports throughout the 39390
~~organizational unit~~ building to ensure a safe and secure learning 39391
environment for all students; 39392

(ii) A school ~~organizational unit~~ building leadership team to 39393
coordinate positive behavior intervention supports, learning 39394
environments, thinking and learning systems, collaborative 39395
planning, planning time, student academic interventions, student 39396
extended learning opportunities, and other activities identified 39397
by the team and approved by the district board of education. The 39398
team shall include the building principal, representatives from 39399
each collective bargaining unit, ~~the building lead~~ a classroom 39400

teacher, parents, business representatives, and others that 39401
support student success. 39402

(E) The state board may require as part of the health 39403
curriculum information developed under section 2108.34 of the 39404
Revised Code promoting the donation of anatomical gifts pursuant 39405
to Chapter 2108. of the Revised Code and may provide the 39406
information to high schools, educational service centers, and 39407
joint vocational school district boards of education; 39408

(F) The state board shall prepare and submit annually to the 39409
governor and the general assembly a report on the status, needs, 39410
and major problems of the public schools of the state, with 39411
recommendations for necessary legislative action and a ten-year 39412
projection of the state's public and nonpublic school enrollment, 39413
by year and by grade level. 39414

(G) The state board shall prepare and submit to the director 39415
of budget and management the biennial budgetary requests of the 39416
state board of education, for its agencies and for the public 39417
schools of the state. 39418

(H) The state board shall cooperate with federal, state, and 39419
local agencies concerned with the health and welfare of children 39420
and youth of the state. 39421

(I) The state board shall require such reports from school 39422
districts and educational service centers, school officers, and 39423
employees as are necessary and desirable. The superintendents and 39424
treasurers of school districts and educational service centers 39425
shall certify as to the accuracy of all reports required by law or 39426
state board or state department of education rules to be submitted 39427
by the district or educational service center and which contain 39428
information necessary for calculation of state funding. Any 39429
superintendent who knowingly falsifies such report shall be 39430
subject to license revocation pursuant to section 3319.31 of the 39431

Revised Code. 39432

(J) In accordance with Chapter 119. of the Revised Code, the 39433
state board shall adopt procedures, standards, and guidelines for 39434
the education of children with disabilities pursuant to Chapter 39435
3323. of the Revised Code, including procedures, standards, and 39436
guidelines governing programs and services operated by county 39437
boards of developmental disabilities pursuant to section 3323.09 39438
of the Revised Code. 39439

(K) For the purpose of encouraging the development of special 39440
programs of education for academically gifted children, the state 39441
board shall employ competent persons to analyze and publish data, 39442
promote research, advise and counsel with boards of education, and 39443
encourage the training of teachers in the special instruction of 39444
gifted children. The board may provide financial assistance out of 39445
any funds appropriated for this purpose to boards of education and 39446
educational service center governing boards for developing and 39447
conducting programs of education for academically gifted children. 39448

(L) The state board shall require that all public schools 39449
emphasize and encourage, within existing units of study, the 39450
teaching of energy and resource conservation as recommended to 39451
each district board of education by leading business persons 39452
involved in energy production and conservation, beginning in the 39453
primary grades. 39454

(M) The state board shall formulate and prescribe minimum 39455
standards requiring the use of phonics as a technique in the 39456
teaching of reading in grades kindergarten through three. In 39457
addition, the state board shall provide in-service training 39458
programs for teachers on the use of phonics as a technique in the 39459
teaching of reading in grades kindergarten through three. 39460

(N) The state board may adopt rules necessary for carrying 39461
out any function imposed on it by law, and may provide rules as 39462

are necessary for its government and the government of its 39463
employees, and may delegate to the superintendent of public 39464
instruction the management and administration of any function 39465
imposed on it by law. It may provide for the appointment of board 39466
members to serve on temporary committees established by the board 39467
for such purposes as are necessary. Permanent or standing 39468
committees shall not be created. 39469

(O) Upon application from the board of education of a school 39470
district, the superintendent of public instruction may issue a 39471
waiver exempting the district from compliance with the standards 39472
adopted under divisions (B)(2) and (D) of this section, as they 39473
relate to the operation of a school operated by the district. The 39474
state board shall adopt standards for the approval or disapproval 39475
of waivers under this division. The state superintendent shall 39476
consider every application for a waiver, and shall determine 39477
whether to grant or deny a waiver in accordance with the state 39478
board's standards. For each waiver granted, the state 39479
superintendent shall specify the period of time during which the 39480
waiver is in effect, which shall not exceed five years. A district 39481
board may apply to renew a waiver. 39482

Sec. 3301.071. (A)(1) In the case of nontax-supported 39483
schools, standards for teacher certification prescribed under 39484
section 3301.07 of the Revised Code shall provide for 39485
certification, without further educational requirements, of any 39486
administrator, supervisor, or teacher who has attended and 39487
received a bachelor's degree from a college or university 39488
accredited by a national or regional association in the United 39489
States except that, at the discretion of the state board of 39490
education, this requirement may be met by having an equivalent 39491
degree from a foreign college or university of comparable 39492
standing. 39493

(2) In the case of nonchartered, nontax-supported schools, 39494
the standards for teacher certification prescribed under section 39495
3301.07 of the Revised Code shall provide for certification, 39496
without further educational requirements, of any administrator, 39497
supervisor, or teacher who has attended and received a diploma 39498
from a "bible college" or "bible institute" described in division 39499
(E) of section 1713.02 of the Revised Code. 39500

(3) A certificate issued under division (A)(3) of this 39501
section shall be valid only for teaching foreign language, music, 39502
religion, computer technology, or fine arts. 39503

Notwithstanding division (A)(1) of this section, the 39504
standards for teacher certification prescribed under section 39505
3301.07 of the Revised Code shall provide for certification of a 39506
person as a teacher upon receipt by the state board of an 39507
affidavit signed by the chief administrative officer of a 39508
chartered nonpublic school seeking to employ the person, stating 39509
that the person meets one of the following conditions: 39510

(a) The person has specialized knowledge, skills, or 39511
expertise that qualifies the person to provide instruction. 39512

(b) The person has provided to the chief administrative 39513
officer evidence of at least three years of teaching experience in 39514
a public or nonpublic school. 39515

(c) The person has provided to the chief administrative 39516
officer evidence of completion of a teacher training program named 39517
in the affidavit. 39518

(B) Each person applying for a certificate under this section 39519
for purposes of serving in a nonpublic school chartered by the 39520
state board under section 3301.16 of the Revised Code shall pay a 39521
fee in the amount established under division (A) of section 39522
3319.51 of the Revised Code. Any fees received under this division 39523
shall be paid into the state treasury to the credit of the state 39524

board of education certification fund established under division 39525
(B) of section 3319.51 of the Revised Code. 39526

(C) A person applying for or holding any certificate pursuant 39527
to this section for purposes of serving in a nonpublic school 39528
chartered by the state board is subject to sections 3123.41 to 39529
3123.50 of the Revised Code and any applicable rules adopted under 39530
section 3123.63 of the Revised Code and sections 3319.31 and 39531
3319.311 of the Revised Code. 39532

(D) Divisions (B) and (C) of this section and sections 39533
3319.291, 3319.31, and 3319.311 of the Revised Code do not apply 39534
to any administrators, supervisors, or teachers in nonchartered, 39535
nontax-supported schools. 39536

Sec. 3301.079. (A)(1) Not later than June 30, 2010, and at 39537
least once every five years thereafter, the state board of 39538
education shall adopt statewide academic standards with emphasis 39539
on coherence, focus, and rigor for each of grades kindergarten 39540
through twelve in English language arts, mathematics, science, and 39541
social studies. 39542

The standards shall specify the following: 39543

(a) The core academic content and skills that students are 39544
expected to know and be able to do at each grade level that will 39545
allow each student to be prepared for postsecondary instruction 39546
and the workplace for success in the twenty-first century; 39547

~~(b) The development of skill sets as they relate to 39548
creativity and innovation, critical thinking and problem solving, 39549
and communication and collaboration; 39550~~

~~(c) The development of skill sets that promote information, 39551
media, and technological literacy; 39552~~

~~(d) The development of skill sets that promote personal 39553
management, productivity and accountability, and leadership and 39554~~

~~responsibility;~~ 39555

~~(e)(c)~~ Interdisciplinary, project-based, real-world learning 39556
opportunities. 39557

(2) After completing the standards required by division 39558
(A)(1) of this section, the state board shall adopt standards and 39559
model curricula for instruction in computer literacy, financial 39560
literacy and entrepreneurship, fine arts, and foreign language for 39561
grades kindergarten through twelve. The standards shall meet the 39562
same requirements prescribed in divisions (A)(1)(a) to ~~(e)(c)~~ of 39563
this section. 39564

(3) The state board shall adopt the most recent standards 39565
developed by the national association for sport and physical 39566
education for physical education in grades kindergarten through 39567
twelve or shall adopt its own standards for physical education in 39568
those grades and revise and update them periodically. 39569

The department shall employ a full-time physical education 39570
coordinator to provide guidance and technical assistance to 39571
districts, community schools, and STEM schools in implementing the 39572
physical education standards adopted under this division. The 39573
superintendent of public instruction shall determine that the 39574
person employed as coordinator is qualified for the position, as 39575
demonstrated by possessing an adequate combination of education, 39576
license, and experience. 39577

(4) When academic standards have been completed for any 39578
subject area required by this section, the state board shall 39579
inform all school districts, all community schools established 39580
under Chapter 3314. of the Revised Code, all STEM schools 39581
established under Chapter 3326. of the Revised Code, and all 39582
nonpublic schools required to administer the assessments 39583
prescribed by sections 3301.0710 and 3301.0712 of the Revised Code 39584
of the content of those standards. 39585

(B) Not later than March 31, 2011, the state board shall 39586
adopt a model curriculum for instruction in each subject area for 39587
which updated academic standards are required by division (A)(1) 39588
of this section and for each of grades kindergarten through twelve 39589
that is sufficient to meet the needs of students in every 39590
community. The model curriculum shall be aligned with the 39591
standards, to ensure that the academic content and skills 39592
specified for each grade level are taught to students, and shall 39593
demonstrate vertical articulation and emphasize coherence, focus, 39594
and rigor. When any model curriculum has been completed, the state 39595
board shall inform all school districts, community schools, and 39596
STEM schools of the content of that model curriculum. 39597

All school districts, community schools, and STEM schools may 39598
utilize the state standards and the model curriculum established 39599
by the state board, together with other relevant resources, 39600
examples, or models to ensure that students have the opportunity 39601
to attain the academic standards. Upon request, the department of 39602
education shall provide technical assistance to any district, 39603
community school, or STEM school in implementing the model 39604
curriculum. 39605

Nothing in this section requires any school district to 39606
utilize all or any part of a model curriculum developed under this 39607
division. 39608

(C) The state board shall develop achievement assessments 39609
aligned with the academic standards and model curriculum for each 39610
of the subject areas and grade levels required by divisions (A)(1) 39611
and (B)(1) of section 3301.0710 of the Revised Code. 39612

When any achievement assessment has been completed, the state 39613
board shall inform all school districts, community schools, STEM 39614
schools, and nonpublic schools required to administer the 39615
assessment of its completion, and the department of education 39616
shall make the achievement assessment available to the districts 39617

and schools. 39618

(D)(1) The state board shall adopt a diagnostic assessment 39619
aligned with the academic standards and model curriculum for each 39620
of grades kindergarten through two in English language arts and 39621
mathematics and for grade three in English language arts. The 39622
diagnostic assessment shall be designed to measure student 39623
comprehension of academic content and mastery of related skills 39624
for the relevant subject area and grade level. Any diagnostic 39625
assessment shall not include components to identify gifted 39626
students. Blank copies of diagnostic assessments shall be public 39627
records. 39628

(2) When each diagnostic assessment has been completed, the 39629
state board shall inform all school districts of its completion 39630
and the department of education shall make the diagnostic 39631
assessment available to the districts at no cost to the district. 39632
School districts shall administer the diagnostic assessment 39633
pursuant to section 3301.0715 of the Revised Code beginning the 39634
first school year following the development of the assessment. 39635

(E) The state board shall not adopt a diagnostic or 39636
achievement assessment for any grade level or subject area other 39637
than those specified in this section. 39638

(F) Whenever the state board or the department of education 39639
consults with persons for the purpose of drafting or reviewing any 39640
standards, diagnostic assessments, achievement assessments, or 39641
model curriculum required under this section, the state board or 39642
the department shall first consult with parents of students in 39643
kindergarten through twelfth grade and with active Ohio classroom 39644
teachers, other school personnel, and administrators with 39645
expertise in the appropriate subject area. Whenever practicable, 39646
the state board and department shall consult with teachers 39647
recognized as outstanding in their fields. 39648

If the department contracts with more than one outside entity 39649
for the development of the achievement assessments required by 39650
this section, the department shall ensure the interchangeability 39651
of those assessments. 39652

(G) The fairness sensitivity review committee, established by 39653
rule of the state board of education, shall not allow any question 39654
on any achievement or diagnostic assessment developed under this 39655
section or any proficiency test prescribed by former section 39656
3301.0710 of the Revised Code, as it existed prior to September 39657
11, 2001, to include, be written to promote, or inquire as to 39658
individual moral or social values or beliefs. The decision of the 39659
committee shall be final. This section does not create a private 39660
cause of action. 39661

(H) Not later than forty-five days prior to the initial 39662
deadline established under division (A)(1) of this section and the 39663
deadline established under division (B) of this section, the 39664
superintendent of public instruction shall present the academic 39665
standards or model curricula, as applicable, to the respective 39666
committees of the house of representatives and senate that 39667
consider education legislation. 39668

(I) As used in this section: 39669

(1) "Coherence" means a reflection of the structure of the 39670
discipline being taught. 39671

(2) "Focus" means limiting the number of items included in a 39672
curriculum to allow for deeper exploration of the subject matter. 39673

(3) "Rigor" means more challenging and demanding when 39674
compared to international standards. 39675

(4) "Vertical articulation" means key academic concepts and 39676
skills associated with mastery in particular content areas should 39677
be articulated and reinforced in a developmentally appropriate 39678
manner at each grade level so that over time students acquire a 39679

depth of knowledge and understanding in the core academic 39680
disciplines. 39681

Sec. 3301.0710. The state board of education shall adopt 39682
rules establishing a statewide program to assess student 39683
achievement. The state board shall ensure that all assessments 39684
administered under the program are aligned with the academic 39685
standards and model curricula adopted by the state board and are 39686
created with input from Ohio parents, Ohio classroom teachers, 39687
Ohio school administrators, and other Ohio school personnel 39688
pursuant to section 3301.079 of the Revised Code. 39689

The assessment program shall be designed to ensure that 39690
students who receive a high school diploma demonstrate at least 39691
high school levels of achievement in English language arts, 39692
mathematics, science, and social studies, ~~and other skills~~ 39693
~~necessary in the twenty-first century.~~ 39694

(A)(1) The state board shall prescribe all of the following: 39695

(a) Two statewide achievement assessments, one each designed 39696
to measure the level of English language arts and mathematics 39697
skill expected at the end of third grade; 39698

(b) Two statewide achievement assessments, one each designed 39699
to measure the level of English language arts and mathematics 39700
skill expected at the end of fourth grade; 39701

(c) Four statewide achievement assessments, one each designed 39702
to measure the level of English language arts, mathematics, 39703
science, and social studies skill expected at the end of fifth 39704
grade; 39705

(d) Two statewide achievement assessments, one each designed 39706
to measure the level of English language arts and mathematics 39707
skill expected at the end of sixth grade; 39708

(e) Two statewide achievement assessments, one each designed 39709

to measure the level of English language arts and mathematics 39710
skill expected at the end of seventh grade; 39711

(f) Four statewide achievement assessments, one each designed 39712
to measure the level of English language arts, mathematics, 39713
science, and social studies skill expected at the end of eighth 39714
grade. 39715

(2) The state board shall determine and designate at least 39716
three ranges of scores on each of the achievement assessments 39717
described in divisions (A)(1) and (B)(1) of this section. Each 39718
range of scores shall be deemed to demonstrate a level of 39719
achievement so that any student attaining a score within such 39720
range has achieved one of the following: 39721

(a) An advanced level of skill; 39722

(b) A proficient level of skill; 39723

(c) A limited level of skill. 39724

(B)(1) The assessments prescribed under division (B)(1) of 39725
this section shall collectively be known as the Ohio graduation 39726
tests. The state board shall prescribe five statewide high school 39727
achievement assessments, one each designed to measure the level of 39728
reading, writing, mathematics, science, and social studies skill 39729
expected at the end of tenth grade. The state board shall 39730
designate a score in at least the range designated under division 39731
(A)(2)(b) of this section on each such assessment that shall be 39732
deemed to be a passing score on the assessment as a condition 39733
toward granting high school diplomas under sections 3313.61, 39734
3313.611, 3313.612, and 3325.08 of the Revised Code until the 39735
assessment system prescribed by section 3301.0712 of the Revised 39736
Code is implemented in accordance with rules adopted by the state 39737
board under division ~~(E)~~(D) of that section. 39738

(2) The state board shall prescribe an assessment system in 39739
accordance with section 3301.0712 of the Revised Code that shall 39740

replace the Ohio graduation tests in the manner prescribed by 39741
rules adopted by the state board under division ~~(E)~~(D) of that 39742
section. 39743

(3) The state board may enter into a reciprocal agreement 39744
with the appropriate body or agency of any other state that has 39745
similar statewide achievement assessment requirements for 39746
receiving high school diplomas, under which any student who has 39747
met an achievement assessment requirement of one state is 39748
recognized as having met the similar requirement of the other 39749
state for purposes of receiving a high school diploma. For 39750
purposes of this section and sections 3301.0711 and 3313.61 of the 39751
Revised Code, any student enrolled in any public high school in 39752
this state who has met an achievement assessment requirement 39753
specified in a reciprocal agreement entered into under this 39754
division shall be deemed to have attained at least the applicable 39755
score designated under this division on each assessment required 39756
by division (B)(1) or (2) of this section that is specified in the 39757
agreement. 39758

(C) The superintendent of public instruction shall designate 39759
dates and times for the administration of the assessments 39760
prescribed by divisions (A) and (B) of this section. 39761

In prescribing administration dates pursuant to this 39762
division, the superintendent shall designate the dates in such a 39763
way as to allow a reasonable length of time between the 39764
administration of assessments prescribed under this section and 39765
any administration of the national assessment of educational 39766
progress given to students in the same grade level pursuant to 39767
section 3301.27 of the Revised Code or federal law. 39768

(D) The state board shall prescribe a practice version of 39769
each Ohio graduation test described in division (B)(1) of this 39770
section that is of comparable length to the actual test. 39771

(E) Any committee established by the department of education 39772
for the purpose of making recommendations to the state board 39773
regarding the state board's designation of scores on the 39774
assessments described by this section shall inform the state board 39775
of the probable percentage of students who would score in each of 39776
the ranges established under division (A)(2) of this section on 39777
the assessments if the committee's recommendations are adopted by 39778
the state board. To the extent possible, these percentages shall 39779
be disaggregated by gender, major racial and ethnic groups, 39780
limited English proficient students, economically disadvantaged 39781
students, students with disabilities, and migrant students. 39782

If the state board intends to make any change to the 39783
committee's recommendations, the state board shall explain the 39784
intended change to the Ohio accountability task force established 39785
by section 3302.021 of the Revised Code. The task force shall 39786
recommend whether the state board should proceed to adopt the 39787
intended change. Nothing in this division shall require the state 39788
board to designate assessment scores based upon the 39789
recommendations of the task force. 39790

Sec. 3301.0711. (A) The department of education shall: 39791

(1) Annually furnish to, grade, and score all assessments 39792
required by divisions (A)(1) and (B)(1) of section 3301.0710 of 39793
the Revised Code to be administered by city, local, exempted 39794
village, and joint vocational school districts, except that each 39795
district shall score any assessment administered pursuant to 39796
division (B)(10) of this section. Each assessment so furnished 39797
shall include the data verification code of the student to whom 39798
the assessment will be administered, as assigned pursuant to 39799
division (D)(2) of section 3301.0714 of the Revised Code. In 39800
furnishing the practice versions of Ohio graduation tests 39801
prescribed by division (D) of section 3301.0710 of the Revised 39802

Code, the department shall make the tests available on its web 39803
site for reproduction by districts. In awarding contracts for 39804
grading assessments, the department shall give preference to 39805
Ohio-based entities employing Ohio residents. 39806

(2) Adopt rules for the ethical use of assessments and 39807
prescribing the manner in which the assessments prescribed by 39808
section 3301.0710 of the Revised Code shall be administered to 39809
students. 39810

(B) Except as provided in divisions (C) and (J) of this 39811
section, the board of education of each city, local, and exempted 39812
village school district shall, in accordance with rules adopted 39813
under division (A) of this section: 39814

(1) Administer the English language arts assessments 39815
prescribed under division (A)(1)(a) of section 3301.0710 of the 39816
Revised Code twice annually to all students in the third grade who 39817
have not attained the score designated for that assessment under 39818
division (A)(2)(b) of section 3301.0710 of the Revised Code. 39819

(2) Administer the mathematics assessment prescribed under 39820
division (A)(1)(a) of section 3301.0710 of the Revised Code at 39821
least once annually to all students in the third grade. 39822

(3) Administer the assessments prescribed under division 39823
(A)(1)(b) of section 3301.0710 of the Revised Code at least once 39824
annually to all students in the fourth grade. 39825

(4) Administer the assessments prescribed under division 39826
(A)(1)(c) of section 3301.0710 of the Revised Code at least once 39827
annually to all students in the fifth grade. 39828

(5) Administer the assessments prescribed under division 39829
(A)(1)(d) of section 3301.0710 of the Revised Code at least once 39830
annually to all students in the sixth grade. 39831

(6) Administer the assessments prescribed under division 39832

(A)(1)(e) of section 3301.0710 of the Revised Code at least once 39833
annually to all students in the seventh grade. 39834

(7) Administer the assessments prescribed under division 39835
(A)(1)(f) of section 3301.0710 of the Revised Code at least once 39836
annually to all students in the eighth grade. 39837

(8) Except as provided in division (B)(9) of this section, 39838
administer any assessment prescribed under division (B)(1) of 39839
section 3301.0710 of the Revised Code as follows: 39840

(a) At least once annually to all tenth grade students and at 39841
least twice annually to all students in eleventh or twelfth grade 39842
who have not yet attained the score on that assessment designated 39843
under that division; 39844

(b) To any person who has successfully completed the 39845
curriculum in any high school or the individualized education 39846
program developed for the person by any high school pursuant to 39847
section 3323.08 of the Revised Code but has not received a high 39848
school diploma and who requests to take such assessment, at any 39849
time such assessment is administered in the district. 39850

(9) In lieu of the board of education of any city, local, or 39851
exempted village school district in which the student is also 39852
enrolled, the board of a joint vocational school district shall 39853
administer any assessment prescribed under division (B)(1) of 39854
section 3301.0710 of the Revised Code at least twice annually to 39855
any student enrolled in the joint vocational school district who 39856
has not yet attained the score on that assessment designated under 39857
that division. A board of a joint vocational school district may 39858
also administer such an assessment to any student described in 39859
division (B)(8)(b) of this section. 39860

(10) If the district has been declared to be under an 39861
academic watch or in a state of academic emergency pursuant to 39862
section 3302.03 of the Revised Code or has a three-year average 39863

graduation rate of not more than seventy-five per cent, administer 39864
each assessment prescribed by division (D) of section 3301.0710 of 39865
the Revised Code in September to all ninth grade students, 39866
beginning in the school year that starts July 1, 2005. 39867

Except as provided in section 3313.614 of the Revised Code 39868
for administration of an assessment to a person who has fulfilled 39869
the curriculum requirement for a high school diploma but has not 39870
passed one or more of the required assessments, the assessments 39871
prescribed under division (B)(1) of section 3301.0710 of the 39872
Revised Code and the practice assessments prescribed under 39873
division (D) of that section and required to be administered under 39874
divisions (B)(8), (9), and (10) of this section shall not be 39875
administered after the assessment system prescribed by division 39876
(B)(2) of section 3301.0710 and section 3301.0712 of the Revised 39877
Code is implemented under rule of the state board adopted under 39878
division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code. 39879

(11) Administer the assessments prescribed by division (B)(2) 39880
of section 3301.0710 and section 3301.0712 of the Revised Code in 39881
accordance with the timeline and plan for implementation of those 39882
assessments prescribed by rule of the state board adopted under 39883
division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code. 39884

(C)(1)(a) ~~Any~~ In the case of a student receiving special 39885
education services under Chapter 3323. of the Revised Code, the 39886
individualized education program developed for the student under 39887
that chapter shall specify the manner in which the student will 39888
participate in the assessments administered under this section. 39889
The individualized education program may be excused excuse the 39890
student from taking any particular assessment required to be 39891
administered under this section if ~~the individualized education~~ 39892
~~program developed for the student pursuant to section 3323.08 of~~ 39893
~~the Revised Code excuses the student from taking that assessment~~ 39894
~~and it~~ instead specifies an alternate assessment method approved 39895

by the department of education as conforming to requirements of 39896
federal law for receipt of federal funds for disadvantaged pupils. 39897
To the extent possible, the individualized education program shall 39898
not excuse the student from taking an assessment unless no 39899
reasonable accommodation can be made to enable the student to take 39900
the assessment. 39901

(b) Any alternate assessment approved by the department for a 39902
student under this division shall produce measurable results 39903
comparable to those produced by the assessment it replaces in 39904
order to allow for the student's results to be included in the 39905
data compiled for a school district or building under section 39906
3302.03 of the Revised Code. 39907

(c) Any student enrolled in a chartered nonpublic school who 39908
has been identified, based on an evaluation conducted in 39909
accordance with section 3323.03 of the Revised Code or section 504 39910
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 39911
794, as amended, as a child with a disability shall be excused 39912
from taking any particular assessment required to be administered 39913
under this section if a plan developed for the student pursuant to 39914
rules adopted by the state board excuses the student from taking 39915
that assessment. In the case of any student so excused from taking 39916
an assessment, the chartered nonpublic school shall not prohibit 39917
the student from taking the assessment. 39918

(2) A district board may, for medical reasons or other good 39919
cause, excuse a student from taking an assessment administered 39920
under this section on the date scheduled, but that assessment 39921
shall be administered to the excused student not later than nine 39922
days following the scheduled date. The district board shall 39923
annually report the number of students who have not taken one or 39924
more of the assessments required by this section to the state 39925
board of education not later than the thirtieth day of June. 39926

(3) As used in this division, "limited English proficient 39927

student" has the same meaning as in 20 U.S.C. 7801. 39928

No school district board shall excuse any limited English 39929
proficient student from taking any particular assessment required 39930
to be administered under this section, except that any limited 39931
English proficient student who has been enrolled in United States 39932
schools for less than one full school year shall not be required 39933
to take any reading, writing, or English language arts assessment. 39934
However, no board shall prohibit a limited English proficient 39935
student who is not required to take an assessment under this 39936
division from taking the assessment. A board may permit any 39937
limited English proficient student to take an assessment required 39938
to be administered under this section with appropriate 39939
accommodations, as determined by the department. For each limited 39940
English proficient student, each school district shall annually 39941
assess that student's progress in learning English, in accordance 39942
with procedures approved by the department. 39943

The governing authority of a chartered nonpublic school may 39944
excuse a limited English proficient student from taking any 39945
assessment administered under this section. However, no governing 39946
authority shall prohibit a limited English proficient student from 39947
taking the assessment. 39948

(D)(1) In the school year next succeeding the school year in 39949
which the assessments prescribed by division (A)(1) or (B)(1) of 39950
section 3301.0710 of the Revised Code or former division (A)(1), 39951
(A)(2), or (B) of section 3301.0710 of the Revised Code as it 39952
existed prior to September 11, 2001, are administered to any 39953
student, the board of education of any school district in which 39954
the student is enrolled in that year shall provide to the student 39955
intervention services commensurate with the student's performance, 39956
including any intensive intervention required under section 39957
3313.608 of the Revised Code, in any skill in which the student 39958
failed to demonstrate at least a score at the proficient level on 39959

the assessment. 39960

(2) Following any administration of the assessments 39961
prescribed by division (D) of section 3301.0710 of the Revised 39962
Code to ninth grade students, each school district that has a 39963
three-year average graduation rate of not more than seventy-five 39964
per cent shall determine for each high school in the district 39965
whether the school shall be required to provide intervention 39966
services to any students who took the assessments. In determining 39967
which high schools shall provide intervention services based on 39968
the resources available, the district shall consider each school's 39969
graduation rate and scores on the practice assessments. The 39970
district also shall consider the scores received by ninth grade 39971
students on the English language arts and mathematics assessments 39972
prescribed under division (A)(1)(f) of section 3301.0710 of the 39973
Revised Code in the eighth grade in determining which high schools 39974
shall provide intervention services. 39975

Each high school selected to provide intervention services 39976
under this division shall provide intervention services to any 39977
student whose results indicate that the student is failing to make 39978
satisfactory progress toward being able to attain scores at the 39979
proficient level on the Ohio graduation tests. Intervention 39980
services shall be provided in any skill in which a student 39981
demonstrates unsatisfactory progress and shall be commensurate 39982
with the student's performance. Schools shall provide the 39983
intervention services prior to the end of the school year, during 39984
the summer following the ninth grade, in the next succeeding 39985
school year, or at any combination of those times. 39986

(E) Except as provided in section 3313.608 of the Revised 39987
Code and division (M) of this section, no school district board of 39988
education shall utilize any student's failure to attain a 39989
specified score on an assessment administered under this section 39990
as a factor in any decision to deny the student promotion to a 39991

higher grade level. However, a district board may choose not to 39992
promote to the next grade level any student who does not take an 39993
assessment administered under this section or make up an 39994
assessment as provided by division (C)(2) of this section and who 39995
is not exempt from the requirement to take the assessment under 39996
division (C)(3) of this section. 39997

(F) No person shall be charged a fee for taking any 39998
assessment administered under this section. 39999

(G)(1) Each school district board shall designate one 40000
location for the collection of assessments administered in the 40001
spring under division (B)(1) of this section and those 40002
administered under divisions (B)(2) to (7) of this section. Each 40003
district board shall submit the assessments to the entity with 40004
which the department contracts for the scoring of the assessments 40005
as follows: 40006

(a) If the district's total enrollment in grades kindergarten 40007
through twelve during the first full school week of October was 40008
less than two thousand five hundred, not later than the Friday 40009
after all of the assessments have been administered; 40010

(b) If the district's total enrollment in grades kindergarten 40011
through twelve during the first full school week of October was 40012
two thousand five hundred or more, but less than seven thousand, 40013
not later than the Monday after all of the assessments have been 40014
administered; 40015

(c) If the district's total enrollment in grades kindergarten 40016
through twelve during the first full school week of October was 40017
seven thousand or more, not later than the Tuesday after all of 40018
the assessments have been administered. 40019

However, any assessment that a student takes during the 40020
make-up period described in division (C)(2) of this section shall 40021
be submitted not later than the Friday following the day the 40022

student takes the assessment. 40023

(2) The department or an entity with which the department 40024
contracts for the scoring of the assessment shall send to each 40025
school district board a list of the individual scores of all 40026
persons taking an assessment prescribed by division (A)(1) or 40027
(B)(1) of section 3301.0710 of the Revised Code within sixty days 40028
after its administration, but in no case shall the scores be 40029
returned later than the fifteenth day of June following the 40030
administration. For assessments administered under this section by 40031
a joint vocational school district, the department or entity shall 40032
also send to each city, local, or exempted village school district 40033
a list of the individual scores of any students of such city, 40034
local, or exempted village school district who are attending 40035
school in the joint vocational school district. 40036

(H) Individual scores on any assessments administered under 40037
this section shall be released by a district board only in 40038
accordance with section 3319.321 of the Revised Code and the rules 40039
adopted under division (A) of this section. No district board or 40040
its employees shall utilize individual or aggregate results in any 40041
manner that conflicts with rules for the ethical use of 40042
assessments adopted pursuant to division (A) of this section. 40043

(I) Except as provided in division (G) of this section, the 40044
department or an entity with which the department contracts for 40045
the scoring of the assessment shall not release any individual 40046
scores on any assessment administered under this section. The 40047
state board of education shall adopt rules to ensure the 40048
protection of student confidentiality at all times. The rules may 40049
require the use of the data verification codes assigned to 40050
students pursuant to division (D)(2) of section 3301.0714 of the 40051
Revised Code to protect the confidentiality of student scores. 40052

(J) Notwithstanding division (D) of section 3311.52 of the 40053
Revised Code, this section does not apply to the board of 40054

education of any cooperative education school district except as 40055
provided under rules adopted pursuant to this division. 40056

(1) In accordance with rules that the state board of 40057
education shall adopt, the board of education of any city, 40058
exempted village, or local school district with territory in a 40059
cooperative education school district established pursuant to 40060
divisions (A) to (C) of section 3311.52 of the Revised Code may 40061
enter into an agreement with the board of education of the 40062
cooperative education school district for administering any 40063
assessment prescribed under this section to students of the city, 40064
exempted village, or local school district who are attending 40065
school in the cooperative education school district. 40066

(2) In accordance with rules that the state board of 40067
education shall adopt, the board of education of any city, 40068
exempted village, or local school district with territory in a 40069
cooperative education school district established pursuant to 40070
section 3311.521 of the Revised Code shall enter into an agreement 40071
with the cooperative district that provides for the administration 40072
of any assessment prescribed under this section to both of the 40073
following: 40074

(a) Students who are attending school in the cooperative 40075
district and who, if the cooperative district were not 40076
established, would be entitled to attend school in the city, 40077
local, or exempted village school district pursuant to section 40078
3313.64 or 3313.65 of the Revised Code; 40079

(b) Persons described in division (B)(8)(b) of this section. 40080

Any assessment of students pursuant to such an agreement 40081
shall be in lieu of any assessment of such students or persons 40082
pursuant to this section. 40083

(K)(1) As a condition of compliance with section 3313.612 of 40084
the Revised Code, each chartered nonpublic school that educates 40085

students in grades nine through twelve shall administer the 40086
assessments prescribed by divisions (B)(1) and (2) of section 40087
3301.0710 of the Revised Code. Any chartered nonpublic school may 40088
participate in the assessment program by administering any of the 40089
assessments prescribed by division (A) of section 3301.0710 of the 40090
Revised Code. The chief administrator of the school shall specify 40091
which assessments the school will administer. Such specification 40092
shall be made in writing to the superintendent of public 40093
instruction prior to the first day of August of any school year in 40094
which assessments are administered and shall include a pledge that 40095
the nonpublic school will administer the specified assessments in 40096
the same manner as public schools are required to do under this 40097
section and rules adopted by the department. 40098

(2) The department of education shall furnish the assessments 40099
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 40100
to each chartered nonpublic school that participates under this 40101
division. 40102

(L)(1) The superintendent of the state school for the blind 40103
and the superintendent of the state school for the deaf shall 40104
administer the assessments described by sections 3301.0710 and 40105
3301.0712 of the Revised Code. Each superintendent shall 40106
administer the assessments in the same manner as district boards 40107
are required to do under this section and rules adopted by the 40108
department of education and in conformity with division (C)(1)(a) 40109
of this section. 40110

(2) The department of education shall furnish the assessments 40111
described by sections 3301.0710 and 3301.0712 of the Revised Code 40112
to each superintendent. 40113

(M) Notwithstanding division (E) of this section, a school 40114
district may use a student's failure to attain a score in at least 40115
the proficient range on the mathematics assessment described by 40116
division (A)(1)(a) of section 3301.0710 of the Revised Code or on 40117

an assessment described by division (A)(1)(b), (c), (d), (e), or 40118
(f) of section 3301.0710 of the Revised Code as a factor in 40119
retaining that student in the current grade level. 40120

(N)(1) In the manner specified in divisions (N)(3) and (4) of 40121
this section, the assessments required by division (A)(1) of 40122
section 3301.0710 of the Revised Code shall become public records 40123
pursuant to section 149.43 of the Revised Code on the first day of 40124
July following the school year that the assessments were 40125
administered. 40126

(2) The department may field test proposed questions with 40127
samples of students to determine the validity, reliability, or 40128
appropriateness of questions for possible inclusion in a future 40129
year's assessment. The department also may use anchor questions on 40130
assessments to ensure that different versions of the same 40131
assessment are of comparable difficulty. 40132

Field test questions and anchor questions shall not be 40133
considered in computing scores for individual students. Field test 40134
questions and anchor questions may be included as part of the 40135
administration of any assessment required by division (A)(1) or 40136
(B)(1) of section 3301.0710 of the Revised Code. 40137

(3) Any field test question or anchor question administered 40138
under division (N)(2) of this section shall not be a public 40139
record. Such field test questions and anchor questions shall be 40140
redacted from any assessments which are released as a public 40141
record pursuant to division (N)(1) of this section. 40142

(4) This division applies to the assessments prescribed by 40143
division (A) of section 3301.0710 of the Revised Code. 40144

(a) The first administration of each assessment, as specified 40145
in former section 3301.0712 of the Revised Code, shall be a public 40146
record. 40147

(b) For subsequent administrations of each assessment, not 40148

less than forty per cent of the questions on the assessment that 40149
are used to compute a student's score shall be a public record. 40150
The department shall determine which questions will be needed for 40151
reuse on a future assessment and those questions shall not be 40152
public records and shall be redacted from the assessment prior to 40153
its release as a public record. However, for each redacted 40154
question, the department shall inform each city, local, and 40155
exempted village school district of the statewide academic 40156
standard adopted by the state board of education under section 40157
3301.079 of the Revised Code and the corresponding benchmark to 40158
which the question relates. The preceding sentence does not apply 40159
to field test questions that are redacted under division (N)(3) of 40160
this section. 40161

(5) Each assessment prescribed by division (B)(1) of section 40162
3301.0710 of the Revised Code shall not be a public record. 40163

(0) As used in this section: 40164

(1) "Three-year average" means the average of the most recent 40165
consecutive three school years of data. 40166

(2) "Dropout" means a student who withdraws from school 40167
before completing course requirements for graduation and who is 40168
not enrolled in an education program approved by the state board 40169
of education or an education program outside the state. "Dropout" 40170
does not include a student who has departed the country. 40171

(3) "Graduation rate" means the ratio of students receiving a 40172
diploma to the number of students who entered ninth grade four 40173
years earlier. Students who transfer into the district are added 40174
to the calculation. Students who transfer out of the district for 40175
reasons other than dropout are subtracted from the calculation. If 40176
a student who was a dropout in any previous year returns to the 40177
same school district, that student shall be entered into the 40178
calculation as if the student had entered ninth grade four years 40179

before the graduation year of the graduating class that the 40180
student joins. 40181

Sec. 3301.0712. (A) The state board of education, the 40182
superintendent of public instruction, and the chancellor of the 40183
Ohio board of regents shall develop a system of college and work 40184
ready assessments as described in divisions (B)(1) ~~to (3)~~ and (2) 40185
of this section to assess whether each student upon graduating 40186
from high school is ready to enter college or the workforce. The 40187
system shall replace the Ohio graduation tests prescribed in 40188
division (B)(1) of section 3301.0710 of the Revised Code as a 40189
measure of student academic performance and a prerequisite for 40190
eligibility for a high school diploma in the manner prescribed by 40191
rule of the state board adopted under division ~~(E)~~(D) of this 40192
section. 40193

(B) The college and work ready assessment system shall 40194
consist of the following: 40195

(1) A nationally standardized assessment that measures 40196
competencies in science, mathematics, and English language arts 40197
selected jointly by the state superintendent and the chancellor. 40198

(2) A series of end-of-course examinations in the areas of 40199
science, mathematics, English language arts, and social studies 40200
selected jointly by the state superintendent and the chancellor in 40201
consultation with faculty in the appropriate subject areas at 40202
institutions of higher education of the university system of Ohio. 40203

~~(3) A senior project completed by a student or a group of 40204
students. The purpose of the senior project is to assess the 40205
student's: 40206~~

~~(a) Mastery of core knowledge in a subject area chosen by the 40207
student; 40208~~

~~(b) Written and verbal communication skills; 40209~~

(c) Critical thinking and problem solving skills;	40210
(d) Real world and interdisciplinary learning;	40211
(e) Creative and innovative thinking;	40212
(f) Acquired technology, information, and media skills;	40213
(g) Personal management skills such as self direction, time management, work ethic, enthusiasm, and the desire to produce a high quality product.	40214 40215 40216
The state superintendent and the chancellor jointly shall develop standards for the senior project for students participating in dual enrollment programs.	40217 40218 40219
(C)(1) The state superintendent and the chancellor jointly shall designate the scoring rubrics and the required overall composite score for the assessment system to assess whether each student is college or work ready.	40220 40221 40222 40223
(2) Each senior project shall be judged by the student's high school in accordance with rubrics designated by the state superintendent and the chancellor.	40224 40225 40226
(D) Not later than thirty days after the state board adopts the model curricula required by division (B) of section 3301.079 of the Revised Code, the state board shall convene a group of national experts, state experts, and local practitioners to provide advice, guidance, and recommendations for the alignment of standards and model curricula to the assessments and in the design of the end-of-course examinations and scoring rubrics prescribed by this section.	40227 40228 40229 40230 40231 40232 40233 40234
(E)(D) Upon completion of the development of the assessment system, the state board shall adopt rules prescribing all of the following:	40235 40236 40237
(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board	40238 40239

determines such a phase-in is warranted; 40240

(2) The date after which a person entering ninth grade shall 40241
~~attain at least the composite score for~~ meet the requirements of 40242
the entire assessment system as a prerequisite for a high school 40243
diploma under ~~sections~~ section 3313.61, 3313.612, or 3325.08 of 40244
the Revised Code; 40245

(3) The date after which a person shall ~~attain at least the~~ 40246
~~composite score for~~ meet the requirements of the entire assessment 40247
system as a prerequisite for a diploma of adult education under 40248
section 3313.611 of the Revised Code; 40249

(4) Whether and the extent to which a person may be excused 40250
from a social studies end-of-course examination under division (H) 40251
of section 3313.61 and division (B)(2) of section 3313.612 of the 40252
Revised Code; 40253

(5) The date after which a person who has fulfilled the 40254
curriculum requirement for a diploma but has not passed one or 40255
more of the required assessments at the time the person fulfilled 40256
the curriculum requirement shall ~~attain at least the composite~~ 40257
~~score for~~ meet the requirements of the entire assessment system as 40258
a prerequisite for a high school diploma under division (B) of 40259
section 3313.614 of the Revised Code; 40260

(6) The extent to which the assessment system applies to 40261
students enrolled in a dropout recovery and prevention program for 40262
purposes of division (F) of section 3313.603 and section 3314.36 40263
of the Revised Code. 40264

No rule adopted under this division shall be effective 40265
earlier than one year after the date the rule is filed in final 40266
form pursuant to Chapter 119. of the Revised Code. 40267

~~(F)~~(E) Not later than forty-five days prior to the state 40268
board's adoption of a resolution directing the department of 40269
education to file the rules prescribed by division ~~(E)~~(D) of this 40270

section in final form under section 119.04 of the Revised Code, 40271
the superintendent of public instruction shall present the 40272
assessment system developed under this section to the respective 40273
committees of the house of representatives and senate that 40274
consider education legislation. 40275

Sec. 3301.16. Pursuant to standards prescribed by the state 40276
board of education as provided in division (D) of section 3301.07 40277
of the Revised Code, the state board shall classify and charter 40278
school districts and individual schools within each district 40279
except that no charter shall be granted to a nonpublic school 40280
unless the school complies with section 3313.612 of the Revised 40281
Code. 40282

In the course of considering the charter of a new school 40283
district created under section 3311.26 or 3311.38 of the Revised 40284
Code, the state board shall require the party proposing creation 40285
of the district to submit to the board a map, certified by the 40286
county auditor of the county in which the proposed new district is 40287
located, showing the boundaries of the proposed new district. In 40288
the case of a proposed new district located in more than one 40289
county, the map shall be certified by the county auditor of each 40290
county in which the proposed district is located. 40291

The state board shall revoke the charter of any school 40292
district or school which fails to meet the standards for 40293
elementary and high schools as prescribed by the board. The state 40294
board shall also revoke the charter of any nonpublic school that 40295
does not comply with section 3313.612 of the Revised Code. ~~The~~ 40296
~~state board may revoke the charter of any school district that~~ 40297
~~fails to meet the operating standards established under division~~ 40298
~~(D)(3) of section 3301.07 of the Revised Code.~~ 40299

In the issuance and revocation of school district or school 40300
charters, the state board shall be governed by the provisions of 40301

Chapter 119. of the Revised Code. 40302

No school district, or individual school operated by a school 40303
district, shall operate without a charter issued by the state 40304
board under this section. 40305

In case a school district charter is revoked pursuant to this 40306
section, the state board may dissolve the school district and 40307
transfer its territory to one or more adjacent districts. An 40308
equitable division of the funds, property, and indebtedness of the 40309
school district shall be made by the state board among the 40310
receiving districts. The board of education of a receiving 40311
district shall accept such territory pursuant to the order of the 40312
state board. Prior to dissolving the school district, the state 40313
board shall notify the appropriate educational service center 40314
governing board and all adjacent school district boards of 40315
education of its intention to do so. Boards so notified may make 40316
recommendations to the state board regarding the proposed 40317
dissolution and subsequent transfer of territory. Except as 40318
provided in section 3301.161 of the Revised Code, the transfer 40319
ordered by the state board shall become effective on the date 40320
specified by the state board, but the date shall be at least 40321
thirty days following the date of issuance of the order. 40322

A high school is one of higher grade than an elementary 40323
school, in which instruction and training are given in accordance 40324
with sections 3301.07 and 3313.60 of the Revised Code and which 40325
also offers other subjects of study more advanced than those 40326
taught in the elementary schools and such other subjects as may be 40327
approved by the state board of education. 40328

An elementary school is one in which instruction and training 40329
are given in accordance with sections 3301.07 and 3313.60 of the 40330
Revised Code and which offers such other subjects as may be 40331
approved by the state board of education. In districts wherein a 40332
junior high school is maintained, the elementary schools in that 40333

district may be considered to include only the work of the first 40334
six school years inclusive, plus the kindergarten year. 40335

~~A high school or an elementary school may consist of less 40336
than one or more than one organizational unit, as defined in 40337
sections 3306.02 and 3306.04 of the Revised Code. 40338~~

Sec. 3301.162. (A) If the governing authority of a chartered 40339
nonpublic school intends to close the school, the governing 40340
authority shall notify all of the following of that intent prior 40341
to closing the school: 40342

(1) The department of education; 40343

(2) The school district that receives auxiliary services 40344
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 40345
Code on behalf of the students enrolled in the school; 40346

(3) The accrediting association that most recently accredited 40347
the school for purposes of chartering the school in accordance 40348
with the rules of the state board of education, if applicable. 40349

The notice shall include the school year and, if possible, 40350
the actual date the school will close. 40351

(B) The chief administrator of each chartered nonpublic 40352
school that closes shall deposit the school's records with either: 40353

(1) The accrediting association that most recently accredited 40354
the school for purposes of chartering the school in accordance 40355
with the rules of the state board, if applicable; 40356

(2) The school district that received auxiliary services 40357
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 40358
Code on behalf of the students enrolled in the school. 40359

The school district that receives the records may charge for 40360
and receive a one-time reimbursement from auxiliary services 40361
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 40362

Code for costs the district incurred to store the records. 40363

Sec. 3301.70. (A) The state board of education is the 40364
designated state agency responsible for the coordination and 40365
administration of sections 110 to 118 of the "National and 40366
Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C. 40367
12401 to 12431, as amended. With the assistance of the Ohio 40368
~~community~~ commission on service council and volunteerism created 40369
in section 121.40 of the Revised Code, the state board shall 40370
coordinate with other state agencies to apply for funding under 40371
the act when appropriate. 40372

(B) With the assistance of the Ohio ~~community~~ commission on 40373
service council and volunteerism, the state board of education 40374
shall develop a plan to assist school districts in the 40375
implementation of section 3313.605 of the Revised Code and other 40376
community service activities of school districts. The state board 40377
shall encourage the development of school district programs 40378
meeting the requirements for funding under the National and 40379
Community Service Act of 1990. The plan shall include the 40380
investigation of funding from all available sources for school 40381
community service education programs, including funds available 40382
under the National and Community Service Act of 1990, and the 40383
provision of technical assistance to school districts for the 40384
implementation of community service education programs. The plan 40385
shall also provide for technical assistance to be given to school 40386
boards to assist in obtaining funds for community service 40387
education programs from any source. 40388

(C) With the assistance of the Ohio ~~community~~ commission on 40389
service council and volunteerism, the state board of education 40390
shall do all of the following: 40391

(1) Disseminate information about school district community 40392
service education programs to other school districts and to 40393

statewide organizations involved with or promoting volunteerism; 40394

(2) Recruit additional school districts to develop community 40395
service education programs; 40396

(3) Identify or develop model community service programs, 40397
teacher training courses, and community service curricula and 40398
teaching materials for possible use by school districts in their 40399
programs. 40400

Sec. 3302.02. Not later than one year after the adoption of 40401
rules under division ~~(E)~~(D) of section 3301.0712 of the Revised 40402
Code and at least every sixth year thereafter, upon 40403
recommendations of the superintendent of public instruction, the 40404
state board of education shall establish performance indicators 40405
for the report cards required by division (C) of section 3302.03 40406
of the Revised Code. In establishing these indicators, the 40407
superintendent shall consider inclusion of student performance on 40408
assessments prescribed under section 3301.0710 or 3301.0712 of the 40409
Revised Code, rates of student improvement on such assessments, 40410
student attendance, the breadth of coursework available within the 40411
district, and other indicators of student success. Not later than 40412
December 31, 2011, the state board, upon recommendation of the 40413
superintendent, shall establish a performance indicator reflecting 40414
the level of services provided to, and the performance of, 40415
students identified as gifted under Chapter 3324. of the Revised 40416
Code. 40417

The superintendent shall inform the Ohio accountability task 40418
force established under section 3302.021 of the Revised Code of 40419
the performance indicators the superintendent establishes under 40420
this section and the rationale for choosing each indicator and for 40421
determining how a school district or building meets that 40422
indicator. 40423

The superintendent shall not establish any performance 40424

indicator for passage of the third or fourth grade English 40425
language arts assessment that is solely based on the assessment 40426
given in the fall for the purpose of determining whether students 40427
have met the reading guarantee provisions of section 3313.608 of 40428
the Revised Code. 40429

Sec. 3302.031. In addition to the report cards required under 40430
section 3302.03 of the Revised Code, the department of education 40431
shall annually prepare the following reports for each school 40432
district and make a copy of each report available to the 40433
superintendent of each district: 40434

(A) A funding and expenditure accountability report which 40435
shall consist of the amount of state aid payments the school 40436
district will receive during the fiscal year under ~~Chapters 3306-~~ 40437
~~and Chapter~~ 3317. of the Revised Code and any other fiscal data 40438
the department determines is necessary to inform the public about 40439
the financial status of the district; 40440

(B) A school safety and discipline report which shall consist 40441
of statistical information regarding student safety and discipline 40442
in each school building, including the number of suspensions and 40443
expulsions disaggregated according to race and gender; 40444

(C) A student equity report which shall consist of at least a 40445
description of the status of teacher qualifications, library and 40446
media resources, textbooks, classroom materials and supplies, and 40447
technology resources for each district. To the extent possible, 40448
the information included in the report required under this 40449
division shall be disaggregated according to grade level, race, 40450
gender, disability, and scores attained on assessments required 40451
under section 3301.0710 of the Revised Code. 40452

(D) A school enrollment report which shall consist of 40453
information about the composition of classes within each district 40454
by grade and subject disaggregated according to race, gender, and 40455

scores attained on assessments required under section 3301.0710 of the Revised Code; 40456
40457

(E) A student retention report which shall consist of the number of students retained in their respective grade levels in the district disaggregated by grade level, subject area, race, gender, and disability; 40458
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(F) A school district performance report which shall describe for the district and each building within the district the extent to which the district or building meets each of the applicable performance indicators established under section 3302.02 of the Revised Code, the number of performance indicators that have been achieved, and the performance index score. In calculating the rates of achievement on the performance indicators and the performance index scores for each report, the department shall exclude all students with disabilities. 40462
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Sec. 3302.042. (A) The department of education annually shall rank all schools statewide that are operated by a city, exempted village, or local school district in order according to the schools' performance index scores. 40471
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(B) This section shall operate as a pilot project that applies to any school that has been ranked in the lowest five per cent of performance index scores statewide for three or more consecutive school years and is operated by the Columbus city school district. 40475
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(C) Except as provided in division (E) of this section, if the parents or guardians of at least fifty per cent of the students enrolled in a school to which this section applies, or if the parents or guardians of at least fifty per cent of the total number of students enrolled in that school and the schools of lower grade levels whose students typically matriculate into that school, sign and file with the school district treasurer a 40480
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petition requesting the district board of education to implement 40487
one of the following reforms in the school, and if the validity 40488
and sufficiency of the petition is certified in accordance with 40489
division (D) of this section, the board shall implement the 40490
requested reform in the next school year: 40491

(1) Reopen the school as a community school under Chapter 40492
3314. of the Revised Code; 40493

(2) Replace at least seventy per cent of the school's 40494
personnel who are related to the school's poor academic 40495
performance or, at the request of the petitioners, retain not more 40496
than thirty per cent of the personnel; 40497

(3) Contract with another school district or a nonprofit or 40498
for-profit entity with a demonstrated record of effectiveness to 40499
operate the school; 40500

(4) Turn operation of the school over to the department; 40501

(5) Any other major restructuring of the school that makes 40502
fundamental reforms in the school's staffing or governance. 40503

(D) Not later than thirty days after receipt of a petition 40504
under division (C) of this section, the district treasurer shall 40505
verify the validity and sufficiency of the signatures on the 40506
petition and certify to the district board whether the petition 40507
contains the necessary number of valid signatures to require the 40508
board to implement the reform requested by the petitioners. If the 40509
treasurer certifies to the district board that the petition does 40510
not contain the necessary number of valid signatures, any person 40511
who signed the petition may file an appeal with the county auditor 40512
within ten days after the certification. Not later than thirty 40513
days after the filing of an appeal, the county auditor shall 40514
conduct an independent verification of the validity and 40515
sufficiency of the signatures on the petition and certify to the 40516
district board whether the petition contains the necessary number 40517

of valid signatures to require the board to implement the 40518
requested reform. If the treasurer or county auditor certifies 40519
that the petition contains the necessary number of valid 40520
signatures, the district board shall notify the superintendent of 40521
public instruction and the state board of education of the 40522
certification. 40523

(E) The district board shall not implement the reform 40524
requested by the petitioners in any of the following 40525
circumstances: 40526

(1) The district board has determined that the request is for 40527
reasons other than improving student academic achievement or 40528
student safety. 40529

(2) The state superintendent has determined that 40530
implementation of the requested reform would not comply with the 40531
model of differentiated accountability described in section 40532
3302.041 of the Revised Code. 40533

(3) The petitioners have requested the district board to 40534
implement the reform described in division (C)(4) of this section 40535
and the department has not agreed to take over the school's 40536
operation. 40537

(4) When all of the following have occurred: 40538

(a) After a public hearing on the matter, the district board 40539
issued a written statement explaining the reasons that it is 40540
unable to implement the requested reform and agreeing to implement 40541
one of the other reforms described in division (C) of this 40542
section. 40543

(b) The district board submitted its written statement to the 40544
state superintendent and the state board along with evidence 40545
showing how the alternative reform the district board has agreed 40546
to implement will enable the school to improve its academic 40547
performance. 40548

(c) Both the state superintendent and the state board have 40549
approved implementation of the alternative reform. 40550

(F) Beginning not later than six months after the first 40551
petition under this section has been resolved, the department of 40552
education shall annually evaluate the pilot program and submit a 40553
report to the general assembly under section 101.68 of the Revised 40554
Code. Such reports shall contain its recommendations to the 40555
general assembly with respect to the continuation of the pilot 40556
program, its expansion to other school districts, or the enactment 40557
of further legislation establishing the program statewide under 40558
permanent law. 40559

Sec. 3302.05. The state board of education shall adopt rules 40560
freeing school districts declared to be excellent under division 40561
(B)(1) or effective under division (B)(2) of section 3302.03 of 40562
the Revised Code from specified state mandates. Any mandates 40563
included in the rules shall be only those statutes or rules 40564
pertaining to state education requirements. The rules shall not 40565
exempt districts ~~from any standard or requirement of section~~ 40566
~~3306.09 of the Revised Code or~~ from any operating standard adopted 40567
under division (D)(3) of section 3301.07 or from the requirements 40568
of sections 3317.141, 3319.08, 3319.111, or 3319.17 of the Revised 40569
Code. 40570

Sec. 3302.06. (A) Any school operated by a city, exempted 40571
village, or local school district may apply to the district board 40572
of education to be designated as an innovation school. Each 40573
application shall include an innovation plan that contains the 40574
following: 40575

(1) A statement of the school's mission and an explanation of 40576
how the designation would enhance the school's ability to fulfill 40577
its mission; 40578

<u>(2) A description of the innovations the school would</u>	40579
<u>implement;</u>	40580
<u>(3) An explanation of how implementation of the innovations</u>	40581
<u>described in division (A)(2) of this section would affect the</u>	40582
<u>school's programs and policies, including any of the following</u>	40583
<u>that apply:</u>	40584
<u>(a) The school's educational program;</u>	40585
<u>(b) The length of the school day and the school year;</u>	40586
<u>(c) The school's student promotion policy;</u>	40587
<u>(d) The school's plan for the assessment of students;</u>	40588
<u>(e) The school's budget;</u>	40589
<u>(f) The school's staffing levels.</u>	40590
<u>(4) A description of the improvements in student academic</u>	40591
<u>performance that the school expects to achieve by implementing the</u>	40592
<u>innovations described in division (A)(2) of this section;</u>	40593
<u>(5) An estimate of the cost savings and increased</u>	40594
<u>efficiencies, if any, that the school expects to achieve by</u>	40595
<u>implementing the innovations described in division (A)(2) of this</u>	40596
<u>section;</u>	40597
<u>(6) A description of any laws in Title XXXIII of the Revised</u>	40598
<u>Code, rules adopted by the state board of education, or</u>	40599
<u>requirements enacted by the district board that would need to be</u>	40600
<u>waived to implement the innovations described in division (A)(2)</u>	40601
<u>of this section;</u>	40602
<u>(7) A description of any provisions of a collective</u>	40603
<u>bargaining agreement covering personnel of the school that would</u>	40604
<u>need to be waived to implement the innovations described in</u>	40605
<u>division (A)(2) of this section;</u>	40606
<u>(8) Evidence that a majority of the administrators assigned</u>	40607

to the school and a majority of the teachers assigned to the 40608
school consent to seeking the designation and a statement of the 40609
level of support for seeking the designation demonstrated by other 40610
staff working in the school, students enrolled in the school and 40611
their parents, and members of the community in which the school is 40612
located. 40613

(B) Two or more schools that are operated by the district may 40614
apply to the district board to be designated as an innovation 40615
school zone, if the schools share common interests based on 40616
factors such as geographical proximity or similar educational 40617
programs or if the schools serve the same classes of students as 40618
they advance to higher grade levels. Each application shall 40619
include an innovation plan that contains the information 40620
prescribed by divisions (A)(1) to (8) of this section for each 40621
participating school and the following additional information: 40622

(1) A description of how innovations in the participating 40623
schools would be integrated to achieve results that would be less 40624
likely to be achieved by each participating school alone; 40625

(2) An estimate of any economies of scale that would be 40626
realized by implementing innovations jointly. 40627

Sec. 3302.061. (A) A school district board of education shall 40628
review each application received under section 3302.06 of the 40629
Revised Code and, within sixty days after receipt of the 40630
application, shall approve or disapprove the application. In 40631
reviewing applications, the board shall give preference to 40632
applications that propose innovations in one or more of the 40633
following areas: 40634

(1) Curriculum; 40635

(2) Student assessments, other than the assessments 40636
prescribed by sections 3301.0710 and 3301.0712 of the Revised 40637

<u>Code;</u>	40638
<u>(3) Class scheduling;</u>	40639
<u>(4) Accountability measures, including innovations that</u>	40640
<u>expand the number and variety of measures used in order to collect</u>	40641
<u>more complete data about student academic performance. For this</u>	40642
<u>purpose, schools may consider use of measures such as</u>	40643
<u>end-of-course examinations, portfolios of student work, nationally</u>	40644
<u>or internationally normed assessments, the percentage of students</u>	40645
<u>enrolling in post-secondary education, or the percentage of</u>	40646
<u>students simultaneously obtaining a high school diploma and an</u>	40647
<u>associate's degree or certification to work in an industry or</u>	40648
<u>career field.</u>	40649
<u>(5) Provision of student services, including services for</u>	40650
<u>students who are disabled, identified as gifted under Chapter</u>	40651
<u>3324. of the Revised Code, limited English proficient, at risk of</u>	40652
<u>academic failure or dropping out, or at risk of suspension or</u>	40653
<u>expulsion;</u>	40654
<u>(6) Provision of health, counseling, or other social services</u>	40655
<u>to students;</u>	40656
<u>(7) Preparation of students for transition to higher</u>	40657
<u>education or the workforce;</u>	40658
<u>(8) Teacher recruitment, employment, and evaluation;</u>	40659
<u>(9) Compensation for school personnel;</u>	40660
<u>(10) Professional development;</u>	40661
<u>(11) School governance and the roles and responsibilities of</u>	40662
<u>principals;</u>	40663
<u>(12) Use of financial or other resources.</u>	40664
<u>(B)(1) If the board approves an application seeking</u>	40665
<u>designation as an innovation school, it shall so designate the</u>	40666
<u>school that submitted the application. If the board approves an</u>	40667

application seeking designation as an innovation school zone, it shall so designate the participating schools that submitted the application. 40668
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(2) If the board disapproves an application, it shall provide a written explanation of the basis for its decision to the school or schools that submitted the application. The school or schools may reapply for designation as an innovation school or innovation school zone at any time. 40671
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(C) The board may approve an application that allows an innovation school or a school participating in an innovation school zone to determine the compensation of board employees working in the school, but the total compensation for all such employees shall not exceed the financial resources allocated to the school by the board. The school shall not be required to comply with the salary schedule adopted by the board under section 3317.14 or 3317.141 of the Revised Code. The board may approve an application that allows an innovation school or a school participating in an innovation school zone to remove board employees from the school, but no employee shall be terminated except as provided in section 3319.081 or 3319.16 of the Revised Code. 40676
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(D) The board may do either of the following at any time: 40689

(1) Designate a school as an innovation school by creating an innovation plan for that school and offering the school an opportunity to participate in the plan's creation; 40690
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(2) Designate as an innovation school zone two or more schools that share common interests based on factors such as geographical proximity or similar educational programs or that serve the same classes of students as they advance to higher grade levels, by creating an innovation plan for those schools and offering the schools an opportunity to participate in the plan's 40693
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creation. 40699

Sec. 3302.062. (A) If a school district board of education 40700
approves an application under division (B)(1) of section 3302.061 40701
of the Revised Code or designates an innovation school or 40702
innovation school zone under division (D) of that section, the 40703
district board shall apply to the state board of education for 40704
designation as a school district of innovation by submitting to 40705
the state board the innovation plan included in the approved 40706
application or created by the district board. 40707

Within sixty days after receipt of the application, the state 40708
board shall designate the district as a school district of 40709
innovation, unless the state board determines that the submitted 40710
innovation plan is not financially feasible or will likely result 40711
in decreased academic achievement. If the state board so 40712
determines, it shall provide a written explanation of the basis 40713
for its determination to the district board. If the district is 40714
not designated as a school district of innovation, the district 40715
board shall not implement the innovation plan. However, the 40716
district board may reapply for designation as a school district of 40717
innovation at any time. 40718

(B) A district board may request the state board to make a 40719
preliminary review of an innovation plan prior to the district 40720
board's formal application for designation as a school district of 40721
innovation. In that case, the state board shall review the 40722
innovation plan and, within sixty days after the request, 40723
recommend to the district board any changes or additions that the 40724
state board believes will improve the plan, which may include 40725
further innovations or measures to increase the likelihood that 40726
the innovations will result in higher academic achievement. The 40727
district board may revise the innovation plan prior to making 40728
formal application for designation as a school district of 40729

innovation. 40730

Sec. 3302.063. (A) Except as provided in division (B) of this 40731
section, upon designation of a school district of innovation under 40732
section 3302.062 of the Revised Code, the state board of education 40733
shall waive any laws in Title XXXIII of the Revised Code or rules 40734
adopted by the state board that are specified in the innovation 40735
plan submitted by the district board of education as needing to be 40736
waived to implement the plan. The waiver shall apply only to the 40737
school or schools participating in the innovation plan and shall 40738
not apply to the district as a whole, unless each of the 40739
district's schools is a participating school. The waiver shall 40740
cease to apply to a school if the school's designation as an 40741
innovation school is revoked or the innovation school zone in 40742
which the school participates has its designation revoked under 40743
section 3302.065 of the Revised Code, or if the school is removed 40744
from an innovation school zone under that section or section 40745
3302.064 of the Revised Code. 40746

(B) The state board shall not waive any law or rule regarding 40747
the following: 40748

(1) Funding for school districts under Chapter 3317. of the 40749
Revised Code; 40750

(2) The requirements of Chapters 3323. and 3324. of the 40751
Revised Code for the provision of services to students with 40752
disabilities and gifted students; 40753

(3) Requirements related to the provision of career-technical 40754
education that are necessary to comply with federal law or 40755
maintenance of effort provisions; 40756

(4) Administration of the assessments prescribed by sections 40757
3301.0710, 3301.0712, and 3301.0715 of the Revised Code; 40758

(5) Requirements related to the issuance of report cards and 40759

<u>the assignment of performance ratings under section 3302.03 of the Revised Code;</u>	40760
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<u>(6) Implementation of the model of differentiated accountability under section 3302.041 of the Revised Code;</u>	40762
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<u>(7) Requirements for the reporting of data to the department of education;</u>	40764
	40765
<u>(8) Criminal records checks of school employees;</u>	40766
<u>(9) The requirements of Chapters 3307. and 3309. regarding the retirement systems for teachers and school employees.</u>	40767
	40768
<u>(C) If a district board's revisions to an innovation plan under section 3302.066 of the Revised Code require a waiver of additional laws or state board rules, the state board shall grant a waiver from those laws or rules upon evidence that administrators and teachers have consented to the revisions as required by that section.</u>	40769
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Sec. 3302.064. <u>(A) Each collective bargaining agreement entered into by a school district board of education under Chapter 4117. of the Revised Code on or after the effective date of this section shall allow for the waiver of any provision of the agreement specified in the innovation plan approved or created under section 3302.061 of the Revised Code as needing to be waived to implement the plan, in the event the district is designated as a school district of innovation.</u>	40775
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<u>(B)(1) In the case of an innovation school, waiver of the provisions specified in the innovation plan shall be contingent upon at least sixty per cent of the members of the bargaining unit covered by the collective bargaining agreement who work in the school voting, by secret ballot, to approve the waiver.</u>	40783
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<u>(2) In the case of an innovation school zone, waiver of the provisions specified in the innovation plan shall be contingent</u>	40788
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upon, in each participating school, at least sixty per cent of the 40790
members of the bargaining unit covered by the collective 40791
bargaining agreement who work in that school voting, by secret 40792
ballot, to approve the waiver. If at least sixty per cent of the 40793
members of the bargaining unit in a participating school do not 40794
vote to approve the waiver, the board may revise the innovation 40795
plan to remove that school from the innovation school zone. 40796

(3) If a board's revisions to an innovation plan under 40797
section 3302.066 of the Revised Code require a waiver of 40798
additional provisions of the collective bargaining agreement, that 40799
waiver shall be contingent upon approval under division (B)(1) or 40800
(2) of this section in the same manner as the initial waiver. 40801

(C) A waiver approved under division (B) of this section 40802
shall continue to apply relative to any substantially similar 40803
provision of a collective bargaining agreement entered into after 40804
the approval of the waiver. 40805

(D) A waiver approved under division (B) of this section 40806
shall cease to apply to a school if the school's designation as an 40807
innovation school is revoked or the innovation school zone in 40808
which the school participates has its designation revoked under 40809
section 3302.065 of the Revised Code, or if the school is removed 40810
from an innovation school zone under that section. 40811

(E) An employee working in an innovation school or a school 40812
participating in an innovation school zone who is a member of a 40813
bargaining unit that approves a waiver under division (B) of this 40814
section may request the board to transfer the employee to another 40815
school operated by the district. The board shall make every 40816
reasonable effort to accommodate the employee's request. 40817

Sec. 3302.065. Not later than three years after obtaining 40818
designation as a school district of innovation under section 40819
3302.062 of the Revised Code, and every three years thereafter, 40820

the district board of education shall review the performance of 40821
the innovation school or innovation school zone and determine if 40822
it is achieving, or making sufficient progress toward achieving, 40823
the improvements in student academic performance that were 40824
described in its innovation plan. If the board finds that an 40825
innovation school is not achieving, or not making sufficient 40826
progress toward achieving, those improvements in student academic 40827
performance, the board may revoke the designation as an innovation 40828
school. If the board finds that a school participating in an 40829
innovation school zone is not achieving, or not making sufficient 40830
progress toward achieving, those improvements in student academic 40831
performance, the board may remove that school from the innovation 40832
school zone or may revoke the designation of all participating 40833
schools as an innovation school zone. 40834

Sec. 3302.066. A school district board of education may 40835
revise an innovation plan approved or created under section 40836
3302.061 of the Revised Code, in collaboration with the school or 40837
schools participating in the plan, to further improve student 40838
academic performance. The revisions may include identifying 40839
additional laws in Title XXXIII of the Revised Code, rules adopted 40840
by the state board of education, requirements enacted by the 40841
district board, or provisions of a collective bargaining agreement 40842
that need to be waived. Any revisions to an innovation plan shall 40843
require the consent, in each school participating in the plan, of 40844
a majority of the administrators assigned to that school and a 40845
majority of the teachers assigned to that school. 40846

Sec. 3302.067. The board of education of any district 40847
designated as a school district of innovation or any school 40848
participating in an innovation plan may accept, receive, and 40849
expend gifts, grants, or donations from any public or private 40850

entity to support the implementation of the plan. 40851

Sec. 3302.068. Not later than the first day of July each 40852
year, the department of education shall issue, and post on its web 40853
site, a report on school districts of innovation. The report shall 40854
include the following information: 40855

(A) The number of districts designated as school districts of 40856
innovation in the preceding school year and the total number of 40857
school districts of innovation statewide; 40858

(B) The number of innovation schools in each school district 40859
of innovation and the number of district students served by the 40860
schools, expressed as a total number and as a percentage of the 40861
district's total student population; 40862

(C) The number of innovation school zones in each school 40863
district of innovation, the number of schools participating in 40864
each zone, and the number of district students served by the 40865
participating schools, expressed as a total number and as a 40866
percentage of the district's total student population; 40867

(D) An overview of the innovations implemented in innovation 40868
schools and innovation school zones; 40869

(E) Data on the academic performance of the students enrolled 40870
in an innovation school or an innovation school zone in each 40871
school district of innovation, including a comparison of the 40872
students' academic performance before and after the district's 40873
designation as a school district of innovation; 40874

(F) Recommendations for legislative changes based on the 40875
innovations implemented or to enhance the ability of schools and 40876
districts to implement innovations. 40877

Sec. 3302.07. (A) The board of education of any school 40878
district, the governing board of any educational service center, 40879

or the administrative authority of any chartered nonpublic school 40880
may submit to the state board of education an application 40881
proposing an innovative education pilot program the implementation 40882
of which requires exemptions from specific statutory provisions or 40883
rules. If a district or service center board employs teachers 40884
under a collective bargaining agreement adopted pursuant to 40885
Chapter 4117. of the Revised Code, any application submitted under 40886
this division shall include the written consent of the teachers' 40887
employee representative designated under division (B) of section 40888
4117.04 of the Revised Code. The exemptions requested in the 40889
application shall be limited to any requirement of Title XXXVIII of 40890
the Revised Code or of any rule of the state board adopted 40891
pursuant to that title except that the application may not propose 40892
an exemption from any requirement of or rule adopted pursuant to 40893
~~section 3306.09~~, Chapter 3307. or 3309., sections 3319.07 to 40894
3319.21, or Chapter 3323. of the Revised Code. Furthermore, an 40895
exemption from any operating standard adopted under division 40896
(B)(2) or (D)~~(3)~~ of section 3301.07 of the Revised Code shall be 40897
granted only pursuant to a waiver granted by the superintendent of 40898
public instruction under division (O) of that section. 40899

(B) The state board of education shall accept any application 40900
submitted in accordance with division (A) of this section. The 40901
superintendent of public instruction shall approve or disapprove 40902
the application in accordance with standards for approval, which 40903
shall be adopted by the state board. 40904

(C) The superintendent of public instruction shall exempt 40905
each district or service center board or chartered nonpublic 40906
school administrative authority with an application approved under 40907
division (B) of this section for a specified period from the 40908
statutory provisions or rules specified in the approved 40909
application. The period of exemption shall not exceed the period 40910
during which the pilot program proposed in the application is 40911

being implemented and a reasonable period to allow for evaluation 40912
of the effectiveness of the program. 40913

Sec. 3302.12. (A) Not later than the first day of September 40914
each year, the superintendent of public instruction shall rank all 40915
school buildings operated by a school district statewide from 40916
highest to lowest according to the buildings' performance index 40917
scores. For school buildings to which the performance index score 40918
does not apply, the superintendent shall develop another measure 40919
of student academic performance and use that measure to include 40920
those buildings in the ranking so that all district-operated 40921
buildings may be reliably compared to each other. 40922

(B) For any school building that is ranked in the lowest five 40923
per cent of all district-operated buildings statewide for three 40924
consecutive years and is declared to be under an academic watch or 40925
in a state of academic emergency under section 3302.03 of the 40926
Revised Code, the district board of education shall do one of the 40927
following at the conclusion of the school year in which the 40928
building first becomes subject to this division: 40929

(1) Close the school and direct the district superintendent 40930
to reassign the students enrolled in the school to other school 40931
buildings that demonstrate higher academic achievement; 40932

(2) Contract with another school district or a nonprofit or 40933
for-profit entity with a demonstrated record of effectiveness to 40934
operate the school; 40935

(3) Replace the principal and all teaching staff of the 40936
school and, upon request from the new principal, exempt the school 40937
from all requested policies and regulations of the board regarding 40938
curriculum and instruction. The board also shall distribute 40939
funding to the school in an amount that is at least equal to the 40940
product of the per pupil amount of all revenues received by the 40941
district multiplied by the student population of the school. 40942

(4) Reopen the school as a conversion community school under Chapter 3314. of the Revised Code. 40943
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(C) If an action taken by the board under division (B) of this section causes the district to no longer maintain all grades kindergarten through twelve, as required by section 3311.29 of the Revised Code, the board shall enter into a contract with another school district pursuant to section 3327.04 of the Revised Code for enrollment of students in the schools of that other district to the extent necessary to comply with the requirement of section 3311.29 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, if the board enters into and maintains a contract under section 3327.04 of the Revised Code, the district shall not be considered to have failed to comply with the requirement of section 3311.29 of the Revised Code. If, however, the district board fails to or is unable to enter into or maintain such a contract, the state board of education shall take all necessary actions to dissolve the district as provided in division (A) of section 3311.29 of the Revised Code. 40945
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Sec. 3302.20. (A) The department of education shall develop standards for determining, from the existing data reported in accordance with sections 3301.0714 and 3314.17 of the Revised Code, the amount of annual operating expenditures for classroom instructional purposes and for nonclassroom purposes for each city, exempted village, local, and joint vocational school district, each community school established under Chapter 3314. that is not an internet- or computer-based community school, each internet- or computer-based community school, and each STEM school established under Chapter 3326. of the Revised Code. Not later than January 1, 2012, the department shall present those standards to the state board of education for consideration. In developing the standards, the department shall adapt existing standards used by professional organizations, research organizations, and other 40961
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state governments. 40975

The state board shall consider the proposed standards and 40976
adopt a final set of standards not later than July 1, 2012. 40977

(B)(1) The department shall categorize all city, exempted 40978
village, and local school districts into not less than three nor 40979
more than five groups based primarily on average daily student 40980
enrollment as reported on the most recent report card issued for 40981
each district under section 3302.03 of the Revised Code. 40982

(2) The department shall categorize all joint vocational 40983
school districts into not less than three nor more than five 40984
groups based primarily on average daily membership as reported 40985
under division (D) of section 3317.03 of the Revised Code rounded 40986
to the nearest whole number. 40987

(3) The department shall categorize all community schools 40988
that are not internet- or computer-based community schools into 40989
not less than three nor more than five groups based primarily on 40990
average daily student enrollment as reported on the most recent 40991
report card issued for each community school under sections 40992
3302.03 and 3314.012 of the Revised Code. 40993

(4) The department shall categorize all internet- or 40994
computer-based community schools into a single category. 40995

(5) The department shall categorize all STEM schools into a 40996
single category. 40997

(C) Using the standards adopted under division (A) of this 40998
section and the data reported under sections 3301.0714 and 3314.17 40999
of the Revised Code, the department shall compute, for fiscal 41000
years 2008 through 2012, and annually for each fiscal year 41001
thereafter, the following: 41002

(1) The percentage of each district's, community school's, or 41003
STEM school's total operating budget spent for classroom 41004

<u>instructional purposes;</u>	41005
<u>(2) The statewide average percentage for all districts,</u>	41006
<u>community schools, and STEM schools combined spent for classroom</u>	41007
<u>instructional purposes;</u>	41008
<u>(3) The average percentage for each of the categories of</u>	41009
<u>districts and schools established under division (B) of this</u>	41010
<u>section spent for classroom instructional purposes;</u>	41011
<u>(4) The ranking of each district, community school, or STEM</u>	41012
<u>school within its respective category established under division</u>	41013
<u>(B) of this section according to the following:</u>	41014
<u>(a) From highest to lowest percentage spent for classroom</u>	41015
<u>instructional purposes;</u>	41016
<u>(b) From lowest to highest percentage spent for</u>	41017
<u>noninstructional purposes.</u>	41018
<u>(D) In its display of rankings within each category under</u>	41019
<u>division (C)(4) of this section, the department shall make the</u>	41020
<u>following notations:</u>	41021
<u>(1) Within each category of city, exempted village, and local</u>	41022
<u>school districts, the department shall denote each district that</u>	41023
<u>is:</u>	41024
<u>(a) Among the twenty per cent of all city, exempted village,</u>	41025
<u>and local school districts statewide with the lowest total</u>	41026
<u>operating expenditures per pupil;</u>	41027
<u>(b) Among the twenty per cent of all city, exempted village,</u>	41028
<u>and local school districts statewide with the highest performance</u>	41029
<u>index scores.</u>	41030
<u>(2) Within each category of joint vocational school</u>	41031
<u>districts, the department shall denote each district that is:</u>	41032
<u>(a) Among the twenty per cent of all joint vocational school</u>	41033
<u>districts statewide with the lowest total operating expenditures</u>	41034

<u>per pupil;</u>	41035
<u>(b) Among the twenty per cent of all joint vocational school districts statewide with the highest performance measures required for career-technical education under 20 U.S.C. 2323, as ranked under division (A)(3) of section 3302.21 of the Revised Code.</u>	41036 41037 41038 41039
<u>(3) Within each category of community schools that are not internet- or computer-based community schools, the department shall denote each school that is:</u>	41040 41041 41042
<u>(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil;</u>	41043 41044
<u>(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores.</u>	41045 41046
<u>(4) Within the category of internet- or computer-based community schools, the department shall denote each school that is:</u>	41047 41048 41049
<u>(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil;</u>	41050 41051
<u>(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores.</u>	41052 41053
<u>(5) Within the category of STEM schools, the department shall denote each school that is:</u>	41054 41055
<u>(a) Among the twenty per cent of all STEM schools statewide with the lowest total operating expenditures per pupil;</u>	41056 41057
<u>(b) Among the twenty per cent of all STEM schools statewide with the highest performance index scores.</u>	41058 41059
<u>(E) The department shall post in a prominent location on its web site the information prescribed by divisions (C) and (D) of this section. The department also shall include on each district's, community school's, and STEM school's annual report card issued under section 3302.03 of the Revised Code the</u>	41060 41061 41062 41063 41064

respective information computed for the district or school under divisions (C)(1) and (4) of this section, the statewide information computed under division (C)(2) of this section, and the information computed for the district's or school's category under division (C)(3) of this section.

(F) As used in this section, "internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

Sec. 3302.21. (A) The department of education shall develop a system to rank order all city, exempted village, local, and joint vocational school districts, community schools established under Chapter 3314., and STEM schools established under Chapter 3326. of the Revised Code according to the following measures:

(1) Performance index score;

(2) Student performance growth from year to year, using the value-added progress dimension, if applicable, and other measures of student performance growth designated by the superintendent of public instruction for subjects and grades not covered by the value-added progress dimension;

(3) Performance measures required for career-technical education under 20 U.S.C. 2323, if applicable. If a school district is a "VEPD" or "lead district" as those terms are defined in section 3317.023 of the Revised Code, the district's ranking shall be based on the performance of career-technical students from that district and all other districts served by that district, and such fact, including the identity of the other districts served by that district, shall be noted on the report required by division (B) of this section.

(4) Current operating expenditures per pupil;

(5) Of total current operating expenditures, percentage spent

for classroom instruction as determined under standards adopted by 41095
the state board of education. 41096

The department shall rank each district, community school, 41097
and STEM school annually in accordance with the system developed 41098
under this section. 41099

(B) In addition to the reports required by sections 3302.03 41100
and 3302.031 of the Revised Code, the department shall issue an 41101
annual report for each city, exempted village, local, and joint 41102
vocational school district, each community school, and each STEM 41103
school indicating the district's or school's rank on each measure 41104
described in divisions (A)(1) to (5) of this section. 41105

Sec. 3302.22. (A) The governor's effective and efficient 41106
schools recognition program is hereby created. Each year, the 41107
governor shall recognize, in a manner deemed appropriate by the 41108
governor, the top ten per cent of all public and chartered 41109
nonpublic schools in this state. Public schools shall include 41110
schools operated by city, exempted village, local, or joint 41111
vocational school districts, community schools established under 41112
Chapter 3314. of the Revised Code, and STEM schools established 41113
under Chapter 3326. of the Revised Code. 41114

(B) The top ten per cent of schools shall be determined by 41115
the department of education according to standards established by 41116
the department. The standards shall include, but need not be 41117
limited to, both of the following: 41118

(1) Student performance, as determined by factors including, 41119
but not limited to, performance indicators under section 3302.02 41120
of the Revised Code, report cards issued under section 3302.03 of 41121
the Revised Code, and any other statewide or national assessment 41122
or student performance recognition program the department selects; 41123

(2) Fiscal performance, including cost-effective measures 41124

taken by the school. 41125

Sec. 3302.23. The teacher incentive payment program is hereby 41126
established. Under the program, the department of education shall 41127
pay to eligible classroom teachers an annual stipend of fifty 41128
dollars for each of the teachers' students in classes that have 41129
achieved more than a standard year of academic growth, as defined 41130
in the rules adopted under section 3302.021 of the Ohio Revised 41131
Code, in one or more eligible subject areas taught by the 41132
teachers, as measured by the value-added progress dimension. The 41133
program applies only to teachers who teach in city, exempted 41134
village, local, and joint vocational school districts, community 41135
schools established under Chapter 3314. of the Revised Code, or 41136
STEM schools established under Chapter 3326. of the Revised Code 41137
in subject areas and grade levels for which value-added data is 41138
available under the value-added progress dimension, as determined 41139
by the department. 41140

If a student attains more than a standard year of academic 41141
growth in more than one eligible subject area, the fifty-dollar 41142
stipend attributable to that student shall be divided among the 41143
teachers who taught those subjects. If more than one teacher is 41144
responsible to teach a particular student in one eligible subject 41145
area, such as in a team-teaching arrangement, and that student 41146
attains more than a standard year of academic growth in that 41147
subject area, the portion of the stipend attributable to that 41148
student for that subject area shall be divided among the teachers 41149
who taught that student in that subject area. 41150

The first stipends paid under this section shall be based on 41151
student performance for the 2011-2012 school year as computed for 41152
the school district and school report cards issued by the 41153
department in 2012. 41154

The department shall pay the stipend to each eligible teacher 41155

as soon as possible after determining the teacher's eligibility. 41156

The state board of education, in consultation with the 41157
governor's office, shall adopt rules for the implementation of 41158
this section. 41159

Sec. 3302.24. The teacher incentive payment program fund is 41160
hereby established in the state treasury. The fund shall consist 41161
of moneys appropriated by the general assembly specifically for 41162
the payment of stipends under the teacher incentive payment 41163
program established under section 3302.23 of the Revised Code. The 41164
department of education shall use moneys in the fund for that 41165
purpose. 41166

Sec. 3302.25. (A) In accordance with standards prescribed by 41167
the state board of education for categorization of school district 41168
expenditures adopted under division (A) of section 3302.20 of the 41169
Revised Code, the department of education annually shall determine 41170
all of the following for the previous fiscal year: 41171

(1) For each school district, the ratio of the district's 41172
operating expenditures for instructional purposes compared to its 41173
operating expenditures for administrative purposes; 41174

(2) For each school district, the per pupil amount of the 41175
district's expenditures for instructional purposes; 41176

(3) For each school district, the per pupil amount of the 41177
district's operating expenditures for administrative purposes; 41178

(4) For each school district, the percentage of the 41179
district's operating expenditures attributable to school district 41180
funds; 41181

(5) The statewide average among all school districts for each 41182
of the items described in divisions (A)(1) to (4) of this section. 41183

(B) The department annually shall submit a report to each 41184

school district indicating the district's information for each of 41185
the items described in divisions (A)(1) to (4) of this section and 41186
the statewide averages described in division (A)(5) of this 41187
section. 41188

(C) Each school district, upon receipt of the report 41189
prescribed by division (B) of this section, shall publish the 41190
information contained in that report in a prominent location on 41191
the district's web site and publish the report in another fashion 41192
so that it is available to all parents of students enrolled in the 41193
district and to taxpayers of the district. 41194

Sec. 3302.30. (A) The superintendent of public instruction 41195
shall establish a pilot project in Columbiana county under which 41196
one or more school districts in that county shall offer a 41197
multiple-track high school curriculum for students with differing 41198
career plans. The superintendent shall solicit and select 41199
districts to participate in the pilot project. Selected districts 41200
shall begin offering their career track curricula not later than 41201
the school year that begins at least six months after the 41202
effective date of this section. No district shall be required to 41203
participate in the pilot project. 41204

The curricula provided under the pilot project at each 41205
participating district shall offer at least three distinct career 41206
tracks, including at least a college preparatory track and a 41207
career-technical track. Each track shall comply with the 41208
curriculum requirements of section 3313.603 of the Revised Code. 41209
The different tracks may be offered at different campuses. Two or 41210
more participating districts may offer some or all of their 41211
respective curriculum tracks through a cooperative agreement 41212
entered into under section 3313.842 of the Revised Code. 41213

The department of education shall provide technical 41214
assistance to participating districts in developing the curriculum 41215

tracks to offer to students under the pilot project. 41216

Part or all of selected curriculum materials or services may 41217

be purchased from other public or private sources. 41218

The state superintendent shall apply for private and other 41219

nonstate funds, and may use other available state funds, to 41220

support the pilot project. 41221

(B) Each participating school district shall report to the 41222

state superintendent data about the operation and results of the 41223

pilot project, as required by the superintendent. 41224

(C) Not later than the thirty-first day of December of the 41225

third school year in which the pilot project is operating, the 41226

state superintendent shall submit a report to the general 41227

assembly, in accordance with section 101.68 of the Revised Code, 41228

containing the superintendent's evaluation of the results of the 41229

pilot project and legislative recommendations whether to continue, 41230

expand, or make changes to the pilot project. 41231

Sec. 3304.181. If the total of all funds available from 41232

nonfederal sources to support the activities of the rehabilitation 41233

services commission does not comply with the expenditure 41234

requirements of 34 C.F.R. 361.60 and 361.62 for those activities 41235

or would cause the state to lose an allotment or fail to receive a 41236

reallotment under 34 C.F.R. 361.65, the commission shall solicit 41237

additional funds from, and enter into agreements for the use of 41238

those funds with, private or public entities, including local 41239

government entities of this state. The commission shall continue 41240

to solicit additional funds and enter into agreements until the 41241

total funding available is sufficient for the commission to 41242

receive federal funds at the maximum amount and in the most 41243

advantageous proportion possible. 41244

Any agreement entered into between the commission and a 41245

private or public entity to provide funds under this section shall 41246
be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the 41247
Revised Code. 41248

Sec. 3304.182. Any agreement between the rehabilitation 41249
services commission and a private or public entity providing funds 41250
under section 3304.181 of the Revised Code may permit the 41251
commission to receive a specified percentage of the funds ~~for~~ 41252
~~administration~~, but the percentage shall be not more than thirteen 41253
per cent of the total funds available under the agreement. The 41254
agreement shall not be for less than six months or be discontinued 41255
by the commission without the commission first providing three 41256
months notice of intent to discontinue the agreement. The 41257
commission may terminate an agreement only for good cause. 41258

Any services provided under an agreement entered into under 41259
section 3304.181 of the Revised Code shall be provided by a person 41260
or government entity that meets the accreditation standards 41261
established in rules adopted by the commission under section 41262
3304.16 of the Revised Code. 41263

Sec. 3307.20. (A) As used in this section: 41264

(1) "Personal history record" means information maintained by 41265
the state teachers retirement board on an individual who is a 41266
member, former member, contributor, former contributor, retirant, 41267
or beneficiary that includes the address, telephone number, social 41268
security number, record of contributions, correspondence with the 41269
state teachers retirement system, or other information the board 41270
determines to be confidential. 41271

(2) "Retirant" has the same meaning as in section 3307.50 of 41272
the Revised Code. 41273

(B) The records of the board shall be open to public 41274
inspection, except for the following, which shall be excluded, 41275

except with the written authorization of the individual concerned:	41276
(1) The individual's personal records provided for in section 3307.23 of the Revised Code;	41277 41278
(2) The individual's personal history record;	41279
(3) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.	41280 41281
(C) All medical reports and recommendations under sections 3307.62, 3307.64, and 3307.66 of the Revised Code are privileged, except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or, when necessary for the proper administration of the fund, to the board assigned physician.	41282 41283 41284 41285 41286 41287 41288 41289
(D) Any person who is a member or contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one request of a person in any one year.	41290 41291 41292 41293
(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the board may furnish the following information:	41294 41295 41296
(1) If a member, former member, retirant, contributor, or former contributor is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.	41297 41298 41299 41300 41301 41302 41303 41304 41305

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A)~~ of section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including

resumes, in the board's possession regarding filling a vacancy of 41337
a contributing member or retired teacher member of the board. The 41338
person who made the request shall pay the cost of compiling, 41339
copying, and mailing the documents. The information described in 41340
this division is a public record. 41341

(F) A statement that contains information obtained from the 41342
system's records that is signed by an officer of the retirement 41343
system and to which the system's official seal is affixed, or 41344
copies of the system's records to which the signature and seal are 41345
attached, shall be received as true copies of the system's records 41346
in any court or before any officer of this state. 41347

Sec. 3307.31. (A) Payments by boards of education and 41348
governing authorities of community schools to the state teachers 41349
retirement system, as provided in sections 3307.29 and 3307.291 of 41350
the Revised Code, shall be made from the amount allocated under 41351
section 3314.08, ~~Chapter 3306.~~, or Chapter 3317. of the Revised 41352
Code prior to its distribution to the individual school districts 41353
or community schools. The amount due from each school district or 41354
community school shall be certified by the secretary of the system 41355
to the superintendent of public instruction monthly, or at such 41356
times as may be determined by the state teachers retirement board. 41357

The superintendent shall deduct, from the amount allocated to 41358
each district or community school under section 3314.08, ~~Chapter~~ 41359
~~3306.~~, or Chapter 3317. of the Revised Code, the entire amounts 41360
due to the system from such district or school upon the 41361
certification to the superintendent by the secretary thereof. 41362

The superintendent shall certify to the director of budget 41363
and management the amounts thus due the system for payment. 41364

(B) Payments to the state teachers retirement system by a 41365
science, technology, engineering, and mathematics school shall be 41366
deducted from the amount allocated under section 3326.33 of the 41367

Revised Code and shall be made in the same manner as payments by 41368
boards of education under this section. 41369

Sec. 3307.64. A disability benefit recipient, notwithstanding 41370
section 3319.13 of the Revised Code, shall retain membership in 41371
the state teachers retirement system and shall be considered on 41372
leave of absence during the first five years following the 41373
effective date of a disability benefit. 41374

The state teachers retirement board shall require any 41375
disability benefit recipient to submit to an annual medical 41376
examination by a physician selected by the board, except that the 41377
board may waive the medical examination if the board's physician 41378
certifies that the recipient's disability is ongoing. If a 41379
disability benefit recipient refuses to submit to a medical 41380
examination, the recipient's disability benefit shall be suspended 41381
until the recipient withdraws the refusal. If the refusal 41382
continues for one year, all the recipient's rights under and to 41383
the disability benefit shall be terminated as of the effective 41384
date of the original suspension. 41385

After the examination, the examiner shall report and certify 41386
to the board whether the disability benefit recipient is no longer 41387
physically and mentally incapable of resuming the service from 41388
which the recipient was found disabled. If the board concurs in a 41389
report by the examining physician that the disability benefit 41390
recipient is no longer incapable, the payment of a disability 41391
benefit shall be terminated not later than the following 41392
thirty-first day of August or upon employment as a teacher prior 41393
thereto. If the leave of absence has not expired, the board shall 41394
so certify to the disability benefit recipient's last employer 41395
before being found disabled that the recipient is no longer 41396
physically and mentally incapable of resuming service that is the 41397
same or similar to that from which the recipient was found 41398

disabled. If the recipient was under contract at the time the 41399
recipient was found disabled, the employer by the first day of the 41400
next succeeding year shall restore the recipient to the 41401
recipient's previous position and salary or to a position and 41402
salary similar thereto, unless the recipient was dismissed or 41403
resigned in lieu of dismissal for dishonesty, misfeasance, 41404
malfeasance, or conviction of a felony. 41405

A disability benefit shall terminate if the disability 41406
benefit recipient becomes employed as a teacher in any public or 41407
private school or institution in this state or elsewhere. An 41408
individual receiving a disability benefit from the system shall be 41409
ineligible for any employment as a teacher and it shall be 41410
unlawful for any employer to employ the individual as a teacher. 41411
If any employer should employ or reemploy the individual prior to 41412
the termination of a disability benefit, the employer shall file 41413
notice of employment with the board designating the date of the 41414
employment. If the individual should be paid both a disability 41415
benefit and also compensation for teaching service for all or any 41416
part of the same month, the secretary of the board shall certify 41417
to the employer or to the superintendent of public instruction the 41418
amount of the disability benefit received by the individual during 41419
the employment, which amount shall be deducted from any amount due 41420
the employing district under ~~Chapters 3306.~~ and Chapter 3317. of 41421
the Revised Code or shall be paid by the employer to the annuity 41422
and pension reserve fund. 41423

Each disability benefit recipient shall file with the board 41424
an annual statement of earnings, current medical information on 41425
the recipient's condition, and any other information required in 41426
rules adopted by the board. The board may waive the requirement 41427
that a disability benefit recipient file an annual statement of 41428
earnings or current medical information if the board's physician 41429
certifies that the recipient's disability is ongoing. 41430

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

A disability benefit also may be terminated by the board at the request of the disability benefit recipient.

If disability retirement under section 3307.63 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the teachers' savings fund and the employers' trust fund, respectively. If the total disability benefit paid was less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, then the difference shall be transferred from the annuity and pension reserve fund to another fund as required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3307.631 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retirant under section 3307.35 of the Revised Code, to this retirement system, the school employees retirement system, or the public employees retirement system, and completes at least two additional years of service credit, the former disability benefit recipient shall receive

credit for the period as a disability benefit recipient. 41463

Sec. 3309.22. (A)(1) As used in this division, "personal 41464
history record" means information maintained by the board on an 41465
individual who is a member, former member, contributor, former 41466
contributor, retirant, or beneficiary that includes the address, 41467
telephone number, social security number, record of contributions, 41468
correspondence with the system, and other information the board 41469
determines to be confidential. 41470

(2) The records of the board shall be open to public 41471
inspection, except for the following, which shall be excluded, 41472
except with the written authorization of the individual concerned: 41473

(a) The individual's statement of previous service and other 41474
information as provided for in section 3309.28 of the Revised 41475
Code; 41476

(b) Any information identifying by name and address the 41477
amount of a monthly allowance or benefit paid to the individual; 41478

(c) The individual's personal history record. 41479

(B) All medical reports and recommendations required by the 41480
system are privileged except that copies of such medical reports 41481
or recommendations shall be made available to the personal 41482
physician, attorney, or authorized agent of the individual 41483
concerned upon written release received from the individual or the 41484
individual's agent, or when necessary for the proper 41485
administration of the fund, to the board assigned physician. 41486

(C) Any person who is a contributor of the system shall be 41487
furnished, on written request, with a statement of the amount to 41488
the credit of the person's account. The board need not answer more 41489
than one such request of a person in any one year. 41490

(D) Notwithstanding the exceptions to public inspection in 41491
division (A)(2) of this section, the board may furnish the 41492

following information: 41493

(1) If a member, former member, contributor, former 41494
contributor, or retirant is subject to an order issued under 41495
section 2907.15 of the Revised Code or an order issued under 41496
division (A) or (B) of section 2929.192 of the Revised Code or is 41497
convicted of or pleads guilty to a violation of section 2921.41 of 41498
the Revised Code, on written request of a prosecutor as defined in 41499
section 2935.01 of the Revised Code, the board shall furnish to 41500
the prosecutor the information requested from the individual's 41501
personal history record. 41502

(2) Pursuant to a court or administrative order issued under 41503
section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the 41504
Revised Code, the board shall furnish to a court or child support 41505
enforcement agency the information required under that section. 41506

(3) At the written request of any person, the board shall 41507
provide to the person a list of the names and addresses of 41508
members, former members, retirants, contributors, former 41509
contributors, or beneficiaries. The costs of compiling, copying, 41510
and mailing the list shall be paid by such person. 41511

(4) Within fourteen days after receiving from the director of 41512
job and family services a list of the names and social security 41513
numbers of recipients of public assistance pursuant to section 41514
5101.181 of the Revised Code, the board shall inform the auditor 41515
of state of the name, current or most recent employer address, and 41516
social security number of each contributor whose name and social 41517
security number are the same as that of a person whose name or 41518
social security number was submitted by the director. The board 41519
and its employees shall, except for purposes of furnishing the 41520
auditor of state with information required by this section, 41521
preserve the confidentiality of recipients of public assistance in 41522
compliance with ~~division (A)~~ of section 5101.181 of the Revised 41523
Code. 41524

(5) The system shall comply with orders issued under section 41525
3105.87 of the Revised Code. 41526

On the written request of an alternate payee, as defined in 41527
section 3105.80 of the Revised Code, the system shall furnish to 41528
the alternate payee information on the amount and status of any 41529
amounts payable to the alternate payee under an order issued under 41530
section 3105.171 or 3105.65 of the Revised Code. 41531

(6) At the request of any person, the board shall make 41532
available to the person copies of all documents, including 41533
resumes, in the board's possession regarding filling a vacancy of 41534
an employee member or retirant member of the board. The person who 41535
made the request shall pay the cost of compiling, copying, and 41536
mailing the documents. The information described in this division 41537
is a public record. 41538

(E) A statement that contains information obtained from the 41539
system's records that is signed by an officer of the retirement 41540
system and to which the system's official seal is affixed, or 41541
copies of the system's records to which the signature and seal are 41542
attached, shall be received as true copies of the system's records 41543
in any court or before any officer of this state. 41544

Sec. 3309.41. (A) A disability benefit recipient shall retain 41545
membership status and shall be considered on leave of absence from 41546
employment during the first five years following the effective 41547
date of a disability benefit, notwithstanding any contrary 41548
provisions in Chapter 124. or 3319. of the Revised Code. 41549

(B) The school employees retirement board shall require a 41550
disability benefit recipient to undergo an annual medical 41551
examination, except that the board may waive the medical 41552
examination if the board's physician or physicians certify that 41553
the recipient's disability is ongoing. Should any disability 41554
benefit recipient refuse to submit to a medical examination, the 41555

recipient's disability benefit shall be suspended until withdrawal 41556
of the refusal. Should the refusal continue for one year, all the 41557
recipient's rights in and to the disability benefit shall be 41558
terminated as of the effective date of the original suspension. 41559

(C) On completion of the examination by an examining 41560
physician or physicians selected by the board, the physician or 41561
physicians shall report and certify to the board whether the 41562
disability benefit recipient is no longer physically and mentally 41563
incapable of resuming the service from which the recipient was 41564
found disabled. If the board concurs in the report that the 41565
disability benefit recipient is no longer incapable, the payment 41566
of the disability benefit shall be terminated not later than three 41567
months after the date of the board's concurrence or upon 41568
employment as an employee. If the leave of absence has not 41569
expired, the retirement board shall certify to the disability 41570
benefit recipient's last employer before being found disabled that 41571
the recipient is no longer physically and mentally incapable of 41572
resuming service that is the same or similar to that from which 41573
the recipient was found disabled. The employer shall restore the 41574
recipient to the recipient's previous position and salary or to a 41575
position and salary similar thereto not later than the first day 41576
of the first month following termination of the disability 41577
benefit, unless the recipient was dismissed or resigned in lieu of 41578
dismissal for dishonesty, misfeasance, malfeasance, or conviction 41579
of a felony. 41580

(D) Each disability benefit recipient shall file with the 41581
board an annual statement of earnings, current medical information 41582
on the recipient's condition, and any other information required 41583
in rules adopted by the board. The board may waive the requirement 41584
that a disability benefit recipient file an annual statement of 41585
earnings or current medical information on the recipient's 41586
condition if the board's physician or physicians certify that the 41587

recipient's disability is ongoing. 41588

The board shall annually examine the information submitted by 41589
the recipient. If a disability benefit recipient refuses to file 41590
the statement or information, the disability benefit shall be 41591
suspended until the statement and information are filed. If the 41592
refusal continues for one year, the recipient's right to the 41593
disability benefit shall be terminated as of the effective date of 41594
the original suspension. 41595

(E) If a disability benefit recipient is employed by an 41596
employer covered by this chapter, the recipient's disability 41597
benefit shall cease. 41598

(F) If disability retirement under section 3309.40 of the 41599
Revised Code is terminated for any reason, the annuity and pension 41600
reserves at that time in the annuity and pension reserve fund 41601
shall be transferred to the employees' savings fund and the 41602
employers' trust fund, respectively. If the total disability 41603
benefit paid is less than the amount of the accumulated 41604
contributions of the member transferred into the annuity and 41605
pension reserve fund at the time of the member's disability 41606
retirement, the difference shall be transferred from the annuity 41607
and pension reserve fund to another fund as may be required. In 41608
determining the amount of a member's account following the 41609
termination of disability retirement for any reason, the amount 41610
paid shall be charged against the member's refundable account. 41611

If a disability allowance paid under section 3309.401 of the 41612
Revised Code is terminated for any reason, the reserve on the 41613
allowance at that time in the annuity and pension reserve fund 41614
shall be transferred from that fund to the employers' trust fund. 41615

The board may terminate a disability benefit at the request 41616
of the recipient. 41617

(G) If a disability benefit is terminated and a former 41618

disability benefit recipient again becomes a contributor, other 41619
than as an other system retirant as defined in section 3309.341 of 41620
the Revised Code, to this system, the public employees retirement 41621
system, or the state teachers retirement system, and completes an 41622
additional two years of service credit after the termination of 41623
the disability benefit, the former disability benefit recipient 41624
shall be entitled to full service credit for the period as a 41625
disability benefit recipient. 41626

(H) If any employer employs any member who is receiving a 41627
disability benefit, the employer shall file notice of employment 41628
with the retirement board, designating the date of employment. In 41629
case the notice is not filed, the total amount of the benefit paid 41630
during the period of employment prior to notice shall be paid from 41631
amounts allocated under ~~Chapters 3306.~~ and Chapter 3317. of the 41632
Revised Code prior to its distribution to the school district in 41633
which the disability benefit recipient was so employed. 41634

Sec. 3309.48. Any employee who left the service of an 41635
employer after attaining age sixty-five or over and such employer 41636
had failed or refused to deduct and transmit to the school 41637
employees retirement system the employee contributions as required 41638
by section 3309.47 of the Revised Code during any year for which 41639
membership was compulsory as determined by the school employees 41640
retirement board, shall be granted service credit without cost, 41641
which shall be considered as total service credit for the purposes 41642
of meeting the qualifications for service retirement provided by 41643
the law in effect on and retroactive to the first eligible 41644
retirement date following the date such employment terminated, but 41645
shall not be paid until formal application for such allowance on a 41646
form provided by the retirement board is received in the office of 41647
the retirement system. The total service credit granted under this 41648
section shall not exceed ten years for any such employee. 41649

The liability incurred by the retirement board because of the 41650
service credit granted under this section shall be determined by 41651
the retirement board, the cost of which shall be equal to an 41652
amount that is determined by applying the combined employee and 41653
employer rates of contribution against the compensation of such 41654
employee at the rates of contribution and maximum salary 41655
provisions in effect during such employment for each year for 41656
which credit is granted, together with interest at the rate to be 41657
credited accumulated contributions at retirement, compounded 41658
annually from the first day of the month payment was due the 41659
retirement system to and including the month of deposit, the total 41660
amount of which shall be collected from the employer. Such amounts 41661
shall be certified by the retirement board to the superintendent 41662
of public instruction, who shall deduct the amount due the system 41663
from any funds due the affected school district under ~~Chapters~~ 41664
~~3306.~~ and Chapter 3317. of the Revised Code. The superintendent 41665
shall certify to the director of budget and management the amount 41666
due the system for payment. The total amount paid shall be 41667
deposited into the employers' trust fund, and shall not be 41668
considered as accumulated contributions of the employee in the 41669
event of the employee's death or withdrawal of funds. 41670

Sec. 3309.51. (A) Each employer shall pay annually into the 41671
employers' trust fund, in such monthly or less frequent 41672
installments as the school employees retirement board requires, an 41673
amount certified by the school employees retirement board, which 41674
shall be as required by Chapter 3309. of the Revised Code. 41675

Payments by school district boards of education to the 41676
employers' trust fund of the school employees retirement system 41677
may be made from the amounts allocated under ~~Chapters 3306.~~ and 41678
Chapter 3317. of the Revised Code prior to their distribution to 41679
the individual school districts. The amount due from each school 41680
district may be certified by the secretary of the system to the 41681

superintendent of public instruction monthly, or at such times as 41682
is determined by the school employees retirement board. 41683

Payments by governing authorities of community schools to the 41684
employers' trust fund of the school employees retirement system 41685
shall be made from the amounts allocated under section 3314.08 of 41686
the Revised Code prior to their distribution to the individual 41687
community schools. The amount due from each community school shall 41688
be certified by the secretary of the system to the superintendent 41689
of public instruction monthly, or at such times as determined by 41690
the school employees retirement board. 41691

Payments by a science, technology, engineering, and 41692
mathematics school to the employers' trust fund of the school 41693
employees retirement system shall be made from the amounts 41694
allocated under section 3326.33 of the Revised Code prior to their 41695
distribution to the school. The amount due from a science, 41696
technology, engineering, and mathematics school shall be certified 41697
by the secretary of the school employees retirement system to the 41698
superintendent of public instruction monthly, or at such times as 41699
determined by the school employees retirement board. 41700

(B) The superintendent shall deduct from the amount allocated 41701
to each community school under section 3314.08 of the Revised 41702
Code, to each school district under ~~Chapters 3306.~~ and Chapter 41703
3317. of the Revised Code, or to each science, technology, 41704
engineering, and mathematics school under section 3326.33 of the 41705
Revised Code the entire amounts due to the school employees 41706
retirement system from such school or school district upon the 41707
certification to the superintendent by the secretary thereof. 41708

(C) Where an employer fails or has failed or refuses to make 41709
payments to the employers' trust fund, as provided for under 41710
Chapter 3309. of the Revised Code, the secretary of the school 41711
employees retirement system may certify to the state 41712
superintendent of public instruction, monthly or at such times as 41713

is determined by the school employees retirement board, the amount 41714
due from such employer, and the superintendent shall deduct from 41715
the amount allocated to the employer under section 3314.08 or 41716
3326.33 or Chapter ~~3306.~~ or 3317. of the Revised Code, as 41717
applicable, the entire amounts due to the system from the employer 41718
upon the certification to the superintendent by the secretary of 41719
the school employees retirement system. 41720

(D) The superintendent shall certify to the director of 41721
budget and management the amounts thus due the system for payment. 41722

Sec. 3310.02. (A) The educational choice scholarship pilot 41723
program is hereby established. Under the program, the department 41724
of education annually shall pay scholarships to attend chartered 41725
nonpublic schools in accordance with section 3310.08 of the 41726
Revised Code for up to ~~fourteen thousand~~ the following number of 41727
eligible students: 41728

(1) Thirty thousand in the 2011-2012 school year; 41729

(2) Sixty thousand in the 2012-2013 school year and 41730
thereafter. ~~¶~~ 41731

(B) If the number of students who apply for a scholarship 41732
exceeds ~~fourteen thousand~~ the number of scholarships available 41733
under division (A) of this section for the applicable school year, 41734
the department shall award scholarships in the following order of 41735
priority: 41736

~~(A)~~(1) First, to eligible students who received scholarships 41737
in the prior school year; 41738

~~(B)~~(2) Second, to eligible students with family incomes at or 41739
below two hundred per cent of the federal poverty guidelines, as 41740
defined in section 5101.46 of the Revised Code, who qualify under 41741
division (A) of section 3310.03 of the Revised Code. If the number 41742
of students described in ~~this~~ division (B)(2) of this section who 41743

apply for a scholarship exceeds the number of available 41744
scholarships after awards are made under division ~~(A)~~(B)(1) of 41745
this section, the department shall select students described in 41746
~~this~~ division (B)(2) of this section by lot to receive any 41747
remaining scholarships. 41748

~~(C)~~(3) Third, to other eligible students who qualify under 41749
division (A) of section 3310.03 of the Revised Code. If the number 41750
of students described in ~~this~~ division (B)(3) of this section who 41751
apply for a scholarship exceeds the number of available 41752
scholarships after awards are made under divisions ~~(A)~~(B)(1) and 41753
~~(B)~~(2) of this section, the department shall select students 41754
described in ~~this~~ division (B)(3) of this section by lot to 41755
receive any remaining scholarships. 41756

(4) Fourth, to eligible students with family incomes at or 41757
below two hundred per cent of the federal poverty guidelines who 41758
qualify under division (B) of section 3310.03 of the Revised Code. 41759
If the number of students described in division (B)(4) of this 41760
section who apply for a scholarship exceeds the number of 41761
available scholarships after awards are made under divisions 41762
(B)(1) to (3) of this section, the department shall select 41763
students described in division (B)(4) of this section by lot to 41764
receive any remaining scholarships. 41765

(5) Fifth, to other eligible students who qualify under 41766
division (B) of section 3310.03 of the Revised Code. If the number 41767
of students described in division (B)(5) of this section who apply 41768
for a scholarship exceeds the number of available scholarships 41769
after awards are made under divisions (B)(1) to (4) of this 41770
section, the department shall select students described in 41771
division (B)(5) of this section by lot to receive any remaining 41772
scholarships. 41773

Sec. 3310.03. ~~(A)~~ A student is an "eligible student" for 41774

purposes of the educational choice scholarship pilot program if 41775
the student's resident district is not a school district in which 41776
the pilot project scholarship program is operating under sections 41777
3313.974 to 3313.979 of the Revised Code and the student satisfies 41778
one of the ~~following~~ conditions in division (A) or (B) of this 41779
section: 41780

(A)(1) The student is enrolled in a school building that is 41781
operated by the student's resident district and to which both of 41782
the following apply: 41783

(a) The building was declared, in at least two of the three 41784
most recent ratings of school buildings published prior to the 41785
first day of July of the school year for which a scholarship is 41786
sought, to be in a state of academic emergency or academic watch 41787
under section 3302.03 of the Revised Code; 41788

(b) The building was not declared to be excellent or 41789
effective under that section in the most recent rating published 41790
prior to the first day of July of the school year for which a 41791
scholarship is sought. 41792

(2) The student is eligible to enroll in kindergarten in the 41793
school year for which a scholarship is sought and otherwise would 41794
be assigned under section 3319.01 of the Revised Code to a school 41795
building described in division (A)(1) of this section. 41796

(3) The student is enrolled in a community school established 41797
under Chapter 3314. of the Revised Code but otherwise would be 41798
assigned under section 3319.01 of the Revised Code to a building 41799
described in division (A)(1) of this section. 41800

(4) The student is enrolled in a school building that is 41801
operated by the student's resident district or in a community 41802
school established under Chapter 3314. of the Revised Code and 41803
otherwise would be assigned under section 3319.01 of the Revised 41804

Code to a school building described in division (A)(1) of this 41805
section in the school year for which the scholarship is sought. 41806

(5) The student is eligible to enroll in kindergarten in the 41807
school year for which a scholarship is sought, or is enrolled in a 41808
community school established under Chapter 3314. of the Revised 41809
Code, and all of the following apply to the student's resident 41810
district: 41811

(a) The district has in force an intradistrict open 41812
enrollment policy under which no student in kindergarten or the 41813
community school student's grade level, respectively, is 41814
automatically assigned to a particular school building; 41815

(b) In at least two of the three most recent ratings of 41816
school districts published prior to the first day of July of the 41817
school year for which a scholarship is sought, the district was 41818
declared to be in a state of academic emergency under section 41819
3302.03 of the Revised Code; 41820

(c) The district was not declared to be excellent or 41821
effective under that section in the most recent rating published 41822
prior to the first day of July of the school year for which a 41823
scholarship is sought. 41824

(B)(1) The student is enrolled in a school building that is 41825
operated by the student's resident district and to which both of 41826
the following apply: 41827

(a) The building was ranked, in at least two of the three 41828
most recent ratings of school buildings published prior to the 41829
first day of July of the school year for which a scholarship is 41830
sought, in the lowest ten per cent of school buildings according 41831
to performance index score reported under section 3302.03 of the 41832
Revised Code. 41833

(b) The building was not declared to be excellent or 41834
effective under that section in the most recent rating published 41835

prior to the first day of July of the school year for which a scholarship is sought. 41836
41837

(2) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section. 41838
41839
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(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (B)(1) of this section. 41842
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(4) The student is enrolled in a school building that is operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section in the school year for which the scholarship is sought. 41846
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(C) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply: 41852
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41856

(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1) or ~~(6)~~(B)(1) of this section; 41857
41858
41859
41860

(2) The student takes each assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school; 41861
41862
41863

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, 41864
41865
41866

not including excused absences. 41867

~~(C)~~(D)(1) The department shall cease awarding first-time 41868
scholarships pursuant to divisions (A)(1) to (4) of this section 41869
with respect to a school building that, in the most recent ratings 41870
of school buildings published under section 3302.03 of the Revised 41871
Code prior to the first day of July of the school year, ceases to 41872
meet the criteria in division (A)(1) of this section. The 41873
department shall cease awarding first-time scholarships pursuant 41874
to division (A)(5) of this section with respect to a school 41875
district that, in the most recent ratings of school districts 41876
published under section 3302.03 of the Revised Code prior to the 41877
first day of July of the school year, ceases to meet the criteria 41878
in division (A)(5) of this section. ~~However~~ 41879

(2) The department shall cease awarding first-time 41880
scholarships pursuant to divisions (B)(1) to (4) of this section 41881
with respect to a school building that, in the most recent ratings 41882
of school buildings under section 3302.03 of the Revised Code 41883
prior to the first day of July of the school year, ceases to meet 41884
the criteria in division (B)(1) of this section. 41885

(3) However, students who have received scholarships in the 41886
prior school year remain eligible students pursuant to division 41887
~~(B)~~(C) of this section. 41888

~~(D)~~(E) The state board of education shall adopt rules 41889
defining excused absences for purposes of division ~~(B)~~(C)(3) of 41890
this section. 41891

Sec. 3310.05. A scholarship under the educational choice 41892
scholarship pilot program is not available for any student whose 41893
resident district is a school district in which the pilot project 41894
scholarship program is operating under sections 3313.974 to 41895
3313.979 of the Revised Code. The two pilot programs are separate 41896
and distinct. ~~The general assembly has prescribed separate 41897~~

~~scholarship amounts for the two pilot programs in recognition of~~ 41898
~~their, with~~ differing eligibility criteria. The pilot project 41899
scholarship program operating under sections 3313.974 to 3313.979 41900
of the Revised Code is a district-wide program that may award 41901
scholarships to students who do not attend district schools that 41902
face academic challenges, whereas the educational choice 41903
scholarship pilot program established under sections 3310.01 to 41904
3310.17 of the Revised Code is limited to students of individual 41905
district school buildings that face academic challenges. 41906

Sec. 3310.08. (A) The amount paid for an eligible student 41907
under the educational choice scholarship pilot program shall be 41908
the lesser of the tuition of the chartered nonpublic school in 41909
which the student is enrolled or the maximum amount prescribed in 41910
section 3310.09 of the Revised Code. 41911

(B)(1) The department shall pay to the parent of each 41912
eligible student for whom a scholarship is awarded under the 41913
program, or to the student if at least eighteen years of age, 41914
periodic partial payments of the scholarship. 41915

(2) The department shall proportionately reduce or terminate 41916
the payments for any student who withdraws from a chartered 41917
nonpublic school prior to the end of the school year. 41918

(C)(1) The department shall deduct ~~five thousand two hundred~~ 41919
~~dollars~~ from the payments made to each school district under 41920
~~Chapters 3306. and Chapter 3317.~~ and, if necessary, sections 41921
321.24 and 323.156 of the Revised Code, the amount paid under 41922
division (B) of this section for each eligible student awarded a 41923
scholarship under the ~~educational choice scholarship pilot~~ program 41924
who is entitled under section 3313.64 or 3313.65 of the Revised 41925
Code to attend school in the district. 41926

~~The amount deducted under division (C)(1) of this section~~ 41927

~~funds scholarships for students under both the educational choice 41928
scholarship pilot program and the pilot project scholarship 41929
program under sections 3313.974 to 3313.979 of the Revised Code. 41930~~

(2) If the department reduces or terminates payments to a 41931
parent or a student, as prescribed in division (B)(2) of this 41932
section, and the student enrolls in the schools of the student's 41933
resident district or in a community school, established under 41934
Chapter 3314. of the Revised Code, before the end of the school 41935
year, the department shall proportionally restore to the resident 41936
district the amount deducted for that student under division 41937
(C)(1) of this section. 41938

~~(D) In the case of any school district from which a deduction 41939
is made under division (C) of this section, the department shall 41940
disclose on the district's SF 3 form, or any successor to that 41941
form used to calculate a district's state funding for operating 41942
expenses, a comparison of the following: 41943~~

~~(1) The district's state share of the adequacy amount 41944
payment, as calculated under section 3306.13 of the Revised Code 41945
with the scholarship students included in the district's formula 41946
ADM; 41947~~

~~(2) What the district's state share of the adequacy amount 41948
payment would have been, as calculated under that section if the 41949
scholarship students were not included in the district's formula 41950
ADM. 41951~~

~~This comparison shall display both the aggregate difference 41952
between the amounts described in divisions (D)(1) and (2) of this 41953
section, and the quotient of that aggregate difference divided by 41954
the number of eligible students for whom deductions are made under 41955
division (C) of this section. 41956~~

Sec. 3310.41. (A) As used in this section: 41957

(1) "Alternative public provider" means either of the 41958
following providers that agrees to enroll a child in the 41959
provider's special education program to implement the child's 41960
individualized education program and to which the child's parent 41961
owes fees for the services provided to the child: 41962

(a) A school district that is not the school district in 41963
which the child is entitled to attend school; 41964

(b) A public entity other than a school district. 41965

(2) "Entitled to attend school" means entitled to attend 41966
school in a school district under section 3313.64 or 3313.65 of 41967
the Revised Code. 41968

(3) "Formula ADM" and "category six special education ADM" 41969
have the same meanings as in section 3317.02 of the Revised Code. 41970

(4) "Preschool child with a disability" and "individualized 41971
education program" have the same meanings as in section 3323.01 of 41972
the Revised Code. 41973

(5) "Parent" has the same meaning as in section 3313.64 of 41974
the Revised Code, except that "parent" does not mean a parent 41975
whose custodial rights have been terminated. 41976

(6) "Preschool scholarship ADM" means the number of preschool 41977
children with disabilities reported under division (B)(3)(h) of 41978
section 3317.03 of the Revised Code. 41979

(7) "Qualified special education child" is a child for whom 41980
all of the following conditions apply: 41981

(a) The school district in which the child is entitled to 41982
attend school has identified the child as autistic. A child who 41983
has been identified as having a "pervasive developmental disorder 41984
- not otherwise specified (PPD-NOS)" shall be considered to be an 41985
autistic child for purposes of this section. 41986

(b) The school district in which the child is entitled to 41987

attend school has developed an individualized education program 41988
under Chapter 3323. of the Revised Code for the child. 41989

(c) The child either: 41990

(i) Was enrolled in the school district in which the child is 41991
entitled to attend school in any grade from preschool through 41992
twelve in the school year prior to the year in which a scholarship 41993
under this section is first sought for the child; or 41994

(ii) Is eligible to enter school in any grade preschool 41995
through twelve in the school district in which the child is 41996
entitled to attend school in the school year in which a 41997
scholarship under this section is first sought for the child. 41998

(8) "Registered private provider" means a nonpublic school or 41999
other nonpublic entity that has been approved by the department of 42000
education to participate in the program established under this 42001
section. 42002

(9) "Special education program" means a school or facility 42003
that provides special education and related services to children 42004
with disabilities. 42005

(B) There is hereby established the autism scholarship 42006
program. Under the program, the department of education shall pay 42007
a scholarship to the parent of each qualified special education 42008
child upon application of that parent pursuant to procedures and 42009
deadlines established by rule of the state board of education. 42010
Each scholarship shall be used only to pay tuition for the child 42011
on whose behalf the scholarship is awarded to attend a special 42012
education program that implements the child's individualized 42013
education program and that is operated by an alternative public 42014
provider or by a registered private provider. Each scholarship 42015
shall be in an amount not to exceed the lesser of the tuition 42016
charged for the child by the special education program or twenty 42017
thousand dollars. The purpose of the scholarship is to permit the 42018

parent of a qualified special education child the choice to send 42019
the child to a special education program, instead of the one 42020
operated by or for the school district in which the child is 42021
entitled to attend school, to receive the services prescribed in 42022
the child's individualized education program once the 42023
individualized education program is finalized. A The services 42024
provided under the scholarship shall include an educational 42025
component. 42026

A scholarship under this section shall not be awarded to the 42027
parent of a child while the child's individualized education 42028
program is being developed by the school district in which the 42029
child is entitled to attend school, or while any administrative or 42030
judicial mediation or proceedings with respect to the content of 42031
the child's individualized education program are pending. A 42032
scholarship under this section shall not be used for a child to 42033
attend a public special education program that operates under a 42034
contract, compact, or other bilateral agreement between the school 42035
district in which the child is entitled to attend school and 42036
another school district or other public provider, or for a child 42037
to attend a community school established under Chapter 3314. of 42038
the Revised Code. However, nothing in this section or in any rule 42039
adopted by the state board shall prohibit a parent whose child 42040
attends a public special education program under a contract, 42041
compact, or other bilateral agreement, or a parent whose child 42042
attends a community school, from applying for and accepting a 42043
scholarship under this section so that the parent may withdraw the 42044
child from that program or community school and use the 42045
scholarship for the child to attend a special education program 42046
for which the parent is required to pay for services for the 42047
child. A 42048

A child attending a special education program with a 42049
scholarship under this section shall continue to be entitled to 42050

transportation to and from that program in the manner prescribed 42051
by law. 42052

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and 42053
(B)(10) of section 3317.03 of the Revised Code, a child who is not 42054
a preschool child with a disability for whom a scholarship is 42055
awarded under this section shall be counted in the formula ADM and 42056
the category six special education ADM of the district in which 42057
the child is entitled to attend school and not in the formula ADM 42058
and the category six special education ADM of any other school 42059
district. As prescribed in divisions (B)(3)(h) and (B)(10) of 42060
section 3317.03 of the Revised Code, a child who is a preschool 42061
child with a disability for whom a scholarship is awarded under 42062
this section shall be counted in the preschool scholarship ADM and 42063
category six special education ADM of the school district in which 42064
the child is entitled to attend school and not in the preschool 42065
scholarship ADM or category six special education ADM of any other 42066
school district. 42067

(2) In each fiscal year, the department shall deduct from the 42068
amounts paid to each school district under ~~Chapters 3306. and~~ 42069
Chapter 3317. of the Revised Code, and, if necessary, sections 42070
321.24 and 323.156 of the Revised Code, the aggregate amount of 42071
scholarships awarded under this section for qualified special 42072
education children included in the formula ADM, or preschool 42073
scholarship ADM, and in the category six special education ADM of 42074
that school district as provided in division (C)(1) of this 42075
section. ~~When computing the school district's instructional~~ 42076
~~services support under section 3306.05 of the Revised Code, the~~ 42077
~~department shall add the district's preschool scholarship ADM to~~ 42078
~~the district's formula ADM.~~ 42079

The scholarships deducted shall be considered as an approved 42080
special education and related services expense of the school 42081
district. 42082

(3) From time to time, the department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The department shall approve entities that meet the standards established by rule of the state board for the program established under this section.

(E) The state board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers.

Sec. 3311.05. (A) The territory within the territorial limits of a county, or the territory included in a district formed under ~~either~~ section 3311.053 ~~or 3311.059~~ of the Revised Code, exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes constitutes an educational service center.

(B) A county school financing district created under section 3311.50 of the Revised Code is not the school district described

in division (A) of this section or any other school district but 42114
is a taxing district. 42115

Sec. 3311.0510. (A) If all of the local school districts that 42116
make up the territory of an educational service center have 42117
severed from the territory of that service center, upon the 42118
effective date of the severance of the last remaining local school 42119
district to make up the territory of the service center, the 42120
governing board of that service center shall be abolished and such 42121
service center shall be dissolved by order of the superintendent 42122
of public instruction. The superintendent's order shall provide 42123
for the equitable division and disposition of the assets, 42124
property, debts, and obligations of the service center among the 42125
local school districts, of which the territory of the service 42126
center is or previously was made up, and the city and exempted 42127
village school districts with which the service center had 42128
agreements under section 3313.843 of the Revised Code for the 42129
service center's last fiscal year of operation. The 42130
superintendent's order shall provide that the tax duplicate of 42131
each of those school districts shall be bound for and assume the 42132
district's equitable share of the outstanding indebtedness of the 42133
service center. The superintendent's order is final and is not 42134
appealable. 42135

Immediately upon the abolishment of the service center 42136
governing board pursuant to this section, the superintendent of 42137
public instruction shall appoint a qualified individual to 42138
administer the dissolution of the service center and to implement 42139
the terms of the superintendent's dissolution order. 42140

Prior to distributing assets to any school district under 42141
this section, but after paying in full other debts and obligations 42142
of the service center under this section, the superintendent of 42143
public instruction may assess against the remaining assets of the 42144

service center the amount of the costs incurred by the department 42145
of education in performing the superintendent's duties under this 42146
division, including the fees, if any, owed to the individual 42147
appointed to administer the superintendent's dissolution order. 42148
Any excess cost incurred by the department under this division 42149
shall be divided equitably among the local school districts, of 42150
which the territory of the service center is or previously was 42151
made up, and the city and exempted village school districts with 42152
which the service center had agreements under section 3313.843 of 42153
the Revised Code for the service center's last fiscal year of 42154
operation. Each district's share of that excess cost shall be 42155
bound against the tax duplicate of that district. 42156

(B) A final audit of the former service center shall be 42157
performed in accordance with procedures established by the auditor 42158
of state. 42159

(C) The public records of an educational service center that 42160
is dissolved under this section shall be transferred in accordance 42161
with this division. Public records maintained by the service 42162
center in connection with services provided by the service center 42163
to local school districts shall be transferred to each of the 42164
respective local school districts. Public records maintained by 42165
the service center in connection with services provided under an 42166
agreement with a city or exempted village school district pursuant 42167
to section 3313.843 of the Revised Code shall be transferred to 42168
each of the respective city or exempted village school districts. 42169
All other public records maintained by the service center at the 42170
time the service center ceases operations shall be transferred to 42171
the Ohio historical society for analysis and disposition by the 42172
society in its capacity as archives administrator for the state 42173
and its political subdivisions pursuant to division (C) of section 42174
149.30 and section 149.31 of the Revised Code. 42175

Sec. 3311.06. (A) As used in this section:	42176
(1) "Annexation" and "annexed" mean annexation for municipal purposes under sections 709.02 to 709.37 of the Revised Code.	42177 42178
(2) "Annexed territory" means territory that has been annexed for municipal purposes to a city served by an urban school district, but on September 24, 1986, has not been transferred to the urban school district.	42179 42180 42181 42182
(3) "Urban school district" means a city school district with an average daily membership for the 1985-1986 school year in excess of twenty thousand that is the school district of a city that contains annexed territory.	42183 42184 42185 42186
(4) "Annexation agreement" means an agreement entered into under division (F) of this section that has been approved by the state board of education or an agreement entered into prior to September 24, 1986, that meets the requirements of division (F) of this section and has been filed with the state board.	42187 42188 42189 42190 42191
(B) The territory included within the boundaries of a city, local, exempted village, or joint vocational school district shall be contiguous except where a natural island forms an integral part of the district, where the state board of education authorizes a noncontiguous school district, as provided in division (E)(1) of this section, or where a local school district is created pursuant to section 3311.26 of the Revised Code from one or more local school districts, one of which has entered into an agreement under section 3313.42 of the Revised Code.	42192 42193 42194 42195 42196 42197 42198 42199 42200
(C)(1) When all of the territory of a school district is annexed to a city or village, such territory thereby becomes a part of the city school district or the school district of which the village is a part, and the legal title to school property in such territory for school purposes shall be vested in the board of	42201 42202 42203 42204 42205

education of the city school district or the school district of 42206
which the village is a part. 42207

(2) When the territory so annexed to a city or village 42208
comprises part but not all of the territory of a school district, 42209
the said territory becomes part of the city school district or the 42210
school district of which the village is a part only upon approval 42211
by the state board of education, unless the district in which the 42212
territory is located is a party to an annexation agreement with 42213
the city school district. 42214

Any urban school district that has not entered into an 42215
annexation agreement with any other school district whose 42216
territory would be affected by any transfer under this division 42217
and that desires to negotiate the terms of transfer with any such 42218
district shall conduct any negotiations under division (F) of this 42219
section as part of entering into an annexation agreement with such 42220
a district. 42221

Any school district, except an urban school district, 42222
desiring state board approval of a transfer under this division 42223
shall make a good faith effort to negotiate the terms of transfer 42224
with any other school district whose territory would be affected 42225
by the transfer. Before the state board may approve any transfer 42226
of territory to a school district, except an urban school 42227
district, under this section, it must receive the following: 42228

(a) A resolution requesting approval of the transfer, passed 42229
by at least one of the school districts whose territory would be 42230
affected by the transfer; 42231

(b) Evidence determined to be sufficient by the state board 42232
to show that good faith negotiations have taken place or that the 42233
district requesting the transfer has made a good faith effort to 42234
hold such negotiations; 42235

(c) If any negotiations took place, a statement signed by all 42236

boards that participated in the negotiations, listing the terms 42237
agreed on and the points on which no agreement could be reached. 42238

(D) The state board of education shall adopt rules governing 42239
negotiations held by any school district except an urban school 42240
district pursuant to division (C)(2) of this section. The rules 42241
shall encourage the realization of the following goals: 42242

(1) A discussion by the negotiating districts of the present 42243
and future educational needs of the pupils in each district; 42244

(2) The educational, financial, and territorial stability of 42245
each district affected by the transfer; 42246

(3) The assurance of appropriate educational programs, 42247
services, and opportunities for all the pupils in each 42248
participating district, and adequate planning for the facilities 42249
needed to provide these programs, services, and opportunities. 42250

Districts involved in negotiations under such rules may agree 42251
to share revenues from the property included in the territory to 42252
be transferred, establish cooperative programs between the 42253
participating districts, and establish mechanisms for the 42254
settlement of any future boundary disputes. 42255

(E)(1) If territory annexed after September 24, 1986, is part 42256
of a school district that is a party to an annexation agreement 42257
with the urban school district serving the annexing city, the 42258
transfer of such territory shall be governed by the agreement. If 42259
the agreement does not specify how the territory is to be dealt 42260
with, the boards of education of the district in which the 42261
territory is located and the urban school district shall negotiate 42262
with regard to the transfer of the territory which shall be 42263
transferred to the urban school district unless, not later than 42264
ninety days after the effective date of municipal annexation, the 42265
boards of education of both districts, by resolution adopted by a 42266
majority of the members of each board, agree that the territory 42267

will not be transferred and so inform the state board of 42268
education. 42269

If territory is transferred under this division the transfer 42270
shall take effect on the first day of July occurring not sooner 42271
than ninety-one days after the effective date of the municipal 42272
annexation. Territory transferred under this division need not be 42273
contiguous to the district to which it is transferred. 42274

(2) Territory annexed prior to September 24, 1986, by a city 42275
served by an urban school district shall not be subject to 42276
transfer under this section if the district in which the territory 42277
is located is a party to an annexation agreement or becomes a 42278
party to such an agreement not later than ninety days after 42279
September 24, 1986. If the district does not become a party to an 42280
annexation agreement within the ninety-day period, transfer of 42281
territory shall be governed by division (C)(2) of this section. If 42282
the district subsequently becomes a party to an agreement, 42283
territory annexed prior to September 24, 1986, other than 42284
territory annexed under division (C)(2) of this section prior to 42285
the effective date of the agreement, shall not be subject to 42286
transfer under this section. 42287

(F) An urban school district may enter into a comprehensive 42288
agreement with one or more school districts under which transfers 42289
of territory annexed by the city served by the urban school 42290
district after September 24, 1986, shall be governed by the 42291
agreement. Such agreement must provide for the establishment of a 42292
cooperative education program under section 3313.842 of the 42293
Revised Code in which all the parties to the agreement are 42294
participants and must be approved by resolution of the majority of 42295
the members of each of the boards of education of the school 42296
districts that are parties to it. An agreement may provide for 42297
interdistrict payments based on local revenue growth resulting 42298
from development in any territory annexed by the city served by 42299

the urban school district. 42300

An agreement entered into under this division may be altered, 42301
modified, or terminated only by agreement, by resolution approved 42302
by the majority of the members of each board of education, of all 42303
school districts that are parties to the agreement, except that 42304
with regard to any provision that affects only the urban school 42305
district and one of the other districts that is a party, that 42306
district and the urban district may modify or alter the agreement 42307
by resolution approved by the majority of the members of the board 42308
of that district and the urban district. Alterations, 42309
modifications, terminations, and extensions of an agreement 42310
entered into under this division do not require approval of the 42311
state board of education, but shall be filed with the board after 42312
approval and execution by the parties. 42313

If an agreement provides for interdistrict payments, each 42314
party to the agreement, except any school district specifically 42315
exempted by the agreement, shall agree to make an annual payment 42316
to the urban school district with respect to any of its territory 42317
that is annexed territory in an amount not to exceed the amount 42318
certified for that year under former section 3317.029 of the 42319
Revised Code as that section existed prior to July 1, 1998; except 42320
that such limitation of annual payments to amounts certified under 42321
former section 3317.029 of the Revised Code does not apply to 42322
agreements or extensions of agreements entered into on or after 42323
June 1, 1992, unless such limitation is expressly agreed to by the 42324
parties. The agreement may provide that all or any part of the 42325
payment shall be waived if the urban school district receives its 42326
payment with respect to such annexed territory under former 42327
section 3317.029 of the Revised Code and that all or any part of 42328
such payment may be waived if the urban school district does not 42329
receive its payment with respect to such annexed territory under 42330
such section. 42331

With respect to territory that is transferred to the urban school district after September 24, 1986, the agreement may provide for annual payments by the urban school district to the school district whose territory is transferred to the urban school district subsequent to annexation by the city served by the urban school district.

(G) In the event territory is transferred from one school district to another under this section, an equitable division of the funds and indebtedness between the districts involved shall be made under the supervision of the state board of education and that board's decision shall be final. Such division shall not include funds payable to or received by a school district under Chapter ~~3306~~ ~~or~~ 3317. of the Revised Code or payable to or received by a school district from the United States or any department or agency thereof. In the event such transferred territory includes real property owned by a school district, the state board of education, as part of such division of funds and indebtedness, shall determine the true value in money of such real property and all buildings or other improvements thereon. The board of education of the school district receiving such territory shall forthwith pay to the board of education of the school district losing such territory such true value in money of such real property, buildings, and improvements less such percentage of the true value in money of each school building located on such real property as is represented by the ratio of the total enrollment in day classes of the pupils residing in the territory transferred enrolled at such school building in the school year in which such annexation proceedings were commenced to the total enrollment in day classes of all pupils residing in the school district losing such territory enrolled at such school building in such school year. The school district receiving such payment shall place the proceeds thereof in its sinking fund or bond retirement fund.

(H) The state board of education, before approving such 42365
transfer of territory, shall determine that such payment has been 42366
made and shall apportion to the acquiring school district such 42367
percentage of the indebtedness of the school district losing the 42368
territory as is represented by the ratio that the assessed 42369
valuation of the territory transferred bears to the total assessed 42370
valuation of the entire school district losing the territory as of 42371
the effective date of the transfer, provided that in ascertaining 42372
the indebtedness of the school district losing the territory the 42373
state board of education shall disregard such percentage of the 42374
par value of the outstanding and unpaid bonds and notes of said 42375
school district issued for construction or improvement of the 42376
school building or buildings for which payment was made by the 42377
acquiring district as is equal to the percentage by which the true 42378
value in money of such building or buildings was reduced in fixing 42379
the amount of said payment. 42380

(I) No transfer of school district territory or division of 42381
funds and indebtedness incident thereto, pursuant to the 42382
annexation of territory to a city or village shall be completed in 42383
any other manner than that prescribed by this section regardless 42384
of the date of the commencement of such annexation proceedings, 42385
and this section applies to all proceedings for such transfers and 42386
divisions of funds and indebtedness pending or commenced on or 42387
after October 2, 1959. 42388

Sec. 3311.19. (A) The management and control of a joint 42389
vocational school district shall be vested in the joint vocational 42390
school district board of education. Where a joint vocational 42391
school district is composed only of two or more local school 42392
districts located in one county, or when all the participating 42393
districts are in one county and the boards of such participating 42394
districts so choose, the educational service center governing 42395
board of the county in which the joint vocational school district 42396

is located shall serve as the joint vocational school district 42397
board of education. Where a joint vocational school district is 42398
composed of local school districts of more than one county, or of 42399
any combination of city, local, or exempted village school 42400
districts or educational service centers, unless administration by 42401
the educational service center governing board has been chosen by 42402
all the participating districts in one county pursuant to this 42403
section, the board of education of the joint vocational school 42404
district shall be composed of one or more persons who are members 42405
of the boards of education from each of the city or exempted 42406
village school districts or members of the educational service 42407
centers' governing boards affected to be appointed by the boards 42408
of education or governing boards of such school districts and 42409
educational service centers. In such joint vocational school 42410
districts the number and terms of members of the joint vocational 42411
school district board of education and the allocation of a given 42412
number of members to each of the city and exempted village 42413
districts and educational service centers shall be determined in 42414
the plan for such district, provided that each such joint 42415
vocational school district board of education shall be composed of 42416
an odd number of members. 42417

(B) Notwithstanding division (A) of this section, a governing 42418
board of an educational service center that has members of its 42419
governing board serving on a joint vocational school district 42420
board of education may make a request to the joint vocational 42421
district board that the joint vocational school district plan be 42422
revised to provide for one or more members of boards of education 42423
of local school districts that are within the territory of the 42424
educational service district and within the joint vocational 42425
school district to serve in the place of or in addition to its 42426
educational service center governing board members. If agreement 42427
is obtained among a majority of the boards of education and 42428
governing boards that have a member serving on the joint 42429

vocational school district board of education and among a majority 42430
of the local school district boards of education included in the 42431
district and located within the territory of the educational 42432
service center whose board requests the substitution or addition, 42433
the state board of education may revise the joint vocational 42434
school district plan to conform with such agreement. 42435

(C) If the board of education of any school district or 42436
educational service center governing board included within a joint 42437
vocational district that has had its board or governing board 42438
membership revised under division (B) of this section requests the 42439
joint vocational school district board to submit to the state 42440
board of education a revised plan under which one or more joint 42441
vocational board members chosen in accordance with a plan revised 42442
under such division would again be chosen in the manner prescribed 42443
by division (A) of this section, the joint vocational board shall 42444
submit the revised plan to the state board of education, provided 42445
the plan is agreed to by a majority of the boards of education 42446
represented on the joint vocational board, a majority of the local 42447
school district boards included within the joint vocational 42448
district, and each educational service center governing board 42449
affected by such plan. The state board of education may revise the 42450
joint vocational school district plan to conform with the revised 42451
plan. 42452

(D) The vocational schools in such joint vocational school 42453
district shall be available to all youth of school age within the 42454
joint vocational school district subject to the rules adopted by 42455
the joint vocational school district board of education in regard 42456
to the standards requisite to admission. A joint vocational school 42457
district board of education shall have the same powers, duties, 42458
and authority for the management and operation of such joint 42459
vocational school district as is granted by law, except by this 42460
chapter and Chapters 124., ~~3306.~~ 3317., 3323., and 3331. of the 42461

Revised Code, to a board of education of a city school district, 42462
and shall be subject to all the provisions of law that apply to a 42463
city school district, except such provisions in this chapter and 42464
Chapters 124., ~~3306.7~~ 3317., 3323., and 3331. of the Revised Code. 42465

(E) Where a governing board of an educational service center 42466
has been designated to serve as the joint vocational school 42467
district board of education, the educational service center 42468
superintendent shall be the executive officer for the joint 42469
vocational school district, and the governing board may provide 42470
for additional compensation to be paid to the educational service 42471
center superintendent by the joint vocational school district, but 42472
the educational service center superintendent shall have no 42473
continuing tenure other than that of educational service center 42474
superintendent. The superintendent of schools of a joint 42475
vocational school district shall exercise the duties and authority 42476
vested by law in a superintendent of schools pertaining to the 42477
operation of a school district and the employment and supervision 42478
of its personnel. The joint vocational school district board of 42479
education shall appoint a treasurer of the joint vocational school 42480
district who shall be the fiscal officer for such district and who 42481
shall have all the powers, duties, and authority vested by law in 42482
a treasurer of a board of education. Where a governing board of an 42483
educational service center has been designated to serve as the 42484
joint vocational school district board of education, such board 42485
may appoint the educational service center superintendent as the 42486
treasurer of the joint vocational school district. 42487

(F) Each member of a joint vocational school district board 42488
of education may be paid such compensation as the board provides 42489
by resolution, but it shall not exceed one hundred twenty-five 42490
dollars per member for each meeting attended plus mileage, at the 42491
rate per mile provided by resolution of the board, to and from 42492
meetings of the board. 42493

~~The board may provide by resolution for the deduction of~~ 42494
~~amounts payable for benefits under section 3313.202 of the Revised~~ 42495
~~Code.~~ 42496

Each member of a joint vocational school district board may 42497
be paid such compensation as the board provides by resolution for 42498
attendance at an approved training program, provided that such 42499
compensation shall not exceed sixty dollars per day for attendance 42500
at a training program three hours or fewer in length and one 42501
hundred twenty-five dollars a day for attendance at a training 42502
program longer than three hours in length. However, no board 42503
member shall be compensated for the same training program under 42504
this section and section 3313.12 of the Revised Code. 42505

Sec. 3311.21. (A) In addition to the resolutions authorized 42506
by sections 5705.194, 5705.199, 5705.21, 5705.212, and 5705.213 of 42507
the Revised Code, the board of education of a joint vocational or 42508
cooperative education school district by a vote of two-thirds of 42509
its full membership may at any time adopt a resolution declaring 42510
the necessity to levy a tax in excess of the ten-mill limitation 42511
for a period not to exceed ten years to provide funds for any one 42512
or more of the following purposes, which may be stated in the 42513
following manner in such resolution, the ballot, and the notice of 42514
election: purchasing a site or enlargement thereof and for the 42515
erection and equipment of buildings; for the purpose of enlarging, 42516
improving, or rebuilding thereof; for the purpose of providing for 42517
the current expenses of the joint vocational or cooperative school 42518
district; or for a continuing period for the purpose of providing 42519
for the current expenses of the joint vocational or cooperative 42520
education school district. The resolution shall specify the amount 42521
of the proposed rate and, if a renewal, whether the levy is to 42522
renew all, or a portion of, the existing levy, and shall specify 42523
the first year in which the levy will be imposed. If the levy 42524
provides for but is not limited to current expenses, the 42525

resolution shall apportion the annual rate of the levy between 42526
current expenses and the other purpose or purposes. Such 42527
apportionment may but need not be the same for each year of the 42528
levy, but the respective portions of the rate actually levied each 42529
year for current expenses and the other purpose or purposes shall 42530
be limited by such apportionment. The portion of any such rate 42531
actually levied for current expenses of a joint vocational or 42532
cooperative education school district shall be used in applying 42533
~~division (A)(1) of section 3306.01 and~~ division (A) of section 42534
3317.01 of the Revised Code. The portion of any such rate not 42535
apportioned to the current expenses of a joint vocational or 42536
cooperative education school district shall be used in applying 42537
division (B) of this section. On the adoption of such resolution, 42538
the joint vocational or cooperative education school district 42539
board of education shall certify the resolution to the board of 42540
elections of the county containing the most populous portion of 42541
the district, which board shall receive resolutions for filing and 42542
send them to the boards of elections of each county in which 42543
territory of the district is located, furnish all ballots for the 42544
election as provided in section 3505.071 of the Revised Code, and 42545
prepare the election notice; and the board of elections of each 42546
county in which the territory of such district is located shall 42547
make the other necessary arrangements for the submission of the 42548
question to the electors of the joint vocational or cooperative 42549
education school district at the next primary or general election 42550
occurring not less than ninety days after the resolution was 42551
received from the joint vocational or cooperative education school 42552
district board of education, or at a special election to be held 42553
at a time designated by the district board of education consistent 42554
with the requirements of section 3501.01 of the Revised Code, 42555
which date shall not be earlier than ninety days after the 42556
adoption and certification of the resolution. 42557

The board of elections of the county or counties in which 42558

territory of the joint vocational or cooperative education school 42559
district is located shall cause to be published in ~~one or more~~ 42560
~~newspapers~~ a newspaper of general circulation in that district an 42561
advertisement of the proposed tax levy question, together with a 42562
statement of the amount of the proposed levy once a week for two 42563
consecutive weeks or as provided in section 7.16 of the Revised 42564
Code, prior to the election at which the question is to appear on 42565
the ballot, ~~and, if.~~ If the board of elections operates and 42566
maintains a web site, the board also shall post ~~a similar~~ the 42567
advertisement on its web site for thirty days prior to that 42568
election. 42569

If a majority of the electors voting on the question of 42570
levying such tax vote in favor of the levy, the joint vocational 42571
or cooperative education school district board of education shall 42572
annually make the levy within the district at the rate specified 42573
in the resolution and ballot or at any lesser rate, and the county 42574
auditor of each affected county shall annually place the levy on 42575
the tax list and duplicate of each school district in the county 42576
having territory in the joint vocational or cooperative education 42577
school district. The taxes realized from the levy shall be 42578
collected at the same time and in the same manner as other taxes 42579
on the duplicate, and the taxes, when collected, shall be paid to 42580
the treasurer of the joint vocational or cooperative education 42581
school district and deposited to a special fund, which shall be 42582
established by the joint vocational or cooperative education 42583
school district board of education for all revenue derived from 42584
any tax levied pursuant to this section and for the proceeds of 42585
anticipation notes which shall be deposited in such fund. After 42586
the approval of the levy, the joint vocational or cooperative 42587
education school district board of education may anticipate a 42588
fraction of the proceeds of the levy and from time to time, during 42589
the life of the levy, but in any year prior to the time when the 42590
tax collection from the levy so anticipated can be made for that 42591

year, issue anticipation notes in an amount not exceeding fifty 42592
per cent of the estimated proceeds of the levy to be collected in 42593
each year up to a period of five years after the date of the 42594
issuance of the notes, less an amount equal to the proceeds of the 42595
levy obligated for each year by the issuance of anticipation 42596
notes, provided that the total amount maturing in any one year 42597
shall not exceed fifty per cent of the anticipated proceeds of the 42598
levy for that year. Each issue of notes shall be sold as provided 42599
in Chapter 133. of the Revised Code, and shall, except for such 42600
limitation that the total amount of such notes maturing in any one 42601
year shall not exceed fifty per cent of the anticipated proceeds 42602
of the levy for that year, mature serially in substantially equal 42603
installments, during each year over a period not to exceed five 42604
years after their issuance. 42605

(B) Prior to the application of section 319.301 of the 42606
Revised Code, the rate of a levy that is limited to, or to the 42607
extent that it is apportioned to, purposes other than current 42608
expenses shall be reduced in the same proportion in which the 42609
district's total valuation increases during the life of the levy 42610
because of additions to such valuation that have resulted from 42611
improvements added to the tax list and duplicate. 42612

(C) The form of ballot cast at an election under division (A) 42613
of this section shall be as prescribed by section 5705.25 of the 42614
Revised Code. 42615

Sec. 3311.213. (A) With the approval of the board of 42616
education of a joint vocational school district ~~which~~ that is in 42617
existence, any school district in the county or counties 42618
comprising the joint vocational school district or any school 42619
district in a county adjacent to a county comprising part of a 42620
joint vocational school district may become a part of the joint 42621
vocational school district. On the adoption of a resolution of 42622

approval by the board of education of the joint vocational school 42623
district, it shall advertise a copy of such resolution in a 42624
newspaper of general circulation in the school district proposing 42625
to become a part of such joint vocational school district once 42626
each week for ~~at least~~ two weeks, or as provided in section 7.16 42627
of the Revised Code, immediately following the date of the 42628
adoption of such resolution. Such resolution shall not become 42629
effective until the later of the sixty-first day after its 42630
adoption or until the board of elections certifies the results of 42631
an election in favor of joining of the school district to the 42632
joint vocational school district if such an election is held under 42633
division (B) of this section. 42634

(B) During the sixty-day period following the date of the 42635
adoption of a resolution to join a school district to a joint 42636
vocational school district under division (A) of this section, the 42637
electors of the school district that proposes joining the joint 42638
vocational school district may petition for a referendum vote on 42639
the resolution. The question whether to approve or disapprove the 42640
resolution shall be submitted to the electors of such school 42641
district if a number of qualified electors equal to twenty per 42642
cent of the number of electors in the school district who voted 42643
for the office of governor at the most recent general election for 42644
that office sign a petition asking that the question of whether 42645
the resolution shall be disapproved be submitted to the electors. 42646
The petition shall be filed with the board of elections of the 42647
county in which the school district is located. If the school 42648
district is located in more than one county, the petition shall be 42649
filed with the board of elections of the county in which the 42650
majority of the territory of the school district is located. The 42651
board shall certify the validity and sufficiency of the signatures 42652
on the petition. 42653

The board of elections shall immediately notify the board of 42654

education of the joint vocational school district and the board of 42655
education of the school district that proposes joining the joint 42656
vocational school district that the petition has been filed. 42657

The effect of the resolution shall be stayed until the board 42658
of elections certifies the validity and sufficiency of the 42659
signatures on the petition. If the board of elections determines 42660
that the petition does not contain a sufficient number of valid 42661
signatures and sixty days have passed since the adoption of the 42662
resolution, the resolution shall become effective. 42663

If the board of elections certifies that the petition 42664
contains a sufficient number of valid signatures, the board shall 42665
submit the question to the qualified electors of the school 42666
district on the day of the next general or primary election held 42667
at least ninety days after but no later than six months after the 42668
board of elections certifies the validity and sufficiency of 42669
signatures on the petition. If there is no general or primary 42670
election held at least ninety days after but no later than six 42671
months after the board of elections certifies the validity and 42672
sufficiency of signatures on the petition, the board shall submit 42673
the question to the electors at a special election to be held on 42674
the next day specified for special elections in division (D) of 42675
section 3501.01 of the Revised Code that occurs at least ninety 42676
days after the board certifies the validity and sufficiency of 42677
signatures on the petition. The election shall be conducted and 42678
canvassed and the results shall be certified in the same manner as 42679
in regular elections for the election of members of a board of 42680
education. 42681

If a majority of the electors voting on the question 42682
disapprove the resolution, the resolution shall not become 42683
effective. 42684

(C) If the resolution becomes effective, the board of 42685
education of the joint vocational school district shall notify the 42686

county auditor of the county in which the school district becoming 42687
a part of the joint vocational school district is located, who 42688
shall thereupon have any outstanding levy for building purposes, 42689
bond retirement, or current expenses in force in the joint 42690
vocational school district spread over the territory of the school 42691
district becoming a part of the joint vocational school district. 42692
On the addition of a city or exempted village school district or 42693
an educational service center to the joint vocational school 42694
district, pursuant to this section, the board of education of such 42695
joint vocational school district shall submit to the state board 42696
of education a proposal to enlarge the membership of such board by 42697
the addition of one or more persons at least one of whom shall be 42698
a member of the board of education or governing board of such 42699
additional school district or educational service center, and the 42700
term of each such additional member. On the addition of a local 42701
school district to the joint vocational school district, pursuant 42702
to this section, the board of education of such joint vocational 42703
school district may submit to the state board of education a 42704
proposal to enlarge the membership of such board by the addition 42705
of one or more persons who are members of the educational service 42706
center governing board of such additional local school district. 42707
On approval by the state board of education additional members 42708
shall be added to such joint vocational school district board of 42709
education. 42710

Sec. 3311.214. (A) With the approval of the state board of 42711
education, the boards of education of any two or more joint 42712
vocational school districts may, by the adoption of identical 42713
resolutions by a majority of the members of each such board, 42714
propose that one new joint vocational school district be created 42715
by adding together all of the territory of each of the districts 42716
and dissolving such districts. A copy of each resolution shall be 42717
filed with the state board of education for its approval or 42718

disapproval. The resolutions shall include a provision that the 42719
board of education of the new district shall be composed of the 42720
members from the same boards of education that composed the 42721
membership of the board of each of the districts to be dissolved, 42722
except that, if an even number of districts are to be dissolved, 42723
one additional member shall be added, who may be from any school 42724
district included in the territory of any of the districts to be 42725
dissolved as designated in the resolutions. The members of the new 42726
board shall have the same terms of office as they had under the 42727
respective plans of the districts adopting the resolutions, except 42728
that, if the new board has an additional member, ~~he~~ the additional 42729
member shall have a term as specified in the resolutions. 42730

If the state board approves the resolutions, the board of 42731
education of each district to be dissolved shall advertise a copy 42732
of the resolution in a newspaper of general circulation in its 42733
district once each week for ~~at least~~ two weeks, or as provided in 42734
section 7.16 of the Revised Code, immediately following the date 42735
the resolutions are approved by the state board. The resolutions 42736
shall become effective on the first day of July next succeeding 42737
the sixtieth day following approval by the state board unless 42738
prior to the expiration of such sixty-day period, qualified 42739
electors residing in one of the districts to be dissolved equal in 42740
number to a majority of the qualified electors of that district 42741
voting at the last general election file with the state board a 42742
petition of remonstrance against creation of the proposed new 42743
district. 42744

(B) When a resolution becomes effective under division (A) of 42745
this section, each district in which a resolution was adopted and 42746
the board of each such district are dissolved. The territory of 42747
each dissolved district becomes a part of the new joint vocational 42748
school district. The net indebtedness of each dissolved district 42749
shall be assumed in full by the new district and the funds and 42750

property of each dissolved district shall become in full the funds 42751
and property of the new district. All existing contracts of each 42752
dissolved board shall be honored by the board of the new district 42753
until their expiration dates. The board of the new district shall 42754
notify the county auditor of each county in which each dissolved 42755
district was located that a resolution has become effective and a 42756
new district has been created and shall certify to each auditor 42757
any changes that might be required in the tax rate as a result of 42758
the creation of the new district. 42759

(C) As used in this section, "net indebtedness" means the 42760
difference between the par value of the outstanding and unpaid 42761
bonds and notes of the school district and the amount held in the 42762
sinking fund and other indebtedness retirement funds for their 42763
redemption. 42764

Sec. 3311.29. (A) Except as provided under division (B) or 42765
(C) of this section, no school district shall be created and no 42766
school district shall exist which does not maintain within such 42767
district public schools consisting of grades kindergarten through 42768
twelve and any such existing school district not maintaining such 42769
schools shall be dissolved and its territory joined with another 42770
school district or districts by order of the state board of 42771
education if no agreement is made among the surrounding districts 42772
voluntarily, which order shall provide an equitable division of 42773
the funds, property, and indebtedness of the dissolved school 42774
district among the districts receiving its territory. The state 42775
board of education may authorize exceptions to school districts 42776
where topography, sparsity of population, and other factors make 42777
compliance impracticable. 42778

The superintendent of public instruction is without authority 42779
to distribute funds under Chapter ~~3306~~ or 3317. of the Revised 42780
Code to any school district that does not maintain schools with 42781

grades kindergarten through twelve and to which no exception has 42782
been granted by the state board of education. 42783

(B) Division (A) of this section does not apply to any joint 42784
vocational school district or any cooperative education school 42785
district established pursuant to divisions (A) to (C) of section 42786
3311.52 of the Revised Code. 42787

(C)(1)(a) Except as provided in division (C)(3) of this 42788
section, division (A) of this section does not apply to any 42789
cooperative education school district established pursuant to 42790
section 3311.521 of the Revised Code nor to the city, exempted 42791
village, or local school districts that have territory within such 42792
a cooperative education district. 42793

(b) The cooperative district and each city, exempted village, 42794
or local district with territory within the cooperative district 42795
shall maintain the grades that the resolution adopted or amended 42796
pursuant to section 3311.521 of the Revised Code specifies. 42797

(2) Any cooperative education school district described under 42798
division (C)(1) of this section that fails to maintain the grades 42799
it is specified to operate shall be dissolved by order of the 42800
state board of education unless prior to such an order the 42801
cooperative district is dissolved pursuant to section 3311.54 of 42802
the Revised Code. Any such order shall provide for the equitable 42803
adjustment, division, and disposition of the assets, property, 42804
debts, and obligations of the district among each city, local, and 42805
exempted village school district whose territory is in the 42806
cooperative district and shall provide that the tax duplicate of 42807
each city, local, and exempted village school district whose 42808
territory is in the cooperative district shall be bound for and 42809
assume its share of the outstanding indebtedness of the 42810
cooperative district. 42811

(3) If any city, exempted village, or local school district 42812

described under division (C)(1) of this section fails to maintain 42813
the grades it is specified to operate the cooperative district 42814
within which it has territory shall be dissolved in accordance 42815
with division (C)(2) of this section and upon that dissolution any 42816
city, exempted village, or local district failing to maintain 42817
grades kindergarten through twelve shall be subject to the 42818
provisions for dissolution in division (A) of this section. 42819

Sec. 3311.50. (A) As used in this section, "county school 42820
financing district" means a taxing district consisting of the 42821
following territory: 42822

(1) The territory that constitutes the educational service 42823
center on the date that the governing board of that educational 42824
service center adopts a resolution under division (B) of this 42825
section declaring that the territory of the educational service 42826
center is a county school financing district, exclusive of any 42827
territory subsequently withdrawn from the district under division 42828
(D) of this section; 42829

(2) Any territory that has been added to the county school 42830
financing district under this section. 42831

A county school financing district may include the territory 42832
of a city, local, or exempted village school district whose 42833
territory also is included in the territory of one or more other 42834
county school financing districts. 42835

(B) The governing board of any educational service center 42836
may, by resolution, declare that the territory of the educational 42837
service center is a county school financing district. The 42838
resolution shall state the purpose for which the county school 42839
financing district is created which may be for any one or more of 42840
the following purposes: 42841

(1) To levy taxes for the provision of special education by 42842

the school districts that are a part of the district, including 42843
taxes for permanent improvements for special education; 42844

(2) To levy taxes for the provision of specified educational 42845
programs and services by the school districts that are a part of 42846
the district, as identified in the resolution creating the 42847
district, including the levying of taxes for permanent 42848
improvements for those programs and services; 42849

(3) To levy taxes for permanent improvements of school 42850
districts that are a part of the district. 42851

The governing board of the educational service center that 42852
creates a county school financing district shall serve as the 42853
taxing authority of the district and may use educational service 42854
center governing board employees to perform any of the functions 42855
necessary in the performance of its duties as a taxing authority. 42856
A county school financing district shall not employ any personnel. 42857

With the approval of a majority of the members of the board 42858
of education of each school district within the territory of the 42859
county school financing district, the taxing authority of the 42860
financing district may amend the resolution creating the district 42861
to broaden or narrow the purposes for which it was created. 42862

A governing board of an educational service center may create 42863
more than one county school financing district. If a governing 42864
board of an educational service center creates more than one such 42865
district, it shall clearly distinguish among the districts it 42866
creates by including a designation of each district's purpose in 42867
the district's name. 42868

(C) A majority of the members of a board of education of a 42869
city, local, or exempted village school district may adopt a 42870
resolution requesting that its territory be joined with the 42871
territory of any county school financing district. Copies of the 42872
resolution shall be filed with the state board of education and 42873

the taxing authority of the county school financing district. 42874
Within sixty days of its receipt of such a resolution, the county 42875
school financing district's taxing authority shall vote on the 42876
question of whether to accept the school district's territory as 42877
part of the county school financing district. If a majority of the 42878
members of the taxing authority vote to accept the territory, the 42879
school district's territory shall thereupon become a part of the 42880
county school financing district unless the county school 42881
financing district has in effect a tax imposed under section 42882
5705.211 of the Revised Code. If the county school financing 42883
district has such a tax in effect, the taxing authority shall 42884
certify a copy of its resolution accepting the school district's 42885
territory to the school district's board of education, which may 42886
then adopt a resolution, with the affirmative vote of a majority 42887
of its members, proposing the submission to the electors of the 42888
question of whether the district's territory shall become a part 42889
of the county school financing district and subject to the taxes 42890
imposed by the financing district. The resolution shall set forth 42891
the date on which the question shall be submitted to the electors, 42892
which shall be at a special election held on a date specified in 42893
the resolution, which shall not be earlier than ninety days after 42894
the adoption and certification of the resolution. A copy of the 42895
resolution shall immediately be certified to the board of 42896
elections of the proper county, which shall make arrangements for 42897
the submission of the proposal to the electors of the school 42898
district. The board of the joining district shall publish notice 42899
of the election in ~~one or more newspapers~~ a newspaper of general 42900
circulation in the county once a week for two consecutive weeks, 42901
or as provided in section 7.16 of the Revised Code, prior to the 42902
election. Additionally, if the board of elections operates and 42903
maintains a web site, the board of elections shall post notice of 42904
the election on its web site for thirty days prior to the 42905
election. The question appearing on the ballot shall read: 42906

"Shall the territory within (name of the school district proposing to join the county school financing district) be added to (name) county school financing district, and a property tax for the purposes of (here insert purposes) at a rate of taxation not exceeding (here insert the outstanding tax rate) be in effect for (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable)?"

If the proposal is approved by a majority of the electors voting on it, the joinder shall take effect on the first day of July following the date of the election, and the county board of elections shall notify the county auditor of each county in which the school district joining its territory to the county school financing district is located.

(D) The board of any city, local, or exempted village school district whose territory is part of a county school financing district may withdraw its territory from the county school financing district thirty days after submitting to the governing board that is the taxing authority of the district and the state board a resolution proclaiming such withdrawal, adopted by a majority vote of its members, but any county school financing district tax levied in such territory on the effective date of the withdrawal shall remain in effect in such territory until such tax expires or is renewed. No board may adopt a resolution withdrawing from a county school financing district that would take effect during the forty-five days preceding the date of an election at which a levy proposed under section 5705.215 of the Revised Code is to be voted upon.

(E) A city, local, or exempted village school district does not lose its separate identity or legal existence by reason of joining its territory to a county school financing district under

this section and an educational service center does not lose its 42939
separate identity or legal existence by reason of creating a 42940
county school financing district that accepts or loses territory 42941
under this section. 42942

Sec. 3311.52. A cooperative education school district may be 42943
established pursuant to divisions (A) to (C) of this section or 42944
pursuant to section 3311.521 of the Revised Code. 42945

(A) A cooperative education school district may be 42946
established upon the adoption of identical resolutions within a 42947
sixty-day period by a majority of the members of the board of 42948
education of each city, local, and exempted village school 42949
district that is within the territory of a county school financing 42950
district. 42951

A copy of each resolution shall be filed with the governing 42952
board of the educational service center which created the county 42953
school financing district. Upon the filing of the last such 42954
resolution, the educational service center governing board shall 42955
immediately notify each board of education filing such a 42956
resolution of the date on which the last resolution was filed. 42957

Ten days after the date on which the last resolution is filed 42958
with the educational service center governing board or ten days 42959
after the last of any notices required under division (C) of this 42960
section is received by the educational service center governing 42961
board, whichever is later, the county school financing district 42962
shall be dissolved and the new cooperative education school 42963
district and the board of education of the cooperative education 42964
school district shall be established. 42965

On the date that any county school financing district is 42966
dissolved and a cooperative education school district is 42967
established under this section, each of the following shall apply: 42968

(1) The territory of the dissolved district becomes the 42969
territory of the new district. 42970

(2) Any outstanding tax levy in force in the dissolved 42971
district shall be spread over the territory of the new district 42972
and shall remain in force in the new district until the levy 42973
expires or is renewed. 42974

(3) Any funds of the dissolved district shall be paid over in 42975
full to the new district. 42976

(4) Any net indebtedness of the dissolved district shall be 42977
assumed in full by the new district. As used in division (A)(4) of 42978
this section, "net indebtedness" means the difference between the 42979
par value of the outstanding and unpaid bonds and notes of the 42980
dissolved district and the amount held in the sinking fund and 42981
other indebtedness retirement funds for their redemption. 42982

When a county school financing district is dissolved and a 42983
cooperative education school district is established under this 42984
section, the governing board of the educational service center 42985
that created the dissolved district shall give written notice of 42986
this fact to the county auditor and the board of elections of each 42987
county having any territory in the new district. 42988

(B) The resolutions adopted under division (A) of this 42989
section shall include all of the following provisions: 42990

(1) Provision that the governing board of the educational 42991
service center which created the county school financing district 42992
shall be the board of education of the cooperative education 42993
school district, except that provision may be made for the 42994
composition, selection, and terms of office of an alternative 42995
board of education of the cooperative district, which board shall 42996
include at least one member selected from or by the members of the 42997
board of education of each city, local, and exempted village 42998
school district and at least one member selected from or by the 42999

members of the educational service center governing board within 43000
the territory of the cooperative district; 43001

(2) Provision that the treasurer and superintendent of the 43002
educational service center which created the county school 43003
financing district shall be the treasurer and superintendent of 43004
the cooperative education school district, except that provision 43005
may be made for the selection of a treasurer or superintendent of 43006
the cooperative district other than the treasurer or 43007
superintendent of the educational service center, which provision 43008
shall require one of the following: 43009

(a) The selection of one person as both the treasurer and 43010
superintendent of the cooperative district, which provision may 43011
require such person to be the treasurer or superintendent of any 43012
city, local, or exempted village school district or educational 43013
service center within the territory of the cooperative district; 43014

(b) The selection of one person as the treasurer and another 43015
person as the superintendent of the cooperative district, which 43016
provision may require either one or both such persons to be 43017
treasurers or superintendents of any city, local, or exempted 43018
village school districts or educational service center within the 43019
territory of the cooperative district. 43020

(3) A statement of the educational program the board of 43021
education of the cooperative education school district will 43022
conduct, including but not necessarily limited to the type of 43023
educational program, the grade levels proposed for inclusion in 43024
the program, the timetable for commencing operation of the 43025
program, and the facilities proposed to be used or constructed to 43026
be used by the program; 43027

(4) A statement of the annual amount, or the method for 43028
determining that amount, of funds or services or facilities that 43029
each city, local, and exempted village school district within the 43030

territory of the cooperative district is required to pay to or 43031
provide for the use of the board of education of the cooperative 43032
education school district; 43033

(5) Provision for adopting amendments to the provisions of 43034
divisions (B)(2) to (4) of this section. 43035

(C) If the resolutions adopted under division (A) of this 43036
section provide for a board of education of the cooperative 43037
education school district that is not the governing board of the 43038
educational service center that created the county school 43039
financing district, each board of education of each city, local, 43040
or exempted village school district and the governing board of the 43041
educational service center within the territory of the cooperative 43042
district shall, within thirty days after the date on which the 43043
last resolution is filed with the educational service center 43044
governing board under division (A) of this section, select one or 43045
more members of the board of education of the cooperative district 43046
as provided in the resolutions filed with the educational service 43047
center governing board. Each such board shall immediately notify 43048
the educational service center governing board of each such 43049
selection. 43050

(D) Except for the powers and duties in this chapter and 43051
Chapters 124., ~~3306.7~~ 3317., 3318., 3323., and 3331. of the 43052
Revised Code, a cooperative education school district established 43053
pursuant to divisions (A) to (C) of this section or pursuant to 43054
section 3311.521 of the Revised Code has all the powers of a city 43055
school district and its board of education has all the powers and 43056
duties of a board of education of a city school district with 43057
respect to the educational program specified in the resolutions 43058
adopted under division (A) of this section. All laws applicable to 43059
a city school district or the board of education or the members of 43060
the board of education of a city school district, except such laws 43061
in this chapter and Chapters 124., ~~3306.7~~ 3317., 3318., 3323., and 43062

3331. of the Revised Code, are applicable to a cooperative 43063
education school district and its board. 43064

The treasurer and superintendent of a cooperative education 43065
school district shall have the same respective duties and powers 43066
as a treasurer and superintendent of a city school district, 43067
except for any powers and duties in this chapter and Chapters 43068
124., ~~3306.~~, 3317., 3318., 3323., and 3331. of the Revised Code. 43069

(E) For purposes of this title, any student included in the 43070
formula ADM certified for any city, exempted village, or local 43071
school district under section 3317.03 of the Revised Code by 43072
virtue of being counted, in whole or in part, in the average daily 43073
membership of a cooperative education school district under 43074
division (A)(2)(f) of that section shall be construed to be 43075
enrolled both in that city, exempted village, or local school 43076
district and in that cooperative education school district. This 43077
division shall not be construed to mean that any such individual 43078
student may be counted more than once for purposes of determining 43079
the average daily membership of any one school district. 43080

Sec. 3311.53. (A)(1) The board of education of any city, 43081
local, or exempted village school district that wishes to become 43082
part of a cooperative education school district established 43083
pursuant to divisions (A) to (C) of section 3311.52 of the Revised 43084
Code may adopt a resolution proposing to become a part of the 43085
cooperative education school district. 43086

(2) The board of education of any city, local, or exempted 43087
village school district that is contiguous to a cooperative 43088
education school district established pursuant to section 3311.521 43089
of the Revised Code and that wishes to become part of that 43090
cooperative district may adopt a resolution proposing to become 43091
part of that cooperative district. 43092

(B) If, after the adoption of a resolution in accordance with 43093

division (A) of this section, the board of education of the 43094
cooperative education school district named in that resolution 43095
also adopts a resolution accepting the new district, the board of 43096
the district wishing to become part of the cooperative district 43097
shall advertise a copy of the cooperative district board's 43098
resolution in a newspaper of general circulation in the school 43099
district proposing to become a part of the cooperative education 43100
school district once each week for ~~at least~~ two weeks, or as 43101
provided in section 7.16 of the Revised Code, immediately 43102
following the date of the adoption of the resolution. The 43103
resolution shall become legally effective on the sixtieth day 43104
after its adoption, unless prior to the expiration of that 43105
sixty-day period qualified electors residing in the school 43106
district proposed to become a part of the cooperative education 43107
school district equal in number to a majority of the qualified 43108
electors voting at the last general election file with the board 43109
of education a petition of remonstrance against the transfer. If 43110
the resolution becomes legally effective, both of the following 43111
shall apply: 43112

(1) The resolution that established the cooperative education 43113
school district pursuant to divisions (A) to (C) of section 43114
3311.52 or section 3311.521 of the Revised Code shall be amended 43115
to reflect the addition of the new district to the cooperative 43116
district. 43117

(2) The board of education of the cooperative education 43118
school district shall give written notice of this fact to the 43119
county auditor and the board of elections of each county in which 43120
the school district becoming a part of the cooperative education 43121
school district has territory. Any such county auditor shall 43122
thereupon have any outstanding levy for building purposes, bond 43123
retirement, or current expenses in force in the cooperative 43124
education school district spread over the territory of the school 43125

district becoming a part of the cooperative education school 43126
district. 43127

(C) If the board of education of the cooperative education 43128
school district is not the governing board of an educational 43129
service center, the board of education of the cooperative 43130
education school district shall, on the addition of a city, local, 43131
or exempted village school district to the district pursuant to 43132
this section, submit to the state board of education a proposal to 43133
enlarge the membership of the board. In the case of a cooperative 43134
district established pursuant to divisions (A) to (C) of section 43135
3311.52 of the Revised Code, the proposal shall add one or more 43136
persons to the district's board, at least one of whom shall be a 43137
member of or selected by the board of education of the additional 43138
school district, and shall specify the term of each such 43139
additional member. In the case of a cooperative district 43140
established pursuant to section 3311.521 of the Revised Code, the 43141
proposal shall add two or more persons to the district's board, at 43142
least two of whom shall be a member of or selected by the board of 43143
education of the additional school district, and shall specify the 43144
term of each such additional member. On approval by the state 43145
board of education, the additional members shall be added to the 43146
cooperative education school district board of education. 43147

Sec. 3311.73. (A) No later than ninety days before the 43148
general election held in the first even-numbered year occurring at 43149
least four years after the date it assumed control of the 43150
municipal school district pursuant to division (B) of section 43151
3311.71 of the Revised Code, the board of education appointed 43152
under that division shall notify the board of elections of each 43153
county containing territory of the municipal school district of 43154
the referendum election required by division (B) of this section. 43155

(B) At the general election held in the first even-numbered 43156

year occurring at least four years after the date the new board 43157
assumed control of a municipal school district pursuant to 43158
division (B) of section 3311.71 of the Revised Code, the following 43159
question shall be submitted to the electors residing in the school 43160
district: 43161

"Shall the mayor of (here insert the name of the 43162
applicable municipal corporation) continue to appoint the members 43163
of the board of education of the (here insert the name of 43164
the municipal school district)?" 43165

The board of elections of the county in which the majority of 43166
the school district's territory is located shall make all 43167
necessary arrangements for the submission of the question to the 43168
electors, and the election shall be conducted, canvassed, and 43169
certified in the same manner as regular elections in the district 43170
for the election of county officers, provided that in any such 43171
election in which only part of the electors of a precinct are 43172
qualified to vote, the board of elections may assign voters in 43173
such part to an adjoining precinct. Such an assignment may be made 43174
to an adjoining precinct in another county with the consent and 43175
approval of the board of elections of such other county. Notice of 43176
the election shall be published in a newspaper of general 43177
circulation in the school district once a week for two consecutive 43178
weeks, or as provided in section 7.16 of the Revised Code, prior 43179
to the election, ~~and, if~~. If the board of elections operates and 43180
maintains a web site, the board of elections shall post notice of 43181
the election on its web site for thirty days prior to the 43182
election. The notice shall state the question on which the 43183
election is being held. The ballot shall be in the form prescribed 43184
by the secretary of state. Costs of submitting the question to the 43185
electors shall be charged to the municipal school district in 43186
accordance with section 3501.17 of the Revised Code. 43187

(C) If a majority of electors voting on the issue proposed in 43188

division (B) of this section approve the question, the mayor shall 43189
appoint a new board on the immediately following first day of July 43190
pursuant to division (F) of section 3311.71 of the Revised Code. 43191

(D) If a majority of electors voting on the issue proposed in 43192
division (B) of this section disapprove the question, a new 43193
seven-member board of education shall be elected at the next 43194
regular election occurring in November of an odd-numbered year. At 43195
such election, four members shall be elected for terms of four 43196
years and three members shall be elected for terms of two years. 43197
Thereafter, their successors shall be elected in the same manner 43198
and for the same terms as members of boards of education of a city 43199
school district. All members of the board of education of a 43200
municipal school district appointed pursuant to division (B) of 43201
section 3311.71 of the Revised Code shall continue to serve after 43202
the end of the terms to which they were appointed until their 43203
successors are qualified and assume office in accordance with 43204
section 3313.09 of the Revised Code. 43205

Sec. 3311.76. (A) Notwithstanding Chapters 3302., ~~3306.~~, and 43206
3317. of the Revised Code, upon written request of the district 43207
chief executive officer the state superintendent of public 43208
instruction may exempt a municipal school district from any rules 43209
adopted under Title XXXIII of the Revised Code except for any rule 43210
adopted under Chapter 3307. or 3309., sections 3319.07 to 3319.21, 43211
or Chapter 3323. of the Revised Code, and may authorize a 43212
municipal school district to apply funds allocated to the district 43213
under ~~Chapters 3306. and Chapter~~ 3317. of the Revised Code, except 43214
those specifically allocated to purposes other than current 43215
expenses, to the payment of debt charges on the district's public 43216
obligations. The request must specify the provisions from which 43217
the district is seeking exemption or the application requested and 43218
the reasons for the request. The state superintendent shall 43219
approve the request if the superintendent finds the requested 43220

exemption or application is in the best interest of the district's 43221
students. The superintendent shall approve or disapprove the 43222
request within thirty days and shall notify the district board and 43223
the district chief executive officer of approval or reasons for 43224
disapproving the request. 43225

(B) In addition to the rights, authority, and duties 43226
conferred upon a municipal school district and its board of 43227
education in sections 3311.71 to 3311.76 of the Revised Code, a 43228
municipal school district and its board shall have all of the 43229
rights, authority, and duties conferred upon a city school 43230
district and its board by law that are not inconsistent with 43231
sections 3311.71 to 3311.76 of the Revised Code. 43232

Sec. 3313.12. Each member of the educational service center 43233
governing board may be paid such compensation as the governing 43234
board provides by resolution, provided that any such compensation 43235
shall not exceed one hundred twenty-five dollars a day plus 43236
mileage both ways, at the rate per mile provided by resolution of 43237
the governing board, for attendance at any meeting of the board. 43238
Such compensation and the expenses of the educational service 43239
center superintendent, itemized and verified, shall be paid from 43240
the educational service center governing board fund upon vouchers 43241
signed by the president of the governing board. 43242

The board of education of any city, local, or exempted 43243
village school district may provide by resolution for compensation 43244
of its members, provided that such compensation shall not exceed 43245
one hundred twenty-five dollars per member for meetings attended. 43246
~~The board may provide by resolution for the deduction of amounts 43247~~
~~payable for benefits under section 3313.202 of the Revised Code. 43248~~

Each member of a district board or educational service center 43249
governing board may be paid such compensation as the respective 43250
board provides by resolution for attendance at an approved 43251

training program, provided that such compensation shall not exceed 43252
sixty dollars a day for attendance at a training program three 43253
hours or fewer in length and one hundred twenty-five dollars a day 43254
for attendance at a training program longer than three hours in 43255
length. 43256

Sec. 3313.29. The treasurer of each board of education shall 43257
keep an account of all school funds of the district. The treasurer 43258
shall receive all vouchers for payments and disbursements made to 43259
and by the board and preserve such vouchers for a period of ten 43260
years unless copied or reproduced according to the procedure 43261
prescribed in section 9.01 of the Revised Code. Thereafter, such 43262
vouchers may be destroyed by the treasurer upon applying to and 43263
obtaining an order from the school district records commission in 43264
the manner prescribed by section 149.41 of the Revised Code, 43265
except that it shall not be necessary to copy or reproduce such 43266
vouchers before their destruction. The treasurer shall render a 43267
statement to the board and to the superintendent of the school 43268
district, monthly, or more often if required, showing the revenues 43269
and receipts from whatever sources derived, the various 43270
appropriations made by the board, the expenditures and 43271
disbursements therefrom, the purposes thereof, the balances 43272
remaining in each appropriation, and the assets and liabilities of 43273
the school district. At the end of the fiscal year such statement 43274
shall be a complete exhibit of the financial affairs of the school 43275
district which may be published and distributed with the approval 43276
of the board. All monthly and yearly statements as required in 43277
this section shall be available for examination by the public. 43278

On request of the principal or other chief administrator of 43279
any nonpublic school located within the school district's 43280
territory, the treasurer shall provide such principal or 43281
administrator with an account of the moneys received by the 43282
district under division ~~(I)~~(E) of section 3317.024 of the Revised 43283

Code as reported to the district's board in the treasurer's most recent monthly statement. 43284
43285

Sec. 3313.33. (A) Conveyances made by a board of education shall be executed by the president and treasurer thereof. 43286
43287

(B) Except as provided in division (C) of this section, no member of the board shall have, directly or indirectly, any pecuniary interest in any contract of the board or be employed in any manner for compensation by the board of which the person is a member. No contract shall be binding upon any board unless it is made or authorized at a regular or special meeting of such board. 43288
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(C) A member of the board may have a pecuniary interest in a contract of the board if all of the following apply: 43294
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(1) The member's pecuniary interest in that contract is that the member is employed by a political subdivision, instrumentality, or agency of the state that is contracting with the board; 43296
43297
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(2) The member does not participate in any discussion or debate regarding the contract or vote on the contract; 43300
43301

(3) The member files with the school district treasurer an affidavit stating the member's exact employment status with the political subdivision, instrumentality, or agency contracting with the board. 43302
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(D) This section does not apply where a member of the board, being a shareholder of a corporation but not being an officer or director thereof, owns not in excess of five per cent of the stock of such corporation. If a stockholder desires to avail self of the exception, before entering upon such contract such person shall first file with the treasurer an affidavit stating the stockholder's exact status and connection with said corporation. 43306
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~~This section does not apply where a member of the board~~ 43313

~~elects to be covered by a health care plan under section 3313.202~~ 43314
~~of the Revised Code.~~ 43315

Sec. 3313.372. (A) As used in this section, "energy 43316
conservation measure" means an installation or modification of an 43317
installation in, or remodeling of, a building, to reduce energy 43318
consumption. It includes: 43319

(1) Insulation of the building structure and systems within 43320
the building; 43321

(2) Storm windows and doors, multiglazed windows and doors, 43322
heat absorbing or heat reflective glazed and coated window and 43323
door systems, additional glazing, reductions in glass area, and 43324
other window and door system modifications that reduce energy 43325
consumption; 43326

(3) Automatic energy control systems; 43327

(4) Heating, ventilating, or air conditioning system 43328
modifications or replacements; 43329

(5) Caulking and weatherstripping; 43330

(6) Replacement or modification of lighting fixtures to 43331
increase the energy efficiency of the system without increasing 43332
the overall illumination of a facility, unless such increase in 43333
illumination is necessary to conform to the applicable state or 43334
local building code for the proposed lighting system; 43335

(7) Energy recovery systems; 43336

(8) Cogeneration systems that produce steam or forms of 43337
energy such as heat, as well as electricity, for use primarily 43338
within a building or complex of buildings; 43339

(9) Any other modification, installation, or remodeling 43340
approved by the Ohio school facilities commission as an energy 43341
conservation measure. 43342

(B) A board of education of a city, exempted village, local, 43343
or joint vocational school district may enter into an installment 43344
payment contract for the purchase and installation of energy 43345
conservation measures. The provisions of such installment payment 43346
contracts dealing with interest charges and financing terms shall 43347
not be subject to the competitive bidding requirements of section 43348
3313.46 of the Revised Code, and shall be on the following terms: 43349

(1) Not less than one-fifteenth of the costs thereof shall be 43350
paid within two years from the date of purchase. 43351

(2) The remaining balance of the costs thereof shall be paid 43352
within fifteen years from the date of purchase. 43353

An installment payment contract entered into by a board of 43354
education under this section shall require the board to contract 43355
in accordance with division (A) of section 3313.46 of the Revised 43356
Code for the installation, modification, or remodeling of energy 43357
conservation measures unless division (A) of section 3313.46 of 43358
the Revised Code does not apply pursuant to division (B)(3) of 43359
that section. 43360

(C) The board may issue the notes of the school district 43361
signed by the president and the treasurer of the board and 43362
specifying the terms of the purchase and securing the deferred 43363
payments provided in this section, payable at the times provided 43364
and bearing interest at a rate not exceeding the rate determined 43365
as provided in section 9.95 of the Revised Code. The notes may 43366
contain an option for prepayment and shall not be subject to 43367
Chapter 133. of the Revised Code. In the resolution authorizing 43368
the notes, the board may provide, without the vote of the electors 43369
of the district, for annually levying and collecting taxes in 43370
amounts sufficient to pay the interest on and retire the notes, 43371
except that the total net indebtedness of the district without a 43372
vote of the electors incurred under this and all other sections of 43373
the Revised Code, except section 3318.052 of the Revised Code, 43374

shall not exceed one per cent of the district's tax valuation. 43375
Revenues derived from local taxes or otherwise, for the purpose of 43376
conserving energy or for defraying the current operating expenses 43377
of the district, may be applied to the payment of interest and the 43378
retirement of such notes. The notes may be sold at private sale or 43379
given to the contractor under the installment payment contract 43380
authorized by division (B) of this section. 43381

(D) Debt incurred under this section shall not be included in 43382
the calculation of the net indebtedness of a school district under 43383
section 133.06 of the Revised Code. 43384

(E) No school district board shall enter into an installment 43385
payment contract under division (B) of this section unless it 43386
first obtains a report of the costs of the energy conservation 43387
measures and the savings thereof as described under division (G) 43388
of section 133.06 of the Revised Code as a requirement for issuing 43389
energy securities, makes a finding that the amount spent on such 43390
measures is not likely to exceed the amount of money it would save 43391
in energy costs and resultant operational and maintenance costs as 43392
described in that division, except that that finding shall cover 43393
the ensuing fifteen years, and the Ohio school facilities 43394
commission determines that the district board's findings are 43395
reasonable and approves the contract as described in that 43396
division. 43397

The district board shall monitor the savings and maintain a 43398
report of those savings, which shall be ~~available~~ submitted to the 43399
commission in the same manner as required by division (G) of 43400
section 133.06 of the Revised Code in the case of energy 43401
securities. 43402

Sec. 3313.41. (A) Except as provided in divisions (C), (D), 43403
(F), and (G) of this section, when a board of education decides to 43404
dispose of real or personal property that it owns in its corporate 43405

capacity and that exceeds in value ten thousand dollars, it shall 43406
sell the property at public auction, after giving at least thirty 43407
days' notice of the auction by publication in a newspaper of 43408
general circulation in the school district, by publication as 43409
provided in section 7.16 of the Revised Code, or by posting 43410
notices in five of the most public places in the school district 43411
in which the property, if it is real property, is situated, or, if 43412
it is personal property, in the school district of the board of 43413
education that owns the property. The board may offer real 43414
property for sale as an entire tract or in parcels. 43415

(B) When the board of education has offered real or personal 43416
property for sale at public auction at least once pursuant to 43417
division (A) of this section, and the property has not been sold, 43418
the board may sell it at a private sale. Regardless of how it was 43419
offered at public auction, at a private sale, the board shall, as 43420
it considers best, sell real property as an entire tract or in 43421
parcels, and personal property in a single lot or in several lots. 43422

(C) If a board of education decides to dispose of real or 43423
personal property that it owns in its corporate capacity and that 43424
exceeds in value ten thousand dollars, it may sell the property to 43425
the adjutant general; to any subdivision or taxing authority as 43426
respectively defined in divisions (A) and (C) of section 5705.01 43427
of the Revised Code, township park district, board of park 43428
commissioners established under Chapter 755. of the Revised Code, 43429
or park district established under Chapter 1545. of the Revised 43430
Code; to a wholly or partially tax-supported university, 43431
university branch, or college; or to the board of trustees of a 43432
school district library, upon such terms as are agreed upon. The 43433
sale of real or personal property to the board of trustees of a 43434
school district library is limited, in the case of real property, 43435
to a school district library within whose boundaries the real 43436
property is situated, or, in the case of personal property, to a 43437

school district library whose boundaries lie in whole or in part 43438
within the school district of the selling board of education. 43439

(D) When a board of education decides to trade as a part or 43440
an entire consideration, an item of personal property on the 43441
purchase price of an item of similar personal property, it may 43442
trade the same upon such terms as are agreed upon by the parties 43443
to the trade. 43444

(E) The president and the treasurer of the board of education 43445
shall execute and deliver deeds or other necessary instruments of 43446
conveyance to complete any sale or trade under this section. 43447

(F) When a board of education has identified a parcel of real 43448
property that it determines is needed for school purposes, the 43449
board may, upon a majority vote of the members of the board, 43450
acquire that property by exchanging real property that the board 43451
owns in its corporate capacity for the identified real property or 43452
by using real property that the board owns in its corporate 43453
capacity as part or an entire consideration for the purchase price 43454
of the identified real property. Any exchange or acquisition made 43455
pursuant to this division shall be made by a conveyance executed 43456
by the president and the treasurer of the board. 43457

(G)(1) When a school district board of education decides to 43458
dispose of real property ~~suitable for use as classroom space,~~ 43459
prior to disposing of that property under divisions (A) to (F) of 43460
this section, it shall first offer that property for sale ~~to~~ by 43461
public auction as described in division (A) of this section. Only 43462
the governing authorities of ~~the start-up~~ community schools 43463
established under Chapter 3314. of the Revised Code ~~located within~~ 43464
~~the territory of the school district, at a price that is not~~ 43465
~~higher than the appraised fair market value of that property. If~~ 43466
~~more than one community school governing authority accepts the~~ 43467
~~offer made by the school district board, the board shall sell the~~ 43468
~~property to the governing authority that accepted the offer first~~ 43469

~~in time, operators of community schools, and any persons or~~ 43470
~~entities that have entered into a lease agreement with a governing~~ 43471
~~authority or operator of a community school shall be eligible to~~ 43472
~~bid at the auction.~~ If no community school governing authority 43473
~~accepts the offer within sixty days after the offer is made by the~~ 43474
~~school district board, operator, or lessor or leasing entity~~ 43475
~~offers a bid to purchase the property,~~ the board may dispose of 43476
the property in the applicable manner prescribed under divisions 43477
(A) to (F) of this section. 43478

(2) When a school district board of education has not used 43479
real property ~~suitable for classroom space for academic~~ 43480
~~instruction, administration, storage, or any other educational~~ 43481
~~purpose~~ for one full school year and has not adopted a resolution 43482
~~outlining a plan for using that property for any of those purposes~~ 43483
~~within the next three school years,~~ it immediately shall offer 43484
that property for sale ~~to~~ by public auction as described in 43485
division (A) of this section. Only the governing authorities of 43486
~~the start-up~~ community schools established under Chapter 3314. of 43487
the Revised Code ~~located within the territory of the school~~ 43488
~~district,~~ at a price that is not higher than the appraised fair 43489
~~market value of that property.~~ If more than one community school 43490
~~governing authority accepts the offer made by the school district~~ 43491
~~board,~~ the board shall sell the property to the governing 43492
~~authority that accepted the offer first in time,~~ operators of 43493
community schools, and any persons or entities that have entered 43494
into a lease agreement with a governing authority or operator of a 43495
community school shall be eligible to bid at the auction. If no 43496
governing authority, operator, or lessor or leasing entity offers 43497
a bid to purchase property, the board may dispose of property in 43498
the applicable manner under divisions (A) to (F) of this section. 43499

(H) When a school district board of education has property 43500
that the board, by resolution, finds is not needed for school 43501

district use, is obsolete, or is unfit for the use for which it 43502
was acquired, the board may donate that property in accordance 43503
with this division if the fair market value of the property is, in 43504
the opinion of the board, two thousand five hundred dollars or 43505
less. 43506

The board shall first offer the property to the governing 43507
authorities and operators of community schools established under 43508
Chapter 3314. of the Revised Code located within the territory of 43509
the school district. If no community school governing authority or 43510
operator accepts the donation, the property may be donated to an 43511
eligible nonprofit organization that is located in this state and 43512
is exempt from federal income taxation pursuant to 26 U.S.C. 43513
501(a) and (c)(3). Before donating any property under this 43514
division, the board shall adopt a resolution expressing its intent 43515
to make unneeded, obsolete, or unfit-for-use school district 43516
property available to these organizations. The resolution shall 43517
include guidelines and procedures the board considers to be 43518
necessary to implement the donation program and shall indicate 43519
whether the school district will conduct the donation program or 43520
the board will contract with a representative to conduct it. If a 43521
representative is known when the resolution is adopted, the 43522
resolution shall provide contact information such as the 43523
representative's name, address, and telephone number. 43524

The resolution shall include within its procedures a 43525
requirement that any nonprofit organization desiring to obtain 43526
donated property under this division shall submit a written notice 43527
to the board or its representative. The written notice shall 43528
include evidence that the organization is a nonprofit organization 43529
that is located in this state and is exempt from federal income 43530
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 43531
the organization's primary purpose; a description of the type or 43532
types of property the organization needs; and the name, address, 43533

and telephone number of a person designated by the organization's 43534
governing board to receive donated property and to serve as its 43535
agent. 43536

After adoption of the resolution, the board shall publish, in 43537
a newspaper of general circulation in the school district or as 43538
provided in section 7.16 of the Revised Code, notice of its intent 43539
to donate unneeded, obsolete, or unfit-for-use school district 43540
property to eligible nonprofit organizations. The notice shall 43541
include a summary of the information provided in the resolution 43542
and shall be published ~~at least~~ twice. The second ~~and any~~ 43543
~~subsequent~~ notice shall be published not less than ten nor more 43544
than twenty days after the previous notice. A similar notice also 43545
shall be posted continually in the board's office, ~~and, if.~~ If the 43546
school district maintains a web site on the internet, the notice 43547
shall be posted continually at that web site. 43548

The board or its representatives shall maintain a list of all 43549
nonprofit organizations that notify the board or its 43550
representative of their desire to obtain donated property under 43551
this division and that the board or its representative determines 43552
to be eligible, in accordance with the requirements set forth in 43553
this section and in the donation program's guidelines and 43554
procedures, to receive donated property. 43555

The board or its representative also shall maintain a list of 43556
all school district property the board finds to be unneeded, 43557
obsolete, or unfit for use and to be available for donation under 43558
this division. The list shall be posted continually in a 43559
conspicuous location in the board's office, and, if the school 43560
district maintains a web site on the internet, the list shall be 43561
posted continually at that web site. An item of property on the 43562
list shall be donated to the eligible nonprofit organization that 43563
first declares to the board or its representative its desire to 43564
obtain the item unless the board previously has established, by 43565

resolution, a list of eligible nonprofit organizations that shall 43566
be given priority with respect to the item's donation. Priority 43567
may be given on the basis that the purposes of a nonprofit 43568
organization have a direct relationship to specific school 43569
district purposes of programs provided or administered by the 43570
board. A resolution giving priority to certain nonprofit 43571
organizations with respect to the donation of an item of property 43572
shall specify the reasons why the organizations are given that 43573
priority. 43574

Members of the board shall consult with the Ohio ethics 43575
commission, and comply with Chapters 102. and 2921. of the Revised 43576
Code, with respect to any donation under this division to a 43577
nonprofit organization of which a board member, any member of a 43578
board member's family, or any business associate of a board member 43579
is a trustee, officer, board member, or employee. 43580

Any community school, or its governing authority or operator, 43581
or person or entity that has entered into a lease agreement with a 43582
governing authority or operator of a community school may bring 43583
civil action in the court of common pleas for the county in which 43584
the subject real property is located to enforce the provisions of 43585
division (G) or (H) of this section. 43586

Sec. 3313.411. (A) On or after the effective date of this 43587
section, when a school district board of education decides to 43588
lease to another entity, on a basis of not less than one school 43589
year at a time, real property that it owns in its corporate 43590
capacity and that is suitable for use as classroom space or for 43591
other educational purposes, the board shall first offer to lease 43592
that property to the governing authorities of the community 43593
schools, established under Chapter 3314. of the Revised Code, 43594
located within the territory of the school district. The lease 43595
price offered by the district board shall not be higher than the 43596

fair market value for such a leasehold. If more than one community 43597
school governing authority accepts the offer to lease that 43598
property, the district board shall lease the property to the 43599
governing authority that accepted the offer first in time, except 43600
that any conversion community school sponsored by the school 43601
district shall have highest priority for the leasehold. If no 43602
community school governing authority accepts the offer to lease 43603
the property within sixty days after the offer is made, the 43604
district board may offer the property for lease to any other 43605
entity. 43606

(B) Notwithstanding division (A) of this section, a school 43607
district board may renew any agreement it originally entered into 43608
prior to the effective date of this section to lease real property 43609
to an entity other than a community school. Nothing in this 43610
section shall affect the leasehold arrangements between the 43611
district board and that other entity. 43612

Sec. 3313.46. (A) In addition to any other law governing the 43613
bidding for contracts by the board of education of any school 43614
district, when any such board determines to build, repair, 43615
enlarge, improve, or demolish any school building, the cost of 43616
which will exceed twenty-five thousand dollars, except in cases of 43617
urgent necessity, or for the security and protection of school 43618
property, and except as otherwise provided in division (D) of 43619
section 713.23 and in section 125.04 of the Revised Code, all of 43620
the following shall apply: 43621

(1) The board shall cause to be prepared the plans, 43622
specifications, and related information as required in divisions 43623
(A), ~~(B)~~(1), (2), and ~~(D)~~(3) of section 153.01 of the Revised Code 43624
unless the board determines that other information is sufficient 43625
to inform any bidders of the board's requirements. However, if the 43626
board determines that such other information is sufficient for 43627

bidding a project, the board shall not engage in the construction 43628
of any such project involving the practice of professional 43629
engineering, professional surveying, or architecture, for which 43630
plans, specifications, and estimates have not been made by, and 43631
the construction thereof inspected by, a licensed professional 43632
engineer, licensed professional surveyor, or registered architect. 43633

(2) The board shall advertise for bids once each week for a 43634
period of not less than two consecutive weeks, or as provided in 43635
section 7.16 of the Revised Code, in a newspaper of general 43636
circulation in the district before the date specified by the board 43637
for receiving bids. The board may also cause notice to be inserted 43638
in trade papers or other publications designated by it or to be 43639
distributed by electronic means, including posting the notice on 43640
the board's internet web site. If the board posts the notice on 43641
its web site, it may eliminate the second notice otherwise 43642
required to be published in a newspaper of general circulation 43643
within the school district, provided that the first notice 43644
published in such newspaper meets all of the following 43645
requirements: 43646

(a) It is published at least two weeks before the opening of 43647
bids. 43648

(b) It includes a statement that the notice is posted on the 43649
board of education's internet web site. 43650

(c) It includes the internet address of the board's internet 43651
web site. 43652

(d) It includes instructions describing how the notice may be 43653
accessed on the board's internet web site. 43654

(3) Unless the board extends the time for the opening of bids 43655
they shall be opened at the time and place specified by the board 43656
in the advertisement for the bids. 43657

(4) Each bid shall contain the name of every person 43658

interested therein. Each bid shall meet the requirements of 43659
section 153.54 of the Revised Code. 43660

(5) When both labor and materials are embraced in the work 43661
bid for, the board may require that each be separately stated in 43662
the bid, with the price thereof, or may require that bids be 43663
submitted without such separation. 43664

(6) None but the lowest responsible bid shall be accepted. 43665
The board may reject all the bids, or accept any bid for both 43666
labor and material for such improvement or repair, which is the 43667
lowest in the aggregate. In all other respects, the award of 43668
contracts for improvement or repair, but not for purchases made 43669
under section 3327.08 of the Revised Code, shall be pursuant to 43670
section 153.12 of the Revised Code. 43671

(7) The contract shall be between the board and the bidders. 43672
The board shall pay the contract price for the work pursuant to 43673
sections 153.13 and 153.14 of the Revised Code. The board shall 43674
approve and retain the estimates referred to in section 153.13 of 43675
the Revised Code and make them available to the auditor of state 43676
upon request. 43677

(8) When two or more bids are equal, in the whole, or in any 43678
part thereof, and are lower than any others, either may be 43679
accepted, but in no case shall the work be divided between such 43680
bidders. 43681

(9) When there is reason to believe there is collusion or 43682
combination among the bidders, or any number of them, the bids of 43683
those concerned therein shall be rejected. 43684

(B) Division (A) of this section does not apply to the board 43685
of education of any school district in any of the following 43686
situations: 43687

(1) The acquisition of educational materials used in 43688
teaching. 43689

(2) If the board determines and declares by resolution 43690
adopted by two-thirds of all its members that any item is 43691
available and can be acquired only from a single source. 43692

(3) If the board declares by resolution adopted by two-thirds 43693
of all its members that division (A) of this section does not 43694
apply to any installation, modification, or remodeling involved in 43695
any energy conservation measure undertaken through an installment 43696
payment contract under section 3313.372 of the Revised Code or 43697
undertaken pursuant to division (G) of section 133.06 of the 43698
Revised Code. 43699

(4) The acquisition of computer software for instructional 43700
purposes and computer hardware for instructional purposes pursuant 43701
to division (B)(4) of section 3313.37 of the Revised Code. 43702

(C) No resolution adopted pursuant to division (B)(2) or (3) 43703
of this section shall have any effect on whether sections 153.12 43704
to 153.14 and 153.54 of the Revised Code apply to the board of 43705
education of any school district with regard to any item. 43706

Sec. ~~3314.20~~ 3313.473. This section does not apply to any 43707
school district declared to be excellent or effective pursuant to 43708
division (B)(1) or (2) of section 3302.03 of the Revised Code. 43709

(A) The state board of education shall adopt rules requiring 43710
school districts with a total student count of over five thousand, 43711
as determined pursuant to section 3317.03 of the Revised Code, to 43712
designate one school building to be operated by a site-based 43713
management council. The rules shall specify the composition of the 43714
council and the manner in which members of the council are to be 43715
selected and removed. 43716

(B) The rules adopted under division (A) of this section 43717
shall specify those powers, duties, functions, and 43718
responsibilities that shall be vested in the management council 43719

and that would otherwise be exercised by the district board of 43720
education. The rules shall also establish a mechanism for 43721
resolving any differences between the council and the district 43722
board if there is disagreement as to their respective powers, 43723
duties, functions, and responsibilities. 43724

(C) The board of education of any school district described 43725
by division (A) of this section may, in lieu of complying with the 43726
rules adopted under this section, file with the department of 43727
education an alternative structure for a district site-based 43728
management program in at least one of its school buildings. The 43729
proposal shall specify the composition of the council, which shall 43730
include an equal number of parents and teachers and the building 43731
principal, and the method of selection and removal of the council 43732
members. The proposal shall also clearly delineate the respective 43733
powers, duties, functions, and responsibilities of the district 43734
board and the council. The district's proposal shall comply 43735
substantially with the rules adopted under division (A) of this 43736
section. 43737

Sec. 3313.482. (A) Annually, prior to the first day of 43738
September, the board of education of each city, local, and 43739
exempted village school district shall adopt a resolution 43740
specifying a contingency plan under which the district's students 43741
will make up days on which it was necessary to close schools for 43742
any of the reasons specified in ~~division (A)(2) of section 3306.01~~ 43743
~~and~~ division (B) of section 3317.01 of the Revised Code, if any 43744
such days must be made up in order to comply with the requirements 43745
of sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 of the Revised 43746
Code. The plan shall provide for making up at least five school 43747
days. The plan may provide for making up some or all of the days a 43748
school is closed by increasing the length of other school days in 43749
the manner authorized in division (B) of this section. No 43750
resolution adopted pursuant to this division shall conflict with 43751

any collective bargaining agreement into which a board has entered 43752
pursuant to Chapter 4117. of the Revised Code and that is in 43753
effect in the district. 43754

(B) Notwithstanding anything to the contrary in the 43755
contingency plan it adopts under division (A) of this section, if 43756
a school district closes or evacuates any school building for any 43757
of the reasons specified in ~~division (A)(2) of section 3306.01 and~~ 43758
division (B) of section 3317.01 of the Revised Code, or as a 43759
result of a bomb threat or any other report of an alleged or 43760
impending explosion, and if, as a result of the closing or 43761
evacuation, the school district would be unable to meet the 43762
requirements of sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 43763
of the Revised Code regarding the number of days schools must be 43764
open for instruction or the requirements of the state minimum 43765
standards for the school day that are established by the 43766
department of education regarding the number of hours there must 43767
be in the school day, the school district may increase the length 43768
of one or more other school days for the school that was closed or 43769
evacuated, in increments of one-half hour, to make up the number 43770
of hours or days that the school building in question was so 43771
closed or evacuated for the purpose of satisfying the requirements 43772
of those sections. 43773

A school district that makes up, as described in this 43774
division, all of the hours or days that its school buildings were 43775
closed or evacuated for any of the reasons identified in this 43776
division shall be deemed to have complied with the requirements of 43777
sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 of the Revised 43778
Code regarding the number of days schools must be open for 43779
instruction and the requirements of the state minimum standards 43780
regarding the number of hours there must be in the school day. 43781

Sec. 3313.533. (A) The board of education of a city, exempted 43782

village, or local school district may adopt a resolution to 43783
establish and maintain an alternative school in accordance with 43784
this section. The resolution shall specify, but not necessarily be 43785
limited to, all of the following: 43786

(1) The purpose of the school, which purpose shall be to 43787
serve students who are on suspension, who are having truancy 43788
problems, who are experiencing academic failure, who have a 43789
history of class disruption, who are exhibiting other academic or 43790
behavioral problems specified in the resolution, or who have been 43791
discharged or released from the custody of the department of youth 43792
services under section 5139.51 of the Revised Code; 43793

(2) The grades served by the school, which may include any of 43794
grades kindergarten through twelve; 43795

(3) A requirement that the school be operated in accordance 43796
with this section. The board of education adopting the resolution 43797
under division (A) of this section shall be the governing board of 43798
the alternative school. The board shall develop and implement a 43799
plan for the school in accordance with the resolution establishing 43800
the school and in accordance with this section. Each plan shall 43801
include, but not necessarily be limited to, all of the following: 43802

(a) Specification of the reasons for which students will be 43803
accepted for assignment to the school and any criteria for 43804
admission that are to be used by the board to approve or 43805
disapprove the assignment of students to the school; 43806

(b) Specification of the criteria and procedures that will be 43807
used for returning students who have been assigned to the school 43808
back to the regular education program of the district; 43809

(c) An evaluation plan for assessing the effectiveness of the 43810
school and its educational program and reporting the results of 43811
the evaluation to the public. 43812

(B) Notwithstanding any provision of Title XXXIII of the 43813

Revised Code to the contrary, the alternative school plan may 43814
include any of the following: 43815

(1) A requirement that on each school day students must 43816
attend school or participate in other programs specified in the 43817
plan or by the chief administrative officer of the school for a 43818
period equal to the minimum school day set by the state board of 43819
education under section 3313.48 of the Revised Code plus any 43820
additional time required in the plan or by the chief 43821
administrative officer; 43822

(2) Restrictions on student participation in extracurricular 43823
or interscholastic activities; 43824

(3) A requirement that students wear uniforms prescribed by 43825
the district board of education. 43826

(C) In accordance with the alternative school plan, the 43827
district board of education may employ teachers and nonteaching 43828
employees necessary to carry out its duties and fulfill its 43829
responsibilities or may contract with a nonprofit or for profit 43830
entity to operate the alternative school, including the provision 43831
of personnel, supplies, equipment, or facilities. 43832

(D) An alternative school may be established in all or part 43833
of a school building. 43834

(E) If a district board of education elects under this 43835
section, or is required by section 3313.534 of the Revised Code, 43836
to establish an alternative school, the district board may join 43837
with the board of education of one or more other districts to form 43838
a joint alternative school by forming a cooperative education 43839
school district under section 3311.52 or 3311.521 of the Revised 43840
Code, or a joint educational program under section 3313.842 of the 43841
Revised Code. The authority to employ personnel or to contract 43842
with a nonprofit or for profit entity under division (C) of this 43843
section applies to any alternative school program established 43844

under this division. 43845

(F) Any individual employed as a teacher at an alternative 43846
school operated by a nonprofit or for profit entity under this 43847
section shall be licensed and shall be subject to background 43848
checks, as described in section 3319.39 of the Revised Code, in 43849
the same manner as an individual employed by a school district. 43850

(G) Division (G) of this section applies only to any 43851
alternative school that is operated by a nonprofit or for profit 43852
entity under contract with the school district. 43853

(1) In addition to the specifications authorized under 43854
division (B) of this section, any plan adopted under that division 43855
for an alternative school to which division (G) of this section 43856
also applies shall include the following: 43857

(a) A description of the educational program provided at the 43858
alternative school, which shall include: 43859

(i) Provisions for the school to be configured in clusters or 43860
small learning communities; 43861

(ii) Provisions for the incorporation of education technology 43862
into the curriculum; 43863

(iii) Provisions for accelerated learning programs in reading 43864
and mathematics. 43865

(b) A method to determine the reading and mathematics level 43866
of each student assigned to the alternative school and a method to 43867
continuously monitor each student's progress in those areas. The 43868
methods employed under this division shall be aligned with the 43869
curriculum adopted by the school district board of education under 43870
section 3313.60 of the Revised Code. 43871

(c) A plan for social services to be provided at the 43872
alternative school, such as, but not limited to, counseling 43873
services, psychological support services, and enrichment programs; 43874

(d) A plan for a student's transition from the alternative 43875
school back to a school operated by the school district; 43876

(e) A requirement that the alternative school maintain 43877
financial records in a manner that is compatible with the form 43878
prescribed for school districts by the auditor of state to enable 43879
the district to comply with any rules adopted by the auditor of 43880
state. 43881

(2) Notwithstanding division (A)(2) of this section, any 43882
alternative school to which division (G) of this section applies 43883
shall include only grades six through twelve. 43884

(3) Notwithstanding anything in division (A)(3)(a) of this 43885
section to the contrary, the characteristics of students who may 43886
be assigned to an alternative school to which division (G) of this 43887
section applies shall include only disruptive and low-performing 43888
students. 43889

(H) When any district board of education determines to 43890
contract with a nonprofit or for profit entity to operate an 43891
alternative school under this section, the board shall use the 43892
procedure set forth in this division. 43893

(1) The board shall publish notice of a request for proposals 43894
in a newspaper of general circulation in the district once each 43895
week for a period of ~~at least~~ two consecutive weeks, or as 43896
provided in section 7.16 of the Revised Code, prior to the date 43897
specified by the board for receiving proposals. Notices of 43898
requests for proposals shall contain a general description of the 43899
subject of the proposed contract and the location where the 43900
request for proposals may be obtained. The request for proposals 43901
shall include all of the following information: 43902

(a) Instructions and information to respondents concerning 43903
the submission of proposals, including the name and address of the 43904
office where proposals are to be submitted; 43905

(b) Instructions regarding communications, including at least the names, titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed;

(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond;

(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to all interested parties.

(2) After the date specified for receiving proposals, the board shall evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following:

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract.

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets

contained in the proposal submitted by the respondent to the 43967
board. Any such request shall be accompanied by an offer of 43968
indemnification from the respondent to the board. The board shall 43969
determine whether to agree to the request and shall inform the 43970
respondent in writing of its decision. If the board agrees to 43971
nondisclosure of specified information in a proposal, such 43972
information shall not become a public record under section 149.43 43973
of the Revised Code. If the respondent withdraws its proposal at 43974
any time prior to the execution of a contract, the proposal shall 43975
not be a public record under section 149.43 of the Revised Code. 43976

(I) Upon a recommendation from the department and in 43977
accordance with section 3301.16 of the Revised Code, the state 43978
board of education may revoke the charter of any alternative 43979
school operated by a school district that violates this section. 43980

Sec. 3313.55. The board of education of any school district 43981
in which is located a state, district, county, or municipal 43982
hospital for children with epilepsy or any public institution, 43983
except state institutions for the care and treatment of 43984
delinquent, unstable, or socially maladjusted children, shall make 43985
provision for the education of all educable children therein; 43986
except that in the event another school district within the same 43987
county or an adjoining county is the source of sixty per cent or 43988
more of the children in said hospital or institution, the board of 43989
that school district shall make provision for the education of all 43990
the children therein. In any case in which a board provides 43991
educational facilities under this section, the board that provides 43992
the facilities shall be entitled to all moneys authorized for the 43993
attendance of pupils as provided in Chapter ~~3306.~~ ~~or~~ 3317. of the 43994
Revised Code, tuition as provided in section 3317.08 of the 43995
Revised Code, and such additional compensation as is provided for 43996
crippled children in sections 3323.01 to 3323.12 of the Revised 43997
Code. Any board that provides the educational facilities for 43998

children in county or municipal institutions established for the 43999
care and treatment of children who are delinquent, unstable, or 44000
socially maladjusted shall not be entitled to any moneys provided 44001
for crippled children in sections 3323.01 to 3323.12 of the 44002
Revised Code. 44003

Sec. 3313.603. (A) As used in this section: 44004

(1) "One unit" means a minimum of one hundred twenty hours of 44005
course instruction, except that for a laboratory course, "one 44006
unit" means a minimum of one hundred fifty hours of course 44007
instruction. 44008

(2) "One-half unit" means a minimum of sixty hours of course 44009
instruction, except that for physical education courses, "one-half 44010
unit" means a minimum of one hundred twenty hours of course 44011
instruction. 44012

(B) Beginning September 15, 2001, except as required in 44013
division (C) of this section and division (C) of section 3313.614 44014
of the Revised Code, the requirements for graduation from every 44015
high school shall include twenty units earned in grades nine 44016
through twelve and shall be distributed as follows: 44017

(1) English language arts, four units; 44018

(2) Health, one-half unit; 44019

(3) Mathematics, three units; 44020

(4) Physical education, one-half unit; 44021

(5) Science, two units until September 15, 2003, and three 44022
units thereafter, which at all times shall include both of the 44023
following: 44024

(a) Biological sciences, one unit; 44025

(b) Physical sciences, one unit. 44026

(6) Social studies, three units, which shall include both of 44027

the following:	44028
(a) American history, one-half unit;	44029
(b) American government, one-half unit.	44030
(7) Elective units, seven units until September 15, 2003, and six units thereafter.	44031 44032
Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or foreign language.	44033 44034 44035
(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:	44036 44037 44038 44039 44040 44041 44042
(1) English language arts, four units;	44043
(2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;	44044 44045 44046
(3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;	44047 44048
(4) Physical education, one-half unit;	44049
(5) Science, three units with inquiry-based laboratory experience that engages students in asking valid scientific questions and gathering and analyzing information, which shall include the following, or their equivalent:	44050 44051 44052 44053
(a) Physical sciences, one unit;	44054
(b) Life sciences, one unit;	44055
(c) Advanced study in one or more of the following sciences,	44056

one unit:	44057
(i) Chemistry, physics, or other physical science;	44058
(ii) Advanced biology or other life science;	44059
(iii) Astronomy, physical geology, or other earth or space science.	44060 44061
(6) Social studies, three units, which shall include both of the following:	44062 44063
(a) American history, one-half unit;	44064
(b) American government, one-half unit.	44065
Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under division (A)(1) of section 3301.079 of the Revised Code and the academic content standards for financial literacy and entrepreneurship adopted under division (A)(2) of that section, into one or more existing social studies credits required under division (C)(6) of this section, or into the content of another class, so that every high school student receives instruction in those concepts. In developing the curriculum required by this paragraph, schools shall use available public-private partnerships and resources and materials that exist in business, industry, and through the centers for economics education at institutions of higher education in the state.	44066 44067 44068 44069 44070 44071 44072 44073 44074 44075 44076 44077 44078 44079
(7) Five units consisting of one or any combination of foreign language, fine arts, business, career-technical education, family and consumer sciences, technology, agricultural education, a junior reserve officer training corps (JROTC) program approved by the congress of the United States under title 10 of the United States Code, or English language arts, mathematics, science, or social studies courses not otherwise required under division (C)	44080 44081 44082 44083 44084 44085 44086

of this section. 44087

Ohioans must be prepared to apply increased knowledge and 44088
skills in the workplace and to adapt their knowledge and skills 44089
quickly to meet the rapidly changing conditions of the 44090
twenty-first century. National studies indicate that all high 44091
school graduates need the same academic foundation, regardless of 44092
the opportunities they pursue after graduation. The goal of Ohio's 44093
system of elementary and secondary education is to prepare all 44094
students for and seamlessly connect all students to success in 44095
life beyond high school graduation, regardless of whether the next 44096
step is entering the workforce, beginning an apprenticeship, 44097
engaging in post-secondary training, serving in the military, or 44098
pursuing a college degree. 44099

The Ohio core curriculum is the standard expectation for all 44100
students entering ninth grade for the first time at a public or 44101
chartered nonpublic high school on or after July 1, 2010. A 44102
student may satisfy this expectation through a variety of methods, 44103
including, but not limited to, integrated, applied, 44104
career-technical, and traditional coursework. 44105

Whereas teacher quality is essential for student success in 44106
completing the Ohio core curriculum, the general assembly shall 44107
appropriate funds for strategic initiatives designed to strengthen 44108
schools' capacities to hire and retain highly qualified teachers 44109
in the subject areas required by the curriculum. Such initiatives 44110
are expected to require an investment of \$120,000,000 over five 44111
years. 44112

Stronger coordination between high schools and institutions 44113
of higher education is necessary to prepare students for more 44114
challenging academic endeavors and to lessen the need for academic 44115
remediation in college, thereby reducing the costs of higher 44116
education for Ohio's students, families, and the state. The state 44117
board and the chancellor of the Ohio board of regents shall 44118

develop policies to ensure that only in rare instances will 44119
students who complete the Ohio core curriculum require academic 44120
remediation after high school. 44121

School districts, community schools, and chartered nonpublic 44122
schools shall integrate technology into learning experiences 44123
~~whenever practicable~~ across the curriculum in order to maximize 44124
efficiency, enhance learning, and prepare students for success in 44125
the technology-driven twenty-first century. Districts and schools 44126
~~may~~ shall use distance and web-based course delivery as a method 44127
of providing or augmenting all instruction required under this 44128
division, including laboratory experience in science. Districts 44129
and schools shall ~~whenever practicable~~ utilize technology access 44130
and electronic learning opportunities provided by the eTech Ohio 44131
commission, the Ohio learning network, education technology 44132
centers, public television stations, and other public and private 44133
providers. 44134

(D) Except as provided in division (E) of this section, a 44135
student who enters ninth grade on or after July 1, 2010, and 44136
before July 1, 2014, may qualify for graduation from a public or 44137
chartered nonpublic high school even though the student has not 44138
completed the Ohio core curriculum prescribed in division (C) of 44139
this section if all of the following conditions are satisfied: 44140

(1) After the student has attended high school for two years, 44141
as determined by the school, the student and the student's parent, 44142
guardian, or custodian sign and file with the school a written 44143
statement asserting the parent's, guardian's, or custodian's 44144
consent to the student's graduating without completing the Ohio 44145
core curriculum and acknowledging that one consequence of not 44146
completing the Ohio core curriculum is ineligibility to enroll in 44147
most state universities in Ohio without further coursework. 44148

(2) The student and parent, guardian, or custodian fulfill 44149
any procedural requirements the school stipulates to ensure the 44150

student's and parent's, guardian's, or custodian's informed 44151
consent and to facilitate orderly filing of statements under 44152
division (D)(1) of this section. 44153

(3) The student and the student's parent, guardian, or 44154
custodian and a representative of the student's high school 44155
jointly develop an individual career plan for the student that 44156
specifies the student matriculating to a two-year degree program, 44157
acquiring a business and industry credential, or entering an 44158
apprenticeship. 44159

(4) The student's high school provides counseling and support 44160
for the student related to the plan developed under division 44161
(D)(3) of this section during the remainder of the student's high 44162
school experience. 44163

(5) The student successfully completes, at a minimum, the 44164
curriculum prescribed in division (B) of this section. 44165

The department of education, in collaboration with the 44166
chancellor, shall analyze student performance data to determine if 44167
there are mitigating factors that warrant extending the exception 44168
permitted by division (D) of this section to high school classes 44169
beyond those entering ninth grade before July 1, 2014. The 44170
department shall submit its findings and any recommendations not 44171
later than August 1, 2014, to the speaker and minority leader of 44172
the house of representatives, the president and minority leader of 44173
the senate, the chairpersons and ranking minority members of the 44174
standing committees of the house of representatives and the senate 44175
that consider education legislation, the state board of education, 44176
and the superintendent of public instruction. 44177

(E) Each school district and chartered nonpublic school 44178
retains the authority to require an even more rigorous minimum 44179
curriculum for high school graduation than specified in division 44180
(B) or (C) of this section. A school district board of education, 44181

through the adoption of a resolution, or the governing authority 44182
of a chartered nonpublic school may stipulate any of the 44183
following: 44184

(1) A minimum high school curriculum that requires more than 44185
twenty units of academic credit to graduate; 44186

(2) An exception to the district's or school's minimum high 44187
school curriculum that is comparable to the exception provided in 44188
division (D) of this section but with additional requirements, 44189
which may include a requirement that the student successfully 44190
complete more than the minimum curriculum prescribed in division 44191
(B) of this section; 44192

(3) That no exception comparable to that provided in division 44193
(D) of this section is available. 44194

(F) A student enrolled in a dropout prevention and recovery 44195
program, which program has received a waiver from the department, 44196
may qualify for graduation from high school by successfully 44197
completing a competency-based instructional program administered 44198
by the dropout prevention and recovery program in lieu of 44199
completing the Ohio core curriculum prescribed in division (C) of 44200
this section. The department shall grant a waiver to a dropout 44201
prevention and recovery program, within sixty days after the 44202
program applies for the waiver, if the program meets all of the 44203
following conditions: 44204

(1) The program serves only students not younger than sixteen 44205
years of age and not older than twenty-one years of age. 44206

(2) The program enrolls students who, at the time of their 44207
initial enrollment, either, or both, are at least one grade level 44208
behind their cohort age groups or experience crises that 44209
significantly interfere with their academic progress such that 44210
they are prevented from continuing their traditional programs. 44211

(3) The program requires students to attain at least the 44212

applicable score designated for each of the assessments prescribed 44213
under division (B)(1) of section 3301.0710 of the Revised Code or, 44214
to the extent prescribed by rule of the state board under division 44215
~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, division 44216
(B)(2) of that section. 44217

(4) The program develops an individual career plan for the 44218
student that specifies the student's matriculating to a two-year 44219
degree program, acquiring a business and industry credential, or 44220
entering an apprenticeship. 44221

(5) The program provides counseling and support for the 44222
student related to the plan developed under division (F)(4) of 44223
this section during the remainder of the student's high school 44224
experience. 44225

(6) The program requires the student and the student's 44226
parent, guardian, or custodian to sign and file, in accordance 44227
with procedural requirements stipulated by the program, a written 44228
statement asserting the parent's, guardian's, or custodian's 44229
consent to the student's graduating without completing the Ohio 44230
core curriculum and acknowledging that one consequence of not 44231
completing the Ohio core curriculum is ineligibility to enroll in 44232
most state universities in Ohio without further coursework. 44233

(7) Prior to receiving the waiver, the program has submitted 44234
to the department an instructional plan that demonstrates how the 44235
academic content standards adopted by the state board under 44236
section 3301.079 of the Revised Code will be taught and assessed. 44237

If the department does not act either to grant the waiver or 44238
to reject the program application for the waiver within sixty days 44239
as required under this section, the waiver shall be considered to 44240
be granted. 44241

(G) Every high school may permit students below the ninth 44242
grade to take advanced work. If a high school so permits, it shall 44243

award high school credit for successful completion of the advanced 44244
work and shall count such advanced work toward the graduation 44245
requirements of division (B) or (C) of this section if the 44246
advanced work was both: 44247

(1) Taught by a person who possesses a license or certificate 44248
issued under section 3301.071, 3319.22, or 3319.222 of the Revised 44249
Code that is valid for teaching high school; 44250

(2) Designated by the board of education of the city, local, 44251
or exempted village school district, the board of the cooperative 44252
education school district, or the governing authority of the 44253
chartered nonpublic school as meeting the high school curriculum 44254
requirements. 44255

Each high school shall record on the student's high school 44256
transcript all high school credit awarded under division (G) of 44257
this section. In addition, if the student completed a seventh- or 44258
eighth-grade fine arts course described in division (K) of this 44259
section and the course qualified for high school credit under that 44260
division, the high school shall record that course on the 44261
student's high school transcript. 44262

(H) The department shall make its individual academic career 44263
plan available through its Ohio career information system web site 44264
for districts and schools to use as a tool for communicating with 44265
and providing guidance to students and families in selecting high 44266
school courses. 44267

(I) Units earned in English language arts, mathematics, 44268
science, and social studies that are delivered through integrated 44269
academic and career-technical instruction are eligible to meet the 44270
graduation requirements of division (B) or (C) of this section. 44271

(J) The state board, in consultation with the chancellor, 44272
shall adopt a statewide plan implementing methods for students to 44273
earn units of high school credit based on a demonstration of 44274

subject area competency, instead of or in combination with 44275
completing hours of classroom instruction. The state board shall 44276
adopt the plan not later than March 31, 2009, and commence phasing 44277
in the plan during the 2009-2010 school year. The plan shall 44278
include a standard method for recording demonstrated proficiency 44279
on high school transcripts. Each school district, community 44280
school, and chartered nonpublic school shall comply with the state 44281
board's plan adopted under this division and award units of high 44282
school credit in accordance with the plan. The state board may 44283
adopt existing methods for earning high school credit based on a 44284
demonstration of subject area competency as necessary prior to the 44285
2009-2010 school year. 44286

(K) This division does not apply to students who qualify for 44287
graduation from high school under division (D) or (F) of this 44288
section, or to students pursuing a career-technical instructional 44289
track as determined by the school district board of education or 44290
the chartered nonpublic school's governing authority. 44291
Nevertheless, the general assembly encourages such students to 44292
consider enrolling in a fine arts course as an elective. 44293

Beginning with students who enter ninth grade for the first 44294
time on or after July 1, 2010, each student enrolled in a public 44295
or chartered nonpublic high school shall complete two semesters or 44296
the equivalent of fine arts to graduate from high school. The 44297
coursework may be completed in any of grades seven to twelve. Each 44298
student who completes a fine arts course in grade seven or eight 44299
may elect to count that course toward the five units of electives 44300
required for graduation under division (C)(7) of this section, if 44301
the course satisfied the requirements of division (G) of this 44302
section. In that case, the high school shall award the student 44303
high school credit for the course and count the course toward the 44304
five units required under division (C)(7) of this section. If the 44305
course in grade seven or eight did not satisfy the requirements of 44306

division (G) of this section, the high school shall not award the student high school credit for the course but shall count the course toward the two semesters or the equivalent of fine arts required by this division.

(L) Notwithstanding anything to the contrary in this section, the board of education of each school district and the governing authority of each chartered nonpublic school may adopt a policy to excuse from the high school physical education requirement each student who, during high school, has participated in interscholastic athletics, marching band, or cheerleading for at least two full seasons or in the junior reserve officer training corps for at least two full school years. If the board or authority adopts such a policy, the board or authority shall not require the student to complete any physical education course as a condition to graduate. However, the student shall be required to complete one-half unit, consisting of at least sixty hours of instruction, in another course of study. In the case of a student who has participated in the junior reserve officer training corps for at least two full school years, credit received for that participation may be used to satisfy the requirement to complete one-half unit in another course of study.

Sec. 3313.61. (A) A diploma shall be granted by the board of education of any city, exempted village, or local school district that operates a high school to any person to whom all of the following apply:

(1) The person has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code, or has qualified under division (D) or (F) of section 3313.603 of the Revised Code, provided that no school district shall require a student to remain in school for any

specific number of semesters or other terms if the student 44338
completes the required curriculum early; 44339

(2) Subject to section 3313.614 of the Revised Code, the 44340
person has met the assessment requirements of division (A)(2)(a) 44341
or (b) of this section, as applicable. 44342

(a) If the person entered the ninth grade prior to the date 44343
prescribed by rule of the state board of education under division 44344
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person 44345
either: 44346

(i) Has attained at least the applicable scores designated 44347
under division (B)(1) of section 3301.0710 of the Revised Code on 44348
all the assessments required by that division unless the person 44349
was excused from taking any such assessment pursuant to section 44350
3313.532 of the Revised Code or unless division (H) or (L) of this 44351
section applies to the person; 44352

(ii) Has satisfied the alternative conditions prescribed in 44353
section 3313.615 of the Revised Code. 44354

(b) If the person entered the ninth grade on or after the 44355
date prescribed by rule of the state board under division 44356
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has 44357
~~attained on~~ met the requirements of the entire assessment system 44358
prescribed under division (B)(2) of section 3301.0710 of the 44359
Revised Code ~~at least the required passing composite score,~~ 44360
~~designated under division (C)(1) of section 3301.0712 of the~~ 44361
~~Revised Code~~, except to the extent that the person is excused from 44362
some portion of that assessment system pursuant to section 44363
3313.532 of the Revised Code or division (H) or (L) of this 44364
section. 44365

(3) The person is not eligible to receive an honors diploma 44366
granted pursuant to division (B) of this section. 44367

Except as provided in divisions (C), (E), (J), and (L) of 44368

this section, no diploma shall be granted under this division to 44369
anyone except as provided under this division. 44370

(B) In lieu of a diploma granted under division (A) of this 44371
section, an honors diploma shall be granted, in accordance with 44372
rules of the state board, by any such district board to anyone who 44373
accomplishes all of the following: 44374

(1) Successfully completes the curriculum in any high school 44375
or the individualized education program developed for the person 44376
by any high school pursuant to section 3323.08 of the Revised 44377
Code; 44378

(2) Subject to section 3313.614 of the Revised Code, has met 44379
the assessment requirements of division (B)(2)(a) or (b) of this 44380
section, as applicable. 44381

(a) If the person entered the ninth grade prior to the date 44382
prescribed by rule of the state board of education under division 44383
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person 44384
either: 44385

(i) Has attained at least the applicable scores designated 44386
under division (B)(1) of section 3301.0710 of the Revised Code on 44387
all the assessments required by that division; 44388

(ii) Has satisfied the alternative conditions prescribed in 44389
section 3313.615 of the Revised Code. 44390

(b) If the person entered the ninth grade on or after the 44391
date prescribed by rule of the state board under division 44392
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has 44393
~~attained on~~ met the requirements of the entire assessment system 44394
prescribed under division (B)(2) of section 3301.0710 of the 44395
Revised Code ~~at least the required passing composite score,~~ 44396
~~designated under division (C)(1) of section 3301.0712 of the~~ 44397
Revised Code. 44398

(3) Has met additional criteria established by the state board for the granting of such a diploma. 44399
44400

An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. Except as provided in divisions (C), (E), and (J) of this section, no honors diploma shall be granted to anyone failing to comply with this division and no more than one honors diploma shall be granted to any student under this division. 44401
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The state board shall adopt rules prescribing the granting of honors diplomas under this division. These rules may prescribe the granting of honors diplomas that recognize a student's achievement as a whole or that recognize a student's achievement in one or more specific subjects or both. The rules may prescribe the granting of an honors diploma recognizing technical expertise for a career-technical student. In any case, the rules shall designate two or more criteria for the granting of each type of honors diploma the board establishes under this division and the number of such criteria that must be met for the granting of that type of diploma. The number of such criteria for any type of honors diploma shall be at least one less than the total number of criteria designated for that type and no one or more particular criteria shall be required of all persons who are to be granted that type of diploma. 44409
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(C) Any district board administering any of the assessments required by section 3301.0710 of the Revised Code to any person requesting to take such assessment pursuant to division (B)(8)(b) of section 3301.0711 of the Revised Code shall award a diploma to such person if the person attains at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments administered and if the person 44424
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has previously attained the applicable scores on all the other 44431
assessments required by division (B)(1) of that section or has 44432
been exempted or excused from attaining the applicable score on 44433
any such assessment pursuant to division (H) or (L) of this 44434
section or from taking any such assessment pursuant to section 44435
3313.532 of the Revised Code. 44436

(D) Each diploma awarded under this section shall be signed 44437
by the president and treasurer of the issuing board, the 44438
superintendent of schools, and the principal of the high school. 44439
Each diploma shall bear the date of its issue, be in such form as 44440
the district board prescribes, and be paid for out of the 44441
district's general fund. 44442

(E) A person who is a resident of Ohio and is eligible under 44443
state board of education minimum standards to receive a high 44444
school diploma based in whole or in part on credits earned while 44445
an inmate of a correctional institution operated by the state or 44446
any political subdivision thereof, shall be granted such diploma 44447
by the correctional institution operating the programs in which 44448
such credits were earned, and by the board of education of the 44449
school district in which the inmate resided immediately prior to 44450
the inmate's placement in the institution. The diploma granted by 44451
the correctional institution shall be signed by the director of 44452
the institution, and by the person serving as principal of the 44453
institution's high school and shall bear the date of issue. 44454

(F) Persons who are not residents of Ohio but who are inmates 44455
of correctional institutions operated by the state or any 44456
political subdivision thereof, and who are eligible under state 44457
board of education minimum standards to receive a high school 44458
diploma based in whole or in part on credits earned while an 44459
inmate of the correctional institution, shall be granted a diploma 44460
by the correctional institution offering the program in which the 44461
credits were earned. The diploma granted by the correctional 44462

institution shall be signed by the director of the institution and 44463
by the person serving as principal of the institution's high 44464
school and shall bear the date of issue. 44465

(G) The state board of education shall provide by rule for 44466
the administration of the assessments required by section 44467
3301.0710 of the Revised Code to inmates of correctional 44468
institutions. 44469

(H) Any person to whom all of the following apply shall be 44470
exempted from attaining the applicable score on the assessment in 44471
social studies designated under division (B)(1) of section 44472
3301.0710 of the Revised Code, any social studies end-of-course 44473
examination required under division (B)(2) of that section if such 44474
an exemption is prescribed by rule of the state board under 44475
division ~~(E)~~(D)(4) of section 3301.0712 of the Revised Code, or 44476
the test in citizenship designated under former division (B) of 44477
section 3301.0710 of the Revised Code as it existed prior to 44478
September 11, 2001: 44479

(1) The person is not a citizen of the United States; 44480

(2) The person is not a permanent resident of the United 44481
States; 44482

(3) The person indicates no intention to reside in the United 44483
States after the completion of high school. 44484

(I) Notwithstanding division (D) of section 3311.19 and 44485
division (D) of section 3311.52 of the Revised Code, this section 44486
and section 3311.611 of the Revised Code do not apply to the board 44487
of education of any joint vocational school district or any 44488
cooperative education school district established pursuant to 44489
divisions (A) to (C) of section 3311.52 of the Revised Code. 44490

(J) Upon receipt of a notice under division (D) of section 44491
3325.08 of division (D) of section 3328.25 of the Revised Code 44492
that a student has received a diploma under ~~that~~ either section, 44493

the board of education receiving the notice may grant a high 44494
school diploma under this section to the student, except that such 44495
board shall grant the student a diploma if the student meets the 44496
graduation requirements that the student would otherwise have had 44497
to meet to receive a diploma from the district. The diploma 44498
granted under this section shall be of the same type the notice 44499
indicates the student received under section 3325.08 or 3328.25 of 44500
the Revised Code. 44501

(K) As used in this division, "limited English proficient 44502
student" has the same meaning as in division (C)(3) of section 44503
3301.0711 of the Revised Code. 44504

Notwithstanding division (C)(3) of section 3301.0711 of the 44505
Revised Code, no limited English proficient student who has not 44506
either attained the applicable scores designated under division 44507
(B)(1) of section 3301.0710 of the Revised Code on all the 44508
assessments required by that division, or ~~attained the composite~~ 44509
~~score designated for~~ met the requirements of the assessments 44510
required by division (B)(2) of that section, shall be awarded a 44511
diploma under this section. 44512

(L) Any student described by division (A)(1) of this section 44513
may be awarded a diploma without attaining the applicable scores 44514
designated on the assessments prescribed under division (B) of 44515
section 3301.0710 of the Revised Code provided an individualized 44516
education program specifically exempts the student from attaining 44517
such scores. This division does not negate the requirement for 44518
such a student to take all such assessments or alternate 44519
assessments required by division (C)(1) of section 3301.0711 of 44520
the Revised Code for the purpose of assessing student progress as 44521
required by federal law. 44522

Sec. 3313.611. (A) The state board of education shall adopt, 44523
by rule, standards for awarding high school credit equivalent to 44524

credit for completion of high school academic and vocational	44525
education courses to applicants for diplomas under this section.	44526
The standards may permit high school credit to be granted to an	44527
applicant for any of the following:	44528
(1) Work experiences or experiences as a volunteer;	44529
(2) Completion of academic, vocational, or self-improvement	44530
courses offered to persons over the age of twenty-one by a	44531
chartered public or nonpublic school;	44532
(3) Completion of academic, vocational, or self-improvement	44533
courses offered by an organization, individual, or educational	44534
institution other than a chartered public or nonpublic school;	44535
(4) Other life experiences considered by the board to provide	44536
knowledge and learning experiences comparable to that gained in a	44537
classroom setting.	44538
(B) The board of education of any city, exempted village, or	44539
local school district that operates a high school shall grant a	44540
diploma of adult education to any applicant if all of the	44541
following apply:	44542
(1) The applicant is a resident of the district;	44543
(2) The applicant is over the age of twenty-one and has not	44544
been issued a diploma as provided in section 3313.61 of the	44545
Revised Code;	44546
(3) Subject to section 3313.614 of the Revised Code, the	44547
applicant has met the assessment requirements of division	44548
(B)(3)(a) or (b) of this section, as applicable.	44549
(a) Prior to the date prescribed by rule of the state board	44550
under division (E) (D)(3) of section 3301.0712 of the Revised Code,	44551
the applicant either:	44552
(i) Has attained the applicable scores designated under	44553
division (B)(1) of section 3301.0710 of the Revised Code on all of	44554

the assessments required by that division or was excused or 44555
exempted from any such assessment pursuant to section 3313.532 or 44556
was exempted from attaining the applicable score on any such 44557
assessment pursuant to division (H) or (L) of section 3313.61 of 44558
the Revised Code; 44559

(ii) Has satisfied the alternative conditions prescribed in 44560
section 3313.615 of the Revised Code. 44561

(b) On or after the date prescribed by rule of the state 44562
board under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised 44563
Code, has ~~attained on~~ met the requirements of the entire 44564
assessment system prescribed under division (B)(2) of section 44565
3301.0710 of the Revised Code ~~at least the required passing~~ 44566
~~composite score, designated under division (C)(1) of section~~ 44567
~~3301.0712 of the Revised Code~~, except and only to the extent that 44568
the applicant is excused from some portion of that assessment 44569
system pursuant to section 3313.532 of the Revised Code or 44570
division (H) or (L) of section 3313.61 of the Revised Code. 44571

(4) The district board determines, in accordance with the 44572
standards adopted under division (A) of this section, that the 44573
applicant has attained sufficient high school credits, including 44574
equivalent credits awarded under such standards, to qualify as 44575
having successfully completed the curriculum required by the 44576
district for graduation. 44577

(C) If a district board determines that an applicant is not 44578
eligible for a diploma under division (B) of this section, it 44579
shall inform the applicant of the reason the applicant is 44580
ineligible and shall provide a list of any courses required for 44581
the diploma for which the applicant has not received credit. An 44582
applicant may reapply for a diploma under this section at any 44583
time. 44584

(D) If a district board awards an adult education diploma 44585

under this section, the president and treasurer of the board and 44586
the superintendent of schools shall sign it. Each diploma shall 44587
bear the date of its issuance, be in such form as the district 44588
board prescribes, and be paid for from the district's general 44589
fund, except that the state board may by rule prescribe standard 44590
language to be included on each diploma. 44591

(E) As used in this division, "limited English proficient 44592
student" has the same meaning as in division (C)(3) of section 44593
3301.0711 of the Revised Code. 44594

Notwithstanding division (C)(3) of section 3301.0711 of the 44595
Revised Code, no limited English proficient student who has not 44596
either attained the applicable scores designated under division 44597
(B)(1) of section 3301.0710 of the Revised Code on all the 44598
assessments required by that division, or ~~attained the composite~~ 44599
~~score designated for~~ has not met the requirements of the 44600
assessments required by division (B)(2) of that section, shall be 44601
awarded a diploma under this section. 44602

Sec. 3313.612. (A) No nonpublic school chartered by the state 44603
board of education shall grant a high school diploma to any person 44604
unless, subject to section 3313.614 of the Revised Code, the 44605
person has met the assessment requirements of division (A)(1) or 44606
(2) of this section, as applicable. 44607

(1) If the person entered the ninth grade prior to the date 44608
prescribed by rule of the state board under division ~~(E)~~(D)(2) of 44609
section 3301.0712 of the Revised Code, the person has attained at 44610
least the applicable scores designated under division (B)(1) of 44611
section 3301.0710 of the Revised Code on all the assessments 44612
required by that division, or has satisfied the alternative 44613
conditions prescribed in section 3313.615 of the Revised Code. 44614

(2) If the person entered the ninth grade on or after the 44615
date prescribed by rule of the state board under division (E)(2) 44616

of section 3301.0712 of the Revised Code, the person has ~~attained~~ 44617
~~or met the requirements of~~ the entire assessment system prescribed 44618
under division (B)(2) of section 3301.0710 of the Revised Code ~~at~~ 44619
~~least the required passing composite score, designated under~~ 44620
~~division (C)(1) of section 3301.0712 of the Revised Code.~~ 44621
44622

(B) This section does not apply to either of the following: 44623

(1) Any person with regard to any assessment from which the 44624
person was excused pursuant to division (C)(1)(c) of section 44625
3301.0711 of the Revised Code; 44626

(2) Any person with regard to the social studies assessment 44627
under division (B)(1) of section 3301.0710 of the Revised Code, 44628
any social studies end-of-course examination required under 44629
division (B)(2) of that section if such an exemption is prescribed 44630
by rule of the state board of education under division ~~(E)~~(D)(4) 44631
of section 3301.0712 of the Revised Code, or the citizenship test 44632
under former division (B) of section 3301.0710 of the Revised Code 44633
as it existed prior to September 11, 2001, if all of the following 44634
apply: 44635

(a) The person is not a citizen of the United States; 44636

(b) The person is not a permanent resident of the United 44637
States; 44638

(c) The person indicates no intention to reside in the United 44639
States after completion of high school. 44640

(C) As used in this division, "limited English proficient 44641
student" has the same meaning as in division (C)(3) of section 44642
3301.0711 of the Revised Code. 44643

Notwithstanding division (C)(3) of section 3301.0711 of the 44644
Revised Code, no limited English proficient student who has not 44645
either attained the applicable scores designated under division 44646

(B)(1) of section 3301.0710 of the Revised Code on all the 44647
assessments required by that division, or ~~attained the composite~~ 44648
~~score designated for~~ met the requirements of the assessments 44649
~~required by~~ under division (B)(2) of that section, shall be 44650
awarded a diploma under this section. 44651

Sec. 3313.614. (A) As used in this section, a person 44652
"fulfills the curriculum requirement for a diploma" at the time 44653
one of the following conditions is satisfied: 44654

(1) The person successfully completes the high school 44655
curriculum of a school district, a community school, a chartered 44656
nonpublic school, or a correctional institution. 44657

(2) The person successfully completes the individualized 44658
education program developed for the person under section 3323.08 44659
of the Revised Code. 44660

(3) A board of education issues its determination under 44661
section 3313.611 of the Revised Code that the person qualifies as 44662
having successfully completed the curriculum required by the 44663
district. 44664

(B) This division specifies the assessment requirements that 44665
must be fulfilled as a condition toward granting high school 44666
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 44667
of the Revised Code. 44668

(1) A person who fulfills the curriculum requirement for a 44669
diploma before September 15, 2000, is not required to pass any 44670
proficiency test or achievement test in science as a condition to 44671
receiving a diploma. 44672

(2) A person who began ninth grade prior to July 1, 2003, is 44673
not required to pass the Ohio graduation test prescribed under 44674
division (B)(1) of section 3301.0710 or any assessment prescribed 44675
under division (B)(2) of that section in any subject as a 44676

condition to receiving a diploma once the person has passed the 44677
ninth grade proficiency test in the same subject, so long as the 44678
person passed the ninth grade proficiency test prior to September 44679
15, 2008. However, any such person who passes the Ohio graduation 44680
test in any subject prior to passing the ninth grade proficiency 44681
test in the same subject shall be deemed to have passed the ninth 44682
grade proficiency test in that subject as a condition to receiving 44683
a diploma. For this purpose, the ninth grade proficiency test in 44684
citizenship substitutes for the Ohio graduation test in social 44685
studies. If a person began ninth grade prior to July 1, 2003, but 44686
does not pass a ninth grade proficiency test or the Ohio 44687
graduation test in a particular subject before September 15, 2008, 44688
and passage of a test in that subject is a condition for the 44689
person to receive a diploma, the person must pass the Ohio 44690
graduation test instead of the ninth grade proficiency test in 44691
that subject to receive a diploma. 44692

(3) A person who begins ninth grade on or after July 1, 2003, 44693
in a school district, community school, or chartered nonpublic 44694
school is not eligible to receive a diploma based on passage of 44695
ninth grade proficiency tests. Each such person who begins ninth 44696
grade prior to the date prescribed by the state board of education 44697
under division ~~(E)~~(D)(5) of section 3301.0712 of the Revised Code 44698
must pass Ohio graduation tests to meet the assessment 44699
requirements applicable to that person as a condition to receiving 44700
a diploma. 44701

(4) A person who begins ninth grade on or after the date 44702
prescribed by the state board of education under division 44703
~~(E)~~(D)(5) of section 3301.0712 of the Revised Code is not eligible 44704
to receive a diploma based on passage of the Ohio graduation 44705
tests. Each such person must ~~attain on~~ meet the requirements of 44706
the entire assessment system prescribed under division (B)(2) of 44707
section 3301.0710 of the Revised Code ~~at least the required~~ 44708

~~passing composite score, designated under division (C)(1) of
section 3301.0712 of the Revised Code.~~ 44709
44710

(C) This division specifies the curriculum requirement that 44711
shall be completed as a condition toward granting high school 44712
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 44713
of the Revised Code. 44714

(1) A person who is under twenty-two years of age, or under 44715
thirty years of age for a person enrolled under section 3314.38 of 44716
the Revised Code in a dropout prevention and recovery program 44717
operated by a community school, when the person fulfills the 44718
curriculum requirement for a diploma shall complete the curriculum 44719
required by the school district or school issuing the diploma for 44720
the first year that the person originally enrolled in high school, 44721
except for a person who qualifies for graduation from high school 44722
under either division (D) or (F) of section 3313.603 of the 44723
Revised Code. 44724

(2) Once a person fulfills the curriculum requirement for a 44725
diploma, the person is never required, as a condition of receiving 44726
a diploma, to meet any different curriculum requirements that take 44727
effect pending the person's passage of proficiency tests or 44728
achievement tests or assessments, including changes mandated by 44729
section 3313.603 of the Revised Code, the state board, a school 44730
district board of education, or a governing authority of a 44731
community school or chartered nonpublic school. 44732

Sec. 3313.617. (A) When a person who is at least sixteen 44733
years of age but less than nineteen years of age applies to the 44734
department of education to take the tests of general educational 44735
development, the person shall submit with the application written 44736
approval from the superintendent of the school district in which 44737
the person was last enrolled, or the superintendent's designee, 44738
except that if the person was last enrolled in a community school 44739

established under Chapter 3314. of the Revised Code or a science, 44740
technology, engineering, and mathematics school established under 44741
Chapter 3326. of the Revised Code, the approval shall be from the 44742
principal of the school, or the principal's designee. The 44743
department may require the person also to submit written approval 44744
from the person's parent or guardian or a court official, if the 44745
person is younger than eighteen years of age. 44746

(B) For the purpose of calculating graduation rates for the 44747
school district report cards under section 3302.03 of the Revised 44748
Code, the department shall count any person for whom approval is 44749
obtained from the superintendent or principal, or a designee, 44750
under division (A) of this section as a dropout from the district 44751
in which the person was last enrolled prior to obtaining the 44752
approval. 44753

Sec. 3313.64. (A) As used in this section and in section 44754
3313.65 of the Revised Code: 44755

(1)(a) Except as provided in division (A)(1)(b) of this 44756
section, "parent" means either parent, unless the parents are 44757
separated or divorced or their marriage has been dissolved or 44758
annulled, in which case "parent" means the parent who is the 44759
residential parent and legal custodian of the child. When a child 44760
is in the legal custody of a government agency or a person other 44761
than the child's natural or adoptive parent, "parent" means the 44762
parent with residual parental rights, privileges, and 44763
responsibilities. When a child is in the permanent custody of a 44764
government agency or a person other than the child's natural or 44765
adoptive parent, "parent" means the parent who was divested of 44766
parental rights and responsibilities for the care of the child and 44767
the right to have the child live with the parent and be the legal 44768
custodian of the child and all residual parental rights, 44769
privileges, and responsibilities. 44770

(b) When a child is the subject of a power of attorney 44771
executed under sections 3109.51 to 3109.62 of the Revised Code, 44772
"parent" means the grandparent designated as attorney in fact 44773
under the power of attorney. When a child is the subject of a 44774
caretaker authorization affidavit executed under sections 3109.64 44775
to 3109.73 of the Revised Code, "parent" means the grandparent 44776
that executed the affidavit. 44777

(2) "Legal custody," "permanent custody," and "residual 44778
parental rights, privileges, and responsibilities" have the same 44779
meanings as in section 2151.011 of the Revised Code. 44780

(3) "School district" or "district" means a city, local, or 44781
exempted village school district and excludes any school operated 44782
in an institution maintained by the department of youth services. 44783

(4) Except as used in division (C)(2) of this section, "home" 44784
means a home, institution, foster home, group home, or other 44785
residential facility in this state that receives and cares for 44786
children, to which any of the following applies: 44787

(a) The home is licensed, certified, or approved for such 44788
purpose by the state or is maintained by the department of youth 44789
services. 44790

(b) The home is operated by a person who is licensed, 44791
certified, or approved by the state to operate the home for such 44792
purpose. 44793

(c) The home accepted the child through a placement by a 44794
person licensed, certified, or approved to place a child in such a 44795
home by the state. 44796

(d) The home is a children's home created under section 44797
5153.21 or 5153.36 of the Revised Code. 44798

(5) "Agency" means all of the following: 44799

(a) A public children services agency; 44800

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;

(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.

(6) A child is placed for adoption if either of the following occurs:

(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.

(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.

(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(8) "Child," unless otherwise indicated, includes preschool children with disabilities.

(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and

any preschool child with a disability shall be admitted to school 44831
as provided in this division. 44832

(1) A child shall be admitted to the schools of the school 44833
district in which the child's parent resides. 44834

(2) A child who does not reside in the district where the 44835
child's parent resides shall be admitted to the schools of the 44836
district in which the child resides if any of the following 44837
applies: 44838

(a) The child is in the legal or permanent custody of a 44839
government agency or a person other than the child's natural or 44840
adoptive parent. 44841

(b) The child resides in a home. 44842

(c) The child requires special education. 44843

(3) A child who is not entitled under division (B)(2) of this 44844
section to be admitted to the schools of the district where the 44845
child resides and who is residing with a resident of this state 44846
with whom the child has been placed for adoption shall be admitted 44847
to the schools of the district where the child resides unless 44848
either of the following applies: 44849

(a) The placement for adoption has been terminated. 44850

(b) Another school district is required to admit the child 44851
under division (B)(1) of this section. 44852

Division (B) of this section does not prohibit the board of 44853
education of a school district from placing a child with a 44854
disability who resides in the district in a special education 44855
program outside of the district or its schools in compliance with 44856
Chapter 3323. of the Revised Code. 44857

(C) A district shall not charge tuition for children admitted 44858
under division (B)(1) or (3) of this section. If the district 44859
admits a child under division (B)(2) of this section, tuition 44860

shall be paid to the district that admits the child as provided in 44861
divisions (C)(1) to (3) of this section, unless division (C)(4) of 44862
this section applies to the child: 44863

(1) If the child receives special education in accordance 44864
with Chapter 3323. of the Revised Code, the school district of 44865
residence, as defined in section 3323.01 of the Revised Code, 44866
shall pay tuition for the child in accordance with section 44867
3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code 44868
regardless of who has custody of the child or whether the child 44869
resides in a home. 44870

(2) For a child that does not receive special education in 44871
accordance with Chapter 3323. of the Revised Code, except as 44872
otherwise provided in division (C)(2)(d) of this section, if the 44873
child is in the permanent or legal custody of a government agency 44874
or person other than the child's parent, tuition shall be paid by: 44875

(a) The district in which the child's parent resided at the 44876
time the court removed the child from home or at the time the 44877
court vested legal or permanent custody of the child in the person 44878
or government agency, whichever occurred first; 44879

(b) If the parent's residence at the time the court removed 44880
the child from home or placed the child in the legal or permanent 44881
custody of the person or government agency is unknown, tuition 44882
shall be paid by the district in which the child resided at the 44883
time the child was removed from home or placed in legal or 44884
permanent custody, whichever occurred first; 44885

(c) If a school district cannot be established under division 44886
(C)(2)(a) or (b) of this section, tuition shall be paid by the 44887
district determined as required by section 2151.362 of the Revised 44888
Code by the court at the time it vests custody of the child in the 44889
person or government agency; 44890

(d) If at the time the court removed the child from home or 44891

vested legal or permanent custody of the child in the person or 44892
government agency, whichever occurred first, one parent was in a 44893
residential or correctional facility or a juvenile residential 44894
placement and the other parent, if living and not in such a 44895
facility or placement, was not known to reside in this state, 44896
tuition shall be paid by the district determined under division 44897
(D) of section 3313.65 of the Revised Code as the district 44898
required to pay any tuition while the parent was in such facility 44899
or placement; 44900

(e) If the department of education has determined, pursuant 44901
to division (A)(2) of section 2151.362 of the Revised Code, that a 44902
school district other than the one named in the court's initial 44903
order, or in a prior determination of the department, is 44904
responsible to bear the cost of educating the child, the district 44905
so determined shall be responsible for that cost. 44906

(3) If the child is not in the permanent or legal custody of 44907
a government agency or person other than the child's parent and 44908
the child resides in a home, tuition shall be paid by one of the 44909
following: 44910

(a) The school district in which the child's parent resides; 44911

(b) If the child's parent is not a resident of this state, 44912
the home in which the child resides. 44913

(4) Division (C)(4) of this section applies to any child who 44914
is admitted to a school district under division (B)(2) of this 44915
section, resides in a home that is not a foster home or a home 44916
maintained by the department of youth services, receives 44917
educational services at the home in which the child resides 44918
pursuant to a contract between the home and the school district 44919
providing those services, and does not receive special education. 44920

In the case of a child to which division (C)(4) of this 44921
section applies, the total educational cost to be paid for the 44922

child shall be determined by a formula approved by the department 44923
of education, which formula shall be designed to calculate a per 44924
diem cost for the educational services provided to the child for 44925
each day the child is served and shall reflect the total actual 44926
cost incurred in providing those services. The department shall 44927
certify the total educational cost to be paid for the child to 44928
both the school district providing the educational services and, 44929
if different, the school district that is responsible to pay 44930
tuition for the child. The department shall deduct the certified 44931
amount from the state basic aid funds payable under Chapter 3317. 44932
of the Revised Code to the district responsible to pay tuition and 44933
shall pay that amount to the district providing the educational 44934
services to the child. 44935

(D) Tuition required to be paid under divisions (C)(2) and 44936
(3)(a) of this section shall be computed in accordance with 44937
section 3317.08 of the Revised Code. Tuition required to be paid 44938
under division (C)(3)(b) of this section shall be computed in 44939
accordance with section 3317.081 of the Revised Code. If a home 44940
fails to pay the tuition required by division (C)(3)(b) of this 44941
section, the board of education providing the education may 44942
recover in a civil action the tuition and the expenses incurred in 44943
prosecuting the action, including court costs and reasonable 44944
attorney's fees. If the prosecuting attorney or city director of 44945
law represents the board in such action, costs and reasonable 44946
attorney's fees awarded by the court, based upon the prosecuting 44947
attorney's, director's, or one of their designee's time spent 44948
preparing and presenting the case, shall be deposited in the 44949
county or city general fund. 44950

(E) A board of education may enroll a child free of any 44951
tuition obligation for a period not to exceed sixty days, on the 44952
sworn statement of an adult resident of the district that the 44953
resident has initiated legal proceedings for custody of the child. 44954

(F) In the case of any individual entitled to attend school 44955
under this division, no tuition shall be charged by the school 44956
district of attendance and no other school district shall be 44957
required to pay tuition for the individual's attendance. 44958
Notwithstanding division (B), (C), or (E) of this section: 44959

(1) All persons at least eighteen but under twenty-two years 44960
of age who live apart from their parents, support themselves by 44961
their own labor, and have not successfully completed the high 44962
school curriculum or the individualized education program 44963
developed for the person by the high school pursuant to section 44964
3323.08 of the Revised Code, are entitled to attend school in the 44965
district in which they reside. 44966

(2) Any child under eighteen years of age who is married is 44967
entitled to attend school in the child's district of residence. 44968

(3) A child is entitled to attend school in the district in 44969
which either of the child's parents is employed if the child has a 44970
medical condition that may require emergency medical attention. 44971
The parent of a child entitled to attend school under division 44972
(F)(3) of this section shall submit to the board of education of 44973
the district in which the parent is employed a statement from the 44974
child's physician certifying that the child's medical condition 44975
may require emergency medical attention. The statement shall be 44976
supported by such other evidence as the board may require. 44977

(4) Any child residing with a person other than the child's 44978
parent is entitled, for a period not to exceed twelve months, to 44979
attend school in the district in which that person resides if the 44980
child's parent files an affidavit with the superintendent of the 44981
district in which the person with whom the child is living resides 44982
stating all of the following: 44983

(a) That the parent is serving outside of the state in the 44984
armed services of the United States; 44985

(b) That the parent intends to reside in the district upon 44986
returning to this state; 44987

(c) The name and address of the person with whom the child is 44988
living while the parent is outside the state. 44989

(5) Any child under the age of twenty-two years who, after 44990
the death of a parent, resides in a school district other than the 44991
district in which the child attended school at the time of the 44992
parent's death is entitled to continue to attend school in the 44993
district in which the child attended school at the time of the 44994
parent's death for the remainder of the school year, subject to 44995
approval of that district board. 44996

(6) A child under the age of twenty-two years who resides 44997
with a parent who is having a new house built in a school district 44998
outside the district where the parent is residing is entitled to 44999
attend school for a period of time in the district where the new 45000
house is being built. In order to be entitled to such attendance, 45001
the parent shall provide the district superintendent with the 45002
following: 45003

(a) A sworn statement explaining the situation, revealing the 45004
location of the house being built, and stating the parent's 45005
intention to reside there upon its completion; 45006

(b) A statement from the builder confirming that a new house 45007
is being built for the parent and that the house is at the 45008
location indicated in the parent's statement. 45009

(7) A child under the age of twenty-two years residing with a 45010
parent who has a contract to purchase a house in a school district 45011
outside the district where the parent is residing and who is 45012
waiting upon the date of closing of the mortgage loan for the 45013
purchase of such house is entitled to attend school for a period 45014
of time in the district where the house is being purchased. In 45015
order to be entitled to such attendance, the parent shall provide 45016

the district superintendent with the following: 45017

(a) A sworn statement explaining the situation, revealing the 45018
location of the house being purchased, and stating the parent's 45019
intent to reside there; 45020

(b) A statement from a real estate broker or bank officer 45021
confirming that the parent has a contract to purchase the house, 45022
that the parent is waiting upon the date of closing of the 45023
mortgage loan, and that the house is at the location indicated in 45024
the parent's statement. 45025

The district superintendent shall establish a period of time 45026
not to exceed ninety days during which the child entitled to 45027
attend school under division (F)(6) or (7) of this section may 45028
attend without tuition obligation. A student attending a school 45029
under division (F)(6) or (7) of this section shall be eligible to 45030
participate in interscholastic athletics under the auspices of 45031
that school, provided the board of education of the school 45032
district where the student's parent resides, by a formal action, 45033
releases the student to participate in interscholastic athletics 45034
at the school where the student is attending, and provided the 45035
student receives any authorization required by a public agency or 45036
private organization of which the school district is a member 45037
exercising authority over interscholastic sports. 45038

(8) A child whose parent is a full-time employee of a city, 45039
local, or exempted village school district, or of an educational 45040
service center, may be admitted to the schools of the district 45041
where the child's parent is employed, or in the case of a child 45042
whose parent is employed by an educational service center, in the 45043
district that serves the location where the parent's job is 45044
primarily located, provided the district board of education 45045
establishes such an admission policy by resolution adopted by a 45046
majority of its members. Any such policy shall take effect on the 45047
first day of the school year and the effective date of any 45048

amendment or repeal may not be prior to the first day of the 45049
subsequent school year. The policy shall be uniformly applied to 45050
all such children and shall provide for the admission of any such 45051
child upon request of the parent. No child may be admitted under 45052
this policy after the first day of classes of any school year. 45053

(9) A child who is with the child's parent under the care of 45054
a shelter for victims of domestic violence, as defined in section 45055
3113.33 of the Revised Code, is entitled to attend school free in 45056
the district in which the child is with the child's parent, and no 45057
other school district shall be required to pay tuition for the 45058
child's attendance in that school district. 45059

The enrollment of a child in a school district under this 45060
division shall not be denied due to a delay in the school 45061
district's receipt of any records required under section 3313.672 45062
of the Revised Code or any other records required for enrollment. 45063
Any days of attendance and any credits earned by a child while 45064
enrolled in a school district under this division shall be 45065
transferred to and accepted by any school district in which the 45066
child subsequently enrolls. The state board of education shall 45067
adopt rules to ensure compliance with this division. 45068

(10) Any child under the age of twenty-two years whose parent 45069
has moved out of the school district after the commencement of 45070
classes in the child's senior year of high school is entitled, 45071
subject to the approval of that district board, to attend school 45072
in the district in which the child attended school at the time of 45073
the parental move for the remainder of the school year and for one 45074
additional semester or equivalent term. A district board may also 45075
adopt a policy specifying extenuating circumstances under which a 45076
student may continue to attend school under division (F)(10) of 45077
this section for an additional period of time in order to 45078
successfully complete the high school curriculum for the 45079
individualized education program developed for the student by the 45080

high school pursuant to section 3323.08 of the Revised Code. 45081

(11) As used in this division, "grandparent" means a parent 45082
of a parent of a child. A child under the age of twenty-two years 45083
who is in the custody of the child's parent, resides with a 45084
grandparent, and does not require special education is entitled to 45085
attend the schools of the district in which the child's 45086
grandparent resides, provided that, prior to such attendance in 45087
any school year, the board of education of the school district in 45088
which the child's grandparent resides and the board of education 45089
of the school district in which the child's parent resides enter 45090
into a written agreement specifying that good cause exists for 45091
such attendance, describing the nature of this good cause, and 45092
consenting to such attendance. 45093

In lieu of a consent form signed by a parent, a board of 45094
education may request the grandparent of a child attending school 45095
in the district in which the grandparent resides pursuant to 45096
division (F)(11) of this section to complete any consent form 45097
required by the district, including any authorization required by 45098
sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised 45099
Code. Upon request, the grandparent shall complete any consent 45100
form required by the district. A school district shall not incur 45101
any liability solely because of its receipt of a consent form from 45102
a grandparent in lieu of a parent. 45103

Division (F)(11) of this section does not create, and shall 45104
not be construed as creating, a new cause of action or substantive 45105
legal right against a school district, a member of a board of 45106
education, or an employee of a school district. This section does 45107
not affect, and shall not be construed as affecting, any 45108
immunities from defenses to tort liability created or recognized 45109
by Chapter 2744. of the Revised Code for a school district, 45110
member, or employee. 45111

(12) A child under the age of twenty-two years is entitled to 45112

attend school in a school district other than the district in 45113
which the child is entitled to attend school under division (B), 45114
(C), or (E) of this section provided that, prior to such 45115
attendance in any school year, both of the following occur: 45116

(a) The superintendent of the district in which the child is 45117
entitled to attend school under division (B), (C), or (E) of this 45118
section contacts the superintendent of another district for 45119
purposes of this division; 45120

(b) The superintendents of both districts enter into a 45121
written agreement that consents to the attendance and specifies 45122
that the purpose of such attendance is to protect the student's 45123
physical or mental well-being or to deal with other extenuating 45124
circumstances deemed appropriate by the superintendents. 45125

While an agreement is in effect under this division for a 45126
student who is not receiving special education under Chapter 3323. 45127
of the Revised Code and notwithstanding Chapter 3327. of the 45128
Revised Code, the board of education of neither school district 45129
involved in the agreement is required to provide transportation 45130
for the student to and from the school where the student attends. 45131

A student attending a school of a district pursuant to this 45132
division shall be allowed to participate in all student 45133
activities, including interscholastic athletics, at the school 45134
where the student is attending on the same basis as any student 45135
who has always attended the schools of that district while of 45136
compulsory school age. 45137

(13) All school districts shall comply with the 45138
"McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et 45139
seq., for the education of homeless children. Each city, local, 45140
and exempted village school district shall comply with the 45141
requirements of that act governing the provision of a free, 45142
appropriate public education, including public preschool, to each 45143

homeless child. 45144

When a child loses permanent housing and becomes a homeless 45145
person, as defined in 42 U.S.C.A. 11481(5), or when a child who is 45146
such a homeless person changes temporary living arrangements, the 45147
child's parent or guardian shall have the option of enrolling the 45148
child in either of the following: 45149

(a) The child's school of origin, as defined in 42 U.S.C.A. 45150
11432(g)(3)(C); 45151

(b) The school that is operated by the school district in 45152
which the shelter where the child currently resides is located and 45153
that serves the geographic area in which the shelter is located. 45154

(14) A child under the age of twenty-two years who resides 45155
with a person other than the child's parent is entitled to attend 45156
school in the school district in which that person resides if both 45157
of the following apply: 45158

(a) That person has been appointed, through a military power 45159
of attorney executed under section 574(a) of the "National Defense 45160
Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 45161
U.S.C. 1044b, or through a comparable document necessary to 45162
complete a family care plan, as the parent's agent for the care, 45163
custody, and control of the child while the parent is on active 45164
duty as a member of the national guard or a reserve unit of the 45165
armed forces of the United States or because the parent is a 45166
member of the armed forces of the United States and is on a duty 45167
assignment away from the parent's residence. 45168

(b) The military power of attorney or comparable document 45169
includes at least the authority to enroll the child in school. 45170

The entitlement to attend school in the district in which the 45171
parent's agent under the military power of attorney or comparable 45172
document resides applies until the end of the school year in which 45173
the military power of attorney or comparable document expires. 45174

(G) A board of education, after approving admission, may 45175
waive tuition for students who will temporarily reside in the 45176
district and who are either of the following: 45177

(1) Residents or domiciliaries of a foreign nation who 45178
request admission as foreign exchange students; 45179

(2) Residents or domiciliaries of the United States but not 45180
of Ohio who request admission as participants in an exchange 45181
program operated by a student exchange organization. 45182

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 45183
3327.04, and 3327.06 of the Revised Code, a child may attend 45184
school or participate in a special education program in a school 45185
district other than in the district where the child is entitled to 45186
attend school under division (B) of this section. 45187

(I)(1) Notwithstanding anything to the contrary in this 45188
section or section 3313.65 of the Revised Code, a child under 45189
twenty-two years of age may attend school in the school district 45190
in which the child, at the end of the first full week of October 45191
of the school year, was entitled to attend school as otherwise 45192
provided under this section or section 3313.65 of the Revised 45193
Code, if at that time the child was enrolled in the schools of the 45194
district but since that time the child or the child's parent has 45195
relocated to a new address located outside of that school district 45196
and within the same county as the child's or parent's address 45197
immediately prior to the relocation. The child may continue to 45198
attend school in the district, and at the school to which the 45199
child was assigned at the end of the first full week of October of 45200
the current school year, for the balance of the school year. 45201
Division (I)(1) of this section applies only if both of the 45202
following conditions are satisfied: 45203

(a) The board of education of the school district in which 45204
the child was entitled to attend school at the end of the first 45205

full week in October and of the district to which the child or 45206
child's parent has relocated each has adopted a policy to enroll 45207
children described in division (I)(1) of this section. 45208

(b) The child's parent provides written notification of the 45209
relocation outside of the school district to the superintendent of 45210
each of the two school districts. 45211

(2) At the beginning of the school year following the school 45212
year in which the child or the child's parent relocated outside of 45213
the school district as described in division (I)(1) of this 45214
section, the child is not entitled to attend school in the school 45215
district under that division. 45216

(3) Any person or entity owing tuition to the school district 45217
on behalf of the child at the end of the first full week in 45218
October, as provided in division (C) of this section, shall 45219
continue to owe such tuition to the district for the child's 45220
attendance under division (I)(1) of this section for the lesser of 45221
the balance of the school year or the balance of the time that the 45222
child attends school in the district under division (I)(1) of this 45223
section. 45224

(4) A pupil who may attend school in the district under 45225
division (I)(1) of this section shall be entitled to 45226
transportation services pursuant to an agreement between the 45227
district and the district in which the child or child's parent has 45228
relocated unless the districts have not entered into such 45229
agreement, in which case the child shall be entitled to 45230
transportation services in the same manner as a pupil attending 45231
school in the district under interdistrict open enrollment as 45232
described in division (H) of section 3313.981 of the Revised Code, 45233
regardless of whether the district has adopted an open enrollment 45234
policy as described in division (B)(1)(b) or (c) of section 45235
3313.98 of the Revised Code. 45236

(J) This division does not apply to a child receiving special education. 45237
45238

A school district required to pay tuition pursuant to 45239
division (C)(2) or (3) of this section or section 3313.65 of the 45240
Revised Code shall have an amount deducted under division ~~(F)~~(C) 45241
of section 3317.023 of the Revised Code equal to its own tuition 45242
rate for the same period of attendance. A school district entitled 45243
to receive tuition pursuant to division (C)(2) or (3) of this 45244
section or section 3313.65 of the Revised Code shall have an 45245
amount credited under division ~~(F)~~(C) of section 3317.023 of the 45246
Revised Code equal to its own tuition rate for the same period of 45247
attendance. If the tuition rate credited to the district of 45248
attendance exceeds the rate deducted from the district required to 45249
pay tuition, the department of education shall pay the district of 45250
attendance the difference from amounts deducted from all 45251
districts' payments under division ~~(F)~~(C) of section 3317.023 of 45252
the Revised Code but not credited to other school districts under 45253
such division and from appropriations made for such purpose. The 45254
treasurer of each school district shall, by the fifteenth day of 45255
January and July, furnish the superintendent of public instruction 45256
a report of the names of each child who attended the district's 45257
schools under divisions (C)(2) and (3) of this section or section 45258
3313.65 of the Revised Code during the preceding six calendar 45259
months, the duration of the attendance of those children, the 45260
school district responsible for tuition on behalf of the child, 45261
and any other information that the superintendent requires. 45262

Upon receipt of the report the superintendent, pursuant to 45263
division ~~(F)~~(C) of section 3317.023 of the Revised Code, shall 45264
deduct each district's tuition obligations under divisions (C)(2) 45265
and (3) of this section or section 3313.65 of the Revised Code and 45266
pay to the district of attendance that amount plus any amount 45267
required to be paid by the state. 45268

(K) In the event of a disagreement, the superintendent of public instruction shall determine the school district in which the parent resides. 45269
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(L) Nothing in this section requires or authorizes, or shall be construed to require or authorize, the admission to a public school in this state of a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction pursuant to sections 3301.121 and 3313.662 of the Revised Code. 45272
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(M) In accordance with division (B)(1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment. However, the district is not responsible for providing transportation for the child if the child lives outside of the district as a result of the parent's active duty status or temporary duty assignment. 45278
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Sec. 3313.6410. This section applies to any school that is operated by a school district and in which the enrolled students work primarily on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method. 45293
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(A) Any school to which this section applies shall withdraw from the school any student who, for two consecutive school years, 45298
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has failed to participate in the spring administration of any 45300
assessment prescribed under section 3301.0710 or 3301.0712 of the 45301
Revised Code for the student's grade level and was not excused 45302
from the assessment pursuant to division (C)(1) or (3) of section 45303
3301.0711 of the Revised Code, regardless of whether a waiver was 45304
granted for the student under division (E) of section 3317.03 of 45305
the Revised Code. The school shall report any such student's data 45306
verification code, as assigned pursuant to section 3301.0714 of 45307
the Revised Code, to the department of education to be added to 45308
the list maintained by the department under section 3314.26 of the 45309
Revised Code. 45310

(B) No school to which this section applies shall receive any 45311
state funds under Chapter ~~3306.~~^{or} 3317. of the Revised Code for 45312
any enrolled student whose data verification code appears on the 45313
list maintained by the department under section 3314.26 of the 45314
Revised Code. Notwithstanding any provision of the Revised Code to 45315
the contrary, the parent of any such student shall pay tuition to 45316
the school district that operates the school in an amount equal to 45317
the state funds the district otherwise would receive for that 45318
student, as determined by the department. A school to which this 45319
section applies may withdraw any student for whom the parent does 45320
not pay tuition as required by this division. 45321

Sec. 3313.65. (A) As used in this section and section 3313.64 45322
of the Revised Code: 45323

(1) A person is "in a residential facility" if the person is 45324
a resident or a resident patient of an institution, home, or other 45325
residential facility that is: 45326

(a) Licensed as a nursing home, residential care facility, or 45327
home for the aging by the director of health under section 3721.02 45328
of the Revised Code; 45329

(b) Licensed as an adult care facility by the director of 45330

mental health under ~~Chapter 3722.~~ sections 5119.70 to 5119.88 of 45331
the Revised Code; 45332

(c) Maintained as a county home or district home by the board 45333
of county commissioners or a joint board of county commissioners 45334
under Chapter 5155. of the Revised Code; 45335

(d) Operated or administered by a board of alcohol, drug 45336
addiction, and mental health services under section 340.03 or 45337
340.06 of the Revised Code, or provides residential care pursuant 45338
to contracts made under section 340.03 or 340.033 of the Revised 45339
Code; 45340

(e) Maintained as a state institution for the mentally ill 45341
under Chapter 5119. of the Revised Code; 45342

(f) Licensed by the department of mental health under section 45343
5119.20 or 5119.22 of the Revised Code; 45344

(g) Licensed as a residential facility by the department of 45345
developmental disabilities under section 5123.19 of the Revised 45346
Code; 45347

(h) Operated by the veteran's administration or another 45348
agency of the United States government; 45349

(i) The Ohio soldiers' and sailors' home. 45350

(2) A person is "in a correctional facility" if any of the 45351
following apply: 45352

(a) The person is an Ohio resident and is: 45353

(i) Imprisoned, as defined in section 1.05 of the Revised 45354
Code; 45355

(ii) Serving a term in a community-based correctional 45356
facility or a district community-based correctional facility; 45357

(iii) Required, as a condition of parole, a post-release 45358
control sanction, a community control sanction, transitional 45359

control, or early release from imprisonment, as a condition of 45360
shock parole or shock probation granted under the law in effect 45361
prior to July 1, 1996, or as a condition of a furlough granted 45362
under the version of section 2967.26 of the Revised Code in effect 45363
prior to March 17, 1998, to reside in a halfway house or other 45364
community residential center licensed under section 2967.14 of the 45365
Revised Code or a similar facility designated by the court of 45366
common pleas that established the condition or by the adult parole 45367
authority. 45368

(b) The person is imprisoned in a state correctional 45369
institution of another state or a federal correctional institution 45370
but was an Ohio resident at the time the sentence was imposed for 45371
the crime for which the person is imprisoned. 45372

(3) A person is "in a juvenile residential placement" if the 45373
person is an Ohio resident who is under twenty-one years of age 45374
and has been removed, by the order of a juvenile court, from the 45375
place the person resided at the time the person became subject to 45376
the court's jurisdiction in the matter that resulted in the 45377
person's removal. 45378

(4) "Community control sanction" has the same meaning as in 45379
section 2929.01 of the Revised Code. 45380

(5) "Post-release control sanction" has the same meaning as 45381
in section 2967.01 of the Revised Code. 45382

(B) If the circumstances described in division (C) of this 45383
section apply, the determination of what school district must 45384
admit a child to its schools and what district, if any, is liable 45385
for tuition shall be made in accordance with this section, rather 45386
than section 3313.64 of the Revised Code. 45387

(C) A child who does not reside in the school district in 45388
which the child's parent resides and for whom a tuition obligation 45389
previously has not been established under division (C)(2) of 45390

section 3313.64 of the Revised Code shall be admitted to the 45391
schools of the district in which the child resides if at least one 45392
of the child's parents is in a residential or correctional 45393
facility or a juvenile residential placement and the other parent, 45394
if living and not in such a facility or placement, is not known to 45395
reside in this state. 45396

(D) Regardless of who has custody or care of the child, 45397
whether the child resides in a home, or whether the child receives 45398
special education, if a district admits a child under division (C) 45399
of this section, tuition shall be paid to that district as 45400
follows: 45401

(1) If the child's parent is in a juvenile residential 45402
placement, by the district in which the child's parent resided at 45403
the time the parent became subject to the jurisdiction of the 45404
juvenile court; 45405

(2) If the child's parent is in a correctional facility, by 45406
the district in which the child's parent resided at the time the 45407
sentence was imposed; 45408

(3) If the child's parent is in a residential facility, by 45409
the district in which the parent resided at the time the parent 45410
was admitted to the residential facility, except that if the 45411
parent was transferred from another residential facility, tuition 45412
shall be paid by the district in which the parent resided at the 45413
time the parent was admitted to the facility from which the parent 45414
first was transferred; 45415

(4) In the event of a disagreement as to which school 45416
district is liable for tuition under division (C)(1), (2), or (3) 45417
of this section, the superintendent of public instruction shall 45418
determine which district shall pay tuition. 45419

(E) If a child covered by division (D) of this section 45420
receives special education in accordance with Chapter 3323. of the 45421

Revised Code, the tuition shall be paid in accordance with section 45422
3323.13 or 3323.14 of the Revised Code. Tuition for children who 45423
do not receive special education shall be paid in accordance with 45424
division (J) of section 3313.64 of the Revised Code. 45425

Sec. 3313.75. (A) The board of education of a city, exempted 45426
village, or local school district may authorize the opening of 45427
schoolhouses for any lawful purposes. ~~This~~ 45428

(B) In accordance with this section and section 3313.77 of 45429
the Revised Code, a district board may rent or lease facilities 45430
under its control to any public or nonpublic institution of higher 45431
education for the institution's use in providing evening and 45432
summer classes. 45433

(C) This section does not authorize a board to rent or lease 45434
a schoolhouse when such rental or lease interferes with the public 45435
schools in such district, or for any purpose other than is 45436
authorized by law. 45437

Sec. 3313.842. (A) The boards of education or governing 45438
authorities of any two or more school districts or community 45439
schools may enter into an agreement for joint or cooperative 45440
establishment and operation of any educational program including 45441
any class, course, or program that may be included in a school 45442
district's or community school's graded course of study and staff 45443
development programs for teaching and nonteaching school 45444
employees. Each school district or community school that is party 45445
to such an agreement may contribute funds of the district or 45446
school in support of the agreement and for the establishment and 45447
operation of any educational program established under the 45448
agreement. The agreement shall designate one of the districts or 45449
community schools as ~~the district~~ responsible for receiving and 45450
disbursing the funds contributed by the ~~districts that are parties~~ 45451

to the agreement. 45452

(B) Notwithstanding sections 3313.48 and 3313.64 of the 45453
Revised Code, any school district that is party to an agreement 45454
for joint or cooperative establishment and operation of an 45455
educational program may charge fees or tuition for students who 45456
participate in the program and are entitled to attend school in 45457
the district under section 3313.64 or 3313.65 of the Revised Code. 45458
Except as otherwise provided in division (H) of section 3321.01 of 45459
the Revised Code, no community school that is party to the 45460
agreement shall charge fees or tuition for students who 45461
participate in the program and are reported by the school under 45462
division (B)(2) of section 3314.08 of the Revised Code. 45463

Sec. 3313.843. (A) Notwithstanding division (D) of section 45464
3311.52 of the Revised Code, this section does not apply to ~~either~~ 45465
~~of the following:~~ 45466

~~(1) Any any cooperative education school district;~~ 45467

~~(2) Any city or exempted village school district with a total 45468
student count of thirteen thousand or more determined pursuant to 45469
section 3317.03 of the Revised Code that has not entered into one 45470
or more agreements pursuant to this section prior to July 1, 1993, 45471
unless the district's total student count did not exceed thirteen 45472
thousand at the time it entered into an initial agreement under 45473
this section.~~ 45474

(B)(1) The board of education of a each city ~~or~~, exempted 45475
village, or local school district ~~and~~ with a student count of 45476
sixteen thousand or less, as defined in section 3301.011 of the 45477
Revised Code, shall enter into an agreement with the governing 45478
board of an educational service center ~~may enter into an~~ 45479
~~agreement, through adoption of identical resolutions,~~ under which 45480
the educational service center governing board will provide 45481
services to the ~~city or exempted village school~~ district. 45482

(2) The board of education of a city, exempted village, or local school district with a student count of more than sixteen thousand may enter into an agreement with the governing board of an educational service center, under which the educational service center governing board will provide services to the district. 45483
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(3) Services provided under the an agreement entered into under division (B)(1) or (2) of this section shall be specified in the agreement, and may include any one or a combination of the following: supervisory teachers; in-service and continuing education programs for city or exempted village school district personnel; curriculum services as provided to the local school districts under the supervision of the service center governing board; research and development programs; academic instruction for which the governing board employs teachers pursuant to section 3319.02 of the Revised Code; and assistance in the provision of special accommodations and classes for students with disabilities; or any other services the district board and service center governing board agree can be better provided by the service center and are not provided under an agreement entered into under section 3313.845 of the Revised Code. Services included in the agreement shall be provided to the city or exempted village district in the same manner they are provided to local school districts under the governing board's supervision, unless otherwise specified in the agreement. The city or exempted village district board of education shall reimburse the educational service center governing board pursuant to section 3317.11 of the Revised Code. 45488
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(C) If an educational service center received funding under division (B) of former section 3317.11 or division (F) of section 3317.11 of the Revised Code for an agreement under this section involving a city school district whose total student count was less than thirteen thousand, the service center may continue to receive funding under that division for such an agreement in any 45509
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~~subsequent year if the city district's total student count exceeds 45515
thirteen thousand. However, only the first thirteen thousand 45516
pupils in the formula ADM of such district shall be included in 45517
determining the amount of the per pupil subsidy the service center 45518
shall receive under division (F) of section 3317.11 of the Revised 45519
Code. 45520~~

~~(D) Any agreement entered into pursuant to this section shall 45521
be valid only if a copy is filed with the department of education 45522
by the first day of July of the school year for which the 45523
agreement is in effect. 45524~~

(D)(1) An agreement for services from an educational service 45525
center entered into under this section may be terminated by the 45526
school district board of education, at its option, by notifying 45527
the governing board of the service center by January 1, 2012, or 45528
by the first day of January of any odd-numbered year thereafter, 45529
that the district board intends to terminate the agreement in that 45530
year, and that termination shall be effective on the thirtieth day 45531
of June of that year. The failure of a district board to notify an 45532
educational service center of its intent to terminate an agreement 45533
by the first day of January of an odd-numbered year shall result 45534
in renewal of the existing agreement for the following two school 45535
years. 45536

(2) If the school district that terminates an agreement for 45537
services under division (D)(1) of this section is also subject to 45538
the requirement of division (B)(1) of this section, the district 45539
board shall enter into a new agreement with a different 45540
educational service center so that the new agreement is effective 45541
on the first day of July of that same year. 45542

Sec. 3313.845. The board of education of a city, exempted 45543
village, or local school district and the governing board of an 45544
educational service center may enter into an agreement, ~~through~~ 45545

~~adoption of identical resolutions, under which the educational 45546
service center will provide services to the school district. 45547
Services provided under the agreement and the amount to be paid 45548
for such services shall be mutually agreed to by the district 45549
board of education and the service center governing board, and 45550
shall be specified in the agreement. Payment for services 45551
specified in the agreement shall be made pursuant to division (D) 45552
of section 3317.11 of the Revised Code and shall not include any 45553
deduction under division (B), (C), or (F) of that section. Any 45554
agreement entered into pursuant to this section shall be valid 45555
only if a copy is filed with the department of education by the 45556
first day of the school year for which the agreement is in effect. 45557~~

~~The authority granted under this section to the boards of 45558
education of city ~~and~~, exempted village, and local school 45559
districts is in addition to the authority granted to such boards 45560
under section 3313.843 of the Revised Code. ~~No city or exempted 45561
village district that is eligible to receive services from an 45562
educational service center under section 3313.843 of the Revised 45563
Code may receive any of the services described in division (B) of 45564
that section pursuant to an agreement entered into with an 45565
educational service center under this section. 45566~~~~

~~If a local school district enters into an agreement with an 45567
educational service center under this section and the district is 45568
not located within the territory of the service center, the 45569
agreement shall not require the district to receive any 45570
supervisory services described in division (B) of section 3317.11 45571
of the Revised Code from the service center. The supervisory 45572
services described in that section shall be provided to the 45573
district by the educational service center of the territory in 45574
which the district is located. 45575~~

Sec. 3313.846. The governing board of an educational service 45576

center may enter into a contract with any political subdivision as 45577
defined in section 2744.01 of the Revised Code, not including 45578
school districts, community schools, or STEM schools contracting 45579
for services under section 3313.843, 3313.844, 3313.845, or 45580
3326.45 of the Revised Code, under which the educational service 45581
center will provide services to the political subdivision. 45582
Services provided under the contract and the amount to be paid for 45583
such services shall be mutually agreed to by the parties and shall 45584
be specified in the contract. The political subdivision shall 45585
directly pay an educational service center for services specified 45586
in the contract. The board of the educational service center shall 45587
file a copy of each contract entered into under this section with 45588
the department of education by the first day the contract is in 45589
effect. 45590

Sec. 3313.88. (A)(1) Prior to the first day of August of each 45591
school year, the board of education of any school district or the 45592
governing authority of any chartered nonpublic school may submit 45593
to the department of education a plan to require students to 45594
access and complete classroom lessons posted on the district's or 45595
nonpublic school's web portal or web site in order to make up days 45596
in that school year on which it is necessary to close schools for 45597
any of the reasons specified in division (B) of section 3317.01 of 45598
the Revised Code in excess of the number of days permitted under 45599
sections 3313.48, 3313.481, and 3317.01 of the Revised Code. 45600

Prior to the first day of August of each school year, the 45602
governing authority of any community school established under 45603
Chapter 3314. that is not an internet- or computer-based community 45604
school, as defined in section 3314.02 of the Revised Code, may 45605
submit to the department a plan to require students to access and 45606
complete classroom lessons posted on the school's web portal or 45607

web site in order to make up days or hours in that school year on 45608
which it is necessary to close the school for any of the reasons 45609
specified in division (L)(4) of section 3314.08 of the Revised 45610
Code so that the school is in compliance with the minimum number 45611
of hours required under Chapter 3314. of the Revised Code. 45612

A plan submitted by a school district board or chartered 45613
nonpublic school governing authority shall provide for making up 45614
any number of days, up to a maximum of three days. A plan 45615
submitted by a community school governing authority shall provide 45616
for making up any number of hours, up to a maximum of the 45617
equivalent of three days. Provided the plan meets all requirements 45618
of this section, the department shall permit the board or 45619
governing authority to implement the plan for the applicable 45620
school year. 45621

(2) Each plan submitted under this section by a school 45622
district board of education shall include the written consent of 45623
the teachers' employee representative designated under division 45624
(B) of section 4117.04 of the Revised Code. 45625

(3) Each plan submitted under this section shall provide for 45626
the following: 45627

(a) Not later than the first day of November of the school 45628
year, each classroom teacher shall develop a sufficient number of 45629
lessons for each course taught by the teacher that school year to 45630
cover the number of make-up days or hours specified in the plan. 45631
The teacher shall designate the order in which the lessons are to 45632
be posted on the district's, community school's, or nonpublic 45633
school's web portal or web site in the event of a school closure. 45634
Teachers may be granted up to one professional development day to 45635
create lesson plans for those lessons. 45636

(b) To the extent possible and necessary, a classroom teacher 45637
shall update or replace, based on current instructional progress, 45638

one or more of the lesson plans developed under division (A)(3)(a) 45639
of this section before they are posted on the web portal or web 45640
site under division (A)(3)(c) of this section or distributed under 45641
division (B) of this section. 45642

(c) As soon as practicable after a school closure, a district 45643
or school employee responsible for web portal or web site 45644
operations shall make the designated lessons available to students 45645
on the district's, community school's, or nonpublic school's 45646
portal or site. A lesson shall be posted for each course that was 45647
scheduled to meet on the day or hours of the closure. 45648

(d) Each student enrolled in a course for which a lesson is 45649
posted on the portal or site shall be granted a two-week period 45650
from the date of posting to complete the lesson. The student's 45651
classroom teacher shall grade the lesson in the same manner as 45652
other lessons. The student may receive an incomplete or failing 45653
grade if the lesson is not completed on time. 45654

(e) If a student does not have access to a computer at the 45655
student's residence and the plan does not include blizzard bags 45656
under division (B) of this section, the student shall be permitted 45657
to work on the posted lessons at school after the student's school 45658
reopens. If the lessons were posted prior to the reopening, the 45659
student shall be granted a two-week period from the date of the 45660
reopening, rather than from the date of posting as otherwise 45661
required under division (A)(3)(d) of this section, to complete the 45662
lessons. The district board or community school or nonpublic 45663
school governing authority may provide the student access to a 45664
computer before, during, or after the regularly scheduled school 45665
day or may provide a substantially similar paper lesson in order 45666
to complete the lessons. 45667

(B)(1) In addition to posting classroom lessons online under 45668
division (A) of this section, the board of education of any school 45669
district or governing authority of any community or chartered 45670

nonpublic school may include in the plan distribution of "blizzard bags," which are paper copies of the lessons posted online. 45671
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(2) If a school opts to use blizzard bags, teachers shall prepare paper copies in conjunction with the lessons to be posted online and update the paper copies whenever the teacher updates the online lesson plans. 45673
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(3) The board of education of any school district or governing authority of any community or chartered nonpublic school that opts to use blizzard bags shall specify in the plan the method of distribution of blizzard bag lessons, which may include, but not be limited to, requiring distribution by a specific deadline or requiring distribution prior to anticipated school closure as directed by the superintendent of a school district or the principal, director, chief administrative officer, or the equivalent, of a school. 45677
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(4) Students shall turn in completed lessons in accordance with division (A)(3)(d) of this section. 45686
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(C)(1) No school district that implements a plan in accordance with this section shall be considered to have failed to comply with division (B) of section 3317.01 of the Revised Code with respect to the number of make-up days specified in the plan. 45688
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(2) No community school that implements a plan in accordance with this section shall be considered to have failed to comply with the minimum number of hours required under Chapter 3314. of the Revised Code with respect to the number of make-up hours specified in the plan. 45692
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Sec. 3313.911. The state board of education may adopt a resolution assigning a city, exempted village, or local school district that is not a part of a joint vocational school district to membership in a joint vocational school district. A copy of the 45697
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resolution shall be certified to the board of education of the 45701
joint vocational school district and the board of education of the 45702
district proposed to be assigned. The board of education of the 45703
joint vocational school district shall advertise a copy of the 45704
resolution in a newspaper of general circulation in the district 45705
proposed to be assigned once each week for ~~at least~~ two weeks, or 45706
as provided in section 7.16 of the Revised Code, immediately 45707
following the certification of the resolution to the board. The 45708
assignment shall take effect on the ninety-first day after the 45709
state board adopts the resolution, unless prior to that date 45710
qualified electors residing in the school district proposed for 45711
assignment, equal in number to ten per cent of the qualified 45712
electors of that district voting at the last general election, 45713
file a petition against the assignment. 45714

The petition of referendum shall be filed with the treasurer 45715
of the board of education of the district proposed to be assigned 45716
to the joint vocational school district. The treasurer shall give 45717
the person presenting the petition a receipt showing the time of 45718
day, date, and purpose of the petition. The treasurer shall cause 45719
the board of elections to determine the sufficiency of signatures 45720
on the petition and if the signatures are found to be sufficient, 45721
shall present the petition to the board of education of the 45722
district. The board of education shall promptly certify the 45723
question to the board of elections for the purpose of having the 45724
question placed on the ballot at the next general, primary, or 45725
special election not earlier than sixty days after the date of the 45726
certification. 45727

Only those qualified electors residing in the district 45728
proposed for assignment to the joint vocational school district 45729
are qualified to vote on the question. If a majority of the 45730
electors voting on the question vote against the assignment, it 45731
shall not take place, and the state board of education shall 45732

require the district to contract with the joint vocational school 45733
district or another school district as authorized by section 45734
3313.91 of the Revised Code. 45735

If a majority of the electors voting on the question do not 45736
vote against the assignment, the assignment shall take immediate 45737
effect, and the board of education of the joint vocational school 45738
district shall notify the county auditor of the county in which 45739
the school district becoming a part of the joint vocational school 45740
district is located to have any outstanding levy of the joint 45741
vocational school district spread over the territory of the school 45742
district that has become a part of the joint vocational school 45743
district. 45744

The assignment of a school district to a joint vocational 45745
school district pursuant to this section is subject to any 45746
agreements made between the board of education of the assigned 45747
school district and the board of education of the joint vocational 45748
school district. Such an agreement may include provisions for a 45749
payment by the assigned school district to the joint vocational 45750
school district of an amount to be contributed toward the cost of 45751
the existing facilities of the joint vocational school district. 45752

On the assignment of a school district to a joint vocational 45753
school district pursuant to this section, the joint vocational 45754
school district's board of education shall submit a proposal to 45755
the state board of education to enlarge or reorganize the 45756
membership of the joint vocational school district's board of 45757
education if expansion or reorganization of the board is necessary 45758
in order to comply with section 3311.19 of the Revised Code. 45759

Sec. 3313.975. As used in this section and in sections 45760
3313.975 to 3313.979 of the Revised Code, "the pilot project 45761
school district" or "the district" means any school district 45762
included in the pilot project scholarship program pursuant to this 45763

section. 45764

(A) The superintendent of public instruction shall establish 45765
a pilot project scholarship program and shall include in such 45766
program any school districts that are or have ever been under 45767
federal court order requiring supervision and operational 45768
management of the district by the state superintendent. The 45769
program shall provide for a number of students residing in any 45770
such district to receive scholarships to attend alternative 45771
schools, and for an equal number of students to receive tutorial 45772
assistance grants while attending public school in any such 45773
district. 45774

(B) The state superintendent shall establish an application 45775
process and deadline for accepting applications from students 45776
residing in the district to participate in the scholarship 45777
program. In the initial year of the program students may only use 45778
a scholarship to attend school in grades kindergarten through 45779
third. 45780

The state superintendent shall award as many scholarships and 45781
tutorial assistance grants as can be funded given the amount 45782
appropriated for the program. In no case, however, shall more than 45783
fifty per cent of all scholarships awarded be used by students who 45784
were enrolled in a nonpublic school during the school year of 45785
application for a scholarship. 45786

(C)(1) The pilot project program shall continue in effect 45787
each year that the general assembly has appropriated sufficient 45788
money to fund scholarships and tutorial assistance grants. In each 45789
year the program continues, ~~no~~ new students may receive 45790
scholarships ~~unless they are enrolled~~ in grades kindergarten to 45791
~~eight~~ twelve. ~~However, any~~ A student who has received a 45792
scholarship ~~the preceding year~~ may continue to receive one until 45793
the student has completed grade ~~ten~~. ~~Beginning in the 2005-2006~~ 45794
~~academic year, a student who previously has received a scholarship~~ 45795

~~may receive a scholarship in grade eleven. Beginning in the 45796~~
~~2006-2007 academic year, a student who previously has received a 45797~~
~~scholarship may receive a scholarship in grade twelve. 45798~~

(2) If the general assembly discontinues the scholarship 45799
program, all students who are attending an alternative school 45800
under the pilot project shall be entitled to continued admittance 45801
to that specific school through all grades that are provided in 45802
such school, under the same conditions as when they were 45803
participating in the pilot project. The state superintendent shall 45804
continue to make scholarship payments in accordance with division 45805
(A) or (B) of section 3313.979 of the Revised Code for students 45806
who remain enrolled in an alternative school under this provision 45807
in any year that funds have been appropriated for this purpose. 45808

If funds are not appropriated, the tuition charged to the 45809
parents of a student who remains enrolled in an alternative school 45810
under this provision shall not be increased beyond the amount 45811
equal to the amount of the scholarship plus any additional amount 45812
charged that student's parent in the most recent year of 45813
attendance as a participant in the pilot project, except that 45814
tuition for all the students enrolled in such school may be 45815
increased by the same percentage. 45816

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 45817
the Revised Code, if the pilot project school district experiences 45818
a decrease in enrollment due to participation in a state-sponsored 45819
scholarship program pursuant to sections 3313.974 to 3313.979 of 45820
the Revised Code, the district board of education may enter into 45821
an agreement with any teacher it employs to provide to that 45822
teacher severance pay or early retirement incentives, or both, if 45823
the teacher agrees to terminate the employment contract with the 45824
district board, provided any collective bargaining agreement in 45825
force pursuant to Chapter 4117. of the Revised Code does not 45826
prohibit such an agreement for termination of a teacher's 45827

employment contract. 45828

Sec. 3313.978. (A) Annually by the first day of November, the 45829
superintendent of public instruction shall notify the pilot 45830
project school district of the number of initial scholarships that 45831
the state superintendent will be awarding in each of grades 45832
kindergarten through ~~eight~~ twelve. 45833

The state superintendent shall provide information about the 45834
scholarship program to all students residing in the district, 45835
shall accept applications from any such students until such date 45836
as shall be established by the state superintendent as a deadline 45837
for applications, and shall establish criteria for the selection 45838
of students to receive scholarships from among all those applying 45839
prior to the deadline, which criteria shall give preference to 45840
students from low-income families. For each student selected, the 45841
state superintendent shall also determine whether the student 45842
qualifies for seventy-five or ninety per cent of the scholarship 45843
amount. Students whose family income is at or above two hundred 45844
per cent of the maximum income level established by the state 45845
superintendent for low-income families shall qualify for 45846
seventy-five per cent of the scholarship amount and students whose 45847
family income is below two hundred per cent of that maximum income 45848
level shall qualify for ninety per cent of the scholarship amount. 45849
The state superintendent shall notify students of their selection 45850
prior to the fifteenth day of January and whether they qualify for 45851
seventy-five or ninety per cent of the scholarship amount. 45852

(1) A student receiving a pilot project scholarship may 45853
utilize it at an alternative public school by notifying the 45854
district superintendent, at any time before the beginning of the 45855
school year, of the name of the public school in an adjacent 45856
school district to which the student has been accepted pursuant to 45857
section 3327.06 of the Revised Code. 45858

(2) A student may decide to utilize a pilot project 45859
scholarship at a registered private school in the district if all 45860
of the following conditions are met: 45861

(a) By the fifteenth day of February of the preceding school 45862
year, or at any time prior to the start of the school year, the 45863
parent makes an application on behalf of the student to a 45864
registered private school. 45865

(b) The registered private school notifies the parent and the 45866
state superintendent as follows that the student has been 45867
admitted: 45868

(i) By the fifteenth day of March of the preceding school 45869
year if the student filed an application by the fifteenth day of 45870
February and was admitted by the school pursuant to division (A) 45871
of section 3313.977 of the Revised Code; 45872

(ii) Within one week of the decision to admit the student if 45873
the student is admitted pursuant to division (C) of section 45874
3313.977 of the Revised Code. 45875

(c) The student actually enrolls in the registered private 45876
school to which the student was first admitted or in another 45877
registered private school in the district or in a public school in 45878
an adjacent school district. 45879

(B) The state superintendent shall also award in any school 45880
year tutorial assistance grants to a number of students equal to 45881
the number of students who receive scholarships under division (A) 45882
of this section. Tutorial assistance grants shall be awarded 45883
solely to students who are enrolled in the public schools of the 45884
district in a grade level covered by the pilot project. Tutorial 45885
assistance grants may be used solely to obtain tutorial assistance 45886
from a provider approved pursuant to division (D) of section 45887
3313.976 of the Revised Code. 45888

All students wishing to obtain tutorial assistance grants 45889

shall make application to the state superintendent by the first 45890
day of the school year in which the assistance will be used. The 45891
state superintendent shall award assistance grants in accordance 45892
with criteria the superintendent shall establish. For each student 45893
awarded a grant, the state superintendent shall also determine 45894
whether the student qualifies for seventy-five or ninety per cent 45895
of the grant amount and so notify the student. Students whose 45896
family income is at or above two hundred per cent of the maximum 45897
income level established by the state superintendent for 45898
low-income families shall qualify for seventy-five per cent of the 45899
grant amount and students whose family income is below two hundred 45900
per cent of that maximum income level shall qualify for ninety per 45901
cent of the grant amount. 45902

(C)(1) In the case of basic scholarships for students in 45903
grades kindergarten through eight, the scholarship amount shall 45904
not exceed the lesser of the tuition charges of the alternative 45905
school the scholarship recipient attends or three thousand dollars 45906
before fiscal year 2007 ~~and~~, three thousand four hundred fifty 45907
dollars in fiscal year 2007 through fiscal year 2011, and four 45908
thousand two hundred fifty dollars in fiscal year 2012 and 45909
thereafter. 45910

In the case of basic scholarships for students in grades nine 45911
through twelve, the scholarship amount shall not exceed the lesser 45912
of the tuition charges of the alternative school the scholarship 45913
recipient attends or two thousand seven hundred dollars before 45914
fiscal year 2007 ~~and~~, three thousand four hundred fifty dollars in 45915
fiscal year 2007 through fiscal year 2011, and five thousand 45916
dollars in fiscal year 2012 and thereafter. 45917

(2) The state superintendent shall provide for an increase in 45918
the basic scholarship amount in the case of any student who is a 45919
mainstreamed student with a disability and shall further increase 45920
such amount in the case of any separately educated student with a 45921

disability. Such increases shall take into account the 45922
instruction, related services, and transportation costs of 45923
educating such students. 45924

(3) In the case of tutorial assistance grants, the grant 45925
amount shall not exceed the lesser of the provider's actual 45926
charges for such assistance or: 45927

(a) Before fiscal year 2007, a percentage established by the 45928
state superintendent, not to exceed twenty per cent, of the amount 45929
of the pilot project school district's average basic scholarship 45930
amount; 45931

(b) In fiscal year 2007 and thereafter, four hundred dollars. 45932

(4) No scholarship or tutorial assistance grant shall be 45933
awarded unless the state superintendent determines that 45934
twenty-five or ten per cent, as applicable, of the amount 45935
specified for such scholarship or grant pursuant to division 45936
(C)(1), (2), or (3) of this section will be furnished by a 45937
political subdivision, a private nonprofit or for profit entity, 45938
or another person. Only seventy-five or ninety per cent of such 45939
amounts, as applicable, shall be paid from state funds pursuant to 45940
section 3313.979 of the Revised Code. 45941

(D)(1) Annually by the first day of November, the state 45942
superintendent shall estimate the maximum per-pupil scholarship 45943
amounts for the ensuing school year. The state superintendent 45944
shall make this estimate available to the general public at the 45945
offices of the district board of education together with the forms 45946
required by division (D)(2) of this section. 45947

(2) Annually by the fifteenth day of January, the chief 45948
administrator of each registered private school located in the 45949
pilot project district and the principal of each public school in 45950
such district shall complete a parental information form and 45951
forward it to the president of the board of education. The 45952

parental information form shall be prescribed by the department of 45953
education and shall provide information about the grade levels 45954
offered, the numbers of students, tuition amounts, achievement 45955
test results, and any sectarian or other organizational 45956
affiliations. 45957

(E)(1) Only for the purpose of administering the pilot 45958
project scholarship program, the department may request from any 45959
of the following entities the data verification code assigned 45960
under division (D)(2) of section 3301.0714 of the Revised Code to 45961
any student who is seeking a scholarship under the program: 45962

(a) The school district in which the student is entitled to 45963
attend school under section 3313.64 or 3313.65 of the Revised 45964
Code; 45965

(b) If applicable, the community school in which the student 45966
is enrolled; 45967

(c) The independent contractor engaged to create and maintain 45968
data verification codes. 45969

(2) Upon a request by the department under division (E)(1) of 45970
this section for the data verification code of a student seeking a 45971
scholarship or a request by the student's parent for that code, 45972
the school district or community school shall submit that code to 45973
the department or parent in the manner specified by the 45974
department. If the student has not been assigned a code, because 45975
the student will be entering kindergarten during the school year 45976
for which the scholarship is sought, the district shall assign a 45977
code to that student and submit the code to the department or 45978
parent by a date specified by the department. If the district does 45979
not assign a code to the student by the specified date, the 45980
department shall assign a code to the student. 45981

The department annually shall submit to each school district 45982
the name and data verification code of each student residing in 45983

the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

(a) Age;

(b) Race and ethnicity;

(c) Gender;	46014
(d) Students who have participated in the scholarship program for three or more years;	46015 46016
(e) Students who have participated in the scholarship program for more than one year and less than three years;	46017 46018
(f) Students who have participated in the scholarship program for one year or less;	46019 46020
(g) Economically disadvantaged students.	46021
(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.	46022 46023 46024 46025 46026 46027 46028 46029 46030 46031
(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.	46032 46033 46034 46035 46036 46037 46038 46039 46040 46041
Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:	46042 46043

(1) The board of education of each city, exempted village,
and local school district to annually report to the department of
education all of the following:

(a) The number of adjacent district or other district
students, as applicable, and adjacent district or other district
joint vocational students, as applicable, enrolled in the district
and the number of native students enrolled in adjacent or other
districts, in accordance with a policy adopted under division (B)
of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or
adjacent district or other district joint vocational student's
date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or
other district students enrolled in vocational education programs
or classes described in division (A) of section 3317.014 of the
Revised Code and the full-time equivalent number of such students
enrolled in vocational education programs or classes described in
division (B) of that section;

(d) Each native student's date of enrollment in an adjacent
or other district.

(2) The board of education of each joint vocational school
district to annually report to the department all of the
following:

(a) The number of adjacent district or other district joint
vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or
other district joint vocational students enrolled in vocational
education programs or classes described in division (A) of section
3317.014 of the Revised Code and the full-time equivalent number
of such students enrolled in vocational education programs or
classes described in division (B) of that section;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter ~~3306~~. 3317. of the Revised Code and, if necessary, from the payments made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the adjusted formula amount;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special

education and related services in adjacent or other school 46106
districts or as an adjacent district or other district joint 46107
vocational student; 46108

(3) For the full-time equivalent number of the district's 46109
native students reported under division (A)(1)(c) or (2)(b) of 46110
this section as enrolled in vocational education programs or 46111
classes described in section 3317.014 of the Revised Code, an 46112
amount equal to ~~the formula amount~~ \$5,732 times the applicable 46113
multiple prescribed by that section. 46114

(C) To the payments made to a city, exempted village, or 46115
local school district under Chapter ~~3306.~~ 3317. of the Revised 46116
Code, the department of education shall annually add all of the 46117
following: 46118

(1) An amount equal to the adjusted formula amount multiplied 46119
by the remainder obtained by subtracting the number of adjacent 46120
district or other district joint vocational students from the 46121
number of adjacent district or other district students enrolled in 46122
the district, as reported under division (A)(1) of this section; 46123

(2) The excess costs computed in accordance with division (E) 46124
of this section for any adjacent district or other district 46125
students, except for any adjacent or other district joint 46126
vocational students, receiving special education and related 46127
services in the district; 46128

(3) For the full-time equivalent number of the adjacent or 46129
other district students who are not adjacent district or other 46130
district joint vocational students and are reported under division 46131
(A)(1)(c) of this section as enrolled in vocational education 46132
programs or classes described in section 3317.014 of the Revised 46133
Code, an amount equal to ~~the formula amount~~ \$5,732 times the 46134
applicable multiple prescribed by that section; 46135

(4) An amount equal to the number of adjacent district or 46136

other district joint vocational students reported under division 46137
(A)(1) of this section multiplied by an amount equal to twenty per 46138
cent of the adjusted formula amount. 46139

(D) To the payments made to a joint vocational school 46140
district under Chapter 3317. of the Revised Code, the department 46141
of education shall add, for each adjacent district or other 46142
district joint vocational student reported under division (A)(2) 46143
of this section, both of the following: 46144

(1) The adjusted formula amount; 46145

(2) An amount equal to the full-time equivalent number of 46146
students reported pursuant to division (A)(2)(b) of this section 46147
times ~~the formula amount~~ \$5,732 times the applicable multiple 46148
prescribed by section 3317.014 of the Revised Code. 46149

(E)(1) A city, exempted village, or local school board 46150
providing special education and related services to an adjacent or 46151
other district student in accordance with an IEP shall, pursuant 46152
to rules of the state board, compute the excess costs to educate 46153
such student as follows: 46154

(a) Subtract the adjusted formula amount from the actual 46155
costs to educate the student; 46156

(b) From the amount computed under division (E)(1)(a) of this 46157
section subtract the amount of any funds received by the district 46158
under Chapter ~~3306-~~ 3317. of the Revised Code to provide special 46159
education and related services to the student. 46160

(2) The board shall report the excess costs computed under 46161
this division to the department of education. 46162

(3) If any student for whom excess costs are computed under 46163
division (E)(1) of this section is an adjacent or other district 46164
joint vocational student, the department of education shall add 46165
the amount of such excess costs to the payments made under Chapter 46166

~~3306-~~ 3317. of the Revised Code to the joint vocational school 46167
district enrolling the student. 46168

(F) As provided in division (D)(1)(b) of section 3317.03 of 46169
the Revised Code, no joint vocational school district shall count 46170
any adjacent or other district joint vocational student enrolled 46171
in the district in its formula ADM certified under section 3317.03 46172
of the Revised Code. 46173

(G) No city, exempted village, or local school district shall 46174
receive a payment under division (C) of this section for a 46175
student, and no joint vocational school district shall receive a 46176
payment under division (D) of this section for a student, if for 46177
the same school year that student is counted in the district's 46178
formula ADM certified under section 3317.03 of the Revised Code. 46179

(H) Upon request of a parent, and provided the board offers 46180
transportation to native students of the same grade level and 46181
distance from school under section 3327.01 of the Revised Code, a 46182
city, exempted village, or local school board enrolling an 46183
adjacent or other district student shall provide transportation 46184
for the student within the boundaries of the board's district, 46185
except that the board shall be required to pick up and drop off a 46186
nonhandicapped student only at a regular school bus stop 46187
designated in accordance with the board's transportation policy. 46188
Pursuant to rules of the state board of education, such board may 46189
reimburse the parent from funds received for pupil transportation 46190
under section ~~3306.12~~ 3317.0212 of the Revised Code, or other 46191
provisions of law, for the reasonable cost of transportation from 46192
the student's home to the designated school bus stop if the 46193
student's family has an income below the federal poverty line. 46194

Sec. 3314.01. (A)(1) A board of education may permit all or 46195
part of any of the schools under its control, upon request of a 46196
proposing person ~~or~~, group of individuals, or entity and provided 46197

the person ~~or~~, group of individuals, or entity meets the 46198
requirements of this chapter, to become a community school. 46199

(2) Any person ~~or~~, group of individuals, or entity may 46200
propose the creation of a community school pursuant to the 46201
provisions of this chapter. No nonpublic chartered or nonchartered 46202
school in existence on January 1, 1997, is eligible to become a 46203
community school under this chapter. 46204

(B) A community school created under this chapter is a public 46205
school, independent of any school district, and is part of the 46206
state's program of education. A community school may sue and be 46207
sued, acquire facilities as needed, contract for any services 46208
necessary for the operation of the school, and enter into 46209
contracts with a sponsor pursuant to this chapter. The governing 46210
authority of a community school may carry out any act and ensure 46211
the performance of any function that is in compliance with the 46212
Ohio Constitution, this chapter, other statutes applicable to 46213
community schools, and the contract entered into under this 46214
chapter establishing the school. 46215

~~Sec. 3314.013. (A)(1) Until July 1, 2000, no more than 46216
seventy five contracts between start up schools and the state 46217
board of education may be in effect outside the pilot project area 46218
at any time under this chapter. 46219~~

~~(2) After July 1, 2000, and until July 1, 2001, no more than 46220
one hundred twenty five contracts between start up schools and the 46221
state board of education may be in effect outside the pilot 46222
project area at any time under this chapter. 46223~~

~~(3) This division applies only to contracts between start up 46224
schools and the state board of education and contracts between 46225
start up schools and entities described in divisions (C)(1)(b) to 46226
(f) of section 3314.02 of the Revised Code. 46227~~

~~Until July 1, 2005, not more than two hundred twenty five
contracts to which this division applies may be in effect at any
time under this chapter.~~

~~(4) This division applies only to contracts between start-up
schools and entities described in divisions (C)(1)(b) to (f) of
section 3314.02 of the Revised Code.~~

~~Except as otherwise provided in section 3314.014 of the
Revised Code, after July 1, 2005, and until July 1, 2007, the
number of contracts to which this division applies in effect at
any time under this chapter shall be not more than thirty plus the
number of such contracts with schools that were open for operation
as of May 1, 2005.~~

~~(5) This division applies only to contracts between a
conversion school that is an internet- or computer-based community
school or a start-up school and the board of education of the
school district in which the school is or is proposed to be
located.~~

~~Except as otherwise provided in section 3314.014 of the
Revised Code, until July 1, 2007, the number of contracts to which
this division applies in effect at any time under this chapter
shall be not more than thirty plus the number of such contracts
with schools that were open for operation as of May 1, 2005.~~

~~(6) Until the effective date of any standards enacted by the
general assembly governing the operation of internet- or
computer-based community schools, no internet- or computer-based
community school shall operate unless the school was open for
instruction as of May 1, 2005. No entity described in division
(C)(1) of section 3314.02 of the Revised Code shall enter into a
contract to sponsor an internet- or computer-based community
school, including a conversion school, between May 1, 2005, and
the effective date of any standards enacted by the general~~

assembly governing the operation of internet- or computer-based 46259
community schools, except as follows: 46260

~~(a) Any (1) The entity described in division (C)(1) of that 46261
section may renew a contract that the entity entered into with an 46262
internet- or computer-based community school prior to May 1, 2005, 46263
if the school was open for operation as of that date. 46264~~

~~(b) Any (2) The entity described in divisions (C)(1)(a) to 46265
(e) of that section may assume sponsorship of an existing 46266
internet- or computer-based community school that was formerly 46267
sponsored by another entity and may enter into a contract with 46268
that community school in accordance with section 3314.03 of the 46269
Revised Code. 46270~~

~~(c) Any entity described in division (C)(1)(f) of that 46271
section may assume sponsorship of an existing internet- or 46272
computer based community school in accordance with division (A)(7) 46273
of this section and may enter into a contract with that community 46274
school in accordance with section 3314.03 of the Revised Code. 46275~~

If a sponsor entered into a contract with an internet- or 46276
computer-based community school, including a conversion school, 46277
but the school was not open for operation as of May 1, 2005, the 46278
contract shall be void and the entity shall not enter into another 46279
contract with the school until the effective date of any standards 46280
enacted by the general assembly governing the operation of 46281
internet- or computer-based community schools. 46282

~~(7) Until July 1, 2005, any entity described in division 46283
(C)(1)(f) of section 3314.02 of the Revised Code may sponsor only 46284
a community school that formerly was sponsored by the state board 46285
of education under division (C)(1)(d) of that section, as it 46286
existed prior to April 8, 2003. After July 1, 2005, any such 46287
entity may assume sponsorship of any existing community school, 46288
and may sponsor any new community school that is not an internet- 46289~~

~~or computer based community school. Beginning on the effective date of any standards enacted by the general assembly governing the operation of internet or computer based community schools, any such entity may sponsor a new internet or computer based community school.~~

~~(8)(B) Nothing in division (A) of this section prohibits a an internet- or computer-based community school from increasing the number of grade levels it offers.~~

~~(B) Within twenty four hours of a request by any person, the superintendent of public instruction shall indicate the number of preliminary agreements for start up schools currently outstanding and the number of contracts for these schools in effect at the time of the request.~~

~~(C) It is the intent of the general assembly to consider whether to provide limitations on the number of start up community schools after July 1, 2001, following its examination of the results of the studies by the legislative office of education oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. No. 770 of the 122nd general assembly Not later than July 1, 2013, the superintendent of public instruction, the chancellor of the Ohio board of regents, and the director of the governor's office of 21st century education jointly shall develop standards for the operation of internet- and computer-based community schools. The superintendent shall submit those standards to the speaker of the house of representatives and the president of the senate for consideration of enactment by the general assembly.~~

Sec. 3314.015. (A) The department of education shall be responsible for the oversight of any and all sponsors of the community schools established under this chapter and shall provide

technical assistance to schools and sponsors in their compliance 46321
with applicable laws and the terms of the contracts entered into 46322
under section 3314.03 of the Revised Code and in the development 46323
and start-up activities of those schools. In carrying out its 46324
duties under this section, the department shall do all of the 46325
following: 46326

(1) In providing technical assistance to proposing parties, 46327
governing authorities, and sponsors, conduct training sessions and 46328
distribute informational materials; 46329

(2) Approve entities to be sponsors of community schools; 46330

(3) Monitor the effectiveness of any and all sponsors in 46331
their oversight of the schools with which they have contracted; 46332

(4) By December thirty-first of each year, issue a report to 46333
the governor, the speaker of the house of representatives, the 46334
president of the senate, and the chairpersons of the house and 46335
senate committees principally responsible for education matters 46336
regarding the effectiveness of academic programs, operations, and 46337
legal compliance and of the financial condition of all community 46338
schools established under this chapter and on the performance of 46339
community school sponsors; 46340

(5) From time to time, make legislative recommendations to 46341
the general assembly designed to enhance the operation and 46342
performance of community schools. 46343

(B)(1) Except as provided in sections 3314.021 and 3314.027 46344
of the Revised Code, no entity listed in division (C)(1) of 46345
section 3314.02 of the Revised Code shall enter into a preliminary 46346
agreement under division (C)(2) of section 3314.02 of the Revised 46347
Code until it has received approval from the department of 46348
education to sponsor community schools under this chapter and has 46349
entered into a written agreement with the department regarding the 46350
manner in which the entity will conduct such sponsorship. The 46351

department shall adopt in accordance with Chapter 119. of the 46352
Revised Code rules containing criteria, procedures, and deadlines 46353
for processing applications for such approval, for oversight of 46354
sponsors, for revocation of the approval of sponsors, and for 46355
entering into written agreements with sponsors. The rules shall 46356
require an entity to submit evidence of the entity's ability and 46357
willingness to comply with the provisions of division (D) of 46358
section 3314.03 of the Revised Code. The rules also shall require 46359
entities approved as sponsors on and after June 30, 2005, to 46360
demonstrate a record of financial responsibility and successful 46361
implementation of educational programs. If an entity seeking 46362
approval on or after June 30, 2005, to sponsor community schools 46363
in this state sponsors or operates schools in another state, at 46364
least one of the schools sponsored or operated by the entity must 46365
be comparable to or better than the performance of Ohio schools in 46366
need of continuous improvement under section 3302.03 of the 46367
Revised Code, as determined by the department. 46368

~~An Subject to section 3314.016 of the Revised Code, an entity 46369
that sponsors community schools may enter into preliminary 46370
agreements and sponsor up to one hundred schools as follows, 46371
provided each school and the contract for sponsorship meets the 46372
requirements of this chapter:~~ 46373

~~(a) An entity that sponsored fifty or fewer schools that were 46374
open for operation as of May 1, 2005, may sponsor not more than 46375
fifty schools.~~ 46376

~~(b) An entity that sponsored more than fifty but not more 46377
than seventy five schools that were open for operation as of May 46378
1, 2005, may sponsor not more than the number of schools the 46379
entity sponsored that were open for operation as of May 1, 2005.~~ 46380

~~(c) Until June 30, 2006, an entity that sponsored more than 46381
seventy five schools that were open for operation as of May 1, 46382
2005, may sponsor not more than the number of schools the entity 46383~~

~~sponsored that were open for operation as of May 1, 2005. After 46384
June 30, 2006, such an entity may sponsor not more than 46385
seventy five schools. 46386~~

~~Upon approval of an entity to be a sponsor under this 46387
division, the department shall notify the entity of the number of 46388
schools the entity may sponsor. 46389~~

~~The limit imposed on an entity to which division (B)(1) of 46390
this section applies shall be decreased by one for each school 46391
sponsored by the entity that permanently closes. 46392~~

~~If at any time an entity exceeds the number of schools it may 46393
sponsor under this division, the department shall assist the 46394
schools in excess of the entity's limit in securing new sponsors. 46395
If a school is unable to secure a new sponsor, the department 46396
shall assume sponsorship of the school in accordance with division 46397
(C) of this section. Those schools for which another sponsor or 46398
the department assumes sponsorship shall be the schools that most 46399
recently entered into contracts with the entity under section 46400
3314.03 of the Revised Code. 46401~~

(2) The department of education shall determine, pursuant to 46402
criteria adopted by rule of the department, whether the mission 46403
proposed to be specified in the contract of a community school to 46404
be sponsored by a state university board of trustees or the 46405
board's designee under division (C)(1)(e) of section 3314.02 of 46406
the Revised Code complies with the requirements of that division. 46407
Such determination of the department is final. 46408

(3) The department of education shall determine, pursuant to 46409
criteria adopted by rule of the department, if any tax-exempt 46410
entity under section 501(c)(3) of the Internal Revenue Code that 46411
is proposed to be a sponsor of a community school is an 46412
education-oriented entity for purpose of satisfying the condition 46413
prescribed in division (C)(1)(f)(iii) of section 3314.02 of the 46414

Revised Code. Such determination of the department is final. 46415

(C) If at any time the state board of education finds that a 46416
sponsor is not in compliance or is no longer willing to comply 46417
with its contract with any community school or with the 46418
department's rules for sponsorship, the state board or designee 46419
shall conduct a hearing in accordance with Chapter 119. of the 46420
Revised Code on that matter. If after the hearing, the state board 46421
or designee has confirmed the original finding, the department of 46422
education may revoke the sponsor's approval to sponsor community 46423
schools and may assume the sponsorship of any schools with which 46424
the sponsor has contracted until the earlier of the expiration of 46425
two school years or until a new sponsor as described in division 46426
(C)(1) of section 3314.02 of the Revised Code is secured by the 46427
school's governing authority. The department may extend the term 46428
of the contract in the case of a school for which it has assumed 46429
sponsorship under this division as necessary to accommodate the 46430
term of the department's authorization to sponsor the school 46431
specified in this division. 46432

(D) The decision of the department to disapprove an entity 46433
for sponsorship of a community school or to revoke approval for 46434
such sponsorship under division (C) of this section, may be 46435
appealed by the entity in accordance with section 119.12 of the 46436
Revised Code. 46437

(E) The department shall adopt procedures for use by a 46438
community school governing authority and sponsor when the school 46439
permanently closes and ceases operation, which shall include at 46440
least procedures for data reporting to the department, handling of 46441
student records, distribution of assets in accordance with section 46442
3314.074 of the Revised Code, and other matters related to ceasing 46443
operation of the school. 46444

(F) In carrying out its duties under this chapter, the 46445
department shall not impose requirements on community schools or 46446

their sponsors that are not permitted by law or duly adopted 46447
rules. 46448

Sec. 3314.016. This section applies to any entity that 46449
sponsors a community school, regardless of whether section 46450
3314.021 or 3314.027 of the Revised Code exempts the entity from 46451
the requirement to be approved for sponsorship under divisions 46452
(A)(2) and (B)(1) of section 3314.015 of the Revised Code. 46453

(A) An entity that sponsors a community school on the 46454
effective date of this section shall be permitted to enter into 46455
contracts under section 3314.03 of the Revised Code to sponsor 46456
additional community schools only if the entity meets both of the 46457
following criteria: 46458

(1) The entity is in compliance with all provisions of this 46459
chapter requiring sponsors of community schools to report data or 46460
information to the department. 46461

(2) The entity is not ranked in the lowest ten per cent of 46462
community school sponsors on the ranking prescribed by division 46463
(B) of this section. 46464

(B) For purposes of this section, the department shall 46465
develop a composite performance index score, as defined in section 46466
3302.01 of the Revised Code, that measures the academic 46467
performance of students enrolled in all community schools 46468
sponsored by the same entity. The department annually shall rank 46469
all entities that sponsor community schools from highest to lowest 46470
according to the entities' composite performance index scores. 46471

Sec. 3314.02. (A) As used in this chapter: 46472

(1) "Sponsor" means an entity listed in division (C)(1) of 46473
this section, which has been approved by the department of 46474
education to sponsor community schools and with which the 46475
governing authority of the proposed community school enters into a 46476

contract pursuant to this section.	46477
(2) "Pilot project area" means the school districts included	46478
in the territory of the former community school pilot project	46479
established by former Section 50.52 of Am. Sub. H.B. No. 215 of	46480
the 122nd general assembly.	46481
(3) "Challenged school district" means any of the following:	46482
(a) A school district that is part of the pilot project area;	46483
(b) A school district that is either in a state of academic	46484
emergency or in a state of academic watch under section 3302.03 of	46485
the Revised Code;	46486
(c) A big eight school district.	46487
(4) "Big eight school district" means a school district that	46488
for fiscal year 1997 had both of the following:	46489
(a) A percentage of children residing in the district and	46490
participating in the predecessor of Ohio works first greater than	46491
thirty per cent, as reported pursuant to section 3317.10 of the	46492
Revised Code;	46493
(b) An average daily membership greater than twelve thousand,	46494
as reported pursuant to former division (A) of section 3317.03 of	46495
the Revised Code.	46496
(5) "New start-up school" means a community school other than	46497
one created by converting all or part of an existing public school	46498
or educational service center building, as designated in the	46499
school's contract pursuant to division (A)(17) of section 3314.03	46500
of the Revised Code.	46501
(6) "Urban school district" means one of the state's	46502
twenty-one urban school districts as defined in division (O) of	46503
section 3317.02 of the Revised Code as that section existed prior	46504
to July 1, 1998.	46505
(7) "Internet- or computer-based community school" means a	46506

community school established under this chapter in which the 46507
enrolled students work primarily from their residences on 46508
assignments in nonclassroom-based learning opportunities provided 46509
via an internet- or other computer-based instructional method that 46510
does not rely on regular classroom instruction or via 46511
comprehensive instructional methods that include internet-based, 46512
other computer-based, and noncomputer-based learning 46513
opportunities. 46514

(8) "Operator" means either of the following: 46515

(a) An individual or organization that manages the daily 46516
operations of a community school pursuant to a contract between 46517
the operator and the school's governing authority; 46518

(b) An individual or organization that provides programmatic 46519
oversight and support to a community school under a contract with 46520
the school's governing authority and that retains the right to 46521
terminate affiliation with the school if the school fails to meet 46522
the individual's or organization's quality standards. 46523

(B) Any person or group of individuals may initially propose 46524
under this division the conversion of all or a portion of a public 46525
school or a building operated by an educational service center to 46526
a community school. The proposal shall be made to the board of 46527
education of the city, local, exempted village, or joint 46528
vocational school district in which the public school is proposed 46529
to be converted or, in the case of the conversion of a building 46530
operated by an educational service center, to the governing board 46531
of the service center. Upon receipt of a proposal, a board may 46532
enter into a preliminary agreement with the person or group 46533
proposing the conversion of the public school or service center 46534
building, indicating the intention of the board to support the 46535
conversion to a community school. A proposing person or group that 46536
has a preliminary agreement under this division may proceed to 46537
finalize plans for the school, establish a governing authority for 46538

the school, and negotiate a contract with the board. Provided the 46539
proposing person or group adheres to the preliminary agreement and 46540
all provisions of this chapter, the board shall negotiate in good 46541
faith to enter into a contract in accordance with section 3314.03 46542
of the Revised Code and division (C) of this section. 46543

(C)(1) Any person or group of individuals may propose under 46544
this division the establishment of a new start-up school to be 46545
located in a challenged school district. The proposal may be made 46546
to any of the following entities: 46547

(a) The board of education of the district in which the 46548
school is proposed to be located; 46549

(b) The board of education of any joint vocational school 46550
district with territory in the county in which is located the 46551
majority of the territory of the district in which the school is 46552
proposed to be located; 46553

(c) The board of education of any other city, local, or 46554
exempted village school district having territory in the same 46555
county where the district in which the school is proposed to be 46556
located has the major portion of its territory; 46557

(d) The governing board of any educational service center, as 46558
long as the proposed school will be located in a county within the 46559
territory of the service center or in a county contiguous to such 46560
county; 46561

(e) A sponsoring authority designated by the board of 46562
trustees of any of the thirteen state universities listed in 46563
section 3345.011 of the Revised Code or the board of trustees 46564
itself as long as a mission of the proposed school to be specified 46565
in the contract under division (A)(2) of section 3314.03 of the 46566
Revised Code and as approved by the department of education under 46567
division (B)(2) of section 3314.015 of the Revised Code will be 46568
the practical demonstration of teaching methods, educational 46569

technology, or other teaching practices that are included in the 46570
curriculum of the university's teacher preparation program 46571
approved by the state board of education; 46572

(f) Any qualified tax-exempt entity under section 501(c)(3) 46573
of the Internal Revenue Code as long as all of the following 46574
conditions are satisfied: 46575

(i) The entity has been in operation for at least five years 46576
prior to applying to be a community school sponsor. 46577

(ii) The entity has assets of at least five hundred thousand 46578
dollars and a demonstrated record of financial responsibility. 46579

(iii) The department of education has determined that the 46580
entity is an education-oriented entity under division (B)(3) of 46581
section 3314.015 of the Revised Code and the entity has a 46582
demonstrated record of successful implementation of educational 46583
programs. 46584

(iv) The entity is not a community school. 46585

Any entity described in division (C)(1) of this section may 46586
enter into a preliminary agreement pursuant to division (C)(2) of 46587
this section with the proposing person or group. 46588

(2) A preliminary agreement indicates the intention of an 46589
entity described in division (C)(1) of this section to sponsor the 46590
community school. A proposing person or group that has such a 46591
preliminary agreement may proceed to finalize plans for the 46592
school, establish a governing authority as described in division 46593
(E) of this section for the school, and negotiate a contract with 46594
the entity. Provided the proposing person or group adheres to the 46595
preliminary agreement and all provisions of this chapter, the 46596
entity shall negotiate in good faith to enter into a contract in 46597
accordance with section 3314.03 of the Revised Code. 46598

(3) A new start-up school that is established in a school 46599

district while that district is either in a state of academic 46600
emergency or in a state of academic watch under section 3302.03 of 46601
the Revised Code may continue in existence once the school 46602
district is no longer in a state of academic emergency or academic 46603
watch, provided there is a valid contract between the school and a 46604
sponsor. 46605

(4) A copy of every preliminary agreement entered into under 46606
this division shall be filed with the superintendent of public 46607
instruction. 46608

(D) A majority vote of the board of a sponsoring entity and a 46609
majority vote of the members of the governing authority of a 46610
community school shall be required to adopt a contract and convert 46611
the public school or educational service center building to a 46612
community school or establish the new start-up school. Beginning 46613
September 29, 2005, adoption of the contract shall occur not later 46614
than the fifteenth day of March, and signing of the contract shall 46615
occur not later than the fifteenth day of May, prior to the school 46616
year in which the school will open. The governing authority shall 46617
notify the department of education when the contract has been 46618
signed. Subject to ~~sections~~ section 3314.013, ~~3314.014, 3314.016,~~ 46619
~~and 3314.017~~ of the Revised Code, an unlimited number of community 46620
schools may be established in any school district provided that a 46621
contract is entered into for each community school pursuant to 46622
this chapter. 46623

(E)(1) As used in this division, "immediate relatives" are 46624
limited to spouses, children, parents, grandparents, siblings, and 46625
in-laws. 46626

Each new start-up community school established under this 46627
chapter shall be under the direction of a governing authority 46628
which shall consist of a board of directors, a board of managers, 46629
or a board of trustees, as appropriate under division (A)(1) of 46630
section 3314.03 of the Revised Code, of not less than five 46631

individuals. 46632

No person shall serve on the governing authority or operate 46633
the community school under contract with the governing authority 46634
so long as the person owes the state any money or is in a dispute 46635
over whether the person owes the state any money concerning the 46636
operation of a community school that has closed. 46637

(2) No person shall serve on the governing authorities of 46638
more than two start-up community schools at the same time. 46639

(3) No present or former member, or immediate relative of a 46640
present or former member, of the governing authority of any 46641
community school established under this chapter shall be an owner, 46642
employee, or consultant of any ~~nonprofit~~ sponsor or ~~for-profit~~ 46643
operator of a community school, unless at least one year has 46644
elapsed since the conclusion of the person's membership. 46645

(4) No person shall be appointed to serve on a governing 46646
authority for a term of more than three years. 46647

(5) The governing authority of a start-up community school 46648
may provide by resolution for the compensation of its members. 46649
However, no individual who serves on the governing authority of a 46650
start-up community school shall be compensated more than a total 46651
amount of five thousand dollars per year for all governing 46652
authorities upon which the individual serves. 46653

(6) No person shall be deemed to have acquired a vested right 46654
in a position as a member of a governing authority. 46655

(F)(1) A new start-up school that is established prior to 46656
August 15, 2003, in an urban school district that is not also a 46657
big-eight school district may continue to operate after that date 46658
and the contract between the school's governing authority and the 46659
school's sponsor may be renewed, as provided under this chapter, 46660
after that date, but no additional new start-up schools may be 46661
established in such a district unless the district is a challenged 46662

school district as defined in this section as it exists on and 46663
after that date. 46664

(2) A community school that was established prior to June 29, 46665
1999, and is located in a county contiguous to the pilot project 46666
area and in a school district that is not a challenged school 46667
district may continue to operate after that date, provided the 46668
school complies with all provisions of this chapter. The contract 46669
between the school's governing authority and the school's sponsor 46670
may be renewed, but no additional start-up community school may be 46671
established in that district unless the district is a challenged 46672
school district. 46673

(3) Any educational service center that, on June 30, 2007, 46674
sponsors a community school that is not located in a county within 46675
the territory of the service center or in a county contiguous to 46676
such county may continue to sponsor that community school on and 46677
after June 30, 2007, and may renew its contract with the school. 46678
However, the educational service center shall not enter into a 46679
contract with any additional community school unless the school is 46680
located in a county within the territory of the service center or 46681
in a county contiguous to such county. 46682

(G) No entity described in division (B) or (C) of this 46683
section shall refuse to enter into a preliminary agreement under 46684
those divisions, or to enter into a contract under section 3314.03 46685
of the Revised Code, for the sponsorship of a community school 46686
based solely on the type of school that is proposed to be 46687
established, the composition of the members of the public benefit 46688
corporation that will comprise the school, or the involvement of 46689
any for-profit entity as a member of that public benefit 46690
corporation. 46691

Sec. 3314.021. (A) This section applies to any entity that is 46692
exempt from taxation under section 501(c)(3) of the Internal 46693

Revenue Code and that satisfies the conditions specified in 46694
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 46695
Revised Code but does not satisfy the condition specified in 46696
division (C)(1)(f)(i) of that section. 46697

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 46698
of the Revised Code, an entity described in division (A) of this 46699
section may do both of the following without obtaining the 46700
department of education's initial approval of its sponsorship 46701
under divisions (A)(2) and (B)(1) of section 3314.015 of the 46702
Revised Code: 46703

(1) Succeed the board of trustees of a state university 46704
located in the pilot project area or that board's designee as the 46705
sponsor of a community school established under this chapter; 46706

(2) Continue to sponsor that school in conformance with the 46707
terms of the contract between the board of trustees or its 46708
designee and the governing authority of the community school and 46709
renew that contract as provided in division (E) of section 3314.03 46710
of the Revised Code. 46711

(C) The entity that succeeds the board of trustees or the 46712
board's designee as sponsor of a community school under division 46713
(B) of this section also may enter into contracts to sponsor other 46714
community schools located in any challenged school district, 46715
without obtaining the department's initial approval of its 46716
sponsorship of those schools under divisions (A)(2) and (B)(1) of 46717
section 3314.015 of the Revised Code, ~~and not subject to the~~ 46718
~~restriction of division (A)(7) of section 3314.013 of the Revised~~ 46719
~~Code,~~ as long as the contracts conform with and the entity 46720
complies with all other requirements of this chapter. 46721

(D) Regardless of the entity's authority to sponsor community 46722
schools without the initial approval of the department, the entity 46723
is under the continuing oversight of the department in accordance 46724

with rules adopted under section 3314.015 of the Revised Code. 46725

Sec. 3314.026. If the governing authority of a community 46726
school intends to terminate its contract with the school's 46727
operator prior to expiration or intends not to renew that contract 46728
upon expiration, the governing authority shall notify the operator 46729
of that intent not less than one hundred eighty days prior to the 46730
expiration of the contract. Any failure to give such notice 46731
constitutes the governing authority's irrevocable agreement to 46732
continue the contract as then in effect for one additional school 46733
year. The operator may appeal the contract termination or 46734
nonrenewal to the school's sponsor, if the sponsor has sponsored 46735
the school for at least twelve months, or to the state board of 46736
education, if the sponsor has sponsored the school for less than 46737
twelve months. Upon appeal, the sponsor or state board shall 46738
determine whether the operator should continue to manage the 46739
school. In making its determination, the sponsor or state board 46740
shall consider whether the operator has managed the school in 46741
compliance with all applicable laws and terms of the contract 46742
between the sponsor and the governing authority entered into under 46743
section 3314.03 of the Revised Code and whether the school's 46744
progress in meeting the academic goals prescribed in that contract 46745
has been satisfactory. The sponsor or state board shall notify the 46746
governing authority and operator of its determination. If the 46747
sponsor or state board determines that the operator should 46748
continue to manage the school, the ~~sponsor shall remove the~~ 46749
~~existing governing authority and the operator shall appoint a new~~ 46750
~~governing authority for the school.~~ The contract between the 46751
governing authority and the operator shall continue until terms of 46752
office of all members of the governing board in office prior to 46753
the determination have expired and those members have been 46754
replaced with individuals recommended by the operator. An operator 46755
may reappoint a member to the governing authority. Once all the 46756

terms of the members in office prior to the determination have 46757
expired, the new governing authority shall assume responsibility 46758
for the school immediately and shall exercise all functions 46759
assigned to it by the Revised Code or rule in the same manner as 46760
any other community school governing authority. 46761

Sec. 3314.029. (A)(1) Notwithstanding anything to the 46762
contrary in this chapter, but subject to division (A) of section 46763
3314.013 of the Revised Code, any person, group of individuals, or 46764
entity may apply to the department of education for direct 46765
authorization to establish a community school and, upon approval 46766
of the application, may establish and operate the school without a 46767
sponsor. Notwithstanding anything to the contrary in this chapter, 46768
the governing authority of an existing community school, upon the 46769
expiration or termination of its contract with the school's 46770
sponsor entered into under section 3314.03 of the Revised Code, 46771
may apply to the department for direct authorization to continue 46772
operating the school and, upon approval of the application, may 46773
continue to operate the school without a sponsor. Each application 46774
submitted to the department shall include both of the following: 46775

(a) Evidence that the applicant will be able to comply with 46776
division (C) of this section; 46777

(b) A statement indicating that the applicant agrees to 46778
comply with all applicable provisions of this chapter. 46779

(2) The department shall approve each application submitted 46780
under division (A)(1) of this section, unless, within thirty days 46781
after receipt of the application, the department determines that 46782
the application does not satisfy the requirements of that division 46783
and provides the applicant a written explanation of the reasons 46784
for the determination. In that case, the department shall grant 46785
the applicant thirty days to correct the insufficiencies in the 46786

application. If the department determines that the insufficiencies 46787
have been corrected, it shall approve the application. If the 46788
department determines that the insufficiencies have not been 46789
corrected, it shall deny the application and provide the applicant 46790
with a written explanation of the reasons for the denial. The 46791
denial of an application may be appealed in accordance with 46792
section 119.12 of the Revised Code. 46793

(3) An unlimited number of applications may be submitted and 46794
approved under division (A) of this section. 46795

(B) The department and the governing authority of each 46796
community school authorized under this section shall enter into a 46797
contract under section 3314.03 of the Revised Code, except that 46798
the contract shall not be required to specify the provisions of 46799
divisions (A)(4), (5), (16), (18), (20), (23), and (24) of that 46800
section. Notwithstanding division (A)(13) of that section, the 46801
contract may begin at any time during the academic year and the 46802
length of the initial contract may be for any term up to fifteen 46803
years. The contract may be renewed in accordance with division (E) 46804
of that section. The contract shall not provide for the school's 46805
governing authority to make any payments to the department. 46806

(C) A community school authorized under this section shall 46807
post and file with the superintendent of public instruction a bond 46808
payable to the state in the amount of one million dollars or file 46809
with the state superintendent a guarantee in the amount of one 46810
million dollars issued by an entity with a certified net worth of 46811
at least five million dollars. The bond or guarantee shall be used 46812
to pay the state any moneys owed by the community school in the 46813
event the school closes. 46814

(D) A community school sponsored by an entity described in 46815
division (C)(1) of section 3314.02 of the Revised Code may merge 46816
with a community school authorized under this section. In that 46817
case, on the effective date of the merger, the contract between 46818

the governing authority of the sponsored community school and the 46819
school's sponsor shall be terminated and that community school 46820
shall be covered by the contract between the department and the 46821
governing authority of the community school with which it merges 46822
under this division. 46823

(E) Except as otherwise provided in this section, a community 46824
school authorized under this section shall comply with all 46825
applicable provisions of this chapter. The department may take any 46826
action that a sponsor may take under this chapter to enforce the 46827
school's compliance with this division and the terms of the 46828
contract entered into under division (B) of this section. 46829

Sec. 3314.03. A copy of every contract entered into under 46830
this section shall be filed with the superintendent of public 46831
instruction. 46832

(A) Each contract entered into between a sponsor and the 46833
governing authority of a community school shall specify the 46834
following: 46835

(1) That the school shall be established as ~~either~~ any of the 46836
following: 46837

(a) A nonprofit corporation established under Chapter 1702. 46838
of the Revised Code, if established prior to April 8, 2003; 46839

(b) A public benefit corporation established under Chapter 46840
1702. of the Revised Code, if established after April 8, 2003; 46841

(c) A for-profit corporation formed under Chapter 1701. of 46842
the Revised Code or a limited liability corporation formed under 46843
Chapter 1705. of the Revised Code. 46844

(2) The education program of the school, including the 46845
school's mission, the characteristics of the students the school 46846
is expected to attract, the ages and grades of students, and the 46847
focus of the curriculum; 46848

- (3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments; 46849
46850
46851
- (4) Performance standards by which the success of the school will be evaluated by the sponsor; 46852
46853
- (5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code; 46854
46855
- (6)(a) Dismissal procedures; 46856
- (b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student. 46857
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- (7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves; 46863
46864
- (8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code. 46865
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- (9) The facilities to be used and their locations; 46871
- (10) Qualifications of teachers, including the following: 46872
- (a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code; 46873
46874
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46877
- (b) A requirement that each classroom teacher initially hired 46878

by the school on or after July 1, 2013, and employed to provide 46879
instruction in physical education hold a valid license issued 46880
pursuant to section 3319.22 of the Revised Code for teaching 46881
physical education. 46882

(11) That the school will comply with the following 46883
requirements: 46884

(a) The school will provide learning opportunities to a 46885
minimum of twenty-five students for a minimum of nine hundred 46886
twenty hours per school year. 46887

(b) The governing authority will purchase liability 46888
insurance, or otherwise provide for the potential liability of the 46889
school. 46890

(c) The school will be nonsectarian in its programs, 46891
admission policies, employment practices, and all other 46892
operations, and will not be operated by a sectarian school or 46893
religious institution. 46894

(d) The school will comply with sections 9.90, 9.91, 109.65, 46895
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 46896
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 46897
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 46898
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 46899
~~3313.671~~, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 46900
3313.718, 3313.719, 3313.80, 3313.814, 3313.816, ~~3314.817~~ 46901
3313.817, 3313.86, 3313.96, 3317.141, 3319.073, 3319.08, 3319.111, 46902
3319.17, 3319.321, 3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 46903
3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 46904
4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 46905
3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code 46906
as if it were a school district and will comply with section 46907
3301.0714 of the Revised Code in the manner specified in section 46908
3314.17 of the Revised Code. 46909

(e) The school shall comply with Chapter 102. and section 46910
2921.42 of the Revised Code. 46911

(f) The school will comply with sections 3313.61, 3313.611, 46912
and 3313.614 of the Revised Code, except that for students who 46913
enter ninth grade for the first time before July 1, 2010, the 46914
requirement in sections 3313.61 and 3313.611 of the Revised Code 46915
that a person must successfully complete the curriculum in any 46916
high school prior to receiving a high school diploma may be met by 46917
completing the curriculum adopted by the governing authority of 46918
the community school rather than the curriculum specified in Title 46919
XXXIII of the Revised Code or any rules of the state board of 46920
education. Beginning with students who enter ninth grade for the 46921
first time on or after July 1, 2010, the requirement in sections 46922
3313.61 and 3313.611 of the Revised Code that a person must 46923
successfully complete the curriculum of a high school prior to 46924
receiving a high school diploma shall be met by completing the 46925
Ohio core curriculum prescribed in division (C) of section 46926
3313.603 of the Revised Code, unless the person qualifies under 46927
division (D) or (F) of that section. Each school shall comply with 46928
the plan for awarding high school credit based on demonstration of 46929
subject area competency, adopted by the state board of education 46930
under division (J) of section 3313.603 of the Revised Code. 46931

(g) The school governing authority will submit within four 46932
months after the end of each school year a report of its 46933
activities and progress in meeting the goals and standards of 46934
divisions (A)(3) and (4) of this section and its financial status 46935
to the sponsor and the parents of all students enrolled in the 46936
school. 46937

(h) The school, unless it is an internet- or computer-based 46938
community school, will comply with sections ~~3313.674~~ 3313.671 and 46939
3313.801 of the Revised Code as if it were a school district. 46940

(12) Arrangements for providing health and other benefits to 46941

employees; 46942

(13) The length of the contract, which shall begin at the 46943
beginning of an academic year. No contract shall exceed five years 46944
unless such contract has been renewed pursuant to division (E) of 46945
this section. 46946

(14) The governing authority of the school, which shall be 46947
responsible for carrying out the provisions of the contract; 46948

(15) A financial plan detailing an estimated school budget 46949
for each year of the period of the contract and specifying the 46950
total estimated per pupil expenditure amount for each such year. 46951
The plan shall specify for each year the base formula amount that 46952
will be used for purposes of funding calculations under section 46953
3314.08 of the Revised Code. This base formula amount for any year 46954
shall not exceed the formula amount defined under section 3317.02 46955
of the Revised Code. The plan may also specify for any year a 46956
percentage figure to be used for reducing the per pupil amount of 46957
the subsidy calculated pursuant to section 3317.029 of the Revised 46958
Code the school is to receive that year under section 3314.08 of 46959
the Revised Code. 46960

(16) Requirements and procedures regarding the disposition of 46961
employees of the school in the event the contract is terminated or 46962
not renewed pursuant to section 3314.07 of the Revised Code; 46963

(17) Whether the school is to be created by converting all or 46964
part of an existing public school or educational service center 46965
building or is to be a new start-up school, and if it is a 46966
converted public school or service center building, specification 46967
of any duties or responsibilities of an employer that the board of 46968
education or service center governing board that operated the 46969
school or building before conversion is delegating to the 46970
governing authority of the community school with respect to all or 46971
any specified group of employees provided the delegation is not 46972

prohibited by a collective bargaining agreement applicable to such employees; 46973
46974

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school; 46975
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(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following: 46978
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(a) Prohibit the enrollment of students who reside outside the district in which the school is located; 46984
46985

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located; 46986
46987

(c) Permit the enrollment of students who reside in any other district in the state. 46988
46989

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code; 46990
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46993

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code; 46994
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(22) A provision recognizing both of the following: 46997

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations; 46998
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47001

(b) The authority of the department of education as the 47002

community school oversight body to suspend the operation of the 47003
school under section 3314.072 of the Revised Code if the 47004
department has evidence of conditions or violations of law at the 47005
school that pose an imminent danger to the health and safety of 47006
the school's students and employees and the sponsor refuses to 47007
take such action; 47008

(23) A description of the learning opportunities that will be 47009
offered to students including both classroom-based and 47010
non-classroom-based learning opportunities that is in compliance 47011
with criteria for student participation established by the 47012
department under division (L)(2) of section 3314.08 of the Revised 47013
Code; 47014

(24) The school will comply with sections 3302.04 and 47015
3302.041 of the Revised Code, except that any action required to 47016
be taken by a school district pursuant to those sections shall be 47017
taken by the sponsor of the school. However, the sponsor shall not 47018
be required to take any action described in division (F) of 47019
section 3302.04 of the Revised Code. 47020

(25) Beginning in the 2006-2007 school year, the school will 47021
open for operation not later than the thirtieth day of September 47022
each school year, unless the mission of the school as specified 47023
under division (A)(2) of this section is solely to serve dropouts. 47024
In its initial year of operation, if the school fails to open by 47025
the thirtieth day of September, or within one year after the 47026
adoption of the contract pursuant to division (D) of section 47027
3314.02 of the Revised Code if the mission of the school is solely 47028
to serve dropouts, the contract shall be void. 47029

(B) The community school shall also submit to the sponsor a 47030
comprehensive plan for the school. The plan shall specify the 47031
following: 47032

(1) The process by which the governing authority of the 47033

school will be selected in the future; 47034

(2) The management and administration of the school; 47035

(3) If the community school is a currently existing public 47036
school or educational service center building, alternative 47037
arrangements for current public school students who choose not to 47038
attend the converted school and for teachers who choose not to 47039
teach in the school or building after conversion; 47040

(4) The instructional program and educational philosophy of 47041
the school; 47042

(5) Internal financial controls. 47043

(C) A contract entered into under section 3314.02 of the 47044
Revised Code between a sponsor and the governing authority of a 47045
community school may provide for the community school governing 47046
authority to make payments to the sponsor, which is hereby 47047
authorized to receive such payments as set forth in the contract 47048
between the governing authority and the sponsor. The total amount 47049
of such payments for oversight and monitoring of the school shall 47050
not exceed three per cent of the total amount of payments for 47051
operating expenses that the school receives from the state. 47052

(D) The contract shall specify the duties of the sponsor 47053
which shall be in accordance with the written agreement entered 47054
into with the department of education under division (B) of 47055
section 3314.015 of the Revised Code and shall include the 47056
following: 47057

(1) Monitor the community school's compliance with all laws 47058
applicable to the school and with the terms of the contract; 47059

(2) Monitor and evaluate the academic and fiscal performance 47060
and the organization and operation of the community school on at 47061
least an annual basis; 47062

(3) Report on an annual basis the results of the evaluation 47063

conducted under division (D)(2) of this section to the department 47064
of education and to the parents of students enrolled in the 47065
community school; 47066

(4) Provide technical assistance to the community school in 47067
complying with laws applicable to the school and terms of the 47068
contract; 47069

(5) Take steps to intervene in the school's operation to 47070
correct problems in the school's overall performance, declare the 47071
school to be on probationary status pursuant to section 3314.073 47072
of the Revised Code, suspend the operation of the school pursuant 47073
to section 3314.072 of the Revised Code, or terminate the contract 47074
of the school pursuant to section 3314.07 of the Revised Code as 47075
determined necessary by the sponsor; 47076

(6) Have in place a plan of action to be undertaken in the 47077
event the community school experiences financial difficulties or 47078
closes prior to the end of a school year. 47079

(E) Upon the expiration of a contract entered into under this 47080
section, the sponsor of a community school may, with the approval 47081
of the governing authority of the school and any operator of the 47082
school, renew that contract for a period of time determined by the 47083
sponsor, but not ending earlier than the end of any school year, 47084
if the sponsor finds that the school's compliance with applicable 47085
laws and terms of the contract and the school's progress in 47086
meeting the academic goals prescribed in the contract have been 47087
satisfactory. Any contract that is renewed under this division 47088
remains subject to the provisions of sections 3314.07, 3314.072, 47089
and 3314.073 of the Revised Code. 47090

(F) If a community school fails to open for operation within 47091
one year after the contract entered into under this section is 47092
adopted pursuant to division (D) of section 3314.02 of the Revised 47093
Code or permanently closes prior to the expiration of the 47094

contract, the contract shall be void and the school shall not 47095
enter into a contract with any other sponsor. A school shall not 47096
be considered permanently closed because the operations of the 47097
school have been suspended pursuant to section 3314.072 of the 47098
Revised Code. ~~Any contract that becomes void under this division~~ 47099
~~shall not count toward any statewide limit on the number of such~~ 47100
~~contracts prescribed by section 3314.013 of the Revised Code.~~ 47101

Sec. 3314.04. Except as otherwise specified in this chapter 47102
and in the contract ~~between a community school and a sponsor~~ 47103
entered into under section 3314.08 of the Revised Code, such 47104
school is exempt from all state laws and rules pertaining to 47105
schools, school districts, and boards of education, except those 47106
laws and rules that grant certain rights to parents. No community 47107
school shall be required to comply with any education laws or 47108
rules or other requirements that are not specified in this chapter 47109
or in the contract entered into under section 3314.03 of the 47110
Revised Code that otherwise would not apply to a chartered 47111
nonpublic school. 47112

Sec. 3314.05. (A) The contract between the community school 47113
and the sponsor shall specify the facilities to be used for the 47114
community school and the method of acquisition. Except as provided 47115
in ~~division~~ divisions (B)(3) and (4) of this section, no community 47116
school shall be established in more than one school district under 47117
the same contract. 47118

(B) Division (B) of this section shall not apply to internet- 47119
or computer-based community schools. 47120

(1) A community school may be located in multiple facilities 47121
under the same contract only if the limitations on availability of 47122
space prohibit serving all the grade levels specified in the 47123
contract in a single facility or division (B)(2) or (3), or (4) 47124

of this section applies to the school. The school shall not offer 47125
the same grade level classrooms in more than one facility. 47126

(2) A community school may be located in multiple facilities 47127
under the same contract and, notwithstanding division (B)(1) of 47128
this section, may assign students in the same grade level to 47129
multiple facilities, as long as all of the following apply: 47130

(a) The governing authority of the community school filed a 47131
copy of its contract with the school's sponsor under section 47132
3314.03 of the Revised Code with the superintendent of public 47133
instruction on or before May 15, 2008. 47134

(b) The school was not open for operation prior to July 1, 47135
2008. 47136

(c) The governing authority has entered into and maintains a 47137
contract with an operator of the type described in division 47138
(A)~~(2)~~(8)(b) of section ~~3314.014~~ 3314.02 of the Revised Code. 47139

(d) The contract with that operator qualified the school to 47140
be established pursuant to division (A) of former section 3314.016 47141
of the Revised Code. 47142

(e) The school's rating under section 3302.03 of the Revised 47143
Code does not fall below "in need of continuous improvement" for 47144
two or more consecutive years. 47145

(3) A new start-up community school may be established in two 47146
school districts under the same contract if all of the following 47147
apply: 47148

(a) At least one of the school districts in which the school 47149
is established is a challenged school district; 47150

(b) The school operates not more than one facility in each 47151
school district and, in accordance with division (B)(1) of this 47152
section, the school does not offer the same grade level classrooms 47153
in both facilities; and 47154

(c) Transportation between the two facilities does not 47155
require more than thirty minutes of direct travel time as measured 47156
by school bus. 47157

In the case of a community school to which division (B)(3) of 47158
this section applies, if only one of the school districts in which 47159
the school is established is a challenged school district, that 47160
district shall be considered the school's primary location and the 47161
district in which the school is located for the purposes of 47162
division (A)(19) of section 3314.03 and divisions (C) and (H) of 47163
section 3314.06 of the Revised Code and for all other purposes of 47164
this chapter. If both of the school districts in which the school 47165
is established are challenged school districts, the school's 47166
governing authority shall designate one of those districts to be 47167
considered the school's primary location and the district in which 47168
the school is located for the purposes of those divisions and all 47169
other purposes of this chapter and shall notify the department of 47170
education of that designation. 47171

(4) A community school may be located in multiple facilities 47172
under the same contract and, notwithstanding division (B)(1) of 47173
this section, may assign students in the same grade level to 47174
multiple facilities, as long as both of the following apply: 47175

(a) The facilities are all located in the same county. 47176

(b) The governing authority has entered into and maintains a 47177
contract with an operator. 47178

In the case of a community school to which division (B)(4) of 47179
this section applies and that maintains facilities in more than 47180
one school district, the school's governing authority shall 47181
designate one of those districts to be considered the school's 47182
primary location and the district in which the school is located 47183
for the purposes of division (A)(19) of section 3314.03 and 47184
divisions (C) and (H) of section 3314.06 of the Revised Code and 47185

for all other purposes of this chapter and shall notify the 47186
department of that designation. 47187

(5) Any facility used for a community school shall meet all 47188
health and safety standards established by law for school 47189
buildings. 47190

(C) In the case where a community school is proposed to be 47191
located in a facility owned by a school district or educational 47192
service center, the facility may not be used for such community 47193
school unless the district or service center board owning the 47194
facility enters into an agreement for the community school to 47195
utilize the facility. Use of the facility may be under any terms 47196
and conditions agreed to by the district or service center board 47197
and the school. 47198

(D) In the case of a community school that is located in 47199
multiple facilities, the department shall assign a separate 47200
internal retrieval number to the school and to each facility 47201
maintained by the school. 47202

(E) Two or more separate community schools may be located in 47203
the same facility. 47204

Sec. 3314.06. The governing authority of each community 47205
school established under this chapter shall adopt admission 47206
procedures that specify the following: 47207

(A) That except as otherwise provided in this section, 47208
admission to the school shall be open to any individual age five 47209
to twenty-two entitled to attend school pursuant to section 47210
3313.64 or 3313.65 of the Revised Code in a school district in the 47211
state, and, in the case of a community school operating a dropout 47212
prevention and recovery program granted a waiver under section 47213
3314.36 of the Revised Code, to any individual who is between 47214
twenty-two and thirty years of age, pursuant to section 3314.38 of 47215

the Revised Code. 47216

(B)(1) That admission to the school may be limited to 47217
students who have attained a specific grade level or are within a 47218
specific age group; to students that meet a definition of 47219
"at-risk," as defined in the contract; to residents of a specific 47220
geographic area within the district, as defined in the contract; 47221
or to separate groups of autistic students and nondisabled 47222
students, as authorized in section 3314.061 of the Revised Code 47223
and as defined in the contract. 47224

(2) For purposes of division (B)(1) of this section, 47225
"at-risk" students may include those students identified as gifted 47226
students under section 3324.03 of the Revised Code. 47227

(C) Whether enrollment is limited to students who reside in 47228
the district in which the school is located or is open to 47229
residents of other districts, as provided in the policy adopted 47230
pursuant to the contract. 47231

(D)(1) That there will be no discrimination in the admission 47232
of students to the school on the basis of race, creed, color, 47233
disability, or sex except that: 47234

(a) The governing authority may establish single-gender 47235
schools for the purpose described in division (G) of this section 47236
provided comparable facilities and learning opportunities are 47237
offered for both boys and girls. Such comparable facilities and 47238
opportunities may be offered for each sex at separate locations. 47239

(b) The governing authority may establish a school that 47240
simultaneously serves a group of students identified as autistic 47241
and a group of students who are not disabled, as authorized in 47242
section 3314.061 of the Revised Code. However, unless the total 47243
capacity established for the school has been filled, no student 47244
with any disability shall be denied admission on the basis of that 47245
disability. 47246

(2) That upon admission of any student with a disability, the community school will comply with all federal and state laws regarding the education of students with disabilities.

(E) That the school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability, except that a school may limit its enrollment to students as described in division (B) of this section.

(F) That the community school will admit the number of students that does not exceed the capacity of the school's programs, classes, grade levels, or facilities.

(G) That the purpose of single-gender schools that are established shall be to take advantage of the academic benefits some students realize from single-gender instruction and facilities and to offer students and parents residing in the district the option of a single-gender education.

(H) That, except as otherwise provided under division (B) of this section or section 3314.061 of the Revised Code, if the number of applicants exceeds the capacity restrictions of division (F) of this section, students shall be admitted by lot from all those submitting applications, except preference shall be given to students attending the school the previous year and to students who reside in the district in which the school is located. Preference may be given to siblings of students attending the school the previous year.

Notwithstanding divisions (A) to (H) of this section, in the event the racial composition of the enrollment of the community school is violative of a federal desegregation order, the community school shall take any and all corrective measures to comply with the desegregation order.

Sec. 3314.07. (A) The expiration of the contract for a 47277
community school between a sponsor and a school shall be the date 47278
provided in the contract. ~~A successor contract may be entered into~~ 47279
~~pursuant to division (E) of section 3314.03 of the Revised Code~~ 47280
~~unless the contract is terminated or not renewed pursuant to this~~ 47281
~~section.~~ 47282

(B)(1) A sponsor may choose not to renew a contract at its 47283
expiration or may choose to terminate a contract prior to its 47284
expiration for any of the following reasons: 47285

(a) Failure to meet student performance requirements stated 47286
in the contract; 47287

(b) Failure to meet generally accepted standards of fiscal 47288
management; 47289

(c) Violation of any provision of the contract or applicable 47290
state or federal law; 47291

(d) Other good cause. 47292

(2) A sponsor may choose to terminate a contract prior to its 47293
expiration if the sponsor has suspended the operation of the 47294
contract under section 3314.072 of the Revised Code. 47295

(3) At least ~~ninety~~ one hundred eighty days prior to the 47296
termination or nonrenewal of a contract, the sponsor shall notify 47297
the school of the proposed action in writing. The notice shall 47298
include the reasons for the proposed action in detail, the 47299
effective date of the termination or nonrenewal, and a statement 47300
that the school may, within fourteen days of receiving the notice, 47301
request an informal hearing before the sponsor. Such request must 47302
be in writing. The informal hearing shall be held within seventy 47303
days of the receipt of a request for the hearing. Promptly 47304
following the informal hearing, the sponsor shall issue a written 47305
decision either affirming or rescinding the decision to terminate 47306

or not renew the contract. 47307

(4) A decision by the sponsor to terminate a contract may be 47308
appealed to the state board of education. The decision by the 47309
state board pertaining to an appeal under this division is final. 47310
If the sponsor is the state board, its decision to terminate a 47311
contract under division (B)(3) of this section shall be final. 47312

(5) The termination of a contract under this section shall be 47313
effective upon the occurrence of the later of the following 47314
events: 47315

(a) Ninety days following the date the sponsor notifies the 47316
school of its decision to terminate the contract as prescribed in 47317
division (B)(3) of this section; 47318

(b) If an informal hearing is requested under division (B)(3) 47319
of this section and as a result of that hearing the sponsor 47320
affirms its decision to terminate the contract, the effective date 47321
of the termination specified in the notice issued under division 47322
(B)(3) of this section, or if that decision is appealed to the 47323
state board under division (B)(4) of this section and the state 47324
board affirms that decision, the date established in the 47325
resolution of the state board affirming the sponsor's decision. 47326

(6) Any community school whose contract is terminated under 47327
this division shall not enter into a contract with any other 47328
sponsor. 47329

(C) A child attending a community school whose contract has 47330
been terminated, nonrenewed, or suspended or that closes for any 47331
reason shall be admitted to the schools of the district in which 47332
the child is entitled to attend under section 3313.64 or 3313.65 47333
of the Revised Code. Any deadlines established for the purpose of 47334
admitting students under section 3313.97 or 3313.98 of the Revised 47335
Code shall be waived for students to whom this division pertains. 47336

(D) If a community school does not intend to renew a contract 47337

with its sponsor, the community school shall notify its sponsor in writing of that fact at least one hundred eighty days prior to the expiration of the contract. Such a community school may enter into a contract with a new sponsor in accordance with section 3314.03 of the Revised Code upon the expiration of the previous contract.

(E) A sponsor of a community school and the officers, directors, or employees of such a sponsor are not liable in damages in a tort or other civil action for harm allegedly arising from either of the following:

(1) A failure of the community school or any of its officers, directors, or employees to perform any statutory or common law duty or responsibility or any other legal obligation;

(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.

(F) As used in this section:

(1) "Harm" means injury, death, or loss to person or property.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 3314.08. The deductions under division (C) and the payments under division (D) of this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section 3314.088 of the Revised Code.

(A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

- (2) "IEP" has the same meaning as in section 3323.01 of the Revised Code. 47367
47368
- (3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section. 47369
47370
47371
- (4) "Applicable vocational education weight" means: 47372
- (a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division; 47373
47374
47375
- (b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division. 47376
47377
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- (5) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code. 47379
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- (6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program. 47382
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- (7) "Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) to (9) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code. 47386
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- (8) "All-day kindergarten" has the same meaning as in section ~~3317.029~~ 3321.05 of the Revised Code. 47392
47393
- (9) "State education aid" has the same meaning as in section 5751.20 of the Revised Code. 47394
47395
- (B) The state board of education shall adopt rules requiring 47396

both of the following:	47397
(1) The board of education of each city, exempted village,	47398
and local school district to annually report the number of	47399
students entitled to attend school in the district who are	47400
enrolled in grades one through twelve in a community school	47401
established under this chapter, the number of students entitled to	47402
attend school in the district who are enrolled in kindergarten in	47403
a community school, the number of those kindergartners who are	47404
enrolled in all-day kindergarten in their community school, and	47405
for each child, the community school in which the child is	47406
enrolled.	47407
(2) The governing authority of each community school	47408
established under this chapter to annually report all of the	47409
following:	47410
(a) The number of students enrolled in grades one through	47411
twelve and the number of students enrolled in kindergarten in the	47412
school who are not receiving special education and related	47413
services pursuant to an IEP;	47414
(b) The number of enrolled students in grades one through	47415
twelve and the number of enrolled students in kindergarten, who	47416
are receiving special education and related services pursuant to	47417
an IEP;	47418
(c) The number of students reported under division (B)(2)(b)	47419
of this section receiving special education and related services	47420
pursuant to an IEP for a disability described in each of divisions	47421
(A) to (F) of section 3317.013 of the Revised Code;	47422
(d) The full-time equivalent number of students reported	47423
under divisions (B)(2)(a) and (b) of this section who are enrolled	47424
in vocational education programs or classes described in each of	47425
divisions (A) and (B) of section 3317.014 of the Revised Code that	47426
are provided by the community school;	47427

(e) Twenty per cent of the number of students reported under 47428
divisions (B)(2)(a) and (b) of this section who are not reported 47429
under division (B)(2)(d) of this section but who are enrolled in 47430
vocational education programs or classes described in each of 47431
divisions (A) and (B) of section 3317.014 of the Revised Code at a 47432
joint vocational school district under a contract between the 47433
community school and the joint vocational school district and are 47434
entitled to attend school in a city, local, or exempted village 47435
school district whose territory is part of the territory of the 47436
joint vocational school district; 47437

(f) The number of enrolled preschool children with 47438
disabilities receiving special education services in a 47439
state-funded unit; 47440

(g) The community school's base formula amount; 47441

(h) For each student, the city, exempted village, or local 47442
school district in which the student is entitled to attend school; 47443

(i) Any poverty-based assistance reduction factor that 47444
applies to a school year. 47445

Each community school in its report of students under this 47446
division shall specify separately those individuals between 47447
twenty-two and thirty years of age enrolled in the school's 47448
dropout prevention and recovery program under section 3314.38 of 47449
the Revised Code for funding prescribed by that section. 47450

(C) From the state education aid calculated for a city, 47451
exempted village, or local school district and, if necessary, from 47452
the payment made to the district under sections 321.24 and 323.156 47453
of the Revised Code, the department of education shall annually 47454
subtract the sum of the amounts described in divisions (C)(1) to 47455
(9) of this section. However, when deducting payments on behalf of 47456
students enrolled in internet- or computer-based community 47457
schools, the department shall deduct only those amounts described 47458

in divisions (C)(1) and (2) of this section. Furthermore, the 47459
aggregate amount deducted under this division shall not exceed the 47460
sum of the district's state education aid and its payment under 47461
sections 321.24 and 323.156 of the Revised Code. 47462

(1) An amount equal to the sum of the amounts obtained when, 47463
for each community school where the district's students are 47464
enrolled, the number of the district's students reported under 47465
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 47466
in grades one through twelve, and one-half the number of students 47467
reported under those divisions who are enrolled in kindergarten, 47468
in that community school is multiplied by the sum of the base 47469
formula amount of that community school plus the per pupil amount 47470
of the base funding supplements specified in divisions (C)(1) to 47471
(4) of section 3317.012 of the Revised Code. 47472

(2) The sum of the amounts calculated under divisions 47473
(C)(2)(a) and (b) of this section: 47474

(a) For each of the district's students reported under 47475
division (B)(2)(c) of this section as enrolled in a community 47476
school in grades one through twelve and receiving special 47477
education and related services pursuant to an IEP for a disability 47478
described in section 3317.013 of the Revised Code, the product of 47479
the applicable special education weight times the community 47480
school's base formula amount; 47481

(b) For each of the district's students reported under 47482
division (B)(2)(c) of this section as enrolled in kindergarten in 47483
a community school and receiving special education and related 47484
services pursuant to an IEP for a disability described in section 47485
3317.013 of the Revised Code, one-half of the amount calculated as 47486
prescribed in division (C)(2)(a) of this section. 47487

When computing deductions under division (C)(2) of this 47488
section, the department shall use the number of students with an 47489

IEP reported by each community school under divisions (B)(2)(b) 47490
and (c) of this section, as verified by the department, as the 47491
basis for those deductions, regardless of whether any particular 47492
student enrolls in a community school after the date required 47493
under federal law for reporting to the United States department of 47494
education the number of children with disabilities receiving 47495
special education and related services. 47496

(3) For each of the district's students reported under 47497
division (B)(2)(d) of this section for whom payment is made under 47498
division (D)(4) of this section, the amount of that payment; 47499

(4) An amount equal to the sum of the amounts obtained when, 47500
for each community school where the district's students are 47501
enrolled, the number of the district's students enrolled in that 47502
community school who are included in the district's poverty 47503
student count is multiplied by the per pupil amount of 47504
poverty-based assistance the school district receives that year 47505
pursuant to division (C) of section 3317.029 of the Revised Code, 47506
as adjusted by any poverty-based assistance reduction factor of 47507
that community school. The per pupil amount of that aid for the 47508
district shall be calculated by the department. 47509

(5) An amount equal to the sum of the amounts obtained when, 47510
for each community school where the district's students are 47511
enrolled, the district's per pupil amount of aid received under 47512
division (E) of section 3317.029 of the Revised Code, as adjusted 47513
by any poverty-based assistance reduction factor of the community 47514
school, is multiplied by the sum of the following: 47515

(a) The number of the district's students reported under 47516
division (B)(2)(a) of this section who are enrolled in grades one 47517
to three in that community school and who are not receiving 47518
special education and related services pursuant to an IEP; 47519

(b) One-half of the district's students who are enrolled in 47520

all-day or any other kindergarten class in that community school 47521
and who are not receiving special education and related services 47522
pursuant to an IEP; 47523

(c) One-half of the district's students who are enrolled in 47524
all-day kindergarten in that community school and who are not 47525
receiving special education and related services pursuant to an 47526
IEP. 47527

The district's per pupil amount of aid under division (E) of 47528
section 3317.029 of the Revised Code is the quotient of the amount 47529
the district received under that division divided by the 47530
district's kindergarten through third grade ADM, as defined in 47531
that section. 47532

(6) An amount equal to the sum of the amounts obtained when, 47533
for each community school where the district's students are 47534
enrolled, the district's per pupil amount received under division 47535
(F) of section 3317.029 of the Revised Code, as adjusted by any 47536
poverty-based assistance reduction factor of that community 47537
school, is multiplied by the number of the district's students 47538
enrolled in the community school who are identified as 47539
limited-English proficient. 47540

(7) An amount equal to the sum of the amounts obtained when, 47541
for each community school where the district's students are 47542
enrolled, the district's per pupil amount received under division 47543
(G) of section 3317.029 of the Revised Code, as adjusted by any 47544
poverty-based assistance reduction factor of that community 47545
school, is multiplied by the sum of the following: 47546

(a) The number of the district's students enrolled in grades 47547
one through twelve in that community school; 47548

(b) One-half of the number of the district's students 47549
enrolled in kindergarten in that community school. 47550

The district's per pupil amount under division (G) of section 47551

3317.029 of the Revised Code is the district's amount per teacher 47552
calculated under division (G)(1) or (2) of that section divided by 47553
17. 47554

(8) An amount equal to the sum of the amounts obtained when, 47555
for each community school where the district's students are 47556
enrolled, the district's per pupil amount received under divisions 47557
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 47558
by any poverty-based assistance reduction factor of that community 47559
school, is multiplied by the sum of the following: 47560

(a) The number of the district's students enrolled in grades 47561
one through twelve in that community school; 47562

(b) One-half of the number of the district's students 47563
enrolled in kindergarten in that community school. 47564

The district's per pupil amount under divisions (H) and (I) 47565
of section 3317.029 of the Revised Code is the amount calculated 47566
under each division divided by the district's formula ADM, as 47567
defined in section 3317.02 of the Revised Code. 47568

(9) An amount equal to the per pupil state parity aid funding 47569
calculated for the school district under either division (C) or 47570
(D) of section 3317.0217 of the Revised Code multiplied by the sum 47571
of the number of students in grades one through twelve, and 47572
one-half of the number of students in kindergarten, who are 47573
entitled to attend school in the district and are enrolled in a 47574
community school as reported under division (B)(1) of this 47575
section. 47576

(D) The department shall annually pay to a community school 47577
established under this chapter the sum of the amounts described in 47578
divisions (D)(1) to (10) of this section. However, the department 47579
shall calculate and pay to each internet- or computer-based 47580
community school only the amounts described in divisions (D)(1) to 47581
(3) of this section. Furthermore, the sum of the payments to all 47582

community schools under divisions (D)(1), (2), and (4) to (10) of 47583
this section for the students entitled to attend school in any 47584
particular school district shall not exceed the sum of that 47585
district's state education aid and its payment under sections 47586
321.24 and 323.156 of the Revised Code. If the sum of the payments 47587
calculated under those divisions for the students entitled to 47588
attend school in a particular school district exceeds the sum of 47589
that district's state education aid and its payment under sections 47590
321.24 and 323.156 of the Revised Code, the department shall 47591
calculate and apply a proration factor to the payments to all 47592
community schools under those divisions for the students entitled 47593
to attend school in that district. 47594

(1) ~~Subject to section 3314.085 of the Revised Code, an~~ An 47595
amount equal to the sum of the amounts obtained when the number of 47596
students enrolled in grades one through twelve, plus one-half of 47597
the kindergarten students in the school, reported under divisions 47598
(B)(2)(a), (b), and (e) of this section who are not receiving 47599
special education and related services pursuant to an IEP for a 47600
disability described in section 3317.013 of the Revised Code is 47601
multiplied by the sum of the community school's base formula 47602
amount plus the per pupil amount of the base funding supplements 47603
specified in divisions (C)(1) to (4) of section 3317.012 of the 47604
Revised Code. 47605

(2) ~~Prior to fiscal year 2007, the greater of the amount~~ 47606
~~calculated under division (D)(2)(a) or (b) of this section, and in~~ 47607
~~fiscal year 2007 and thereafter, the amount calculated under~~ 47608
~~division (D)(2)(b) of this section:~~ 47609

~~(a) The aggregate amount that the department paid to the~~ 47610
~~community school in fiscal year 1999 for students receiving~~ 47611
~~special education and related services pursuant to IEPs, excluding~~ 47612
~~federal funds and state disadvantaged pupil impact aid funds;~~ 47613

~~(b) The sum of the following amounts calculated under~~ 47614

~~divisions (D)(2)(b)(i) and (ii) of this section:~~ 47615

~~(i)(a)~~ For each student reported under division (B)(2)(c) of 47616
this section as enrolled in the school in grades one through 47617
twelve and receiving special education and related services 47618
pursuant to an IEP for a disability described in section 3317.013 47619
of the Revised Code, the following amount: 47620

(the school's base formula amount plus 47621
the per pupil amount of the base funding supplements specified in 47622
divisions (C)(1) to (4) of section 3317.012 of the Revised Code) 47623
+ (the applicable special education weight X the 47624
community school's base formula amount); 47625

~~(ii)(b)~~ For each student reported under division (B)(2)(c) of 47626
this section as enrolled in kindergarten and receiving special 47627
education and related services pursuant to an IEP for a disability 47628
described in section 3317.013 of the Revised Code, one-half of the 47629
amount calculated under the formula prescribed in division 47630
(D)(2)(~~b~~)(~~i~~)(a) of this section. 47631

When computing payments under division (D)(2) of this 47632
section, the department shall use the number of students with an 47633
IEP reported by the community school under divisions (B)(2)(b) and 47634
(c) of this section, as verified by the department, as the basis 47635
for those payments, regardless of whether any particular student 47636
enrolls in the community school after the date required under 47637
federal law for reporting to the United States department of 47638
education the number of children with disabilities receiving 47639
special education and related services. 47640

(3) An amount received from federal funds to provide special 47641
education and related services to students in the community 47642
school, as determined by the superintendent of public instruction. 47643

(4) For each student reported under division (B)(2)(d) of 47644
this section as enrolled in vocational education programs or 47645

classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance that school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in

all-day or any other kindergarten class in that community school 47678
and who are not receiving special education and related services 47679
pursuant to an IEP; 47680

(c) One-half of the district's students who are enrolled in 47681
all-day kindergarten in that community school and who are not 47682
receiving special education and related services pursuant to an 47683
IEP. 47684

The district's per pupil amount of aid under division (E) of 47685
section 3317.029 of the Revised Code shall be determined as 47686
described in division (C)(5) of this section. 47687

(7) An amount equal to the sum of the amounts obtained when, 47688
for each school district where the community school's students are 47689
entitled to attend school, the number of that district's students 47690
enrolled in the community school who are identified as 47691
limited-English proficient is multiplied by the district's per 47692
pupil amount received under division (F) of section 3317.029 of 47693
the Revised Code, as adjusted by any poverty-based assistance 47694
reduction factor of the community school. 47695

(8) An amount equal to the sum of the amounts obtained when, 47696
for each school district where the community school's students are 47697
entitled to attend school, the district's per pupil amount 47698
received under division (G) of section 3317.029 of the Revised 47699
Code, as adjusted by any poverty-based assistance reduction factor 47700
of the community school, is multiplied by the sum of the 47701
following: 47702

(a) The number of the district's students enrolled in grades 47703
one through twelve in that community school; 47704

(b) One-half of the number of the district's students 47705
enrolled in kindergarten in that community school. 47706

The district's per pupil amount under division (G) of section 47707
3317.029 of the Revised Code shall be determined as described in 47708

division (C)(7) of this section. 47709

(9) An amount equal to the sum of the amounts obtained when, 47710
for each school district where the community school's students are 47711
entitled to attend school, the district's per pupil amount 47712
received under divisions (H) and (I) of section 3317.029 of the 47713
Revised Code, as adjusted by any poverty-based assistance 47714
reduction factor of the community school, is multiplied by the sum 47715
of the following: 47716

(a) The number of the district's students enrolled in grades 47717
one through twelve in that community school; 47718

(b) One-half of the number of the district's students 47719
enrolled in kindergarten in that community school. 47720

The district's per pupil amount under divisions (H) and (I) 47721
of section 3317.029 of the Revised Code shall be determined as 47722
described in division (C)(8) of this section. 47723

(10) An amount equal to the sum of the amounts obtained when, 47724
for each school district where the community school's students are 47725
entitled to attend school, the district's per pupil amount of 47726
state parity aid funding calculated under either division (C) or 47727
(D) of section 3317.0217 of the Revised Code is multiplied by the 47728
sum of the number of that district's students enrolled in grades 47729
one through twelve, and one-half of the number of that district's 47730
students enrolled in kindergarten, in the community school as 47731
reported under ~~division~~ divisions (B)(2)(a) and (b) of this 47732
section. 47733

(E)(1) If a community school's costs for a fiscal year for a 47734
student receiving special education and related services pursuant 47735
to an IEP for a disability described in divisions (B) to (F) of 47736
section 3317.013 of the Revised Code exceed the threshold 47737
catastrophic cost for serving the student as specified in division 47738
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 47739

submit to the superintendent of public instruction documentation, 47740
as prescribed by the superintendent, of all its costs for that 47741
student. Upon submission of documentation for a student of the 47742
type and in the manner prescribed, the department shall pay to the 47743
community school an amount equal to the school's costs for the 47744
student in excess of the threshold catastrophic costs. 47745

(2) The community school shall only report under division 47746
(E)(1) of this section, and the department shall only pay for, the 47747
costs of educational expenses and the related services provided to 47748
the student in accordance with the student's individualized 47749
education program. Any legal fees, court costs, or other costs 47750
associated with any cause of action relating to the student may 47751
not be included in the amount. 47752

(F) A community school may apply to the department of 47753
education for preschool children with disabilities ~~or gifted~~ unit 47754
funding the school would receive if it were a school district. 47755
Upon request of its governing authority, a community school that 47756
received such unit funding as a school district-operated school 47757
before it became a community school shall retain any units awarded 47758
to it as a school district-operated school provided the school 47759
continues to meet eligibility standards for the unit. 47760

A community school shall be considered a school district and 47761
its governing authority shall be considered a board of education 47762
for the purpose of applying to any state or federal agency for 47763
grants that a school district may receive under federal or state 47764
law or any appropriations act of the general assembly. The 47765
governing authority of a community school may apply to any private 47766
entity for additional funds. 47767

(G) A board of education sponsoring a community school may 47768
utilize local funds to make enhancement grants to the school or 47769
may agree, either as part of the contract or separately, to 47770
provide any specific services to the community school at no cost 47771

to the school. 47772

(H) A community school may not levy taxes or issue bonds 47773
secured by tax revenues. 47774

(I) No community school shall charge tuition for the 47775
enrollment of any student. 47776

(J)(1)(a) A community school may borrow money to pay any 47777
necessary and actual expenses of the school in anticipation of the 47778
receipt of any portion of the payments to be received by the 47779
school pursuant to division (D) of this section. The school may 47780
issue notes to evidence such borrowing. The proceeds of the notes 47781
shall be used only for the purposes for which the anticipated 47782
receipts may be lawfully expended by the school. 47783

(b) A school may also borrow money for a term not to exceed 47784
fifteen years for the purpose of acquiring facilities. 47785

(2) Except for any amount guaranteed under section 3318.50 of 47786
the Revised Code, the state is not liable for debt incurred by the 47787
governing authority of a community school. 47788

(K) For purposes of determining the number of students for 47789
which divisions (D)(5) and (6) of this section applies in any 47790
school year, a community school may submit to the department of 47791
job and family services, no later than the first day of March, a 47792
list of the students enrolled in the school. For each student on 47793
the list, the community school shall indicate the student's name, 47794
address, and date of birth and the school district where the 47795
student is entitled to attend school. Upon receipt of a list under 47796
this division, the department of job and family services shall 47797
determine, for each school district where one or more students on 47798
the list is entitled to attend school, the number of students 47799
residing in that school district who were included in the 47800
department's report under section 3317.10 of the Revised Code. The 47801
department shall make this determination on the basis of 47802

information readily available to it. Upon making this 47803
determination and no later than ninety days after submission of 47804
the list by the community school, the department shall report to 47805
the state department of education the number of students on the 47806
list who reside in each school district who were included in the 47807
department's report under section 3317.10 of the Revised Code. In 47808
complying with this division, the department of job and family 47809
services shall not report to the state department of education any 47810
personally identifiable information on any student. 47811

(L) The department of education shall adjust the amounts 47812
subtracted and paid under divisions (C) and (D) of this section to 47813
reflect any enrollment of students in community schools for less 47814
than the equivalent of a full school year. The state board of 47815
education within ninety days after April 8, 2003, shall adopt in 47816
accordance with Chapter 119. of the Revised Code rules governing 47817
the payments to community schools under this section and section 47818
3314.13 of the Revised Code including initial payments in a school 47819
year and adjustments and reductions made in subsequent periodic 47820
payments to community schools and corresponding deductions from 47821
school district accounts as provided under divisions (C) and (D) 47822
of this section and section 3314.13 of the Revised Code. For 47823
purposes of this section and section 3314.13 of the Revised Code: 47824

(1) A student shall be considered enrolled in the community 47825
school for any portion of the school year the student is 47826
participating at a college under Chapter 3365. of the Revised 47827
Code. 47828

(2) A student shall be considered to be enrolled in a 47829
community school ~~during a school year~~ for the period of time 47830
beginning on the later of the date on which the school both has 47831
received documentation of the student's enrollment from a parent 47832
and the student has commenced participation in learning 47833
opportunities as defined in the contract with the sponsor, or 47834

thirty days prior to the date on which the student is entered into 47835
the education management information system established under 47836
section 3301.0714 of the Revised Code. For purposes of applying 47837
this division and divisions (L)(3) and (4) of this section to a 47838
community school student, "learning opportunities" shall be 47839
defined in the contract, which shall describe both classroom-based 47840
and non-classroom-based learning opportunities and shall be in 47841
compliance with criteria and documentation requirements for 47842
student participation which shall be established by the 47843
department. Any student's instruction time in non-classroom-based 47844
learning opportunities shall be certified by an employee of the 47845
community school. A student's enrollment shall be considered to 47846
cease on the date on which any of the following occur: 47847

(a) The community school receives documentation from a parent 47848
terminating enrollment of the student. 47849

(b) The community school is provided documentation of a 47850
student's enrollment in another public or private school. 47851

(c) The community school ceases to offer learning 47852
opportunities to the student pursuant to the terms of the contract 47853
with the sponsor or the operation of any provision of this 47854
chapter. 47855

Beginning in the 2011-2012 school year, any student who 47856
completed the prior school year in a community school shall be 47857
considered to be enrolled in the same school in the subsequent 47858
school year until the student's enrollment has ceased as specified 47859
in division (L)(2) of this section. 47860

(3) The department shall determine each community school 47861
student's percentage of full-time equivalency based on the 47862
percentage of learning opportunities offered by the community 47863
school to that student, reported either as number of hours or 47864
number of days, is of the total learning opportunities offered by 47865

the community school to a student who attends for the school's 47866
entire school year. However, no internet- or computer-based 47867
community school shall be credited for any time a student spends 47868
participating in learning opportunities beyond ten hours within 47869
any period of twenty-four consecutive hours. Whether it reports 47870
hours or days of learning opportunities, each community school 47871
shall offer not less than nine hundred twenty hours of learning 47872
opportunities during the school year. 47873

(4) With respect to the calculation of full-time equivalency 47874
under division (L)(3) of this section, the department shall waive 47875
the number of hours or days of learning opportunities not offered 47876
to a student because the community school was closed during the 47877
school year due to disease epidemic, hazardous weather conditions, 47878
inoperability of school buses or other equipment necessary to the 47879
school's operation, damage to a school building, or other 47880
temporary circumstances due to utility failure rendering the 47881
school building unfit for school use, so long as the school was 47882
actually open for instruction with students in attendance during 47883
that school year for not less than the minimum number of hours 47884
required by this chapter. The department shall treat the school as 47885
if it were open for instruction with students in attendance during 47886
the hours or days waived under this division. 47887

(M) The department of education shall reduce the amounts paid 47888
under division (D) of this section to reflect payments made to 47889
colleges under division (B) of section 3365.07 of the Revised Code 47890
or through alternative funding agreements entered into under rules 47891
adopted under section 3365.12 of the Revised Code. 47892

(N)(1) No student shall be considered enrolled in any 47893
internet- or computer-based community school or, if applicable to 47894
the student, in any community school that is required to provide 47895
the student with a computer pursuant to division (C) of section 47896
3314.22 of the Revised Code, unless both of the following 47897

conditions are satisfied: 47898

(a) The student possesses or has been provided with all 47899
required hardware and software materials and all such materials 47900
are operational so that the student is capable of fully 47901
participating in the learning opportunities specified in the 47902
contract between the school and the school's sponsor as required 47903
by division (A)(23) of section 3314.03 of the Revised Code; 47904

(b) The school is in compliance with division (A) of section 47905
3314.22 of the Revised Code, relative to such student. 47906

(2) In accordance with policies adopted jointly by the 47907
superintendent of public instruction and the auditor of state, the 47908
department shall reduce the amounts otherwise payable under 47909
division (D) of this section to any community school that includes 47910
in its program the provision of computer hardware and software 47911
materials to any student, if such hardware and software materials 47912
have not been delivered, installed, and activated for each such 47913
student in a timely manner or other educational materials or 47914
services have not been provided according to the contract between 47915
the individual community school and its sponsor. 47916

The superintendent of public instruction and the auditor of 47917
state shall jointly establish a method for auditing any community 47918
school to which this division pertains to ensure compliance with 47919
this section. 47920

The superintendent, auditor of state, and the governor shall 47921
jointly make recommendations to the general assembly for 47922
legislative changes that may be required to assure fiscal and 47923
academic accountability for such schools. 47924

(O)(1) If the department determines that a review of a 47925
community school's enrollment is necessary, such review shall be 47926
completed and written notice of the findings shall be provided to 47927
the governing authority of the community school and its sponsor 47928

within ninety days of the end of the community school's fiscal 47929
year, unless extended for a period not to exceed thirty additional 47930
days for one of the following reasons: 47931

(a) The department and the community school mutually agree to 47932
the extension. 47933

(b) Delays in data submission caused by either a community 47934
school or its sponsor. 47935

(2) If the review results in a finding that additional 47936
funding is owed to the school, such payment shall be made within 47937
thirty days of the written notice. If the review results in a 47938
finding that the community school owes moneys to the state, the 47939
following procedure shall apply: 47940

(a) Within ten business days of the receipt of the notice of 47941
findings, the community school may appeal the department's 47942
determination to the state board of education or its designee. 47943

(b) The board or its designee shall conduct an informal 47944
hearing on the matter within thirty days of receipt of such an 47945
appeal and shall issue a decision within fifteen days of the 47946
conclusion of the hearing. 47947

(c) If the board has enlisted a designee to conduct the 47948
hearing, the designee shall certify its decision to the board. The 47949
board may accept the decision of the designee or may reject the 47950
decision of the designee and issue its own decision on the matter. 47951

(d) Any decision made by the board under this division is 47952
final. 47953

(3) If it is decided that the community school owes moneys to 47954
the state, the department shall deduct such amount from the 47955
school's future payments in accordance with guidelines issued by 47956
the superintendent of public instruction. 47957

(P) The department shall not subtract from a school 47958

district's state aid account under division (C) of this section 47959
and shall not pay to a community school under division (D) of this 47960
section any amount for any of the following: 47961

(1) Any student who has graduated from the twelfth grade of a 47962
public or nonpublic high school; 47963

(2) Any student who is not a resident of the state; 47964

(3) Any student who was enrolled in the community school 47965
during the previous school year when assessments were administered 47966
under section 3301.0711 of the Revised Code but did not take one 47967
or more of the assessments required by that section and was not 47968
excused pursuant to division (C)(1) or (3) of that section, unless 47969
the superintendent of public instruction grants the student a 47970
waiver from the requirement to take the assessment and a parent is 47971
not paying tuition for the student pursuant to section 3314.26 of 47972
the Revised Code. The superintendent may grant a waiver only for 47973
good cause in accordance with rules adopted by the state board of 47974
education. 47975

(4) Any student who has attained the age of twenty-two years, 47976
except for ~~veterans~~ the following: 47977

(a) A veteran of the armed services whose attendance was 47978
interrupted before completing the recognized twelve-year course of 47979
the public schools by reason of induction or enlistment in the 47980
armed forces and who ~~apply~~ applies for enrollment in a community 47981
school not later than four years after termination of war or ~~their~~ 47982
the veteran's honorable discharge. If, however, any such veteran 47983
elects to enroll in special courses organized for veterans for 47984
whom tuition is paid under federal law, or otherwise, the 47985
department shall not subtract from a school district's state aid 47986
account under division (C) of this section and shall not pay to a 47987
community school under division (D) of this section any amount for 47988
that veteran. 47989

(b) An individual enrolled under section 3314.38 of the Revised Code in a dropout prevention and recovery program operated by a community school.

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Sec. 3314.087. (A) As used in this section: 47993

(1) "Career-technical program" means vocational programs or classes described in division (A) or (B) of section 3317.014 of the Revised Code in which a student is enrolled.

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(2) "Formula ADM," "category one or two vocational education ADM," and "FTE basis" have the same meanings as in section 3317.02 of the Revised Code.

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(3) "Resident school district" means the city, exempted village, or local school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

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(B) Notwithstanding anything to the contrary in this chapter or Chapter ~~3306.~~ or 3317. of the Revised Code, a student enrolled in a community school may simultaneously enroll in the career-technical program operated by the student's resident school district. On an FTE basis, the student's resident school district shall count the student in the category one or two vocational education ADM for the proportion of the time the student is enrolled in the district's career-technical program and, accordingly, the department of education shall calculate funds under ~~Chapters 3306. and Chapter~~ Chapter 3317. for the district attributable to the student for the proportion of time the student attends the career-technical program. The community school shall count the student in its enrollment report under section 3314.08 of the Revised Code and shall report to the department the proportion of time that the student attends classes at the community school. The department shall pay the community school and deduct from the student's resident school district the amount

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computed for the student under section 3314.08 of the Revised Code 48021
in proportion to the fraction of the time on an FTE basis that the 48022
student attends classes at the community school. "Full-time 48023
equivalency" for a community school student, as defined in 48024
division (L) of section 3314.08 of the Revised Code, does not 48025
apply to the student. 48026

Sec. 3314.088. ~~(A)~~ For purposes of applying sections 3314.08 48027
and 3314.13 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 48028
2013: 48029

~~(1)~~(A) The base formula amount for community schools for each 48030
of fiscal year ~~2010~~ is \$5,718 and for fiscal year ~~2011~~ is \$5,703. 48031
~~These respective amounts~~ years 2012 and 2013 is \$5,653. That 48032
amount shall be applied wherein sections 3314.08 and 3314.13 of 48033
the Revised Code the base formula amount is specified, except for 48034
deducting and paying amounts for special education weighted 48035
funding and vocational education weighted funding. 48036

~~(2)~~(B) The base funding supplements under section 3317.012 of 48037
the Revised Code shall be deemed in each year to be the amounts 48038
specified in that section for fiscal year 2009. 48039

~~(3)~~(C) Special education additional weighted funding shall be 48040
calculated by multiplying the applicable weight specified for 48041
fiscal year 2009 in section 3317.013 of the Revised Code, as it 48042
existed for that fiscal year ~~2009~~, times \$5,732. 48043

~~(4)~~(D) Vocational education additional weighted funding shall 48044
be calculated by multiplying the applicable weight specified in 48045
section 3317.014 of the Revised Code for fiscal year 2009 times 48046
\$5,732. 48047

~~(5)~~(E) The per pupil amounts paid to a school district under 48048
sections 3317.029 and 3317.0217 of the Revised Code shall be 48049
deemed to be the respective per pupil amounts paid under those 48050

sections to that district for fiscal year 2009. 48051

~~(6)(F)~~ A community school may receive all-day kindergarten 48052
payments under section 3314.13 of the Revised Code only for 48053
all-day kindergarten students who are entitled to attend school in 48054
school districts that, for fiscal year 2009, met the eligibility 48055
requirements of division (D) of section 3317.029 of the Revised 48056
Code. For students entitled to attend school in such school 48057
districts that actually received payment for all-day kindergarten 48058
for fiscal year 2009, the payments to community schools under 48059
section 3314.13 of the Revised Code shall be deducted from the 48060
school district's state education aid. For students entitled to 48061
attend school in such school districts that did not receive 48062
payment for all-day kindergarten for fiscal year 2009, the 48063
payments to community schools under section 3314.13 of the Revised 48064
Code shall be paid out of the funds appropriated under 48065
appropriation item 200550, foundation funding, ~~as appropriated in~~ 48066
~~section 265.10 of Am. Sub. H.B. 1 of the 128th General Assembly.~~ 48067
As used in this division, "entitled to attend school" has the same 48068
meaning as in section 3314.08 of the Revised Code. 48069

~~(B) For purposes of applying section 3314.085 of the Revised 48070
Code to fiscal years 2010 and 2011, the minimum per pupil 48071
expenditure required for pupil instruction under that section is 48072
\$2,931, which equals the minimum amount required by that section 48073
for fiscal year 2009.~~ 48074

Sec. 3314.091. (A) A school district is not required to 48075
provide transportation for any native student enrolled in a 48076
community school if the district board of education has entered 48077
into an agreement with the community school's governing authority 48078
that designates the community school as responsible for providing 48079
or arranging for the transportation of the district's native 48080
students to and from the community school. For any such agreement 48081

to be effective, it must be certified by the superintendent of 48082
public instruction as having met all of the following 48083
requirements: 48084

(1) It is submitted to the department of education by a 48085
deadline which shall be established by the department. 48086

(2) In accordance with divisions (C)(1) and (2) of this 48087
section, it specifies qualifications, such as residing a minimum 48088
distance from the school, for students to have their 48089
transportation provided or arranged. 48090

(3) The transportation provided by the community school is 48091
subject to all provisions of the Revised Code and all rules 48092
adopted under the Revised Code pertaining to pupil transportation. 48093

(4) The sponsor of the community school also has signed the 48094
agreement. 48095

(B)(1) For the school year that begins on July 1, 2007, a 48096
school district is not required to provide transportation for any 48097
native student enrolled in a community school, if the community 48098
school during the previous school year transported the students 48099
enrolled in the school or arranged for the students' 48100
transportation, even if that arrangement consisted of having 48101
parents transport their children to and from the school, but did 48102
not enter into an agreement to transport or arrange for 48103
transportation for those students under division (A) of this 48104
section, and if the governing authority of the community school by 48105
July 15, 2007, submits written notification to the district board 48106
of education stating that the governing authority is accepting 48107
responsibility for providing or arranging for the transportation 48108
of the district's native students to and from the community 48109
school. 48110

(2) For any school year subsequent to the school year that 48111
begins on July 1, 2007, a school district is not required to 48112

provide transportation for any native student enrolled in a 48113
community school if the governing authority of the community 48114
school, by the thirty-first day of January of the previous school 48115
year, submits written notification to the district board of 48116
education stating that the governing authority is accepting 48117
responsibility for providing or arranging for the transportation 48118
of the district's native students to and from the community 48119
school. If the governing authority of the community school has 48120
previously accepted responsibility for providing or arranging for 48121
the transportation of a district's native students to and from the 48122
community school, under division (B)(1) or (2) of this section, 48123
and has since relinquished that responsibility under division 48124
(B)(3) of this section, the governing authority shall not accept 48125
that responsibility again unless the district board consents to 48126
the governing authority's acceptance of that responsibility. 48127

(3) A governing authority's acceptance of responsibility 48128
under division (B)(1) or (2) of this section shall cover an entire 48129
school year, and shall remain in effect for subsequent school 48130
years unless the governing authority submits written notification 48131
to the district board that the governing authority is 48132
relinquishing the responsibility. However, a governing authority 48133
shall not relinquish responsibility for transportation before the 48134
end of a school year, and shall submit the notice relinquishing 48135
responsibility by the thirty-first day of January, in order to 48136
allow the school district reasonable time to prepare 48137
transportation for its native students enrolled in the school. 48138

(C)(1) A community school governing authority that enters 48139
into an agreement under division (A) of this section, or that 48140
accepts responsibility under division (B) of this section, shall 48141
provide or arrange transportation free of any charge for each of 48142
its enrolled students who is required to be transported under 48143
section 3327.01 of the Revised Code or who would otherwise be 48144

transported by the school district under the district's 48145
transportation policy. The governing authority shall report to the 48146
department of education the number of students transported or for 48147
whom transportation is arranged under this section in accordance 48148
with rules adopted by the state board of education. 48149

(2) The governing authority may provide or arrange 48150
transportation for any other enrolled student who is not eligible 48151
for transportation in accordance with division (C)(1) of this 48152
section and may charge a fee for such service up to the actual 48153
cost of the service. 48154

(3) Notwithstanding anything to the contrary in division 48155
(C)(1) or (2) of this section, a community school governing 48156
authority shall provide or arrange transportation free of any 48157
charge for any disabled student enrolled in the school for whom 48158
the student's individualized education program developed under 48159
Chapter 3323. of the Revised Code specifies transportation. 48160

(D)(1) If a school district board and a community school 48161
governing authority elect to enter into an agreement under 48162
division (A) of this section, the department of education shall 48163
make payments to the community school according to the terms of 48164
the agreement for each student actually transported under division 48165
(C)(1) of this section. 48166

If a community school governing authority accepts 48167
transportation responsibility under division (B) of this section, 48168
the department shall make payments to the community school for 48169
each student actually transported or for whom transportation is 48170
arranged by the community school under division (C)(1) of this 48171
section, calculated as follows: 48172

(a) For any fiscal year which the general assembly has 48173
specified that transportation payments to school districts be 48174
based on an across-the-board percentage of the district's payment 48175

for the previous school year, the per pupil payment to the 48176
community school shall be the following quotient: 48177

(i) The total amount calculated for the school district in 48178
which the child is entitled to attend school for student 48179
transportation other than transportation of children with 48180
disabilities; divided by 48181

(ii) The number of students included in the district's 48182
transportation ADM for the current fiscal year, as reported under 48183
division (B)(13) of section 3317.03 of the Revised Code, plus the 48184
number of students enrolled in the community school not counted in 48185
the district's transportation ADM who are transported under 48186
division (B)(1) or (2) of this section. 48187

(b) For any fiscal year which the general assembly has 48188
specified that the transportation payments to school districts be 48189
calculated in accordance with section ~~3306.12~~ 3317.0212 of the 48190
Revised Code and any rules of the state board of education 48191
implementing that section, the payment to the community school 48192
shall be the amount so calculated that otherwise would be paid to 48193
the school district in which the student is entitled to attend 48194
school by the method of transportation the district would have 48195
used. The community school, however, is not required to use the 48196
same method to transport that student. 48197

(c) Divisions (D)(1)(a) and (b) of this section do not apply 48198
to fiscal years 2012 and 2013. Rather, for each of those fiscal 48199
years, the per pupil payment to a community school for 48200
transporting a student shall be the total amount paid under former 48201
section 3306.12 of the Revised Code for fiscal year 2011 to the 48202
school district in which the child is entitled to attend school 48203
divided by that district's "qualifying ridership," as defined in 48204
that section for fiscal year 2011. 48205

As used in this division "entitled to attend school" means 48206

entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 48207
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(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under section ~~3306.12~~ 3317.0212 of the Revised Code and the operating appropriations act. 48209
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(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the payments, the community school shall report to the department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of miles traveled, cost to transport, and any other information requested by the department. 48220
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(4) A community school shall use payments received under this section solely to pay the costs of providing or arranging for the transportation of students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, which may include payments to a parent, guardian, or other person in charge of a child in lieu of transportation. 48232
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(E) Except when arranged through payment to a parent, 48238

guardian, or person in charge of a child, transportation provided 48239
or arranged for by a community school pursuant to an agreement 48240
under this section is subject to all provisions of the Revised 48241
Code, and all rules adopted under the Revised Code, pertaining to 48242
the construction, design, equipment, and operation of school buses 48243
and other vehicles transporting students to and from school. The 48244
drivers and mechanics of the vehicles are subject to all 48245
provisions of the Revised Code, and all rules adopted under the 48246
Revised Code, pertaining to drivers and mechanics of such 48247
vehicles. The community school also shall comply with sections 48248
3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) 48249
of section 3327.16 of the Revised Code and, subject to division 48250
(C)(1) of this section, sections 3327.01 and 3327.02 of the 48251
Revised Code, as if it were a school district. 48252

Sec. 3314.10. (A)~~(1)~~ The governing authority of any community 48253
school established under this chapter, or any operator of the 48254
school, or both, may employ teachers and nonteaching employees 48255
necessary to carry out ~~its~~ the school's mission and fulfill ~~its~~ 48256
the school's contract. 48257

~~(2)~~ Except as otherwise provided under this division ~~(A)~~~~(3)~~ 48258
~~of this section,~~ employees hired by a community school governing 48259
authority under this section are not subject to Chapter 4117. of 48260
the Revised Code and may not organize ~~and~~ or collectively bargain 48261
pursuant to ~~Chapter 4117. of the Revised Code~~ that chapter. 48262
~~Notwithstanding division (D)(1) of section 4117.06 of the Revised~~ 48263
~~Code, a unit containing teaching and nonteaching employees~~ 48264
~~employed under this section shall be considered an appropriate~~ 48265
~~unit.~~ As applicable, employment under this section is subject to 48266
either Chapter 3307. or 3309. of the Revised Code. 48267

~~(3)~~ If a school is created by converting all or part of an 48268
existing public school rather than by establishment of a new 48269

~~start up school, at the time of conversion, the The employees of 48270
the a community school shall remain part of any governing 48271
authority who are covered by a collective bargaining unit in which 48272
they were included immediately prior to the conversion and 48273
agreement on the effective date of this amendment shall remain 48274
subject to any that collective bargaining agreement for that unit 48275
in effect on the first day of July of the year in which the 48276
community school initially begins operation and shall be subject 48277
to any subsequent until the collective bargaining agreement for 48278
that unit, unless a petition is certified as sufficient under 48279
division (A)(6) of this section with regard to those employees. 48280
Any new employees of the community school shall also be included 48281
in the unit to which they would have been assigned had not the 48282
conversion taken place and shall be subject to the collective 48283
bargaining agreement for that unit unless a petition is certified 48284
as sufficient under division (A)(6) of this section with regard to 48285
those employees expires on its terms. Upon expiration of the 48286
collective bargaining agreement, the employees are not subject to 48287
Chapter 4117. of the Revised Code and may not organize or 48288
collectively bargain pursuant to that chapter. 48289~~

~~Notwithstanding division (B) of section 4117.01 of the 48290
Revised Code, the board of education of a school district and not 48291
the governing authority of a community school shall be regarded, 48292
for purposes of Chapter 4117. of the Revised Code, as the "public 48293
employer" of the employees of a conversion community school 48294
subject to a collective bargaining agreement pursuant to division 48295
(A)(3) of this section unless a petition is certified under 48296
division (A)(6) of this section with regard to those employees. 48297
Only on and after the effective date of a petition certified as 48298
sufficient under division (A)(6) of this section shall division 48299
(A)(2) of this section apply to those employees of that community 48300
school and only on and after the effective date of that petition 48301
shall Chapter 4117. of the Revised Code apply to the governing 48302~~

~~authority of that community school with regard to those employees.~~ 48303

~~(4) Notwithstanding sections 4117.03 to 4117.18 of the 48304
Revised Code and Section 4 of Amended Substitute Senate Bill No. 48305
133 of the 115th general assembly, the employees of a conversion 48306
community school who are subject to a collective bargaining 48307
agreement pursuant to division (A)(3) of this section shall cease 48308
to be subject to that agreement and all subsequent agreements 48309
pursuant to that division and shall cease to be part of the 48310
collective bargaining unit that is subject to that and all 48311
subsequent agreements, if a majority of the employees of that 48312
community school who are subject to that collective bargaining 48313
agreement sign and submit to the state employment relations board 48314
a petition requesting all of the following:~~ 48315

~~(a) That all the employees of the community school who are 48316
subject to that agreement be removed from the bargaining unit that 48317
is subject to that agreement and be designated by the state 48318
employment relations board as a new and separate bargaining unit 48319
for purposes of Chapter 4117. of the Revised Code;~~ 48320

~~(b) That the employee organization certified as the exclusive 48321
representative of the employees of the bargaining unit from which 48322
the employees are to be removed be certified as the exclusive 48323
representative of the new and separate bargaining unit for 48324
purposes of Chapter 4117. of the Revised Code;~~ 48325

~~(c) That the governing authority of the community school be 48326
regarded as the "public employer" of these employees for purposes 48327
of Chapter 4117. of the Revised Code.~~ 48328

~~(5) Notwithstanding sections 4117.03 to 4117.18 of the 48329
Revised Code and Section 4 of Amended Substitute Senate Bill No. 48330
133 of the 115th general assembly, the employees of a conversion 48331
community school who are subject to a collective bargaining 48332
agreement pursuant to division (A)(3) of this section shall cease 48333~~

~~to be subject to that agreement and all subsequent agreements 48334
pursuant to that division, shall cease to be part of the 48335
collective bargaining unit that is subject to that and all 48336
subsequent agreements, and shall cease to be represented by any 48337
exclusive representative of that collective bargaining unit, if a 48338
majority of the employees of the community school who are subject 48339
to that collective bargaining agreement sign and submit to the 48340
state employment relations board a petition requesting all of the 48341
following: 48342~~

~~(a) That all the employees of the community school who are 48343
subject to that agreement be removed from the bargaining unit that 48344
is subject to that agreement; 48345~~

~~(b) That any employee organization certified as the exclusive 48346
representative of the employees of that bargaining unit be 48347
decertified as the exclusive representative of the employees of 48348
the community school who are subject to that agreement; 48349~~

~~(c) That the governing authority of the community school be 48350
regarded as the "public employer" of these employees for purposes 48351
of Chapter 4117. of the Revised Code. 48352~~

~~(6) Upon receipt of a petition under division (A)(4) or (5) 48353
of this section, the state employment relations board shall check 48354
the sufficiency of the signatures on the petition. If the 48355
signatures are found sufficient, the board shall certify the 48356
sufficiency of the petition and so notify the parties involved, 48357
including the board of education, the governing authority of the 48358
community school, and any exclusive representative of the 48359
bargaining unit. The changes requested in a certified petition 48360
shall take effect on the first day of the month immediately 48361
following the date on which the sufficiency of the petition is 48362
certified under division (A)(6) of this section. 48363~~

(B)(1) The board of education of each city, local, and 48364

exempted village school district sponsoring a community school and 48365
the governing board of each educational service center in which a 48366
community school is located shall adopt a policy that provides a 48367
leave of absence of at least three years to each teacher or 48368
nonteaching employee of the district or service center who is 48369
employed by the government authority of a conversion or new 48370
start-up community school sponsored by the district or located in 48371
the district or center for the period during which the teacher or 48372
employee is continuously employed by the community school. The 48373
policy shall also provide that any teacher or nonteaching employee 48374
may return to employment by the district or service center if the 48375
teacher or employee leaves or is discharged from employment with 48376
the community school for any reason, unless, in the case of a 48377
teacher, the board of the district or service center determines 48378
that the teacher was discharged for a reason for which the board 48379
would have sought to discharge the teacher under section 3319.16 48380
of the Revised Code, in which case the board may proceed to 48381
discharge the teacher utilizing the procedures of that section. 48382
Upon termination of such a leave of absence, any seniority that is 48383
applicable to the person shall be calculated to include all of the 48384
following: all employment by the district or service center prior 48385
to the leave of absence; all employment by the community school 48386
during the leave of absence; and all employment by the district or 48387
service center after the leave of absence. The policy shall also 48388
provide that if any teacher holding valid certification returns to 48389
employment by the district or service center upon termination of 48390
such a leave of absence, the teacher shall be restored to the 48391
previous position and salary or to a position and salary similar 48392
thereto. If, as a result of teachers returning to employment upon 48393
termination of such leaves of absence, a school district or 48394
educational service center reduces the number of teachers it 48395
employs, it shall make such reductions in accordance with section 48396
~~3319.17 or, if applicable, 3319.171~~ of the Revised Code. 48397

~~Unless a collective bargaining agreement providing otherwise~~ 48398
~~is in effect for an employee of a conversion community school~~ 48399
~~pursuant to division (A)(3) of this section, an~~ An employee on a 48400
leave of absence pursuant to this division shall remain eligible 48401
for any benefits that are in addition to benefits under Chapter 48402
3307. or 3309. of the Revised Code provided by the district or 48403
service center to its employees provided the employee pays the 48404
entire cost associated with such benefits, except that personal 48405
leave and vacation leave cannot be accrued for use as an employee 48406
of a school district or service center while in the employ of a 48407
community school unless the district or service center board 48408
adopts a policy expressly permitting this accrual. 48409

(2) While on a leave of absence pursuant to division (B)(1) 48410
of this section, a conversion community school shall permit a 48411
teacher to use sick leave accrued while in the employ of the 48412
school district from which the leave of absence was taken and 48413
prior to commencing such leave. If a teacher who is on such a 48414
leave of absence uses sick leave so accrued, the cost of any 48415
salary paid by the community school to the teacher for that time 48416
shall be reported to the department of education. The cost of 48417
employing a substitute teacher for that time shall be paid by the 48418
community school. The department of education shall add amounts to 48419
the payments made to a community school under this chapter as 48420
necessary to cover the cost of salary reported by a community 48421
school as paid to a teacher using sick leave so accrued pursuant 48422
to this section. The department shall subtract the amounts of any 48423
payments made to community schools under this division from 48424
payments made to such sponsoring school district under ~~Chapters~~ 48425
~~3306. and Chapter~~ Chapter 3317. of the Revised Code. 48426

A school district providing a leave of absence and employee 48427
benefits to a person pursuant to this division is not liable for 48428
any action of that person while the person is on such leave and 48429

employed by a community school. 48430

Sec. 3314.13. Payments and deductions under this section for 48431
fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance 48432
with section 3314.088 of the Revised Code. 48433

(A) As used in this section: 48434

(1) "All-day kindergarten" has the same meaning as in section 48435
3317.029 of the Revised Code. 48436

(2) "Formula amount" has the same meaning as in section 48437
3317.02 of the Revised Code. 48438

(B) Except as provided in division (C) of this section, the 48439
department of education annually shall pay each community school 48440
established under this chapter one-half of the formula amount for 48441
each student to whom both of the following apply: 48442

(1) The student is entitled to attend school under section 48443
3313.64 or 3313.65 of the Revised Code in a school district that 48444
is eligible to receive a payment under division (D) of section 48445
3317.029 of the Revised Code if it provides all-day kindergarten; 48446

(2) The student is reported by the community school as 48447
enrolled in all-day kindergarten at the community school. 48448

(C) The department shall make no payments under this section 48449
to any internet- or computer-based community school. 48450

(D) If a student for whom payment is made under division (B) 48451
of this section is entitled to attend school in a district that 48452
receives any payment for all-day kindergarten under division (D) 48453
of section 3317.029 of the Revised Code, the department shall 48454
deduct the payment to the community school under this section from 48455
the amount paid that school district under that division. If that 48456
school district does not receive payment for all-day kindergarten 48457
under that division because it does not provide all-day 48458
kindergarten, the department shall pay the community school from 48459

state funds appropriated generally for poverty-based assistance to 48460
school districts. 48461

(E) The department shall adjust the amounts deducted from 48462
school districts and paid to community schools under this section 48463
to reflect any enrollments of students in all-day kindergarten in 48464
community schools for less than the equivalent of a full school 48465
year. 48466

Sec. 3314.19. The sponsor of each community school annually 48467
shall provide the following assurances in writing to the 48468
department of education not later than ~~ten business~~ five days 48469
prior to the opening of the school: 48470

(A) That a current copy of the contract between the sponsor 48471
and the governing authority of the school entered into under 48472
section 3314.03 of the Revised Code has been filed with the state 48473
office of community schools established under section 3314.11 of 48474
the Revised Code and that any subsequent modifications to that 48475
contract will be filed with the office; 48476

(B) That the school has submitted to the sponsor a plan for 48477
providing special education and related services to students with 48478
disabilities and has demonstrated the capacity to provide those 48479
services in accordance with Chapter 3323. of the Revised Code and 48480
federal law, as measured on an instructional-period basis; 48481

(C) That the school has a plan and procedures for 48482
administering the achievement and diagnostic assessments 48483
prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the 48484
Revised Code; 48485

(D) That school personnel have the necessary training, 48486
knowledge, and resources to properly use and submit information to 48487
all databases maintained by the department for the collection of 48488
education data, including the education management information 48489

system established under section 3301.0714 of the Revised Code in 48490
accordance with methods and timelines established under section 48491
3314.17 of the Revised Code; 48492

(E) That all required information about the school has been 48493
submitted to the Ohio education directory system or any successor 48494
system; 48495

(F) That the school will enroll at least the minimum number 48496
of students required by division (A)(11)(a) of section 3314.03 of 48497
the Revised Code in the school year for which the assurances are 48498
provided; 48499

(G) That all classroom teachers are licensed in accordance 48500
with sections 3319.22 to 3319.31 of the Revised Code, except for 48501
noncertificated persons engaged to teach up to twelve hours per 48502
week pursuant to section 3319.301 of the Revised Code; 48503

(H) That the school's fiscal officer is in compliance with 48504
section 3314.011 of the Revised Code; 48505

(I) That the school has complied with sections 3319.39 and 48506
3319.391 of the Revised Code with respect to all employees and 48507
that the school has conducted a criminal records check of each of 48508
its governing authority members; 48509

(J) That the school holds all of the following: 48510

(1) Proof of property ownership or a lease for the facilities 48511
used by the school; 48512

(2) A certificate of occupancy; 48513

(3) Liability insurance for the school, as required by 48514
division (A)(11)(b) of section 3314.03 of the Revised Code, that 48515
the sponsor considers sufficient to indemnify the school's 48516
facilities, staff, and governing authority against risk; 48517

(4) A satisfactory health and safety inspection; 48518

(5) A satisfactory fire inspection; 48519

(6) A valid food permit, if applicable. 48520

(K) That the sponsor has conducted a pre-opening site visit 48521
to the school for the school year for which the assurances are 48522
provided; 48523

(L) That the school has designated a date it will open for 48524
the school year for which the assurances are provided that is in 48525
compliance with division (A)(25) of section 3314.03 of the Revised 48526
Code; 48527

(M) That the school has met all of the sponsor's requirements 48528
for opening and any other requirements of the sponsor. 48529

Sec. 3314.22. (A)(1) Each household with a child enrolled in 48530
an internet- or computer-based community school is entitled to a 48531
at least one computer supplied by the school; however, if there 48532
are at least three children enrolled in an internet- or 48533
computer-based community school residing in the same household, 48534
the household shall be entitled to at least one additional 48535
computer supplied by the school. However, the parent of any child 48536
enrolled in the school may waive this entitlement in the manner 48537
specified in division (A)~~(3)~~(2) of this section. In no case shall 48538
an internet- or computer-based community school provide a stipend 48539
or other substitute to the household of an enrolled child ~~or the~~ 48540
~~child's parent~~ in lieu of supplying a computer ~~to the child~~ or 48541
computers to the household as required by this section. The 48542
~~prohibition contained in the preceding sentence is intended to~~ 48543
~~clarify the meaning of this division as it existed prior to~~ 48544
~~September 29, 2005, and is not intended to change that meaning in~~ 48545
~~any way.~~ 48546

(2) ~~Notwithstanding division (A)(1) of this section, if more~~ 48547
~~than one child living in a single residence is enrolled in an~~ 48548
~~internet- or computer-based community school, at the option of the~~ 48549
~~parent of those children, the school may supply less than one~~ 48550

~~computer per child, as long as at least one computer is supplied 48551
to the residence. An internet or computer based community school 48552
may supply no computer at all only if the parent has waived the 48553
entitlement prescribed in division (A)(1) of this section in the 48554
manner specified in division (A)(3) of this section. The parent 48555
may amend the decision to accept less than one computer per child 48556
anytime during the school year, and, in such case, within thirty 48557
days after the parent notifies the school of such amendment, the 48558
school shall provide any additional computers requested by the 48559
parent up to the number necessary to comply with division (A)(1) 48560
of this section. 48561~~

~~(3) The parent of any child enrolled in an internet- or 48562
computer-based community school may waive the entitlement to one 48563
computer per child, and have no computer at all supplied by the 48564
school a computer or computers as specified in division (A)(1) of 48565
this section, if the school and parent set forth that waiver in 48566
writing with both parties attesting that there is a computer 48567
available to the child in the child's residence with sufficient 48568
hardware, software, programming, and connectivity so that the 48569
child may fully participate in all of the learning opportunities 48570
offered to the child by the school. The parent may amend the 48571
decision to waive the entitlement at any time during the school 48572
year and, in such case, within thirty days after the parent 48573
notifies the school of that decision, the school shall provide any 48574
additional computers requested by the parent up to the number 48575
necessary to comply with division (A)(1) of this section, 48576
regardless of whether there is any change in the conditions 48577
attested to in the waiver. 48578~~

~~(4)(3) A copy of a waiver executed under division (A)(3)(2) 48579
of this section shall be retained by the internet- or 48580
computer-based community school and the parent who attested to the 48581
conditions prescribed in that division. The school shall submit a 48582~~

copy of the waiver to the office of community schools, established 48583
under section 3314.11 of the Revised Code, immediately upon 48584
execution of the waiver. 48585

~~(5)(4)~~ The school shall notify the office of community 48586
schools, in the manner specified by the office, ~~of any parent's~~ 48587
~~decision under division (A)(2) of this section to accept less than~~ 48588
~~one computer per child or the parent's amendment to that decision,~~ 48589
and of any parent's decision to amend the waiver executed under 48590
division (A)~~(3)~~(2) of this section. 48591

(B) Each internet- or computer-based community school shall 48592
provide to each parent who is considering enrolling the parent's 48593
child in the school and to the parent of each child already 48594
enrolled in the school a written notice of the provisions 48595
prescribed in division (A) of this section. 48596

(C) If a community school that is not an internet- or 48597
computer-based community school provides any of its enrolled 48598
students with nonclassroom-based learning opportunities provided 48599
via an internet- or other computer-based instructional method and 48600
requires such students to participate in any of those learning 48601
opportunities from their residences, the school shall be subject 48602
to this section and division (C)(1) of section 3314.21 of the 48603
Revised Code relative to each such student in the same manner as 48604
an internet- or computer-based community school, unless both of 48605
the following conditions apply to the student: 48606

(1) The nonclassroom-based learning opportunities in which 48607
the student is required to participate from the student's 48608
residence are supplemental in nature or do not constitute a 48609
significant portion of the total classroom-based and 48610
nonclassroom-based learning opportunities provided to the student 48611
by the school; 48612

(2) The student's residence is equipped with a computer 48613

available for the student's use. 48614

Sec. 3314.26. (A) Each internet- or computer-based community 48615
school shall withdraw from the school any student who, for two 48616
consecutive school years, has failed to participate in the spring 48617
administration of any assessment prescribed under section 48618
3301.0710 or 3301.0712 of the Revised Code for the student's grade 48619
level and was not excused from the assessment pursuant to division 48620
(C)(1) or (3) of section 3301.0711 of the Revised Code, regardless 48621
of whether a waiver was granted for the student under division 48622
(P)(3) of section 3314.08 of the Revised Code. The school shall 48623
report any such student's data verification code, as assigned 48624
pursuant to section 3301.0714 of the Revised Code, to the 48625
department of education. The department shall maintain a list of 48626
all data verification codes reported under this division and 48627
section 3313.6410 of the Revised Code and provide that list to 48628
each internet- or computer-based community school and to each 48629
school to which section 3313.6410 of the Revised Code applies. 48630
Each internet- or computer-based school shall withdraw a student 48631
under this section not later than the end of the second 48632
consecutive school year in which the student has failed to 48633
participate in the spring administration of assessments as 48634
specified under this section. 48635

(B) No internet- or computer-based community school shall 48636
receive any state funds under this chapter for any enrolled 48637
student whose data verification code appears on the list 48638
maintained by the department under division (A) of this section. 48639

Notwithstanding any provision of the Revised Code to the 48640
contrary, the parent of any such student shall pay tuition to the 48641
internet- or computer-based community school in an amount equal to 48642
the state funds the school otherwise would receive for that 48643
student, as determined by the department. An internet- or 48644

computer-based community school may withdraw any student for whom 48645
the parent does not pay tuition as required by this division. 48646

~~Sec. 3314.35. (A)(1) Except as provided in division (A)(3) of 48647
this section, this section applies to any community school that 48648
meets one of the following criteria after July 1, 2008, but before 48649
July 1, 2009:~~ 48650

~~(a) The school does not offer a grade level higher than three 48651
and has been declared to be in a state of academic emergency under 48652
section 3302.03 of the Revised Code for four consecutive school 48653
years.~~ 48654

~~(b) The school satisfies all of the following conditions:~~ 48655

~~(i) The school offers any of grade levels four to eight but 48656
does not offer a grade level higher than nine.~~ 48657

~~(ii) The school has been declared to be in a state of 48658
academic emergency under section 3302.03 of the Revised Code for 48659
three consecutive school years.~~ 48660

~~(iii) For two of those school years, the school showed less 48661
than one standard year of academic growth in either reading or 48662
mathematics, as determined by the department of education in 48663
accordance with rules adopted under division (A) of section 48664
3302.021 of the Revised Code.~~ 48665

~~(c) The school satisfies all of the following conditions:~~ 48666

~~(i) The school offers any of grade levels ten to twelve.~~ 48667

~~(ii) The school has been declared to be in a state of 48668
academic emergency under section 3302.03 of the Revised Code for 48669
three consecutive school years.~~ 48670

~~(iii) For two of those school years, the school showed less 48671
than two standard years of academic growth in either reading or 48672
mathematics, as determined by the department in accordance with 48673~~

~~rules adopted under division (A) of section 3302.021 of the Revised Code.~~ 48674
48675

~~(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2009, but before July 1, 2011:~~ 48676
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48678

~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.~~ 48679
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48681
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~~(b) The school satisfies all of the following conditions:~~ 48683

~~(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.~~ 48684
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~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.~~ 48686
48687
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~~(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~ 48689
48690
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48693

~~(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.~~ 48694
48695
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48697

(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2011: 48698
48699
48700

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most 48701
48702
48703

recent school years. 48704

(b) The school satisfies all of the following conditions: 48705

(i) The school offers any of grade levels four to eight but 48706
does not offer a grade level higher than nine. 48707

(ii) The school has been declared to be in a state of 48708
academic emergency under section 3302.03 of the Revised Code for 48709
two of the three most recent school years. 48710

(iii) In at least two of the three most recent school years, 48711
the school showed less than one standard year of academic growth 48712
in either reading or mathematics, as determined by the department 48713
in accordance with rules adopted under division (A) of section 48714
3302.021 of the Revised Code. 48715

(c) The school offers any of grade levels ten to twelve and 48716
has been declared to be in a state of academic emergency under 48717
section 3302.03 of the Revised Code for two of the three most 48718
recent school years. 48719

(3) This section does not apply to either of the following: 48720

(a) Any community school in which a majority of the students 48721
are enrolled in a dropout prevention and recovery program that is 48722
operated by the school and that has been granted a waiver under 48723
section 3314.36 of the Revised Code; 48724

(b) Any community school in which a majority of the enrolled 48725
students are children with disabilities receiving special 48726
education and related services in accordance with Chapter 3323. of 48727
the Revised Code. 48728

(B) Any community school to which this section applies shall 48729
permanently close at the conclusion of the school year in which 48730
the school first becomes subject to this section. The sponsor and 48731
governing authority of the school shall comply with all procedures 48732
for closing a community school adopted by the department under 48733

division (E) of section 3314.015 of the Revised Code. The 48734
governing authority of the school shall not enter into a contract 48735
with any other sponsor under section 3314.03 of the Revised Code 48736
after the school closes. 48737

~~(C) Not later than July 1, 2008, the department shall 48738
determine the feasibility of using the value added progress 48739
dimension, as defined in section 3302.01 of the Revised Code, as a 48740
factor in evaluating the academic performance of community schools 48741
described in division (A)(1)(c)(i) of this section. 48742
Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, 48743
if the department determines that using the value added progress 48744
dimension to evaluate community schools described in division 48745
(A)(1)(c)(i) of this section is not feasible, a community school 48746
described in that division shall be required to permanently close 48747
under this section only if it has been declared to be in a state 48748
of academic emergency under section 3302.03 of the Revised Code 48749
for four consecutive school years. 48750~~

~~(D) In accordance with division (B) of section 3314.012 of 48751
the Revised Code, the department shall not consider the 48752
performance ratings assigned to a community school for its first 48753
two years of operation when determining whether the school meets 48754
the criteria prescribed by division (A)(1) or (2) of this section. 48755
The department shall reevaluate each community school that the 48756
department directed to close at the conclusion of the 2009-2010 48757
school year to determine if the school still meets the criteria 48758
prescribed by division (A)(2) of this section when the school's 48759
performance ratings for its first two years of operation are not 48760
considered and, if the school no longer meets those criteria, the 48761
department shall not require the school to close at the conclusion 48762
of that school year. 48763~~

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does 48764

not apply to any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver by the department of education. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board of education under division ~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (A)(4) of this section during the remainder of the student's high school experience.

(6) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board of education

under section 3301.079 of the Revised Code will be taught and 48796
assessed. 48797

If the department does not act either to grant the waiver or 48798
to reject the program application for the waiver within sixty days 48799
as required under this section, the waiver shall be considered to 48800
be granted. 48801

(B) Notwithstanding division (A) of this section, the 48802
department shall not grant a waiver to any community school that 48803
did not qualify for a waiver under this section when it initially 48804
began operations, unless the state board of education approves the 48805
waiver. 48806

Sec. 3314.38. An individual who is at least twenty-two but 48807
younger than thirty years of age and who has not been awarded a 48808
high school diploma or a certificate of high school equivalence, 48809
as defined in section 4109.06 of the Revised Code, may enroll in a 48810
dropout prevention and recovery program operated by a community 48811
school that has been granted a waiver under section 3314.36 of the 48812
Revised Code for the same educational program offered to students 48813
who are entitled to attend school in a school district under 48814
section 3313.64 or 3313.65 of the Revised Code for up to two 48815
cumulative school years. The community school shall include that 48816
individual in the school's student enrollment reported under 48817
division (B) of section 3314.08 of the Revised Code. The community 48818
school shall receive the amounts attributable to the individual's 48819
enrollment prescribed by division (D) of section 3314.08 of the 48820
Revised Code paid from funds specifically appropriated for that 48821
purpose. 48822

Sec. 3314.50. If the governing authority of a community 48823
school contracts with an operator, all of the following shall 48824
apply: 48825

(A) The governing authority may delegate any or all of the rights, duties, and responsibilities of the governing authority to the operator. 48826
48827
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(B) Upon the expiration of the contract, the governing authority shall offer the operator the opportunity to renew the contract prior to soliciting services from any other operator. 48829
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(C) The operator shall have standing to bring an action or proceeding in any court concerning the school's operations or the renewal, nonrenewal, or termination of the governing authority's contract with the school's sponsor entered into under section 3314.03 of the Revised Code, or to appear in any such action or proceeding. 48832
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Sec. 3315.01. (A) Except as provided in division (B) of this section and notwithstanding sections 3315.12 and 3315.14 of the Revised Code, the board of education of any school district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose or any other fund of the district as the board specifies in its resolution. 48838
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(B) This section does not apply to the earnings made on the investment of the bond retirement fund, the sinking fund, a project construction fund established pursuant to sections 3318.01 to 3318.20 of the Revised Code, or the payments received by school districts pursuant to division ~~(I)~~(E) of section 3317.024 of the Revised Code. 48846
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Sec. 3316.041. (A) Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, and subject to the approval of the superintendent of public instruction, a school district that is in a state of fiscal watch 48852
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declared under section 3316.03 of the Revised Code may restructure 48856
or refinance loans obtained or in the process of being obtained 48857
under section 3313.483 of the Revised Code if all of the following 48858
requirements are met: 48859

(1) The operating deficit certified for the school district 48860
for the current or preceding fiscal year under section 3313.483 of 48861
the Revised Code exceeds fifteen per cent of the district's 48862
general revenue fund for the fiscal year preceding the year for 48863
which the certification of the operating deficit is made. 48864

(2) The school district voters have, during the period of the 48865
fiscal watch, approved the levy of a tax under section 718.09, 48866
718.10, 5705.194, 5705.21, or 5748.02 of the Revised Code that is 48867
not a renewal or replacement levy, or a levy under section 48868
5705.199 of the Revised Code, and that will provide new operating 48869
revenue. 48870

(3) The board of education of the school district has adopted 48871
or amended the financial plan required by section 3316.04 of the 48872
Revised Code to reflect the restructured or refinanced loans, and 48873
sets forth the means by which the district will bring projected 48874
operating revenues and expenditures, and projected debt service 48875
obligations, into balance for the life of any such loan. 48876

(B) Subject to the approval of the superintendent of public 48877
instruction, the school district may issue securities to evidence 48878
the restructuring or refinancing authorized by this section. Such 48879
securities may extend the original period for repayment not to 48880
exceed ten years, and may alter the frequency and amount of 48881
repayments, interest or other financing charges, and other terms 48882
or agreements under which the loans were originally contracted, 48883
provided the loans received under sections 3313.483 of the Revised 48884
Code are repaid from funds the district would otherwise receive 48885
under Chapter ~~3306~~. 3317, of the Revised Code, as required under 48886
division (E)(3) of section 3313.483 of the Revised Code. 48887

Securities issued for the purpose of restructuring or refinancing 48888
under this section shall be repaid in equal payments and at equal 48889
intervals over the term of the debt and are not eligible to be 48890
included in any subsequent proposal to restructure or refinance. 48891

(C) Unless the district is declared to be in a state of 48892
fiscal emergency under division (D) of section 3316.04 of the 48893
Revised Code, a school district shall remain in a state of fiscal 48894
watch for the duration of the repayment period of any loan 48895
restructured or refinanced under this section. 48896

Sec. 3316.06. (A) Within one hundred twenty days after the 48897
first meeting of a school district financial planning and 48898
supervision commission, the commission shall adopt a financial 48899
recovery plan regarding the school district for which the 48900
commission was created. During the formulation of the plan, the 48901
commission shall seek appropriate input from the school district 48902
board and from the community. This plan shall contain the 48903
following: 48904

(1) Actions to be taken to: 48905

(a) Eliminate all fiscal emergency conditions declared to 48906
exist pursuant to division (B) of section 3316.03 of the Revised 48907
Code; 48908

(b) Satisfy any judgments, past-due accounts payable, and all 48909
past-due and payable payroll and fringe benefits; 48910

(c) Eliminate the deficits in all deficit funds, except that 48911
any prior year deficits in the capital and maintenance fund 48912
established pursuant to section 3315.18 of the Revised Code shall 48913
be forgiven; 48914

(d) Restore to special funds any moneys from such funds that 48915
were used for purposes not within the purposes of such funds, or 48916
borrowed from such funds by the purchase of debt obligations of 48917

the school district with the moneys of such funds, or missing from 48918
the special funds and not accounted for, if any; 48919

(e) Balance the budget, avoid future deficits in any funds, 48920
and maintain on a current basis payments of payroll, fringe 48921
benefits, and all accounts; 48922

(f) Avoid any fiscal emergency condition in the future; 48923

(g) Restore the ability of the school district to market 48924
long-term general obligation bonds under provisions of law 48925
applicable to school districts generally. 48926

(2) The management structure that will enable the school 48927
district to take the actions enumerated in division (A)(1) of this 48928
section. The plan shall specify the level of fiscal and management 48929
control that the commission will exercise within the school 48930
district during the period of fiscal emergency, and shall 48931
enumerate respectively, the powers and duties of the commission 48932
and the powers and duties of the school board during that period. 48933
The commission may elect to assume any of the powers and duties of 48934
the school board it considers necessary, including all powers 48935
related to personnel, curriculum, and legal issues in order to 48936
successfully implement the actions described in division (A)(1) of 48937
this section. 48938

(3) The target dates for the commencement, progress upon, and 48939
completion of the actions enumerated in division (A)(1) of this 48940
section and a reasonable period of time expected to be required to 48941
implement the plan. The commission shall prepare a reasonable time 48942
schedule for progress toward and achievement of the requirements 48943
for the plan, and the plan shall be consistent with that time 48944
schedule. 48945

(4) The amount and purpose of any issue of debt obligations 48946
that will be issued, together with assurances that any such debt 48947
obligations that will be issued will not exceed debt limits 48948

supported by appropriate certifications by the fiscal officer of 48949
the school district and the county auditor. Debt obligations 48950
issued pursuant to section 133.301 of the Revised Code shall 48951
include assurances that such debt shall be in an amount not to 48952
exceed the amount certified under division (B) of such section. If 48953
the commission considers it necessary in order to maintain or 48954
improve educational opportunities of pupils in the school 48955
district, the plan may include a proposal to restructure or 48956
refinance outstanding debt obligations incurred by the board under 48957
section 3313.483 of the Revised Code contingent upon the approval, 48958
during the period of the fiscal emergency, by district voters of a 48959
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 48960
5748.02, or 5748.08 of the Revised Code that is not a renewal or 48961
replacement levy, or a levy under section 5705.199 of the Revised 48962
Code, and that will provide new operating revenue. Notwithstanding 48963
any provision of Chapter 133. or sections 3313.483 to 3313.4811 of 48964
the Revised Code, following the required approval of the district 48965
voters and with the approval of the commission, the school 48966
district may issue securities to evidence the restructuring or 48967
refinancing. Those securities may extend the original period for 48968
repayment, not to exceed ten years, and may alter the frequency 48969
and amount of repayments, interest or other financing charges, and 48970
other terms of agreements under which the debt originally was 48971
contracted, at the discretion of the commission, provided that any 48972
loans received pursuant to section 3313.483 of the Revised Code 48973
shall be paid from funds the district would otherwise receive 48974
under Chapter ~~3306-~~ 3317. of the Revised Code, as required under 48975
division (E)(3) of section 3313.483 of the Revised Code. The 48976
securities issued for the purpose of restructuring or refinancing 48977
the debt shall be repaid in equal payments and at equal intervals 48978
over the term of the debt and are not eligible to be included in 48979
any subsequent proposal for the purpose of restructuring or 48980
refinancing debt under this section. 48981

(B) Any financial recovery plan may be amended subsequent to 48982
its adoption. Each financial recovery plan shall be updated 48983
annually. 48984

(C) Each school district financial planning and supervision 48985
commission shall submit the financial recovery plan it adopts or 48986
updates under this section to the state superintendent of public 48987
instruction for approval immediately following its adoption or 48988
updating. The state superintendent shall evaluate the plan and 48989
either approve or disapprove it within thirty calendar days from 48990
the date of its submission. If the plan is disapproved, the state 48991
superintendent shall recommend modifications that will render it 48992
acceptable. No financial planning and supervision commission shall 48993
implement a financial recovery plan that is adopted or updated on 48994
or after April 10, 2001, unless the state superintendent has 48995
approved it. 48996

Sec. 3316.20. (A)(1) The school district solvency assistance 48997
fund is hereby created in the state treasury, to consist of such 48998
amounts designated for the purposes of the fund by the general 48999
assembly. The fund shall be used to provide assistance and grants 49000
to school districts to enable them to remain solvent and to pay 49001
unforeseeable expenses of a temporary or emergency nature that 49002
they are unable to pay from existing resources. 49003

(2) There is hereby created within the fund an account known 49004
as the school district shared resource account, which shall 49005
consist of money appropriated to it by the general assembly. The 49006
money in the account shall be used solely for solvency assistance 49007
to school districts that have been declared under division (B) of 49008
section 3316.03 of the Revised Code to be in a state of fiscal 49009
emergency. 49010

(3) There is hereby created within the fund an account known 49011
as the catastrophic expenditures account, which shall consist of 49012

money appropriated to the account by the general assembly plus all 49013
investment earnings of the fund. Money in the account shall be 49014
used solely for the following: 49015

(a) Solvency assistance to school districts that have been 49016
declared under division (B) of section 3316.03 of the Revised Code 49017
to be in a state of fiscal emergency, in the event that all money 49018
in the shared resource account is utilized for solvency 49019
assistance; 49020

(b) Grants to school districts under division (C) of this 49021
section. 49022

(B) Solvency assistance payments under division (A)(2) or 49023
(3)(a) of this section shall be made from the fund by the 49024
superintendent of public instruction in accordance with rules 49025
adopted by the director of budget and management, after consulting 49026
with the superintendent, specifying approval criteria and 49027
procedures necessary for administering the fund. 49028

The fund shall be reimbursed for any solvency assistance 49029
amounts paid under division (A)(2) or (3)(a) of this section not 49030
later than the end of the second fiscal year following the fiscal 49031
year in which the solvency assistance payment was made. If not 49032
made directly by the school district, such reimbursement shall be 49033
made by the director of budget and management from the amounts the 49034
school district would otherwise receive pursuant to Chapter ~~3306-~~ 49035
3317 of the Revised Code, or from any other funds appropriated 49036
for the district by the general assembly. Reimbursements shall be 49037
credited to the respective account from which the solvency 49038
assistance paid to the district was deducted. 49039

(C) The superintendent of public instruction may make 49040
recommendations, and the controlling board may grant money from 49041
the catastrophic expenditures account to any school district that 49042
suffers an unforeseen catastrophic event that severely depletes 49043

the district's financial resources. The superintendent shall make 49044
recommendations for the grants in accordance with rules adopted by 49045
the director of budget and management, after consulting with the 49046
superintendent. A school district shall not be required to repay 49047
any grant awarded to the district under this division, unless the 49048
district receives money from this state or a third party, 49049
including an agency of the government of the United States, 49050
specifically for the purpose of compensating the district for 49051
revenue lost or expenses incurred as a result of the unforeseen 49052
catastrophic event. If a school district receives a grant from the 49053
catastrophic expenditures account on the basis of the same 49054
circumstances for which an adjustment or recomputation is 49055
authorized under section 3317.025, 3317.026, 3317.027, 3317.028, 49056
3317.0210, or 3317.0211 of the Revised Code, the department of 49057
education shall reduce the adjustment or recomputation by an 49058
amount not to exceed the total amount of the grant, and an amount 49059
equal to the reduction shall be transferred, from the funding 49060
source from which the adjustment or recomputation would be paid, 49061
to the catastrophic expenditures account. Any adjustment or 49062
recomputation under such sections that is in excess of the total 49063
amount of the grant shall be paid to the school district. 49064

Sec. 3316.21. (A) If a school district has been declared to 49065
be in a state of fiscal emergency by the auditor of state under 49066
section 3316.03 of the Revised Code, and if the auditor of state 49067
has further determined upon examination of the district's 49068
financial recovery plan that implementing that plan cannot 49069
reasonably be expected to correct and eliminate all of the 49070
district's fiscal emergency conditions within five fiscal years, 49071
the auditor of state shall notify the superintendent of public 49072
instruction of that determination. 49073

(B) Not later than ninety days after the state superintendent 49074
receives the auditor of state's notification under division (A) of 49075

this section, the state superintendent shall develop an operations 49076
plan for the district and submit that plan to the state board of 49077
education for approval. Upon approval of the plan, the state board 49078
shall suspend the charter of the district and shall take over the 49079
operation of the district. The state board shall continue to 49080
operate the school district until such time as the district's 49081
board and its financial planning and supervision commission submit 49082
an acceptable financial recovery plan to the state superintendent 49083
and the auditor of state has determined that the district does 49084
have a plan that can reasonably be expected to correct and 49085
eliminate the district's fiscal emergency conditions within five 49086
fiscal years. 49087

(C) While the state board is operating the district, all of 49088
the following apply: 49089

(1) The state board shall exercise all powers granted to the 49090
school district board under the Revised Code for management and 49091
control of the schools of the district, except for the power to 49092
propose property tax or school district income tax levies under 49093
Title LVII of the Revised Code, and shall carry out such powers in 49094
the place of the district board. 49095

(2) Subject to approval of the state board, the district 49096
board shall continue to propose tax levies necessary to operate 49097
the district and to resolve the district's fiscal emergency 49098
conditions. 49099

(3) Employees and officers of the district shall be deemed 49100
employees of the state board. 49101

(4) The state board may delegate any management and control 49102
functions of the district to the district's financial planning and 49103
supervision commission. 49104

(5) The state board shall not revoke the charter of the 49105
district or transfer its territory to other districts. 49106

Sec. 3317.01. As used in this section ~~and section 3317.011 of~~ 49107
~~the Revised Code,~~ "school district," unless otherwise specified, 49108
means any city, local, exempted village, joint vocational, or 49109
cooperative education school district and any educational service 49110
center. 49111

This chapter shall be administered by the state board of 49112
education. The superintendent of public instruction shall 49113
calculate the amounts payable to each school district and shall 49114
certify the amounts payable to each eligible district to the 49115
treasurer of the district as provided by this chapter. As soon as 49116
possible after such amounts are calculated, the superintendent 49117
shall certify to the treasurer of each school district the 49118
district's adjusted charge-off increase, as defined in section 49119
5705.211 of the Revised Code. No moneys shall be distributed 49120
pursuant to this chapter without the approval of the controlling 49121
board. 49122

The state board of education shall, in accordance with 49123
appropriations made by the general assembly, meet the financial 49124
obligations of this chapter. 49125

Moneys distributed pursuant to this chapter shall be 49126
calculated and paid on a fiscal year basis, beginning with the 49127
first day of July and extending through the thirtieth day of June. 49128
The moneys appropriated for each fiscal year shall be distributed 49129
periodically to each school district unless otherwise provided 49130
for. The state board, in June of each year, shall submit ~~a yearly~~ 49131
~~distribution plan~~ to the controlling board ~~at its first meeting in~~ 49132
~~July. The state board shall submit any proposed midyear revision~~ 49133
~~of the plan to the controlling board in January. Any year end~~ 49134
~~revision of the plan shall be submitted to the controlling board~~ 49135
~~in June. If moneys appropriated for each fiscal year are~~ 49136
~~distributed other than monthly, such distribution shall be on the~~ 49137

~~same basis for each school district the state board's year-end~~ 49138
~~distributions pursuant to this chapter.~~ 49139

Except as otherwise provided, payments under this chapter 49140
shall be made only to those school districts in which: 49141

(A) The school district, except for any educational service 49142
center and any joint vocational or cooperative education school 49143
district, levies for current operating expenses at least twenty 49144
mills. Levies for joint vocational or cooperative education school 49145
districts or county school financing districts, limited to or to 49146
the extent apportioned to current expenses, shall be included in 49147
this qualification requirement. School district income tax levies 49148
under Chapter 5748. of the Revised Code, limited to or to the 49149
extent apportioned to current operating expenses, shall be 49150
included in this qualification requirement to the extent 49151
determined by the tax commissioner under division (D) of section 49152
3317.021 of the Revised Code. 49153

(B) The school year next preceding the fiscal year for which 49154
such payments are authorized meets the requirement of section 49155
3313.48 or 3313.481 of the Revised Code, with regard to the 49156
minimum number of days or hours school must be open for 49157
instruction with pupils in attendance, for individualized 49158
parent-teacher conference and reporting periods, and for 49159
professional meetings of teachers. This requirement shall be 49160
waived by the superintendent of public instruction if it had been 49161
necessary for a school to be closed because of disease epidemic, 49162
hazardous weather conditions, inoperability of school buses or 49163
other equipment necessary to the school's operation, damage to a 49164
school building, or other temporary circumstances due to utility 49165
failure rendering the school building unfit for school use, 49166
provided that for those school districts operating pursuant to 49167
section 3313.48 of the Revised Code the number of days the school 49168
was actually open for instruction with pupils in attendance and 49169

for individualized parent-teacher conference and reporting periods 49170
is not less than one hundred seventy-five, or for those school 49171
districts operating on a trimester plan the number of days the 49172
school was actually open for instruction with pupils in attendance 49173
not less than seventy-nine days in any trimester, for those school 49174
districts operating on a quarterly plan the number of days the 49175
school was actually open for instruction with pupils in attendance 49176
not less than fifty-nine days in any quarter, or for those school 49177
districts operating on a pentamester plan the number of days the 49178
school was actually open for instruction with pupils in attendance 49179
not less than forty-four days in any pentamester. 49180

A school district shall not be considered to have failed to 49181
comply with this division or section 3313.481 of the Revised Code 49182
because schools were open for instruction but either twelfth grade 49183
students were excused from attendance for up to three days or only 49184
a portion of the kindergarten students were in attendance for up 49185
to three days in order to allow for the gradual orientation to 49186
school of such students. 49187

The superintendent of public instruction shall waive the 49188
requirements of this section with reference to the minimum number 49189
of days or hours school must be in session with pupils in 49190
attendance for the school year succeeding the school year in which 49191
a board of education initiates a plan of operation pursuant to 49192
section 3313.481 of the Revised Code. The minimum requirements of 49193
this section shall again be applicable to such a district 49194
beginning with the school year commencing the second July 49195
succeeding the initiation of one such plan, and for each school 49196
year thereafter. 49197

A school district shall not be considered to have failed to 49198
comply with this division or section 3313.48 or 3313.481 of the 49199
Revised Code because schools were open for instruction but the 49200
length of the regularly scheduled school day, for any number of 49201

days during the school year, was reduced by not more than two 49202
hours due to hazardous weather conditions. 49203

~~(C) The school district has on file, and is paying in 49204
accordance with, a teachers' salary schedule which complies with 49205
section 3317.13 of the Revised Code. 49206~~

A board of education or governing board of an educational 49207
service center which has not conformed with other law and the 49208
rules pursuant thereto, shall not participate in the distribution 49209
of funds authorized by ~~sections 3317.022 to 3317.0211, 3317.11, 49210
3317.16, 3317.17, and 3317.19 of the Revised Code~~ this chapter, 49211
except for good and sufficient reason established to the 49212
satisfaction of the state board of education and the state 49213
controlling board. 49214

All funds allocated to school districts under this chapter, 49215
except those specifically allocated for other purposes, shall be 49216
used to pay current operating expenses only. 49217

Sec. 3317.013. Except for a preschool child with a disability 49218
for whom a scholarship has been awarded under section 3310.41 of 49219
the Revised Code, this section does not apply to preschool 49220
children with disabilities. 49221

Analysis of special education cost data has resulted in a 49222
finding that the average special education additional cost per 49223
pupil, including the costs of related services, can be expressed 49224
as a multiple of the ~~base cost per pupil calculated under section 49225
3317.012 of the Revised Code~~ formula amount. The multiples for the 49226
following categories of special education programs, as these 49227
programs are defined for purposes of Chapter 3323. of the Revised 49228
Code, and adjusted as provided in this section, are as follows: 49229

(A) A multiple of ~~0.2892~~ 0.2906 for students whose primary or 49230
only identified disability is a speech and language disability, as 49231

this term is defined pursuant to Chapter 3323. of the Revised Code; 49232
49233

(B) A multiple of ~~0.3691~~ 0.7374 for students identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-minor; 49234
49235
49236
49237

(C) A multiple of ~~1.7695~~ 1.7716 for students identified as hearing disabled, ~~vision impaired,~~ or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code; 49238
49239
49240
49241

(D) A multiple of ~~2.3646~~ 2.3643 for students identified as ~~orthopedically disabled~~ vision impaired, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major; 49242
49243
49244
49245

(E) A multiple of ~~3.1129~~ 3.2022 for students identified as orthopedically disabled or as having multiple disabilities, as ~~this term is~~ these terms are defined pursuant to Chapter 3323. of the Revised Code; 49246
49247
49248
49249

(F) A multiple of ~~4.7342~~ 4.7205 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code. 49250
49251
49252
49253

In fiscal years 2008, 2009, 2010, ~~and~~ 2011, 2012, and 2013, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.90. 49254
49255
49256

~~Not later than the thirtieth day of December in 2007, 2008, and 2009, the department of education shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and~~ 49257
49258
49259
49260
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49262

~~federal special education funds passed through to the district.~~ 49263

Sec. 3317.014. The average vocational education additional 49264
cost per pupil can be expressed as a multiple of the ~~base cost per~~ 49265
~~pupil calculated under section 3317.012 of the Revised Code~~ 49266
formula amount. The multiples for the following categories of 49267
vocational education programs are as follows: 49268

(A) A multiple of 0.57 for students enrolled in vocational 49269
education job-training and workforce development programs approved 49270
by the department of education in accordance with rules adopted 49271
under section 3313.90 of the Revised Code. 49272

(B) A multiple of 0.28 for students enrolled in vocational 49273
education classes other than job-training and workforce 49274
development programs. 49275

Vocational education associated services costs can be 49276
expressed as a multiple of 0.05 of the ~~base cost per pupil~~ 49277
~~calculated under section 3317.012 of the Revised Code~~ formula 49278
amount. 49279

~~By the thirtieth day of each December, the department of~~ 49280
~~education shall report to the office of budget and management and~~ 49281
~~the general assembly the amount of weighted funding for vocational~~ 49282
~~education and associated services that was spent by each city,~~ 49283
~~local, exempted village, and joint vocational school district~~ 49284
~~specifically for vocational educational and associated services~~ 49285
~~during the previous fiscal year.~~ 49286

Sec. 3317.018. (A) The department of education shall make no 49287
calculations or payments under ~~Chapter 3317. of the Revised Code~~ 49288
this chapter for any fiscal year except as prescribed in this 49289
section. The payments authorized under this section are in 49290
addition to payments computed and paid for fiscal years 2012 and 49291
2013 under the section of H.B. 153 of the 129th general assembly 49292

entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS." 49293
49294

(B) School districts shall report student enrollment data as 49295
prescribed by section 3317.03 of the Revised Code, which data the 49296
department shall use to make payments under ~~Chapters 3306. and~~ 49297
~~3317. of the Revised Code.~~ this chapter and the section of H.B. 49298
153 of the 129th general assembly entitled "FUNDING FOR CITY, 49299
EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS." 49300

(C) The tax commissioner shall report data regarding tax 49301
valuation and receipts for school districts as prescribed by 49302
sections 3317.015, 3317.021, 3317.025, 3317.026, 3317.027, 49303
3317.028, 3317.0210, 3317.0211, and 3317.08 and by division ~~(M)~~(K) 49304
of section 3317.02 of the Revised Code, which data the department 49305
shall use to make payments under ~~Chapters 3306. and 3317. of the~~ 49306
~~Revised Code.~~ this chapter and the section of H.B. 153 of the 49307
129th general assembly entitled "FUNDING FOR CITY, EXEMPTED 49308
VILLAGE, AND LOCAL SCHOOL DISTRICTS." 49309

(D) Unless otherwise specified by another provision of law, 49310
~~in addition to the payments prescribed by Chapter 3306. of the~~ 49311
~~Revised Code,~~ the department shall continue to make payments to or 49312
adjustments for school districts in fiscal years after fiscal year 49313
2009 under the following provisions of ~~Chapter 3317. of the~~ 49314
~~Revised Code~~ this chapter: 49315

(1) The catastrophic cost reimbursement under division (C)(3) 49316
of section 3317.022 of the Revised Code; however, when computing 49317
that payment, the department shall use the disability categories 49318
and multiples specified in section 3317.013 of the Revised Code as 49319
that section existed prior to the effective date of this 49320
amendment. No other payments shall be made under ~~that~~ section 49321
3317.022 of the Revised Code. 49322

(2) All payments or adjustments under section 3317.023 of the 49323

~~Revised Code, except no payments or adjustments shall be made~~ 49324
~~under divisions (B), (C), and (D) of that section.;~~ 49325

(3) All payments or adjustments under section 3317.024 of the 49326
Revised Code, ~~except no payments or adjustments shall be made~~ 49327
~~under divisions (F) and (N) of that section for fiscal years after~~ 49328
~~fiscal year 2009 or under division (L) of that section for fiscal~~ 49329
~~years 2010 and 2011.;~~ 49330

(4) All payments and adjustments under sections 3317.025, 49331
3317.026, 3317.027, 3317.028, 3317.0210, and 3317.0211 of the 49332
Revised Code; 49333

~~(5) Payments under section 3317.04 of the Revised Code;~~ 49334

~~(6)~~ Unit payments under sections 3317.05, 3317.051, 3317.052, 49335
and 3317.053 of the Revised Code, except that no units for gifted 49336
funding are authorized ~~for~~ after fiscal years ~~2010 and 2011 year~~ 49337
2009. 49338

~~(7)~~(6) Payments under sections 3317.06, 3317.063, and 49339
3317.064 of the Revised Code; 49340

~~(8) Payments under section 3317.07 of the Revised Code;~~ 49341

~~(9)~~(7) Payments to educational service centers under section 49342
3317.11 of the Revised Code; 49343

~~(10)~~(8) The catastrophic cost reimbursement under division 49344
(E) of section 3317.16 of the Revised Code and excess cost 49345
reimbursements under division (G) of that section; however, when 49346
computing that payment, the department shall use the disability 49347
categories and multiples specified in section 3317.013 of the 49348
Revised Code as that section existed prior to the effective date 49349
of this amendment. No other payments shall be made under ~~that~~ 49350
section; 3317.16 of the Revised Code. 49351

~~(11) Payments under section 3317.17 of the Revised Code;~~ 49352

~~(12)~~(9) Adjustments under section 3317.18 of the Revised 49353

Code;	49354
(13) (10) Payments to cooperative education school districts under section 3317.19 of the Revised Code;	49355 49356
(14) (11) Payments to county MR/DD <u>DD</u> boards under section 3317.20 of the Revised Code;	49357 49358
(15) (12) Payments to state institutions for weighted special education funding under section 3317.201 of the Revised Code.	49359 49360
(E) Sections 3317.016 and 3317.017 shall not apply to fiscal years after fiscal year 2009.	49361 49362
(F) This section does not affect the provisions of sections 3317.031, 3317.032, 3317.033, 3317.035, 3317.061, 3317.08, 3317.081, 3317.082, 3317.09, 3317.12, 3317.13, 3317.14, <u>3317.141</u> , 3317.15, 3317.50, <u>and</u> 3317.51, 3317.62, 3317.63, and 3317.64 of the Revised Code.	49363 49364 49365 49366 49367
<u>(F) The department shall make no payments for fiscal years 2012 or 2013 under section 3317.0212 of the Revised Code.</u>	49368 49369
Sec. 3317.02. As used in this chapter:	49370
(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.	49371 49372
(B) "Formula amount" means \$5,732 <u>\$5,653</u> for fiscal year 2010 <u>2012</u> and fiscal year 2011 <u>2013</u> .	49373 49374
(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM.	49375 49376 49377 49378 49379 49380 49381 49382

(D)(1) "Formula ADM" means, for a city, local, or exempted village school district, ~~"formula ADM" as defined in section 3306.02 of the Revised Code.~~ the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the department of education, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical educational compact.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section. ~~For purposes of the calculation of payments to or adjustments for a city, exempted village, local, or joint vocational school district under this chapter or under Chapter 3306. of the Revised Code, calculations required under Chapter 3318. of the Revised Code, or adjustments required under Chapter 3365. of the Revised Code, the department of education shall use the district's formula ADM for the previous fiscal year, unless the district's average daily membership reported and verified for the current fiscal year is at least two per cent greater than the formula ADM reported for the previous fiscal year, in which case the department shall use the district's formula ADM for the current fiscal year.~~

(E) "Three-year average formula ADM" means the average of formula ADMs for the preceding three fiscal years.

(F)(1) "Category one special education ADM" means the average 49415
daily membership of children with disabilities receiving special 49416
education services for the disability specified in division 49417
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and 49418
reported under division (B)(5) or (D)(2)(b) of section 3317.03 of 49419
the Revised Code. 49420

(2) "Category two special education ADM" means the average 49421
daily membership of children with disabilities receiving special 49422
education services for those disabilities specified in division 49423
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and 49424
reported under division (B)(6) or (D)(2)(c) of section 3317.03 of 49425
the Revised Code. 49426

(3) "Category three special education ADM" means the average 49427
daily membership of students receiving special education services 49428
for those disabilities specified in division ~~(D)(3)(C)~~ of section 49429
~~3306.02~~ 3317.013 of the Revised Code, and reported under division 49430
(B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code. 49431

(4) "Category four special education ADM" means the average 49432
daily membership of students receiving special education services 49433
for those disabilities specified in division (D)~~(4)~~ of section 49434
~~3306.02~~ 3317.013 of the Revised Code and reported under division 49435
(B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code. 49436

(5) "Category five special education ADM" means the average 49437
daily membership of students receiving special education services 49438
for the disabilities specified in division ~~(D)(5)(E)~~ of section 49439
~~3306.02~~ 3317.013 of the Revised Code and reported under division 49440
(B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code. 49441

(6) "Category six special education ADM" means the average 49442
daily membership of students receiving special education services 49443
for the disabilities specified in division ~~(D)(6)(F)~~ of section 49444
~~3306.02~~ 3317.013 of the Revised Code and reported under division 49445

(B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code. 49446

(7) "Category one vocational education ADM" means the average 49447
daily membership of students receiving vocational education 49448
services described in division (A) of section 3317.014 of the 49449
Revised Code and reported under division (B)(11) or (D)(2)(h) of 49450
section 3317.03 of the Revised Code. 49451

(8) "Category two vocational education ADM" means the average 49452
daily membership of students receiving vocational education 49453
services described in division (B) of section 3317.014 of the 49454
Revised Code and reported under division (B)(12) or (D)(2)(i) of 49455
section 3317.03 of the Revised Code. 49456

(G) "Preschool child with a disability" means a child with a 49457
disability, as defined in section 3323.01 of the Revised Code, who 49458
is at least age three but is not of compulsory school age, as 49459
defined in section 3321.01 of the Revised Code, and who is not 49460
currently enrolled in kindergarten. 49461

(H) "County DD board" means a county board of developmental 49462
disabilities. 49463

(I) "Recognized valuation" means the amount calculated for a 49464
school district pursuant to section 3317.015 of the Revised Code. 49465

~~(J) "Transportation ADM" means the number of children 49466
reported under division (B)(13) of section 3317.03 of the Revised 49467
Code. 49468~~

~~(K) "Average efficient transportation use cost per student" 49469
means a statistical representation of transportation costs as 49470
calculated under division (D)(2) of section 3317.022 of the 49471
Revised Code. 49472~~

~~(L) "Taxes charged and payable" means the taxes charged and 49473
payable against real and public utility property after making the 49474
reduction required by section 319.301 of the Revised Code, plus 49475~~

the taxes levied against tangible personal property. 49476

~~(M)~~(K) "Total taxable value" means the sum of the amounts 49477
certified for a city, local, exempted village, or joint vocational 49478
school district under divisions (A)(1) and (2) of section 3317.021 49479
of the Revised Code. 49480

~~(N)~~(L) "Tax exempt value" of a school district means the 49481
amount certified for a school district under division (A)(4) of 49482
section 3317.021 of the Revised Code. 49483

~~(O)~~(M) "Potential value" of a school district means the 49484
recognized valuation of a school district plus the tax exempt 49485
value of the district. 49486

~~(P)~~(N) "District median income" means the median Ohio 49487
adjusted gross income certified for a school district. On or 49488
before the first day of July of each year, the tax commissioner 49489
shall certify to the department of education and the office of 49490
budget and management for each city, exempted village, and local 49491
school district the median Ohio adjusted gross income of the 49492
residents of the school district determined on the basis of tax 49493
returns filed for the second preceding tax year by the residents 49494
of the district. 49495

~~(Q)~~(O) "Statewide median income" means the median district 49496
median income of all city, exempted village, and local school 49497
districts in the state. 49498

~~(R)~~(P) "Income factor" for a city, exempted village, or local 49499
school district means the quotient obtained by dividing that 49500
district's median income by the statewide median income. 49501

~~(S)~~(Q) "Medically fragile child" means a child to whom all of 49502
the following apply: 49503

(1) The child requires the services of a doctor of medicine 49504
or osteopathic medicine at least once a week due to the 49505

instability of the child's medical condition. 49506

(2) The child requires the services of a registered nurse on 49507
a daily basis. 49508

(3) The child is at risk of institutionalization in a 49509
hospital, skilled nursing facility, or intermediate care facility 49510
for the mentally retarded. 49511

~~(T)~~(R) A child may be identified as having an "other health 49512
impairment-major" if the child's condition meets the definition of 49513
"other health impaired" established in rules adopted by the state 49514
board of education prior to July 1, 2001, and if either of the 49515
following apply: 49516

(1) The child is identified as having a medical condition 49517
that is among those listed by the superintendent of public 49518
instruction as conditions where a substantial majority of cases 49519
fall within the definition of "medically fragile child." The 49520
superintendent of public instruction shall issue an initial list 49521
no later than September 1, 2001. 49522

(2) The child is determined by the superintendent of public 49523
instruction to be a medically fragile child. A school district 49524
superintendent may petition the superintendent of public 49525
instruction for a determination that a child is a medically 49526
fragile child. 49527

~~(U)~~(S) A child may be identified as having an "other health 49528
impairment-minor" if the child's condition meets the definition of 49529
"other health impaired" established in rules adopted by the state 49530
board of education prior to July 1, 2001, but the child's 49531
condition does not meet either of the conditions specified in 49532
division ~~(T)~~(R)(1) or (2) of this section. 49533

~~(V)~~(T) "State education aid" has the same meaning as in 49534
section 5751.20 of the Revised Code. 49535

~~(W)~~(U) "Property exemption value" means zero in fiscal year 49536
2006, and in fiscal year 2007 and each fiscal year thereafter, the 49537
amount certified for a school district under divisions (A)(6) and 49538
(7) of section 3317.021 of the Revised Code. 49539

~~(X)~~(V) "Internet- or computer-based community school" has the 49540
same meaning as in section 3314.02 of the Revised Code. 49541

~~(Y)~~(W) "State share percentage" has the same meaning as in," 49542
for a city, exempted village, or local school district, for fiscal 49543
years 2012 and 2013, means the district's state share percentage 49544
as computed for fiscal year 2011 under former section 3306.02 of 49545
the Revised Code. "State share percentage," for a joint vocational 49546
school district, for fiscal years 2012 and 2013, means the 49547
district's state share percentage as computed for fiscal year 2009 49548
under section 3317.16 of the Revised Code as that section existed 49549
for that fiscal year. 49550

~~Sec. 3317.021. The information certified under this section~~ 49551
~~shall be used to calculate payments under this chapter and Chapter~~ 49552
~~3306. of the Revised Code.~~ 49553

(A) On or before the first day of June of each year, the tax 49554
commissioner shall certify to the department of education and the 49555
office of budget and management the information described in 49556
divisions (A)(1) to (7) of this section for each city, exempted 49557
village, and local school district, and the information required 49558
by divisions (A)(1) and (2) of this section for each joint 49559
vocational school district, and it shall be used, along with the 49560
information certified under division (B) of this section, in 49561
making the computations for the district under this chapter ~~and~~ 49562
~~Chapter 3306. of the Revised Code.~~ 49563

(1) The taxable value of real and public utility real 49564
property in the school district subject to taxation in the 49565
preceding tax year, by class and by county of location. 49566

(2) The taxable value of tangible personal property,	49567
including public utility personal property, subject to taxation by	49568
the district for the preceding tax year.	49569
(3)(a) The total property tax rate and total taxes charged	49570
and payable for the current expenses for the preceding tax year	49571
and the total property tax rate and the total taxes charged and	49572
payable to a joint vocational district for the preceding tax year	49573
that are limited to or to the extent apportioned to current	49574
expenses.	49575
(b) The portion of the amount of taxes charged and payable	49576
reported for each city, local, and exempted village school	49577
district under division (A)(3)(a) of this section attributable to	49578
a joint vocational school district.	49579
(4) The value of all real and public utility real property in	49580
the school district exempted from taxation minus both of the	49581
following:	49582
(a) The value of real and public utility real property in the	49583
district owned by the United States government and used	49584
exclusively for a public purpose;	49585
(b) The value of real and public utility real property in the	49586
district exempted from taxation under Chapter 725. or 1728. or	49587
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632,	49588
5709.73, or 5709.78 of the Revised Code.	49589
(5) The total federal adjusted gross income of the residents	49590
of the school district, based on tax returns filed by the	49591
residents of the district, for the most recent year for which this	49592
information is available.	49593
(6) The sum of the school district compensation value as	49594
indicated on the list of exempted property for the preceding tax	49595
year under section 5713.08 of the Revised Code as if such property	49596
had been assessed for taxation that year and the other	49597

compensation value for the school district, minus the amounts 49598
described in divisions (A)(6)(c) to (i) of this section. The 49599
portion of school district compensation value or other 49600
compensation value attributable to an incentive district exemption 49601
may be subtracted only once even if that incentive district 49602
satisfies more than one of the criteria in divisions (A)(6)(c) to 49603
(i) of this section. 49604

(a) "School district compensation value" means the aggregate 49605
value of real property in the school district exempted from 49606
taxation pursuant to an ordinance or resolution adopted under 49607
division (C) of section 5709.40, division (C) of section 5709.73, 49608
or division (B) of section 5709.78 of the Revised Code to the 49609
extent that the exempted value results in the charging of payments 49610
in lieu of taxes required to be paid to the school district under 49611
division (D)(1) or (2) of section 5709.40, division (D) of section 49612
5709.73, or division (C) of section 5709.78 of the Revised Code. 49613

(b) "Other compensation value" means the quotient that 49614
results from dividing (i) the dollar value of compensation 49615
received by the school district during the preceding tax year 49616
pursuant to division (B), (C), or (D) of section 5709.82 of the 49617
Revised Code and the amounts received pursuant to an agreement as 49618
specified in division (D)(2) of section 5709.40, division (D) of 49619
section 5709.73, or division (C) of section 5709.78 of the Revised 49620
Code to the extent those amounts were not previously reported or 49621
included in division (A)(6)(a) of this section, and so that any 49622
such amount is reported only once under division (A)(6)(b) of this 49623
section, in relation to exemptions from taxation granted pursuant 49624
to an ordinance or resolution adopted under division (C) of 49625
section 5709.40, division (C) of section 5709.73, or division (B) 49626
of section 5709.78 of the Revised Code, by (ii) the real property 49627
tax rate in effect for the preceding tax year for 49628
nonresidential/agricultural real property after making the 49629

reductions required by section 319.301 of the Revised Code. 49630

(c) The portion of school district compensation value or 49631
other compensation value that was exempted from taxation pursuant 49632
to such an ordinance or resolution for the preceding tax year, if 49633
the ordinance or resolution is adopted prior to January 1, 2006, 49634
and the legislative authority or board of township trustees or 49635
county commissioners, prior to January 1, 2006, executes a 49636
contract or agreement with a developer, whether for-profit or 49637
not-for-profit, with respect to the development of a project 49638
undertaken or to be undertaken and identified in the ordinance or 49639
resolution, and upon which parcels such project is being, or will 49640
be, undertaken; 49641

(d) The portion of school district compensation value that 49642
was exempted from taxation for the preceding tax year and for 49643
which payments in lieu of taxes for the preceding tax year were 49644
provided to the school district under division (D)(1) of section 49645
5709.40 of the Revised Code. 49646

(e) The portion of school district compensation value that 49647
was exempted from taxation for the preceding tax year pursuant to 49648
such an ordinance or resolution, if and to the extent that, on or 49649
before April 1, 2006, the fiscal officer of the municipal 49650
corporation that adopted the ordinance, or of the township or 49651
county that adopted the resolution, certifies and provides 49652
appropriate supporting documentation to the tax commissioner and 49653
the director of development that, based on hold-harmless 49654
provisions in any agreement between the school district and the 49655
legislative authority of the municipal corporation, board of 49656
township trustees, or board of county commissioners that was 49657
entered into on or before June 1, 2005, the ability or obligation 49658
of the municipal corporation, township, or county to repay bonds, 49659
notes, or other financial obligations issued or entered into prior 49660
to January 1, 2006, will be impaired, including obligations to or 49661

of any other body corporate and politic with whom the legislative 49662
authority of the municipal corporation or board of township 49663
trustees or county commissioners has entered into an agreement 49664
pertaining to the use of service payments derived from the 49665
improvements exempted; 49666

(f) The portion of school district compensation value that 49667
was exempted from taxation for the preceding tax year pursuant to 49668
such an ordinance or resolution, if the ordinance or resolution is 49669
adopted prior to January 1, 2006, in a municipal corporation with 49670
a population that exceeds one hundred thousand, as shown by the 49671
most recent federal decennial census, that includes a major 49672
employment center and that is adjacent to historically distressed 49673
neighborhoods, if the legislative authority of the municipal 49674
corporation that exempted the property prepares an economic 49675
analysis that demonstrates that all taxes generated within the 49676
incentive district accruing to the state by reason of improvements 49677
constructed within the district during its existence exceed the 49678
amount the state pays the school district under section 3317.022 49679
of the Revised Code attributable to such property exemption from 49680
the school district's recognized valuation. The analysis shall be 49681
submitted to and approved by the department of development prior 49682
to January 1, 2006, and the department shall not unreasonably 49683
withhold approval. 49684

(g) The portion of school district compensation value that 49685
was exempted from taxation for the preceding tax year under such 49686
an ordinance or resolution, if the ordinance or resolution is 49687
adopted prior to January 1, 2006, and if service payments have 49688
been pledged to be used for mixed-use riverfront entertainment 49689
development in any county with a population that exceeds six 49690
hundred thousand, as shown by the most recent federal decennial 49691
census; 49692

(h) The portion of school district compensation value that 49693

was exempted from taxation for the preceding tax year under such 49694
an ordinance or resolution, if, prior to January 1, 2006, the 49695
legislative authority of a municipal corporation, board of 49696
township trustees, or board of county commissioners has pledged 49697
service payments for a designated transportation capacity project 49698
approved by the transportation review advisory council under 49699
Chapter 5512. of the Revised Code; 49700

(i) The portion of school district compensation value that 49701
was exempted from taxation for the preceding tax year under such 49702
an ordinance or resolution if the legislative authority of a 49703
municipal corporation, board of township trustees, or board of 49704
county commissioners have, by January 1, 2006, pledged proceeds 49705
for designated transportation improvement projects that involve 49706
federal funds for which the proceeds are used to meet a local 49707
share match requirement for such funding. 49708

As used in division (A)(6) of this section, "project" has the 49709
same meaning as in section 5709.40 of the Revised Code. 49710

(7) The aggregate value of real property in the school 49711
district for which an exemption from taxation is granted by an 49712
ordinance or resolution adopted on or after January 1, 2006, under 49713
Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 49714
5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised 49715
Code, as indicated on the list of exempted property for the 49716
preceding tax year under section 5713.08 of the Revised Code and 49717
as if such property had been assessed for taxation that year, 49718
minus the product determined by multiplying (a) the aggregate 49719
value of the real property in the school district exempted from 49720
taxation for the preceding tax year under any of the chapters or 49721
sections specified in this division, by (b) a fraction, the 49722
numerator of which is the difference between (i) the amount of 49723
anticipated revenue such school district would have received for 49724
the preceding tax year if the real property exempted from taxation 49725

had not been exempted from taxation and (ii) the aggregate amount 49726
of payments in lieu of taxes on the exempt real property for the 49727
preceding tax year and other compensation received for the 49728
preceding tax year by the school district pursuant to any 49729
agreements entered into on or after January 1, 2006, under section 49730
5709.82 of the Revised Code between the school district and the 49731
legislative authority of a political subdivision that acted under 49732
the authority of a chapter or statute specified in this division, 49733
that were entered into in relation to such exemption, and the 49734
denominator of which is the amount of anticipated revenue such 49735
school district would have received in the preceding fiscal year 49736
if the real property exempted from taxation had not been exempted. 49737

(B) On or before the first day of May each year, the tax 49738
commissioner shall certify to the department of education and the 49739
office of budget and management the total taxable real property 49740
value of railroads and, separately, the total taxable tangible 49741
personal property value of all public utilities for the preceding 49742
tax year, by school district and by county of location. 49743

(C) If a public utility has properly and timely filed a 49744
petition for reassessment under section 5727.47 of the Revised 49745
Code with respect to an assessment issued under section 5727.23 of 49746
the Revised Code affecting taxable property apportioned by the tax 49747
commissioner to a school district, the taxable value of public 49748
utility tangible personal property included in the certification 49749
under divisions (A)(2) and (B) of this section for the school 49750
district shall include only the amount of taxable value on the 49751
basis of which the public utility paid tax for the preceding year 49752
as provided in division (B)(1) or (2) of section 5727.47 of the 49753
Revised Code. 49754

(D) If on the basis of the information certified under 49755
division (A) of this section, the department determines that any 49756
district fails in any year to meet the qualification requirement 49757

specified in ~~division (A)(1) of section 3306.01~~ and division (A) 49758
of section 3317.01 of the Revised Code, the department shall 49759
immediately request the tax commissioner to determine the extent 49760
to which any school district income tax levied by the district 49761
under Chapter 5748. of the Revised Code shall be included in 49762
meeting that requirement. Within five days of receiving such a 49763
request from the department, the tax commissioner shall make the 49764
determination required by this division and report the quotient 49765
obtained under division (D)(3) of this section to the department 49766
and the office of budget and management. This quotient represents 49767
the number of mills that the department shall include in 49768
determining whether the district meets the qualification 49769
requirement of ~~division (A)(1) of section 3306.01~~ and division (A) 49770
of section 3317.01 of the Revised Code. 49771

The tax commissioner shall make the determination required by 49772
this division as follows: 49773

(1) Multiply one mill times the total taxable value of the 49774
district as determined in divisions (A)(1) and (2) of this 49775
section; 49776

(2) Estimate the total amount of tax liability for the 49777
current tax year under taxes levied by Chapter 5748. of the 49778
Revised Code that are apportioned to current operating expenses of 49779
the district, excluding any income tax receipts allocated for the 49780
project cost, debt service, or maintenance set-aside associated 49781
with a state-assisted classroom facilities project as authorized 49782
by section 3318.052 of the Revised Code; 49783

(3) Divide the amount estimated under division (D)(2) of this 49784
section by the product obtained under division (D)(1) of this 49785
section. 49786

(E)(1) On or before June 1, 2006, and the first day of April 49787
of each year thereafter, the director of development shall report 49788

to the department of education, the tax commissioner, and the 49789
director of budget and management the total amounts of payments 49790
received by each city, local, exempted village, or joint 49791
vocational school district for the preceding tax year pursuant to 49792
division (D) of section 5709.40, division (D) of section 5709.73, 49793
division (C) of section 5709.78, or division (B)(1), (B)(2), (C), 49794
or (D) of section 5709.82 of the Revised Code in relation to 49795
exemptions from taxation granted pursuant to an ordinance adopted 49796
by the legislative authority of a municipal corporation under 49797
division (C) of section 5709.40 of the Revised Code, or a 49798
resolution adopted by a board of township trustees or board of 49799
county commissioners under division (C) of section 5709.73 or 49800
division (B) of section 5709.78 of the Revised Code, respectively. 49801
On or before April 1, 2006, and the first day of March of each 49802
year thereafter, the treasurer of each city, local, exempted 49803
village, or joint vocational school district that has entered into 49804
such an agreement shall report to the director of development the 49805
total amounts of such payments the district received for the 49806
preceding tax year as provided in this section. The state board of 49807
education, in accordance with sections 3319.31 and 3319.311 of the 49808
Revised Code, may suspend or revoke the license of a treasurer 49809
found to have willfully reported erroneous, inaccurate, or 49810
incomplete data under this division. 49811

(2) On or before April 1, 2007, and the first day of April of 49812
each year thereafter, the director of development shall report to 49813
the department of education, the tax commissioner, and the 49814
director of budget and management the total amounts of payments 49815
received by each city, local, exempted village, or joint 49816
vocational school district for the preceding tax year pursuant to 49817
divisions (B), (C), and (D) of section 5709.82 of the Revised Code 49818
in relation to exemptions from taxation granted pursuant to 49819
ordinances or resolutions adopted on or after January 1, 2006, 49820
under Chapter 725. or 1728., sections 3735.65 to 3735.70, or 49821

section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code. On or before March 1, 2007, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided by this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

Sec. 3317.022. (A)(1) The department of education shall compute and distribute state base cost funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, according to the following formula:

{[the formula amount X (formula ADM + preschool scholarship ADM)] + the sum of the base funding supplements prescribed in divisions (C)(1) to (4) of section 3317.012 of the Revised Code} - [.023 x (the sum of recognized valuation and property exemption value)] + the amounts calculated for the district under sections 3317.029 and 3317.0217 of the Revised Code

If the difference obtained is a negative number, the district's computation shall be zero.

(2)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education

shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value. 49853
49854

(b) For each school district to which division (A)(2)(a) of this section applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)(2)(a) of this section. 49855
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(B) As used in this section: 49860

(1) The "total special education weight" for a district means the sum of the following amounts: 49861
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(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code; 49863
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49865

(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code; 49866
49867
49868

(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code; 49869
49870
49871

(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code; 49872
49873
49874

(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code; 49875
49876
49877

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code. 49878
49879
49880

(2) "Related services" includes: 49881

(a) Child study, special education supervisors and 49882

coordinators, speech and hearing services, adaptive physical 49883
development services, occupational or physical therapy, teacher 49884
assistants for children with disabilities whose disabilities are 49885
described in division (B) of section 3317.013 or division (F)(3) 49886
of section 3317.02 of the Revised Code, behavioral intervention, 49887
interpreter services, work study, nursing services, and 49888
specialized integrative services as those terms are defined by the 49889
department; 49890

(b) Speech and language services provided to any student with 49891
a disability, including any student whose primary or only 49892
disability is a speech and language disability; 49893

(c) Any related service not specifically covered by other 49894
state funds but specified in federal law, including but not 49895
limited to, audiology and school psychological services; 49896

(d) Any service included in units funded under former 49897
division (O)(1) of section 3317.024 of the Revised Code; 49898

(e) Any other related service needed by children with 49899
disabilities in accordance with their individualized education 49900
programs. 49901

(3) The "total vocational education weight" for a district 49902
means the sum of the following amounts: 49903

(a) The district's category one vocational education ADM 49904
multiplied by the multiple specified in division (A) of section 49905
3317.014 of the Revised Code; 49906

(b) The district's category two vocational education ADM 49907
multiplied by the multiple specified in division (B) of section 49908
3317.014 of the Revised Code. 49909

(4) "Preschool scholarship ADM" means the number of preschool 49910
children with disabilities reported under division (B)(3)(h) of 49911
section 3317.03 of the Revised Code. 49912

(C)(1) The department shall compute and distribute state 49913
special education and related services additional weighted costs 49914
funds to each school district in accordance with the following 49915
formula: 49916

The district's state share percentage X 49917
the formula amount for the year for which 49918
the aid is calculated X the district's 49919
total special education weight 49920

(2) The attributed local share of special education and 49921
related services additional weighted costs equals: 49922

(1 - the district's state share percentage) X the district's 49923
total special education weight X the formula amount 49924

(3)(a) The department shall compute and pay in accordance 49925
with this division additional state aid to school districts for 49926
students in categories two through six special education ADM. If a 49927
district's costs for the fiscal year for a student in its 49928
categories two through six special education ADM exceed the 49929
threshold catastrophic cost for serving the student, the district 49930
may submit to the superintendent of public instruction 49931
documentation, as prescribed by the superintendent, of all its 49932
costs for that student. Upon submission of documentation for a 49933
student of the type and in the manner prescribed, the department 49934
shall pay to the district an amount equal to the sum of the 49935
following: 49936

(i) One-half of the district's costs for the student in 49937
excess of the threshold catastrophic cost; 49938

(ii) The product of one-half of the district's costs for the 49939
student in excess of the threshold catastrophic cost multiplied by 49940
the district's state share percentage. 49941

(b) For purposes of division (C)(3)(a) of this section, the 49942
threshold catastrophic cost for serving a student equals: 49943

(i) For a student in the school district's category two, 49944
three, four, or five special education ADM, twenty-seven thousand 49945
three hundred seventy-five dollars; 49946

(ii) For a student in the district's category six special 49947
education ADM, thirty-two thousand eight hundred fifty dollars. 49948

(c) The district shall only report under division (C)(3)(a) 49949
of this section, and the department shall only pay for, the costs 49950
of educational expenses and the related services provided to the 49951
student in accordance with the student's individualized education 49952
program. Any legal fees, court costs, or other costs associated 49953
with any cause of action relating to the student may not be 49954
included in the amount. 49955

(4)(a) As used in this division, the "personnel allowance" 49956
means thirty thousand dollars in fiscal years 2008 and 2009. 49957

(b) For the provision of speech language pathology services 49958
to students, including students who do not have individualized 49959
education programs prepared for them under Chapter 3323. of the 49960
Revised Code, and for no other purpose, the department of 49961
education shall pay each school district an amount calculated 49962
under the following formula: 49963

(formula ADM divided by 2000) X 49964

the personnel allowance X 49965

the state share percentage 49966

(5) In any fiscal year, a school district shall spend for 49967
purposes that the department designates as approved for special 49968
education and related services expenses at least the amount 49969
calculated as follows: 49970

(formula amount X the sum of categories 49971

one through six special education ADM) + 49972

(total special education weight X formula amount) 49973

The purposes approved by the department for special education 49974

expenses shall include, but shall not be limited to, 49975
identification of children with disabilities, compliance with 49976
state rules governing the education of children with disabilities 49977
and prescribing the continuum of program options for children with 49978
disabilities, provision of speech language pathology services, and 49979
the portion of the school district's overall administrative and 49980
overhead costs that are attributable to the district's special 49981
education student population. 49982

The scholarships deducted from the school district's account 49983
under section 3310.41 of the Revised Code shall be considered to 49984
be an approved special education and related services expense for 49985
the purpose of the school district's compliance with division 49986
(C)(5) of this section. 49987

The department shall require school districts to report data 49988
annually to allow for monitoring compliance with division (C)(5) 49989
of this section. The department shall annually report to the 49990
governor and the general assembly the amount of money spent by 49991
each school district for special education and related services. 49992

(6) In any fiscal year, a school district shall spend for the 49993
provision of speech language pathology services not less than the 49994
sum of the amount calculated under division (C)(1) of this section 49995
for the students in the district's category one special education 49996
ADM and the amount calculated under division (C)(4) of this 49997
section. 49998

(D)(1) ~~As used in this division:~~ 49999

~~(a) "Daily bus miles per student" equals the number of bus 50000
miles traveled per day, divided by transportation base. 50001~~

~~(b) "Transportation base" equals total student count as 50002
defined in section 3301.011 of the Revised Code, minus the number 50003
of students enrolled in units for preschool children with 50004
disabilities, plus the number of nonpublic school students 50005~~

~~included in transportation ADM. 50006~~

~~(c) "Transported student percentage" equals transportation 50007
ADM divided by transportation base. 50008~~

~~(d) "Transportation cost per student" equals total operating 50009
costs for board owned or contractor operated school buses divided 50010
by transportation base. 50011~~

~~(2) Analysis of student transportation cost data has resulted 50012
in a finding that an average efficient transportation use cost per 50013
student can be calculated by means of a regression formula that 50014
has as its two independent variables the number of daily bus miles 50015
per student and the transported student percentage. For fiscal 50016
year 1998 transportation cost data, the average efficient 50017
transportation use cost per student is expressed as follows: 50018~~

~~$$51.79027 + (139.62626 \times \text{daily bus miles per student}) +$$
 50019
$$(116.25573 \times \text{transported student percentage})$$
 50020~~

~~The department of education shall annually determine the 50021
average efficient transportation use cost per student in 50022
accordance with the principles stated in division (D)(2) of this 50023
section, updating the intercept and regression coefficients of the 50024
regression formula modeled in this division, based on an annual 50025
statewide analysis of each school district's daily bus miles per 50026
student, transported student percentage, and transportation cost 50027
per student data. The department shall conduct the annual update 50028
using data, including daily bus miles per student, transported 50029
student percentage, and transportation cost per student data, from 50030
the prior fiscal year. The department shall notify the office of 50031
budget and management of such update by the fifteenth day of 50032
February of each year. 50033~~

~~(3) In addition to funds paid under divisions (A), (C), and 50034
(E) of this section, each district with a transported student 50035
percentage greater than zero shall receive a payment equal to a 50036~~

~~percentage of the product of the district's transportation base 50037
from the prior fiscal year times the annually updated average 50038
efficient transportation use cost per student, times an inflation 50039
factor of two and eight tenths per cent to account for the 50040
one year difference between the data used in updating the formula 50041
and calculating the payment and the year in which the payment is 50042
made. The percentage shall be the following percentage of that 50043
product specified for the corresponding fiscal year:~~ 50044

FISCAL YEAR	PERCENTAGE	50045
2000	52.5%	50046
2001	55%	50047
2002	57.5%	50048
2003 and thereafter	The greater of 60% or the 50049 district's state share percentage	

~~The payments made under division (D)(3) of this section each 50050
year shall be calculated based on all of the same prior year's 50051
data used to update the formula. 50052~~

~~(4) In addition to funds paid under divisions (D)(2) and (3) 50053
of this section, a school district shall receive a rough road 50054
subsidy if both of the following apply: 50055~~

~~(a) Its county rough road percentage is higher than the 50056
statewide rough road percentage, as those terms are defined in 50057
division (D)(5) of this section: 50058~~

~~(b) Its district student density is lower than the statewide 50059
student density, as those terms are defined in that division. 50060~~

~~(5) The rough road subsidy paid to each district meeting the 50061
qualifications of division (D)(4) of this section shall be 50062
calculated in accordance with the following formula: 50063~~

~~(per rough mile subsidy X total rough road miles) 50064
X density multiplier 50065~~

where: 50066

(a) ~~"Per rough mile subsidy" equals the amount calculated in accordance with the following formula:~~ 50067
50068
$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$
 50069
50070
50071

(i) ~~"Maximum rough road percentage" means the highest county rough road percentage in the state.~~ 50072
50073

(ii) ~~"County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost of doing business factor.~~ 50074
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(iii) ~~"Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.~~ 50081
50082
50083
50084

(b) ~~"Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.~~ 50085
50086
50087

(c) ~~"Density multiplier" means a figure calculated in accordance with the following formula:~~ 50088
50089
$$1 - [(\text{minimum student density} - \text{district student density}) / (\text{minimum student density} - \text{statewide student density})]$$
 50090
50091
50092

(i) ~~"Minimum student density" means the lowest district student density in the state.~~ 50093
50094

(ii) ~~"District student density" means a school district's~~ 50095

~~transportation base divided by the number of square miles in the district.~~ 50096
50097

~~(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all school districts.~~ 50098
50099
50100

~~(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board owned or contractor operated buses and whose transportation is not funded under division (G) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.~~ 50101
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~~(E)(1)~~ The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula: 50109
50110
50111

state share percentage X 50112

the formula amount X 50113

total vocational education weight 50114

In any fiscal year, a school district receiving funds under division ~~(E)(D)~~(1) of this section shall spend those funds only for the purposes that the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division ~~(E)(D)~~(1) of this section may be spent. 50115
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(2) The department shall compute for each school district 50126

state funds for vocational education associated services in 50127
accordance with the following formula: 50128

state share percentage X .05 X the formula amount X 50129
the sum of categories one and two vocational education ADM 50130

In any fiscal year, a school district receiving funds under 50131
division ~~(E)~~(D)(2) of this section, or through a transfer of funds 50132
pursuant to division ~~(L)~~(I) of section 3317.023 of the Revised 50133
Code, shall spend those funds only for the purposes that the 50134
department designates as approved for vocational education 50135
associated services expenses, which may include such purposes as 50136
apprenticeship coordinators, coordinators for other vocational 50137
education services, vocational evaluation, and other purposes 50138
designated by the department. The department may deny payment 50139
under division ~~(E)~~(D)(2) of this section to any district that the 50140
department determines is not operating those services or is using 50141
funds paid under division ~~(E)~~(D)(2) of this section, or through a 50142
transfer of funds pursuant to division ~~(L)~~(I) of section 3317.023 50143
of the Revised Code, for other purposes. 50144

~~(F)~~(E) The actual local share in any fiscal year for the 50145
combination of special education and related services additional 50146
weighted costs funding calculated under division (C)(1) of this 50147
section, transportation ~~funding~~ base payment calculated under 50148
divisions ~~(D)(2) and (3)~~ division (E) of ~~this~~ section 3317.0212 of 50149
the Revised Code, and vocational education and associated services 50150
additional weighted costs funding calculated under divisions 50151
~~(E)~~(D)(1) and (2) of this section shall not exceed for any school 50152
district the product of three and three-tenths mills times the 50153
district's recognized valuation. The department annually shall pay 50154
each school district as an excess cost supplement any amount by 50155
which the sum of the district's attributed local shares for that 50156
funding exceeds that product. For purposes of calculating the 50157
excess cost supplement: 50158

(1) The attributed local share for special education and related services additional weighted costs funding is the amount specified in division (C)(2) of this section. 50159
50160
50161

(2) The attributed local share of the district's transportation ~~funding~~ base payment equals the difference of the total amount calculated for the district ~~using the formula developed~~ under division ~~(D)(2)(E)~~ of ~~this~~ section 3317.0212 of the Revised Code minus the actual amount paid to the district after applying the percentage specified in division ~~(D)(E)~~(3) of ~~this~~ that section. 50162
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(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows: 50169
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50171

(1 - state share percentage) X 50172
[(total vocational education weight X
the formula amount) + the payment under
division ~~(E)(D)~~(2) of this section] 50173
50174
50175

Sec. 3317.023. (A) The amounts required to be paid to a district under this chapter ~~and Chapter 3306. of the Revised Code~~ shall be adjusted by the amount of the computations made under divisions (B) to ~~(N)(K)~~ of this section. ~~The department of education shall not make payments or adjustments under divisions (B), (C), and (D) of this section for any fiscal year after fiscal year 2009.~~ 50176
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As used in this section: 50183

(1) ~~"Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.~~ 50184
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50186
50187

~~(2) "Educational service personnel" shall not include such~~ 50188

~~specialists funded from money paid to the district from federal 50189
sources or assigned full time to vocational or special education 50190
students and classes and may only include those persons employed 50191
in the eight specialist areas in a pattern approved by the 50192
department of education under guidelines established by the state 50193
board of education. 50194~~

~~(3) "Annual salary" means the annual base salary stated in 50195
the state minimum salary schedule for the performance of the 50196
teacher's regular teaching duties that the teacher earns for 50197
services rendered for the first full week of October of the fiscal 50198
year for which the adjustment is made under division (C) of this 50199
section. It shall not include any salary payments for supplemental 50200
teachers contracts. 50201~~

~~(4) "Regular student population" means the formula ADM plus 50202
the number of students reported as enrolled in the district 50203
pursuant to division (A)(1) of section 3313.981 of the Revised 50204
Code; minus the number of students reported under division (A)(2) 50205
of section 3317.03 of the Revised Code; minus the FTE of students 50206
reported under division (B)(6), (7), (8), (9), (10), (11), or (12) 50207
of that section who are enrolled in a vocational education class 50208
or receiving special education; and minus twenty per cent of the 50209
students enrolled concurrently in a joint vocational school 50210
district. 50211~~

~~(5) "VEPD" means a school district or group of school 50212
districts designated by the department of education as being 50213
responsible for the planning for and provision of vocational 50214
education services to students within the district or group. 50215~~

~~(6)(2) "Lead district" means a school district, including a 50216
joint vocational school district, designated by the department as 50217
a VEPD, or designated to provide primary vocational education 50218
leadership within a VEPD composed of a group of districts. 50219~~

~~(B) If the district employs less than one full time
equivalent classroom teacher for each twenty five pupils in the
regular student population in any school district, deduct the sum
of the amounts obtained from the following computations:~~

~~(1) Divide the number of the district's full time equivalent
classroom teachers employed by one twenty fifth;~~

~~(2) Subtract the quotient in (1) from the district's regular
student population;~~

~~(3) Multiply the difference in (2) by seven hundred fifty two
dollars.~~

~~(C) If a positive amount, add one half of the amount obtained
by multiplying the number of full time equivalent classroom
teachers by:~~

~~(1) The mean annual salary of all full time equivalent
classroom teachers employed by the district at their respective
training and experience levels minus;~~

~~(2) The mean annual salary of all such teachers at their
respective levels in all school districts receiving payments under
this section.~~

~~The number of full time equivalent classroom teachers used in
this computation shall not exceed one twenty fifth of the
district's regular student population. In calculating the
district's mean salary under this division, those full time
equivalent classroom teachers with the highest training level
shall be counted first, those with the next highest training level
second, and so on, in descending order. Within the respective
training levels, teachers with the highest years of service shall
be counted first, the next highest years of service second, and so
on, in descending order.~~

~~(D) This division does not apply to a school district that~~

~~has entered into an agreement under division (A) of section 50250
3313.42 of the Revised Code. Deduct the amount obtained from the 50251
following computations if the district employs fewer than five 50252
full-time equivalent educational service personnel, including 50253
elementary school art, music, and physical education teachers, 50254
counselors, librarians, visiting teachers, school social workers, 50255
and school nurses for each one thousand pupils in the regular 50256
student population. 50257~~

~~(1) Divide the number of full-time equivalent educational 50258
service personnel employed by the district by five 50259
one thousandths. 50260~~

~~(2) Subtract the quotient in (1) from the district's regular 50261
student population. 50262~~

~~(3) Multiply the difference in (2) by ninety four dollars. 50263~~

~~(E) If a local school district, or a city or exempted village 50264
school district to which a governing board of an educational 50265
service center provides services pursuant to section 3313.843 of 50266
the Revised Code, deduct the amount of the payment required for 50267
the reimbursement of the governing board under section 3317.11 of 50268
the Revised Code. 50269~~

~~(F)(C)(1) If the district is required to pay to or entitled 50270
to receive tuition from another school district under division 50271
(C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised 50272
Code, or if the superintendent of public instruction is required 50273
to determine the correct amount of tuition and make a deduction or 50274
credit under section 3317.08 of the Revised Code, deduct and 50275
credit such amounts as provided in division (J) of section 3313.64 50276
or section 3317.08 of the Revised Code. 50277~~

~~(2) For each child for whom the district is responsible for 50278
tuition or payment under division (A)(1) of section 3317.082 or 50279
section 3323.091 of the Revised Code, deduct the amount of tuition 50280~~

or payment for which the district is responsible. 50281

~~(G)~~(D) If the district has been certified by the 50282
superintendent of public instruction under section 3313.90 of the 50283
Revised Code as not in compliance with the requirements of that 50284
section, deduct an amount equal to ten per cent of the amount 50285
computed for the district under ~~Chapter 3306. of the Revised Code~~ 50286
this chapter. 50287

~~(H)~~(E) If the district has received a loan from a commercial 50288
lending institution for which payments are made by the 50289
superintendent of public instruction pursuant to division (E)(3) 50290
of section 3313.483 of the Revised Code, deduct an amount equal to 50291
such payments. 50292

~~(I)~~(F)(1) If the district is a party to an agreement entered 50293
into under division (D), (E), or (F) of section 3311.06 or 50294
division (B) of section 3311.24 of the Revised Code and is 50295
obligated to make payments to another district under such an 50296
agreement, deduct an amount equal to such payments if the district 50297
school board notifies the department in writing that it wishes to 50298
have such payments deducted. 50299

(2) If the district is entitled to receive payments from 50300
another district that has notified the department to deduct such 50301
payments under division ~~(I)~~(F)(1) of this section, add the amount 50302
of such payments. 50303

~~(J)~~(G) If the district is required to pay an amount of funds 50304
to a cooperative education district pursuant to a provision 50305
described by division (B)(4) of section 3311.52 or division (B)(8) 50306
of section 3311.521 of the Revised Code, deduct such amounts as 50307
provided under that provision and credit those amounts to the 50308
cooperative education district for payment to the district under 50309
division (B)(1) of section 3317.19 of the Revised Code. 50310

~~(K)~~(H)(1) If a district is educating a student entitled to 50311

attend school in another district pursuant to a shared education 50312
contract, compact, or cooperative education agreement other than 50313
an agreement entered into pursuant to section 3313.842 of the 50314
Revised Code, credit to that educating district on an FTE basis 50315
both of the following: 50316

(a) An amount equal to the formula amount. 50317

(b) An amount equal to ~~the current formula amount~~ \$5,732 50318
times the state share percentage times any multiple applicable to 50319
the student for fiscal year 2009 pursuant to section ~~3306.11~~ 50320
3317.013 or 3317.014 of the Revised Code, as those sections 50321
existed for that fiscal year. 50322

(2) Deduct any amount credited pursuant to division ~~(K)~~(H)(1) 50323
of this section from amounts paid to the school district in which 50324
the student is entitled to attend school pursuant to section 50325
3313.64 or 3313.65 of the Revised Code. 50326

(3) If the district is required by a shared education 50327
contract, compact, or cooperative education agreement to make 50328
payments to an educational service center, deduct the amounts from 50329
payments to the district and add them to the amounts paid to the 50330
service center pursuant to section 3317.11 of the Revised Code. 50331

~~(I)~~(I)(1) If a district, including a joint vocational school 50332
district, is a lead district of a VEPD, credit to that district 50333
the following amounts calculated for all the school districts 50334
within that VEPD ~~pursuant to:~~ 50335

(a) In any fiscal year except fiscal year 2012 or 2013, the 50336
amount computed under division ~~(E)~~(D)(2) of section 3317.022 of 50337
the Revised Code; 50338

(b) In fiscal years 2012 and 2013, an amount equal to the 50339
following: 50340

state share percentage X .05 X \$5,732 X 50341

the sum of categories one 50342
and two vocational education ADM 50343

(2) Deduct from each appropriate district that is not a lead 50344
district, the amount attributable to that district that is 50345
credited to a lead district under division ~~(L)~~(I)(1) of this 50346
section. 50347

~~(M)~~(J) If the department pays a joint vocational school 50348
district under division (G)(4) of section 3317.16 of the Revised 50349
Code for excess costs of providing special education and related 50350
services to a student with a disability, as calculated under 50351
division (G)(2) of that section, the department shall deduct the 50352
amount of that payment from the city, local, or exempted village 50353
school district that is responsible as specified in that section 50354
for the excess costs. 50355

~~(N)~~(K)(1) If the district reports an amount of excess cost 50356
for special education services for a child under division (C) of 50357
section 3323.14 of the Revised Code, the department shall pay that 50358
amount to the district. 50359

(2) If the district reports an amount of excess cost for 50360
special education services for a child under division (C) of 50361
section 3323.14 of the Revised Code, the department shall deduct 50362
that amount from the district of residence of that child. 50363

Sec. 3317.024. The following shall be distributed monthly, 50364
quarterly, or annually as may be determined by the state board of 50365
education, ~~except that the department of education shall not make~~ 50366
~~payments under divisions (F) and (N) of this section for any~~ 50367
~~fiscal year after fiscal year 2009 or under division (L) of this~~ 50368
~~section for fiscal year 2010 or 2011:~~ 50369

(A) An amount for each island school district and each joint 50370
state school district for the operation of each high school and 50371
each elementary school maintained within such district and for 50372

capital improvements for such schools. Such amounts shall be 50373
determined on the basis of standards adopted by the state board of 50374
education. However, for fiscal years 2012 and 2013, an island 50375
district shall receive the lesser of its actual cost of operation, 50376
as certified to the department of education, or ninety-three per 50377
cent of the amount the district received in state operating 50378
funding for fiscal year 2011. If an island district received no 50379
funding for fiscal year 2011, it shall receive no funding for 50380
either of fiscal year 2012 or 2013. 50381

~~(B) An amount for each school district operating classes for 50382~~
~~children of migrant workers who are unable to be in attendance in 50383~~
~~an Ohio school during the entire regular school year. The amounts 50384~~
~~shall be determined on the basis of standards adopted by the state 50385~~
~~board of education, except that payment shall be made only for 50386~~
~~subjects regularly offered by the school district providing the 50387~~
~~classes.~~ 50388

~~(C) An amount for each school district with guidance, 50389~~
~~testing, and counseling programs approved by the state board of 50390~~
~~education. The amount shall be determined on the basis of 50391~~
~~standards adopted by the state board of education.~~ 50392

~~(D) An amount for the emergency purchase of school buses as 50393~~
~~provided for in section 3317.07 of the Revised Code;~~ 50394

~~(E) An amount for each school district required to pay 50395~~
~~tuition for a child in an institution maintained by the department 50396~~
~~of youth services pursuant to section 3317.082 of the Revised 50397~~
~~Code, provided the child was not included in the calculation of 50398~~
~~the district's average daily membership for the preceding school 50399~~
~~year.~~ 50400

~~(F) An amount for adult basic literacy education for each 50401~~
~~district participating in programs approved by the state board of 50402~~
~~education. The amount shall be determined on the basis of 50403~~

~~standards adopted by the state board of education.~~ 50404

~~(G)~~(C) An amount for the approved cost of transporting 50405
eligible pupils with disabilities attending a special education 50406
program approved by the department of education whom it is 50407
impossible or impractical to transport by regular school bus in 50408
the course of regular route transportation provided by the school 50409
district or educational service center. No district or service 50410
center is eligible to receive a payment under this division for 50411
the cost of transporting any pupil whom it transports by regular 50412
school bus and who is included in the district's transportation 50413
ADM. The state board of education shall establish standards and 50414
guidelines for use by the department of education in determining 50415
the approved cost of such transportation for each district or 50416
service center. 50417

~~(H)~~(D) An amount to each school district, including each 50418
cooperative education school district, pursuant to section 3313.81 50419
of the Revised Code to assist in providing free lunches to needy 50420
children ~~and an amount to assist needy school districts in~~ 50421
~~purchasing necessary equipment for food preparation.~~ The amounts 50422
shall be determined on the basis of rules adopted by the state 50423
board of education. 50424

~~(I)~~(E) An amount to each school district, for each pupil 50425
attending a chartered nonpublic elementary or high school within 50426
the district. The amount shall equal the amount appropriated for 50427
the implementation of section 3317.06 of the Revised Code divided 50428
by the average daily membership in grades kindergarten through 50429
twelve in nonpublic elementary and high schools within the state 50430
as determined during the first full week in October of each school 50431
year. 50432

~~(J)~~(F) An amount for each county DD board, distributed on the 50433
basis of standards adopted by the state board of education, for 50434
the approved cost of transportation required for children 50435

attending special education programs operated by the county DD 50436
board under section 3323.09 of the Revised Code; 50437

~~(K) An amount for each school district that establishes a 50438
mentor teacher program that complies with rules of the state board 50439
of education. No school district shall be required to establish or 50440
maintain such a program in any year unless sufficient funds are 50441
appropriated to cover the district's total costs for the program. 50442~~

~~(L) An amount to each school district or educational service 50443
center for the total number of gifted units approved pursuant to 50444
section 3317.05 of the Revised Code. The amount for each such unit 50445
shall be the sum of the minimum salary for the teacher of the 50446
unit, calculated on the basis of the teacher's training level and 50447
years of experience pursuant to the salary schedule prescribed in 50448
the version of section 3317.13 of the Revised Code in effect prior 50449
to July 1, 2001, plus fifteen per cent of that minimum salary 50450
amount, plus two thousand six hundred seventy eight dollars. 50451~~

~~(M)(G) An amount to each institution defined under section 50452
3317.082 of the Revised Code providing elementary or secondary 50453
education to children other than children receiving special 50454
education under section 3323.091 of the Revised Code. This amount 50455
for any institution in any fiscal year shall equal the total of 50456
all tuition amounts required to be paid to the institution under 50457
division (A)(1) of section 3317.082 of the Revised Code. 50458~~

~~(N) A grant to each school district and joint vocational 50459
school district that operates a "graduation, reality, and 50460
dual role skills" (GRADS) program for pregnant and parenting 50461
students that is approved by the department. The amount of the 50462
payment shall be the district's state share percentage, as defined 50463
in section 3317.022 or 3317.16 of the Revised Code, times the 50464
GRADS personnel allowance times the full time equivalent number of 50465
GRADS teachers approved by the department. The GRADS personnel 50466
allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS 50467~~

~~program shall include instruction on adoption as an option for~~ 50468
~~unintended pregnancies.~~ 50469

The state board of education or any other board of education 50470
or governing board may provide for any resident of a district or 50471
educational service center territory any educational service for 50472
which funds are made available to the board by the United States 50473
under the authority of public law, whether such funds come 50474
directly or indirectly from the United States or any agency or 50475
department thereof or through the state or any agency, department, 50476
or political subdivision thereof. 50477

Sec. 3317.025. On or before the first day of June of each 50478
year, the tax commissioner shall certify the following information 50479
to the department of education and the office of budget and 50480
management, for each school district in which the value of the 50481
property described under division (A) of this section exceeds one 50482
per cent of the taxable value of all real and tangible personal 50483
property in the district or in which is located tangible personal 50484
property designed for use or used in strip mining operations, 50485
whose taxable value exceeds five million dollars, and the taxes 50486
upon which the district is precluded from collecting by virtue of 50487
legal proceedings to determine the value of such property: 50488

(A) The total taxable value of all property in the district 50489
owned by a public utility or railroad that has filed a petition 50490
for reorganization under the "Bankruptcy Act," 47 Stat. 1474 50491
(1898), 11 U.S.C. 205, as amended, and all tangible personal 50492
property in the district designed for use or used in strip mining 50493
operations whose taxable value exceeds five million dollars upon 50494
which have not been paid in full on or before the first day of 50495
April of that calendar year all real and tangible personal 50496
property taxes levied for the preceding calendar year and which 50497
the district was precluded from collecting by virtue of 50498

proceedings under section 205 of said act or by virtue of legal 50499
proceedings to determine the tax liability of such strip mining 50500
equipment; 50501

(B) The percentage of the total operating taxes charged and 50502
payable for school district purposes levied against such valuation 50503
for the preceding calendar year that have not been paid by such 50504
date; 50505

(C) The product obtained by multiplying the value certified 50506
under division (A) of this section by the percentage certified 50507
under division (B) of this section. If the value certified under 50508
division (A) of this section includes taxable property owned by a 50509
public utility or railroad that has filed a petition for 50510
reorganization under the bankruptcy act, the amount used in making 50511
the calculation under this division shall be reduced by one per 50512
cent of the total value of all real and tangible personal property 50513
in the district or the value of the utility's or railroad's 50514
property, whichever is less. 50515

Upon receipt of the certification, the department shall 50516
recompute the payments required under ~~Chapter 3306. of the Revised~~ 50517
~~Code~~ this chapter in the manner the payments would have been 50518
computed if: 50519

(1) The amount certified under division (C) of this section 50520
was not subject to taxation by the district and was not included 50521
in the certification made under division (A)(1), (A)(2), or (D) of 50522
section 3317.021 of the Revised Code. 50523

(2) The amount of taxes charged and payable and unpaid and 50524
used to make the computation under division (B) of this section 50525
had not been levied and had not been used in the computation 50526
required by division (B) of section 3317.021 of the Revised Code. 50527
The department shall pay the district that amount in the ensuing 50528
fiscal year in lieu of the amounts computed under ~~Chapter 3306. of~~ 50529

~~the Revised Code~~ this chapter. 50530

If a school district received a grant from the catastrophic 50531
expenditures account pursuant to division (C) of section 3316.20 50532
of the Revised Code on the basis of the same circumstances for 50533
which a recomputation is made under this section, the amount of 50534
the recomputation shall be reduced and transferred in accordance 50535
with division (C) of section 3316.20 of the Revised Code. 50536

Sec. 3317.0210. (A) As used in this section: 50537

(1) "Bankruptcy Reform Act" means the "Bankruptcy Reform Act 50538
of 1978," 92 Stat. 2558, 11 U.S.C. 301, as amended. 50539

(2) "Chapter 11 corporation" means a corporation, company, or 50540
other business organization that has filed a petition for 50541
reorganization under Chapter 11 of the "Bankruptcy Reform Act," 92 50542
Stat. 2626, 11 U.S.C. 1101, as amended. 50543

(3) "Uncollectable taxes" means property taxes payable in a 50544
calendar year by a Chapter 11 corporation on its property that a 50545
school district is precluded from collecting by virtue of 50546
proceedings under the Bankruptcy Reform Act. 50547

(4) "Basic state aid" means ~~the a school district's state~~ 50548
~~education aid calculated for a school district under Chapter 3306-~~ 50549
~~of the Revised Code.~~ 50550

(5) "Effective value" means the amount obtained by 50551
multiplying the total taxable value certified in a calendar year 50552
under section 3317.021 of the Revised Code by a fraction, the 50553
numerator of which is the total taxes charged and payable in that 50554
calendar year exclusive of the uncollectable taxes payable in that 50555
year, and the denominator of which is the total taxes charged and 50556
payable in that year. 50557

(6) "Total taxes charged and payable" has the same meaning 50558
given "taxes charged and payable" in section 3317.02 of the 50559

Revised Code. 50560

(B)(1) Between the first day of January and the first day of 50561
February of any year, a school district shall notify the 50562
department of education if it has uncollectable taxes payable in 50563
the preceding calendar year from one Chapter 11 corporation. 50564

(2) The department shall verify whether the district has such 50565
uncollectable taxes from such a corporation, and if the district 50566
does, shall immediately request the tax commissioner to certify 50567
the district's total taxes charged and payable in the preceding 50568
calendar year, and the tax commissioner shall certify that 50569
information to the department within thirty days after receiving 50570
the request. For the purposes of this section, taxes are payable 50571
in the calendar year that includes the day prescribed by law for 50572
their payment, including any lawful extension thereof. 50573

(C) Upon receiving the certification from the tax 50574
commissioner, the department shall determine whether the amount of 50575
uncollectable taxes from the corporation equals at least one per 50576
cent of the total taxes charged and payable as certified by the 50577
tax commissioner. If it does, the department shall compute the 50578
district's effective value and shall recompute the basic state aid 50579
payable to the district for the current fiscal year using the 50580
effective value in lieu of the total taxable value used to compute 50581
the basic state aid for the current fiscal year. The difference 50582
between the basic state aid amount originally computed for the 50583
district for the current fiscal year and the recomputed amount 50584
shall be paid to the district from the lottery profits education 50585
fund before the end of the current fiscal year. 50586

(D) Except as provided in division (E) of this section, 50587
amounts received by a school district under division (C) of this 50588
section shall be repaid to the department of education in any 50589
future year to the extent the district receives payments of 50590
uncollectable taxes in such future year. The district shall notify 50591

the department of any amount owed under this division. 50592

(E) If a school district received a grant from the 50593
catastrophic expenditures account pursuant to division (C) of 50594
section 3316.20 of the Revised Code on the basis of the same 50595
circumstances for which a recomputation is made under this 50596
section, the amount of the recomputation shall be reduced and 50597
transferred in accordance with division (C) of section 3316.20 of 50598
the Revised Code. 50599

Sec. 3317.0211. (A) As used in this section: 50600

(1) "Port authority" means any port authority as defined in 50601
section 4582.01 or 4582.21 of the Revised Code. 50602

(2) "Real property" includes public utility real property and 50603
"personal property" includes public utility personal property. 50604

(3) "Uncollected taxes" means property taxes charged and 50605
payable against the property of a port authority for a tax year 50606
that a school district has not collected. 50607

(4) "Basic state aid" means ~~the a school district's state~~ 50608
~~education aid calculated for a school district under Chapter 3306.~~ 50609
~~of the Revised Code.~~ 50610

(5) "Effective value" means the sum of the effective 50611
residential/agricultural real property value, the effective 50612
nonresidential/agricultural real property value, and the effective 50613
personal value. 50614

(6) "Effective residential/agricultural real property value" 50615
means, for a tax year, the amount obtained by multiplying the 50616
value for that year of residential/agricultural real property 50617
subject to taxation in the district by a fraction, the numerator 50618
of which is the total taxes charged and payable for that year 50619
against the residential/agricultural real property subject to 50620
taxation in the district, exclusive of the uncollected taxes for 50621

that year on all real property subject to taxation in the 50622
district, and the denominator of which is the total taxes charged 50623
and payable for that year against the residential/agricultural 50624
real property subject to taxation in the district. 50625

(7) "Effective nonresidential/agricultural real property 50626
value" means, for a tax year, the amount obtained by multiplying 50627
the value for that year of nonresidential/agricultural real 50628
property subject to taxation in the district by a fraction, the 50629
numerator of which is the total taxes charged and payable for that 50630
year against the nonresidential/agricultural real property subject 50631
to taxation in the district, exclusive of the uncollected taxes 50632
for that year on all real property subject to taxation in the 50633
district, and the denominator of which is the total taxes charged 50634
and payable for that year against the nonresidential/agricultural 50635
real property subject to taxation in the district. 50636

(8) "Effective personal value" means, for a tax year, the 50637
amount obtained by multiplying the value for that year certified 50638
under division (A)(2) of section 3317.021 of the Revised Code by a 50639
fraction, the numerator of which is the total taxes charged and 50640
payable for that year against personal property subject to 50641
taxation in the district, exclusive of the uncollected taxes for 50642
that year on that property, and the denominator of which is the 50643
total taxes charged and payable for that year against personal 50644
property subject to taxation in the district. 50645

(9) "Nonresidential/agricultural real property value" means, 50646
for a tax year, the sum of the values certified for a school 50647
district for that year under division (B)(2)(a) of this section, 50648
and "residential/agricultural real property value" means, for a 50649
tax year, the sum of the values certified for a school district 50650
under division (B)(2)(b) of this section. 50651

(10) "Taxes charged and payable against real property" means 50652
the taxes charged and payable against that property after making 50653

the reduction required by section 319.301 of the Revised Code. 50654

(11) "Total taxes charged and payable" has the same meaning 50655
given "taxes charged and payable" in section 3317.02 of the 50656
Revised Code. 50657

(B)(1) By the first day of August of any calendar year, a 50658
school district shall notify the department of education if it has 50659
any uncollected taxes from one port authority for the second 50660
preceding tax year whose taxes charged and payable represent at 50661
least one-half of one per cent of the district's total taxes 50662
charged and payable for that tax year. 50663

(2) The department shall verify whether the district has such 50664
uncollected taxes by the first day of September, and if the 50665
district does, shall immediately request the county auditor of 50666
each county in which the school district has territory to certify 50667
the following information concerning the district's property 50668
values and taxes for the second preceding tax year, and each such 50669
auditor shall certify that information to the department within 50670
thirty days of receiving the request: 50671

(a) The value of the property subject to taxation in the 50672
district that was classified as nonresidential/agricultural real 50673
property pursuant to section 5713.041 of the Revised Code, and the 50674
taxes charged and payable on that property; and 50675

(b) The value of the property subject to taxation in the 50676
district that was classified as residential/agricultural real 50677
property under section 5713.041 of the Revised Code. 50678

(C) By the fifteenth day of November, the department shall 50679
compute the district's effective nonresidential/agricultural real 50680
property value, effective residential/agricultural real property 50681
value, effective personal value, and effective value, and shall 50682
determine whether the school district's effective value for the 50683
second preceding tax year is at least one per cent less than its 50684

total value for that year certified under divisions (A)(1) and (2) 50685
of section 3317.021 of the Revised Code. If it is, the department 50686
shall recompute the basic state aid payable to the district for 50687
the immediately preceding fiscal year using the effective value in 50688
lieu of the amounts previously certified under section 3317.021 of 50689
the Revised Code. The difference between the original basic state 50690
aid amount computed for the district for the preceding fiscal year 50691
and the recomputed amount shall be paid to the district from the 50692
lottery profits education fund before the end of the current 50693
fiscal year. 50694

(D) Except as provided in division (E) of this section, 50695
amounts received by a school district under division (C) of this 50696
section shall be repaid to the department of education in any 50697
future year to the extent the district receives payments of 50698
uncollectable taxes in such future year. The department shall 50699
notify a district of any amount owed under this division. 50700

(E) If a school district received a grant from the 50701
catastrophic expenditures account pursuant to division (C) of 50702
section 3316.20 of the Revised Code on the basis of the same 50703
circumstances for which a recomputation is made under this 50704
section, the amount of the recomputation shall be reduced and 50705
transferred in accordance with division (C) of section 3316.20 of 50706
the Revised Code. 50707

Sec. ~~3306.12~~ 3317.0212. ~~(A)~~ The department of education shall 50708
make no payments under this section for fiscal year 2012 or 2013. 50709

(A) As used in this section: 50710

(1) "Assigned bus" means a school bus used to transport 50711
qualifying riders. 50712

(2) "Nontraditional ridership" means the average number of 50713
qualifying riders who are enrolled in a community school 50714

established under Chapter 3314. of the Revised Code, in a STEM 50715
school established under Chapter 3326. of the Revised Code, or in 50716
a nonpublic school and are provided school bus service by a school 50717
district during the first full week of October. 50718

(3) "Qualifying riders" means resident students enrolled in 50719
regular education in grades kindergarten to twelve who are 50720
provided school bus service by a school district and who live more 50721
than one mile from the school they attend, including students with 50722
dual enrollment in a joint vocational school district or a 50723
cooperative education school district, and students enrolled in a 50724
community school, STEM school, or nonpublic school. 50725

(4) "Qualifying ridership" means the average number of 50726
qualifying riders who are provided school bus service by a school 50727
district during the first full week of October. 50728

(5) "Rider density" means the number of qualifying riders per 50729
square mile of a school district. 50730

(6) "School bus service" means a school district's 50731
transportation of qualifying riders in any of the following types 50732
of vehicles: 50733

(a) School buses owned or leased by the district; 50734

(b) School buses operated by a private contractor hired by 50735
the district; 50736

(c) School buses operated by another school district or 50737
entity with which the district has contracted, either as part of a 50738
consortium for the provision of transportation or otherwise. 50739

(B) Not later than the fifteenth day of October each year, 50740
each city, local, and exempted village school district shall 50741
report to the department of education its qualifying ridership, 50742
nontraditional ridership, number of qualifying riders per assigned 50743
bus, and any other information requested by the department. 50744

Subsequent adjustments to the reported numbers shall be made only 50745
in accordance with rules adopted by the department. 50746

(C) The department shall calculate the statewide 50747
transportation cost per student as follows: 50748

(1) Determine each city, local, and exempted village school 50749
district's transportation cost per student by dividing the 50750
district's total costs for school bus service in the previous 50751
fiscal year by its qualifying ridership in the previous fiscal 50752
year. 50753

(2) After excluding districts that do not provide school bus 50754
service and the ten districts with the highest transportation 50755
costs per student and the ten districts with the lowest 50756
transportation costs per student, divide the aggregate cost for 50757
school bus service for the remaining districts in the previous 50758
fiscal year by the aggregate qualifying ridership of those 50759
districts in the previous fiscal year. 50760

(D) The department shall calculate the statewide 50761
transportation cost per mile as follows: 50762

(1) Determine each city, local, and exempted village school 50763
district's transportation cost per mile by dividing the district's 50764
total costs for school bus service in the previous fiscal year by 50765
its total number of miles driven for school bus service in the 50766
previous fiscal year. 50767

(2) After excluding districts that do not provide school bus 50768
service and the ten districts with the highest transportation 50769
costs per mile and the ten districts with the lowest 50770
transportation costs per mile, divide the aggregate cost for 50771
school bus service for the remaining districts in the previous 50772
fiscal year by the aggregate miles driven for school bus service 50773
in those districts in the previous fiscal year. 50774

(E) The department shall calculate each city, local, and 50775

exempted village school district's transportation base payment as 50776
follows: 50777

(1) Multiply the statewide transportation cost per student by 50778
the district's qualifying ridership for the current fiscal year. 50779

(2) Multiply the statewide transportation cost per mile by 50780
the district's total number of miles driven for school bus service 50781
in the current fiscal year. 50782

(3) Multiply the greater of the amounts calculated under 50783
divisions (E)(1) and (2) of this section by the greater of sixty 50784
per cent or the district's state share percentage, as defined in 50785
section 3317.02 of the Revised Code. 50786

(F) The department shall calculate each city, local, and 50787
exempted village school district's nontraditional ridership 50788
adjustment according to the following formula: 50789

(nontraditional ridership for the current fiscal year / 50790
qualifying ridership for the current fiscal year) X 0.1 X 50791
transportation base payment 50792

(G) If a city, local, ~~and~~ or exempted village school district 50793
offers school bus service to all resident students who are 50794
enrolled in regular education in district schools in grades nine 50795
to twelve and who live more than one mile from the school they 50796
attend, the department shall calculate the district's high school 50797
ridership adjustment according to the following formula: 50798

0.025 X transportation base payment 50799

(H) If a city, local, ~~and~~ or exempted village school district 50800
offers school bus service to students enrolled in grades 50801
kindergarten to eight who live more than one mile, but two miles 50802
or less, from the school they attend, the department shall 50803
calculate an additional adjustment according to the following 50804
formula: 50805

0.025 X transportation base payment 50806

(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:

$$0.1 \times \text{transportation base payment}$$

(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:

$$[(\text{efficiency index} - 1) / 5] \times \text{transportation base payment}$$

(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.

(J) The department shall pay each city, local, and exempted village school district the lesser of the following:

(1) The sum of the amounts calculated under divisions (E) to

(H) and (I)(3) of this section; 50838

(2) The district's total costs for school bus service for the 50839
prior fiscal year. 50840

(K) In addition to funds paid under division (J) of this 50841
section, each city, local, and exempted village district shall 50842
receive in accordance with rules adopted by the state board of 50843
education a payment for students transported by means other than 50844
school bus service and whose transportation is not funded under 50845
division ~~(G)~~(C) of section 3317.024 of the Revised Code. The rules 50846
shall include provisions for school district reporting of such 50847
students. 50848

~~(L)(1) In fiscal years 2010 and 2011, the department shall 50849
pay each district a pro rata portion of the amounts calculated 50850
under division (J) of this section and described in division (K) 50851
of this section, based on state appropriations. 50852~~

~~(2) In addition to the prorated payment under division (L)(1) 50853
of this section, in fiscal years 2010 and 2011, the department 50854
shall pay each school district that meets the conditions 50855
prescribed in division (L)(3) of this section an additional amount 50856
equal to the following product: 50857~~

~~(a) The difference of (i) the amounts calculated under 50858
division (J) of this section and prescribed in division (K) of 50859
this section minus (ii) that prorated payment; times 50860~~

~~(b) 0.30 in fiscal year 2010 and 0.70 in fiscal year 2011. 50861~~

~~(3) Division (L)(2) of this section applies to each school 50862
district that meets all of the following conditions: 50863~~

~~(a) The district qualifies for the calculation of a payment 50864
under division (J) of this section because it transports students 50865
on board owned or contractor owned school buses. 50866~~

~~(b) The district's local wealth per pupil, calculated as 50867~~

~~prescribed in section 3317.0217 of the Revised Code, is at or 50868~~
~~below the median local wealth per pupil of all districts that 50869~~
~~qualify for calculation of a payment under division (J) of this 50870~~
~~section. 50871~~

~~(c) The district's rider density is at or below the median 50872~~
~~rider density of all districts that qualify for calculation of a 50873~~
~~payment under division (J) of this section. 50874~~

~~**Sec. 3317.03.** The information certified and verified under 50875~~
~~this section shall be used to calculate payments under this 50876~~
~~chapter and Chapter 3306. of the Revised Code. 50877~~

~~(A) The superintendent of each city, local, and exempted 50878~~
~~village school district and of each educational service center 50879~~
~~shall, for the schools under the superintendent's supervision, 50880~~
~~certify to the state board of education on or before the fifteenth 50881~~
~~day of October in each year for the first full school week in 50882~~
~~October the average daily membership of students receiving 50883~~
~~services from schools under the superintendent's supervision, and 50884~~
~~the numbers of other students entitled to attend school in the 50885~~
~~district under section 3313.64 or 3313.65 of the Revised Code the 50886~~
~~superintendent is required to report under this section, so that 50887~~
~~the department of education can calculate the district's formula 50888~~
~~ADM. If a school under the superintendent's supervision is closed 50889~~
~~for one or more days during that week due to hazardous weather 50890~~
~~conditions or other circumstances described in the first paragraph 50891~~
~~of division (B) of section 3317.01 of the Revised Code, the 50892~~
~~superintendent may apply to the superintendent of public 50893~~
~~instruction for a waiver, under which the superintendent of public 50894~~
~~instruction may exempt the district superintendent from certifying 50895~~
~~the average daily membership for that school for that week and 50896~~
~~specify an alternate week for certifying the average daily 50897~~
~~membership of that school. 50898~~

The average daily membership during such week shall consist 50899
of the sum of the following: 50900

(1) On an FTE basis, the number of students in grades 50901
kindergarten through twelve receiving any educational services 50902
from the district, except that the following categories of 50903
students shall not be included in the determination: 50904

(a) Students enrolled in adult education classes; 50905

(b) Adjacent or other district students enrolled in the 50906
district under an open enrollment policy pursuant to section 50907
3313.98 of the Revised Code; 50908

(c) Students receiving services in the district pursuant to a 50909
compact, cooperative education agreement, or a contract, but who 50910
are entitled to attend school in another district pursuant to 50911
section 3313.64 or 3313.65 of the Revised Code; 50912

(d) Students for whom tuition is payable pursuant to sections 50913
3317.081 and 3323.141 of the Revised Code; 50914

(e) Students receiving services in the district through a 50915
scholarship awarded under section 3310.41 of the Revised Code. 50916

(2) On an FTE basis, the number of students entitled to 50917
attend school in the district pursuant to section 3313.64 or 50918
3313.65 of the Revised Code, but receiving educational services in 50919
grades kindergarten through twelve from one or more of the 50920
following entities: 50921

(a) A community school pursuant to Chapter 3314. of the 50922
Revised Code, including any participation in a college pursuant to 50923
Chapter 3365. of the Revised Code while enrolled in such community 50924
school; 50925

(b) An alternative school pursuant to sections 3313.974 to 50926
3313.979 of the Revised Code as described in division (I)(2)(a) or 50927
(b) of this section; 50928

(c) A college pursuant to Chapter 3365. of the Revised Code, 50929
except when the student is enrolled in the college while also 50930
enrolled in a community school pursuant to Chapter 3314. or a 50931
science, technology, engineering, and mathematics school 50932
established under Chapter 3326. of the Revised Code; 50933

(d) An adjacent or other school district under an open 50934
enrollment policy adopted pursuant to section 3313.98 of the 50935
Revised Code; 50936

(e) An educational service center or cooperative education 50937
district; 50938

(f) Another school district under a cooperative education 50939
agreement, compact, or contract; 50940

(g) A chartered nonpublic school with a scholarship paid 50941
under section 3310.08 of the Revised Code; 50942

(h) An alternative public provider or a registered private 50943
provider with a scholarship awarded under section 3310.41 of the 50944
Revised Code. 50945

As used in this section, "alternative public provider" and 50946
"registered private provider" have the same meanings as in section 50947
3310.41 of the Revised Code. 50948

(i) A science, technology, engineering, and mathematics 50949
school established under Chapter 3326. of the Revised Code, 50950
including any participation in a college pursuant to Chapter 3365. 50951
of the Revised Code while enrolled in the school. 50952

(3) The number of students enrolled in a joint vocational 50953
school district or under a vocational education compact, excluding 50954
any students entitled to attend school in the district under 50955
section 3313.64 or 3313.65 of the Revised Code who are enrolled in 50956
another school district through an open enrollment policy as 50957
reported under division (A)(2)(d) of this section and then enroll 50958

in a joint vocational school district or under a vocational 50959
education compact; 50960

(4) The number of children with disabilities, other than 50961
preschool children with disabilities, entitled to attend school in 50962
the district pursuant to section 3313.64 or 3313.65 of the Revised 50963
Code who are placed by the district with a county DD board, minus 50964
the number of such children placed with a county DD board in 50965
fiscal year 1998. If this calculation produces a negative number, 50966
the number reported under division (A)(4) of this section shall be 50967
zero. 50968

(B) To enable the department of education to obtain the data 50969
needed to complete the calculation of payments pursuant to this 50970
chapter ~~and Chapter 3306. of the Revised Code~~, in addition to the 50971
average daily membership, each superintendent shall report 50972
separately the following student counts for the same week for 50973
which average daily membership is certified: 50974

(1) The total average daily membership in regular learning 50975
day classes included in the report under division (A)(1) or (2) of 50976
this section for each of the individual grades kindergarten 50977
through twelve in schools under the superintendent's supervision; 50978

(2) The number of all preschool children with disabilities 50979
enrolled as of the first day of December in classes in the 50980
district that are eligible for approval under division (B) of 50981
section 3317.05 of the Revised Code and the number of those 50982
classes, which shall be reported not later than the fifteenth day 50983
of December, in accordance with rules adopted under that section; 50984

(3) The number of children entitled to attend school in the 50985
district pursuant to section 3313.64 or 3313.65 of the Revised 50986
Code who are: 50987

(a) Participating in a pilot project scholarship program 50988
established under sections 3313.974 to 3313.979 of the Revised 50989

Code as described in division (I)(2)(a) or (b) of this section;	50990
(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;	50991 50992 50993 50994 50995
(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;	50996 50997
(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	50998 50999 51000 51001 51002 51003
(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	51004 51005 51006 51007
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	51008 51009
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	51010 51011 51012
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	51013 51014 51015
(i) Participating in a program operated by a county DD board or a state institution;	51016 51017
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised	51018 51019

Code, including any participation in a college pursuant to Chapter	51020
3365. of the Revised Code while enrolled in the school.	51021
(4) The number of pupils enrolled in joint vocational	51022
schools;	51023
(5) The average daily membership of children with	51024
disabilities reported under division (A)(1) or (2) of this section	51025
receiving special education services for the category one	51026
disability described in division (D)(1)(A) of section 3306.02	51027
<u>3317.013</u> of the Revised Code;	51028
(6) The average daily membership of children with	51029
disabilities reported under division (A)(1) or (2) of this section	51030
receiving special education services for category two disabilities	51031
described in division (D)(2)(B) of section 3306.02 <u>3317.013</u> of the	51032
Revised Code;	51033
(7) The average daily membership of children with	51034
disabilities reported under division (A)(1) or (2) of this section	51035
receiving special education services for category three	51036
disabilities described in division (D)(3)(C) of section 3306.02	51037
<u>3317.013</u> of the Revised Code;	51038
(8) The average daily membership of children with	51039
disabilities reported under division (A)(1) or (2) of this section	51040
receiving special education services for category four	51041
disabilities described in division (D) (4) of section 3306.02	51042
<u>3317.013</u> of the Revised Code;	51043
(9) The average daily membership of children with	51044
disabilities reported under division (A)(1) or (2) of this section	51045
receiving special education services for the category five	51046
disabilities described in division (D)(5)(E) of section 3306.02	51047
<u>3317.013</u> of the Revised Code;	51048
(10) The combined average daily membership of children with	51049
disabilities reported under division (A)(1) or (2) and under	51050

division (B)(3)(h) of this section receiving special education 51051
services for category six disabilities described in division 51052
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, 51053
including children attending a special education program operated 51054
by an alternative public provider or a registered private provider 51055
with a scholarship awarded under section 3310.41 of the Revised 51056
Code; 51057

(11) The average daily membership of pupils reported under 51058
division (A)(1) or (2) of this section enrolled in category one 51059
vocational education programs or classes, described in division 51060
(A) of section 3317.014 of the Revised Code, operated by the 51061
school district or by another district, other than a joint 51062
vocational school district, or by an educational service center, 51063
excluding any student reported under division (B)(3)(e) of this 51064
section as enrolled in an internet- or computer-based community 51065
school, notwithstanding division (C) of section 3317.02 of the 51066
Revised Code and division (C)(3) of this section; 51067

(12) The average daily membership of pupils reported under 51068
division (A)(1) or (2) of this section enrolled in category two 51069
vocational education programs or services, described in division 51070
(B) of section 3317.014 of the Revised Code, operated by the 51071
school district or another school district, other than a joint 51072
vocational school district, or by an educational service center, 51073
excluding any student reported under division (B)(3)(e) of this 51074
section as enrolled in an internet- or computer-based community 51075
school, notwithstanding division (C) of section 3317.02 of the 51076
Revised Code and division (C)(3) of this section; 51077

Beginning with fiscal year 2010, vocational education ADM 51078
shall not be used to calculate a district's funding but shall be 51079
reported under divisions (B)(11) and (12) of this section for 51080
statistical purposes. 51081

(13) The average number of children transported by the school 51082

district on board-owned or contractor-owned and -operated buses, 51083
reported in accordance with rules adopted by the department of 51084
education; 51085

(14)(a) The number of children, other than preschool children 51086
with disabilities, the district placed with a county DD board in 51087
fiscal year 1998; 51088

(b) The number of children with disabilities, other than 51089
preschool children with disabilities, placed with a county DD 51090
board in the current fiscal year to receive special education 51091
services for the category one disability described in division 51092
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 51093

(c) The number of children with disabilities, other than 51094
preschool children with disabilities, placed with a county DD 51095
board in the current fiscal year to receive special education 51096
services for category two disabilities described in division 51097
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 51098

(d) The number of children with disabilities, other than 51099
preschool children with disabilities, placed with a county DD 51100
board in the current fiscal year to receive special education 51101
services for category three disabilities described in division 51102
~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 51103

(e) The number of children with disabilities, other than 51104
preschool children with disabilities, placed with a county DD 51105
board in the current fiscal year to receive special education 51106
services for category four disabilities described in division 51107
(D)(4) of section ~~3306.02~~ 3317.013 of the Revised Code; 51108

(f) The number of children with disabilities, other than 51109
preschool children with disabilities, placed with a county DD 51110
board in the current fiscal year to receive special education 51111
services for the category five disabilities described in division 51112
~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 51113

(g) The number of children with disabilities, other than 51114
preschool children with disabilities, placed with a county DD 51115
board in the current fiscal year to receive special education 51116
services for category six disabilities described in division 51117
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code. 51118

(C)(1) The average daily membership in divisions (B)(1) to 51119
(12) of this section shall be based upon the number of full-time 51120
equivalent students. The state board of education shall adopt 51121
rules defining full-time equivalent students and for determining 51122
the average daily membership therefrom for the purposes of 51123
divisions (A), (B), and (D) of this section. 51124

(2) A student enrolled in a community school established 51125
under Chapter 3314. or a science, technology, engineering, and 51126
mathematics school established under Chapter 3326. of the Revised 51127
Code shall be counted in the formula ADM and, if applicable, the 51128
category one, two, three, four, five, or six special education ADM 51129
of the school district in which the student is entitled to attend 51130
school under section 3313.64 or 3313.65 of the Revised Code for 51131
the same proportion of the school year that the student is counted 51132
in the enrollment of the community school or the science, 51133
technology, engineering, and mathematics school for purposes of 51134
section 3314.08 or 3326.33 of the Revised Code. Notwithstanding 51135
the number of students reported pursuant to division (B)(3)(d), 51136
(e), or (j) of this section, the department may adjust the formula 51137
ADM of a school district to account for students entitled to 51138
attend school in the district under section 3313.64 or 3313.65 of 51139
the Revised Code who are enrolled in a community school or a 51140
science, technology, engineering, and mathematics school for only 51141
a portion of the school year. 51142

(3) No child shall be counted as more than a total of one 51143
child in the sum of the average daily memberships of a school 51144
district under division (A), divisions (B)(1) to (12), or division 51145

(D) of this section, except as follows: 51146

(a) A child with a disability described in ~~division (D) of~~ 51147
section ~~3306.02~~ 3317.013 of the Revised Code may be counted both 51148
in formula ADM and in category one, two, three, four, five, or six 51149
special education ADM and, if applicable, in category one or two 51150
vocational education ADM. As provided in division (C) of section 51151
3317.02 of the Revised Code, such a child shall be counted in 51152
category one, two, three, four, five, or six special education ADM 51153
in the same proportion that the child is counted in formula ADM. 51154

(b) A child enrolled in vocational education programs or 51155
classes described in section 3317.014 of the Revised Code may be 51156
counted both in formula ADM and category one or two vocational 51157
education ADM and, if applicable, in category one, two, three, 51158
four, five, or six special education ADM. Such a child shall be 51159
counted in category one or two vocational education ADM in the 51160
same proportion as the percentage of time that the child spends in 51161
the vocational education programs or classes. 51162

(4) Based on the information reported under this section, the 51163
department of education shall determine the total student count, 51164
as defined in section 3301.011 of the Revised Code, for each 51165
school district. 51166

(D)(1) The superintendent of each joint vocational school 51167
district shall certify to the superintendent of public instruction 51168
on or before the fifteenth day of October in each year for the 51169
first full school week in October the formula ADM, for purposes of 51170
section 3318.42 of the Revised Code and for any other purpose 51171
prescribed by law for which "formula ADM" of the joint vocational 51172
district is a factor. If a school operated by the joint vocational 51173
school district is closed for one or more days during that week 51174
due to hazardous weather conditions or other circumstances 51175
described in the first paragraph of division (B) of section 51176
3317.01 of the Revised Code, the superintendent may apply to the 51177

superintendent of public instruction for a waiver, under which the 51178
superintendent of public instruction may exempt the district 51179
superintendent from certifying the formula ADM for that school for 51180
that week and specify an alternate week for certifying the formula 51181
ADM of that school. 51182

The formula ADM, except as otherwise provided in this 51183
division, shall consist of the average daily membership during 51184
such week, on an FTE basis, of the number of students receiving 51185
any educational services from the district, including students 51186
enrolled in a community school established under Chapter 3314. or 51187
a science, technology, engineering, and mathematics school 51188
established under Chapter 3326. of the Revised Code who are 51189
attending the joint vocational district under an agreement between 51190
the district board of education and the governing authority of the 51191
community school or the governing body of the science, technology, 51192
engineering, and mathematics school and are entitled to attend 51193
school in a city, local, or exempted village school district whose 51194
territory is part of the territory of the joint vocational 51195
district. 51196

The following categories of students shall not be included in 51197
the determination made under division (D)(1) of this section: 51198

(a) Students enrolled in adult education classes; 51199

(b) Adjacent or other district joint vocational students 51200
enrolled in the district under an open enrollment policy pursuant 51201
to section 3313.98 of the Revised Code; 51202

(c) Students receiving services in the district pursuant to a 51203
compact, cooperative education agreement, or a contract, but who 51204
are entitled to attend school in a city, local, or exempted 51205
village school district whose territory is not part of the 51206
territory of the joint vocational district; 51207

(d) Students for whom tuition is payable pursuant to sections 51208

3317.081 and 3323.141 of the Revised Code.	51209
(2) In <u>To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter,</u> in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:	51210 51211 51212 51213 51214 51215 51216
(a) Students enrolled in each individual grade included in the joint vocational district schools;	51217 51218
(b) Children with disabilities receiving special education services for the category one disability described in division (D)(1)(A) of section 3306.02 <u>3317.013</u> of the Revised Code;	51219 51220 51221
(c) Children with disabilities receiving special education services for the category two disabilities described in division (D)(2)(B) of section 3306.02 <u>3317.013</u> of the Revised Code;	51222 51223 51224
(d) Children with disabilities receiving special education services for category three disabilities described in division (D)(3)(C) of section 3306.02 <u>3317.013</u> of the Revised Code;	51225 51226 51227
(e) Children with disabilities receiving special education services for category four disabilities described in division (D)(4) of section 3306.02 <u>3317.013</u> of the Revised Code;	51228 51229 51230
(f) Children with disabilities receiving special education services for the category five disabilities described in division (D)(5)(E) of section 3306.02 <u>3317.013</u> of the Revised Code;	51231 51232 51233
(g) Children with disabilities receiving special education services for category six disabilities described in division (D)(6)(F) of section 3306.02 <u>3317.013</u> of the Revised Code;	51234 51235 51236
(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the	51237 51238

Revised Code;	51239
(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.	51240 51241 51242
The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.	51243 51244 51245 51246 51247
(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:	51248 51249 51250 51251 51252 51253 51254 51255 51256 51257 51258 51259 51260 51261 51262
(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school;	51263 51264
(2) Any pupil who is not a resident of the state;	51265
(3) Any pupil who was enrolled in the schools of the district during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not	51266 51267 51268 51269

excused pursuant to division (C)(1) or (3) of that section; 51270

(4) Any pupil who has attained the age of twenty-two years, 51271
except for veterans of the armed services whose attendance was 51272
interrupted before completing the recognized twelve-year course of 51273
the public schools by reason of induction or enlistment in the 51274
armed forces and who apply for reenrollment in the public school 51275
system of their residence not later than four years after 51276
termination of war or their honorable discharge. 51277

If, however, any veteran described by division (E)(4) of this 51278
section elects to enroll in special courses organized for veterans 51279
for whom tuition is paid under the provisions of federal laws, or 51280
otherwise, that veteran shall not be included in average daily 51281
membership. 51282

Notwithstanding division (E)(3) of this section, the 51283
membership of any school may include a pupil who did not take an 51284
assessment required by section 3301.0711 of the Revised Code if 51285
the superintendent of public instruction grants a waiver from the 51286
requirement to take the assessment to the specific pupil and a 51287
parent is not paying tuition for the pupil pursuant to section 51288
3313.6410 of the Revised Code. The superintendent may grant such a 51289
waiver only for good cause in accordance with rules adopted by the 51290
state board of education. 51291

Except as provided in divisions (B)(2) and (F) of this 51292
section, the average daily membership figure of any local, city, 51293
exempted village, or joint vocational school district shall be 51294
determined by dividing the figure representing the sum of the 51295
number of pupils enrolled during each day the school of attendance 51296
is actually open for instruction during the week for which the 51297
average daily membership is being certified by the total number of 51298
days the school was actually open for instruction during that 51299
week. For purposes of state funding, "enrolled" persons are only 51300
those pupils who are attending school, those who have attended 51301

school during the current school year and are absent for 51302
authorized reasons, and those children with disabilities currently 51303
receiving home instruction. 51304

The average daily membership figure of any cooperative 51305
education school district shall be determined in accordance with 51306
rules adopted by the state board of education. 51307

(F)(1) If the formula ADM for the first full school week in 51308
February is at least three per cent greater than that certified 51309
for the first full school week in the preceding October, the 51310
superintendent of schools of any city, exempted village, or joint 51311
vocational school district or educational service center shall 51312
certify such increase to the superintendent of public instruction. 51313
Such certification shall be submitted no later than the fifteenth 51314
day of February. For the balance of the fiscal year, beginning 51315
with the February payments, the superintendent of public 51316
instruction shall use the increased formula ADM in calculating or 51317
recalculating the amounts to be allocated in accordance with 51318
section 3317.022 or 3317.16 of the Revised Code. In no event shall 51319
the superintendent use an increased membership certified to the 51320
superintendent after the fifteenth day of February. Division 51321
(F)(1) of this section does not apply after fiscal year 2006. 51322

(2) If on the first school day of April the total number of 51323
classes or units for preschool children with disabilities that are 51324
eligible for approval under division (B) of section 3317.05 of the 51325
Revised Code exceeds the number of units that have been approved 51326
for the year under that division, the superintendent of schools of 51327
any city, exempted village, or cooperative education school 51328
district or educational service center shall make the 51329
certifications required by this section for that day. If the 51330
department determines additional units can be approved for the 51331
fiscal year within any limitations set forth in the acts 51332
appropriating moneys for the funding of such units, the department 51333

shall approve additional units for the fiscal year on the basis of 51334
such average daily membership. For each unit so approved, the 51335
department shall pay an amount computed in the manner prescribed 51336
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 51337
Code. 51338

(3) If a student attending a community school under Chapter 51339
3314. or a science, technology, engineering, and mathematics 51340
school established under Chapter 3326. of the Revised Code is not 51341
included in the formula ADM certified for the school district in 51342
which the student is entitled to attend school under section 51343
3313.64 or 3313.65 of the Revised Code, the department of 51344
education shall adjust the formula ADM of that school district to 51345
include the student in accordance with division (C)(2) of this 51346
section, and shall recalculate the school district's payments 51347
under this chapter ~~and Chapter 3306. of the Revised Code~~ for the 51348
entire fiscal year on the basis of that adjusted formula ADM. This 51349
requirement applies regardless of whether the student was 51350
enrolled, as defined in division (E) of this section, in the 51351
community school or the science, technology, engineering, and 51352
mathematics school during the week for which the formula ADM is 51353
being certified. 51354

(4) If a student awarded an educational choice scholarship is 51355
not included in the formula ADM of the school district from which 51356
the department deducts funds for the scholarship under section 51357
3310.08 of the Revised Code, the department shall adjust the 51358
formula ADM of that school district to include the student to the 51359
extent necessary to account for the deduction, and shall 51360
recalculate the school district's payments under this chapter ~~and~~ 51361
~~Chapter 3306. of the Revised Code~~ for the entire fiscal year on 51362
the basis of that adjusted formula ADM. This requirement applies 51363
regardless of whether the student was enrolled, as defined in 51364
division (E) of this section, in the chartered nonpublic school, 51365

the school district, or a community school during the week for 51366
which the formula ADM is being certified. 51367

(G)(1)(a) The superintendent of an institution operating a 51368
special education program pursuant to section 3323.091 of the 51369
Revised Code shall, for the programs under such superintendent's 51370
supervision, certify to the state board of education, in the 51371
manner prescribed by the superintendent of public instruction, 51372
both of the following: 51373

(i) The average daily membership of all children with 51374
disabilities other than preschool children with disabilities 51375
receiving services at the institution for each category of 51376
disability described in divisions ~~(D)(1) to (6)~~(A) to (F) of 51377
section ~~3306.02~~ 3317.013 of the Revised Code; 51378

(ii) The average daily membership of all preschool children 51379
with disabilities in classes or programs approved annually by the 51380
department of education for unit funding under section 3317.05 of 51381
the Revised Code. 51382

(b) The superintendent of an institution with vocational 51383
education units approved under division (A) of section 3317.05 of 51384
the Revised Code shall, for the units under the superintendent's 51385
supervision, certify to the state board of education the average 51386
daily membership in those units, in the manner prescribed by the 51387
superintendent of public instruction. 51388

(2) The superintendent of each county DD board that maintains 51389
special education classes under section 3317.20 of the Revised 51390
Code or units approved pursuant to section 3317.05 of the Revised 51391
Code shall do both of the following: 51392

(a) Certify to the state board, in the manner prescribed by 51393
the board, the average daily membership in classes under section 51394
3317.20 of the Revised Code for each school district that has 51395
placed children in the classes; 51396

(b) Certify to the state board, in the manner prescribed by the board, the number of all preschool children with disabilities enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for preschool children with disabilities by the county DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each

such pupil shall be credited to the school district in which the 51429
pupil is entitled to attend school under division (B) of section 51430
3313.64 or section 3313.65 of the Revised Code as determined by 51431
the department of education. 51432

(I)(1) A city, local, exempted village, or joint vocational 51433
school district admitting a scholarship student of a pilot project 51434
district pursuant to division (C) of section 3313.976 of the 51435
Revised Code may count such student in its average daily 51436
membership. 51437

(2) In any year for which funds are appropriated for pilot 51438
project scholarship programs, a school district implementing a 51439
state-sponsored pilot project scholarship program that year 51440
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 51441
count in average daily membership: 51442

(a) All children residing in the district and utilizing a 51443
scholarship to attend kindergarten in any alternative school, as 51444
defined in section 3313.974 of the Revised Code; 51445

(b) All children who were enrolled in the district in the 51446
preceding year who are utilizing a scholarship to attend ~~any such~~ 51447
an alternative school. 51448

(J) The superintendent of each cooperative education school 51449
district shall certify to the superintendent of public 51450
instruction, in a manner prescribed by the state board of 51451
education, the applicable average daily memberships for all 51452
students in the cooperative education district, also indicating 51453
the city, local, or exempted village district where each pupil is 51454
entitled to attend school under section 3313.64 or 3313.65 of the 51455
Revised Code. 51456

(K) If the superintendent of public instruction determines 51457
that a component of the average daily membership certified or 51458
reported by a district superintendent, or other reporting entity, 51459

is not correct, the superintendent of public instruction may order 51460
that the formula ADM used for the purposes of payments under any 51461
section of Title XXXVIII of the Revised Code be adjusted in the 51462
amount of the error. 51463

Sec. 3317.031. A membership record shall be kept by grade 51464
level in each city, local, exempted village, joint vocational, and 51465
cooperative education school district and such a record shall be 51466
kept by grade level in each educational service center that 51467
provides academic instruction to pupils, classes for pupils with 51468
disabilities, or any other direct instructional services to 51469
pupils. Such membership record shall show the following 51470
information for each pupil enrolled: Name, date of birth, name of 51471
parent, date entered school, date withdrawn from school, days 51472
present, days absent, and the number of days school was open for 51473
instruction while the pupil was enrolled. At the end of the school 51474
year this membership record shall show the total days present, the 51475
total days absent, and the total days due for all pupils in each 51476
grade. Such membership record shall show the pupils that are 51477
transported to and from school and it shall also show the pupils 51478
that are transported living within one mile of the school 51479
attended. This membership record shall also show any other 51480
information prescribed by the state board of education. 51481

This membership record shall be kept intact for at least five 51482
years and shall be made available to the state board of education 51483
or its representative in making an audit of the average daily 51484
membership or the transportation of the district or educational 51485
service center. ~~The membership records of local school districts~~ 51486
~~shall be filed at the close of each school year in the office of~~ 51487
~~the educational service center superintendent.~~ 51488

The state board of education may withhold any money due any 51489
school district or educational service center under this chapter 51490

~~and Chapter 3306. of the Revised Code~~ until it has satisfactory 51491
evidence that the board of education or educational service center 51492
governing board has fully complied with all of the provisions of 51493
this section. 51494

Nothing in this section shall require any person to release, 51495
or to permit access to, public school records in violation of 51496
section 3319.321 of the Revised Code. 51497

Sec. 3317.05. (A) For the purpose of calculating payments 51498
under sections 3317.052 and 3317.053 of the Revised Code, the 51499
department of education shall determine for each institution, by 51500
the last day of January of each year and based on information 51501
certified under section 3317.03 of the Revised Code, the number of 51502
vocational education units or fractions of units approved by the 51503
department on the basis of standards and rules adopted by the 51504
state board of education. As used in this division, "institution" 51505
means an institution operated by a department specified in section 51506
3323.091 of the Revised Code and that provides vocational 51507
education programs under the supervision of the division of 51508
vocational education of the department that meet the standards and 51509
rules for these programs, including licensure of professional 51510
staff involved in the programs, as established by the state board. 51511

(B) For the purpose of calculating payments under sections 51512
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 51513
department shall determine, based on information certified under 51514
section 3317.03 of the Revised Code, the following by the last day 51515
of January of each year for each educational service center, for 51516
each school district, including each cooperative education school 51517
district, for each institution eligible for payment under section 51518
3323.091 of the Revised Code, and for each county DD board: the 51519
number of classes operated by the school district, service center, 51520
institution, or county DD board for preschool children with 51521

disabilities, or fraction thereof, including in the case of a 51522
district or service center that is a funding agent, classes taught 51523
by a licensed teacher employed by that district or service center 51524
under section 3313.841 of the Revised Code, approved annually by 51525
the department on the basis of standards and rules adopted by the 51526
state board. 51527

(C) For the purpose of calculating payments under sections 51528
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 51529
department shall determine, based on information certified under 51530
section 3317.03 of the Revised Code, the following by the last day 51531
of January of each year for each school district, including each 51532
cooperative education school district, for each institution 51533
eligible for payment under section 3323.091 of the Revised Code, 51534
and for each county DD board: the number of units for related 51535
services, as defined in section 3323.01 of the Revised Code, for 51536
preschool children with disabilities approved annually by the 51537
department on the basis of standards and rules adopted by the 51538
state board. 51539

(D) All of the arithmetical calculations made under this 51540
section shall be carried to the second decimal place. The total 51541
number of units for school districts, service centers, and 51542
institutions approved annually under this section shall not exceed 51543
the number of units included in the estimate of cost for these 51544
units and appropriations made for them by the general assembly. 51545

In the case of units for preschool children with disabilities 51546
described in division (B) of this section, the department shall 51547
approve only preschool units for children who are under age six on 51548
the thirtieth day of September of the academic year, or on the 51549
first day of August of the academic year if the school district in 51550
which the child is enrolled has adopted a resolution under 51551
division (A)(3) of section 3321.01 of the Revised Code, but not 51552
less than age three on the first day of December of the academic 51553

year, except that such a unit may include one or more children who 51554
are under age three or are age six or over on the applicable date, 51555
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 51556
of the Revised Code, if such children have been admitted to the 51557
unit pursuant to rules of the state board. The number of units for 51558
county DD boards and institutions eligible for payment under 51559
section 3323.091 of the Revised Code approved under this section 51560
shall not exceed the number that can be funded with appropriations 51561
made for such purposes by the general assembly. 51562

No unit shall be approved under divisions (B) and (C) of this 51563
section unless a plan has been submitted and approved under 51564
Chapter 3323. of the Revised Code. 51565

~~(E) The department shall approve units or fractions thereof 51566
for gifted children on the basis of standards and rules adopted by 51567
the state board. 51568~~

Sec. 3317.051. ~~(A)(1) Notwithstanding sections 3317.05 and 51569
3317.11 of the Revised Code, a unit funded pursuant to division 51570
(L) of section 3317.024 or division (A)(2) of section 3317.052 of 51571
the Revised Code shall not be approved for state funding in one 51572
school district, including any cooperative education school 51573
district or any educational service center, to the extent that 51574
such unit provides programs in or services to another district 51575
which receives payment pursuant to section 3317.04 of the Revised 51576
Code. 51577~~

~~(2) Any city, local, exempted village, or cooperative 51578
education school district or any educational service center may 51579
combine partial unit eligibility for programs for preschool 51580
children with disabilities pursuant to section 3317.05 of the 51581
Revised Code, and such combined partial units may be approved for 51582
state funding in one school district or service center. 51583~~

~~(B) After units have been initially approved for any fiscal 51584~~

~~year under section 3317.05 of the Revised Code, no unit shall be~~ 51585
~~subsequently transferred from a school district or educational~~ 51586
~~service center to another city, exempted village, local, or~~ 51587
~~cooperative education school district or educational service~~ 51588
~~center or to an institution or county DD board solely for the~~ 51589
~~purpose of reducing the financial obligations of the school~~ 51590
~~district in a fiscal year it receives payment pursuant to section~~ 51591
~~3317.04 of the Revised Code.~~ 51592

Sec. 3317.053. (A) As used in this section: 51593

(1) "State share percentage" has the same meaning as in 51594
section 3317.022 of the Revised Code. 51595

(2) "Dollar amount" means the amount shown in the following 51596
table for the corresponding type of unit: 51597

TYPE OF UNIT	DOLLAR AMOUNT	
Division (B) of section 3317.05		51599
of the Revised Code	\$8,334	51600
Division (C) of that section	\$3,234	51601
Division (E) of that section	\$5,550	51602

(3) "Average unit amount" means the amount shown in the 51603
following table for the corresponding type of unit: 51604

TYPE OF UNIT	AVERAGE UNIT AMOUNT	
Division (B) of section 3317.05		51606
of the Revised Code	\$7,799	51607
Division (C) of that section	\$2,966	51608
Division (E) of that section	\$5,251	51609

(B) In the case of each unit described in division (B) or 51610
(C), ~~or (E)~~ of section 3317.05 of the Revised Code and allocated 51611
to a city, local, or exempted village school district, the 51612
department of education, in addition to the amounts specified in 51613
~~division (L) of section 3317.024 and sections 3317.052 and 3317.19~~ 51614
of the Revised Code, shall pay a supplemental unit allowance equal 51615

to the sum of the following amounts: 51616

(1) An amount equal to 50% of the average unit amount for the 51617
unit; 51618

(2) An amount equal to the percentage of the dollar amount 51619
for the unit that equals the district's state share percentage. 51620

If, prior to the fifteenth day of May of a fiscal year, a 51621
school district's aid computed under section 3317.022 of the 51622
Revised Code is recomputed pursuant to section 3317.027 or 51623
3317.028 of the Revised Code, the department shall also recompute 51624
the district's entitlement to payment under this section utilizing 51625
a new state share percentage. Such new state share percentage 51626
shall be determined using the district's recomputed basic aid 51627
amount pursuant to section 3317.027 or 3317.028 of the Revised 51628
Code. During the last six months of the fiscal year, the 51629
department shall pay the district a sum equal to one-half of the 51630
recomputed payment in lieu of one-half the payment otherwise 51631
calculated under this section. 51632

(C)(1) In the case of each unit allocated to an institution 51633
pursuant to division (A) of section 3317.05 of the Revised Code, 51634
the department, in addition to the amount specified in section 51635
3317.052 of the Revised Code, shall pay a supplemental unit 51636
allowance of \$7,227. 51637

(2) In the case of each unit described in division (B) of 51638
section 3317.05 of the Revised Code that is allocated to any 51639
entity other than a city, exempted village, or local school 51640
district, the department, in addition to the amount specified in 51641
section 3317.052 of the Revised Code, shall pay a supplemental 51642
unit allowance of \$7,799. 51643

(3) In the case of each unit described in division (C) of 51644
section 3317.05 of the Revised Code and allocated to any entity 51645
other than a city, exempted village, or local school district, the 51646

department, in addition to the amounts specified in section 51647
3317.052 of the Revised Code, shall pay a supplemental unit 51648
allowance of \$2,966. 51649

~~(4) In the case of each unit described in division (E) of 51650
section 3317.05 of the Revised Code and allocated to an 51651
educational service center, the department, in addition to the 51652
amounts specified in division (L) of section 3317.024 of the 51653
Revised Code, shall pay a supplemental unit allowance of \$5,251. 51654~~

Sec. 3317.06. Moneys paid to school districts under division 51655
~~(I)~~(E) of section 3317.024 of the Revised Code shall be used for 51656
the following independent and fully severable purposes: 51657

(A) To purchase such secular textbooks or electronic 51658
textbooks as have been approved by the superintendent of public 51659
instruction for use in public schools in the state and to loan 51660
such textbooks or electronic textbooks to pupils attending 51661
nonpublic schools within the district or to their parents and to 51662
hire clerical personnel to administer such lending program. Such 51663
loans shall be based upon individual requests submitted by such 51664
nonpublic school pupils or parents. Such requests shall be 51665
submitted to the school district in which the nonpublic school is 51666
located. Such individual requests for the loan of textbooks or 51667
electronic textbooks shall, for administrative convenience, be 51668
submitted by the nonpublic school pupil or the pupil's parent to 51669
the nonpublic school, which shall prepare and submit collective 51670
summaries of the individual requests to the school district. As 51671
used in this section: 51672

(1) "Textbook" means any book or book substitute that a pupil 51673
uses as a consumable or nonconsumable text, text substitute, or 51674
text supplement in a particular class or program in the school the 51675
pupil regularly attends. 51676

(2) "Electronic textbook" means ~~computer software,~~ 51677

~~interactive videodisc, magnetic media, CD-ROM, computer
courseware, local and remote computer assisted instruction,
on-line service, electronic medium, or other means of conveying
information to the student or otherwise contributing any book or
book substitute that a student accesses through the use of a
computer or other electronic medium or that is available through
an internet-based provider of course content, or any other
material that contributes to the learning process through
electronic means.~~

(B) To provide speech and hearing diagnostic services to
pupils attending nonpublic schools within the district. Such
service shall be provided in the nonpublic school attended by the
pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric
services to pupils attending nonpublic schools within the
district. Such services shall be provided in the school attended
by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils
attending nonpublic schools within the district. Such services
shall be provided in the school attended by the pupil receiving
the service.

(E) To provide therapeutic psychological and speech and
hearing services to pupils attending nonpublic schools within the
district. Such services shall be provided in the public school, in
nonpublic schools, in public centers, or in mobile units located
on or off of the nonpublic premises. If such services are provided
in the public school or in public centers, transportation to and
from such facilities shall be provided by the school district in
which the nonpublic school is located.

(F) To provide guidance, counseling, and social work services
to pupils attending nonpublic schools within the district. Such

services shall be provided in the public school, in nonpublic 51709
schools, in public centers, or in mobile units located on or off 51710
of the nonpublic premises. If such services are provided in the 51711
public school or in public centers, transportation to and from 51712
such facilities shall be provided by the school district in which 51713
the nonpublic school is located. 51714

(G) To provide remedial services to pupils attending 51715
nonpublic schools within the district. Such services shall be 51716
provided in the public school, in nonpublic schools, in public 51717
centers, or in mobile units located on or off of the nonpublic 51718
premises. If such services are provided in the public school or in 51719
public centers, transportation to and from such facilities shall 51720
be provided by the school district in which the nonpublic school 51721
is located. 51722

(H) To supply for use by pupils attending nonpublic schools 51723
within the district such standardized tests and scoring services 51724
as are in use in the public schools of the state; 51725

(I) To provide programs for children who attend nonpublic 51726
schools within the district and are children with disabilities as 51727
defined in section 3323.01 of the Revised Code or gifted children. 51728
Such programs shall be provided in the public school, in nonpublic 51729
schools, in public centers, or in mobile units located on or off 51730
of the nonpublic premises. If such programs are provided in the 51731
public school or in public centers, transportation to and from 51732
such facilities shall be provided by the school district in which 51733
the nonpublic school is located. 51734

(J) To hire clerical personnel to assist in the 51735
administration of programs pursuant to divisions (B), (C), (D), 51736
(E), (F), (G), and (I) of this section and to hire supervisory 51737
personnel to supervise the providing of services and textbooks 51738
pursuant to this section. 51739

(K) To purchase or lease any secular, neutral, and 51740
nonideological computer application software ~~(including designed~~ 51741
to assist students in performing a single task or multiple related 51742
tasks, device management software, learning management software, 51743
~~site-licensing), prerecorded video laserdiscs,~~ digital video on 51744
demand (DVD), ~~compact discs, and video cassette cartridges,~~ wide 51745
area connectivity and related technology as it relates to internet 51746
access, mathematics or science equipment and materials, 51747
instructional materials, and school library materials that are in 51748
general use in the public schools of the state and loan such items 51749
to pupils attending nonpublic schools within the district or to 51750
their parents, and to hire clerical personnel to administer the 51751
lending program. Only such items that are incapable of diversion 51752
to religious use and that are susceptible of loan to individual 51753
pupils and are furnished for the use of individual pupils shall be 51754
purchased and loaned under this division. As used in this section, 51755
"instructional materials" means prepared learning materials that 51756
are secular, neutral, and nonideological in character and are of 51757
benefit to the instruction of school children, and may include 51758
educational resources and services developed by the eTech Ohio 51759
commission. 51760

(L) To purchase or lease instructional equipment, including 51761
computer hardware and related equipment in general use in the 51762
public schools of the state, for use by pupils attending nonpublic 51763
schools within the district and to loan such items to pupils 51764
attending nonpublic schools within the district or to their 51765
parents, and to hire clerical personnel to administer the lending 51766
program. "Computer hardware and related equipment" includes 51767
desktop computers and workstations; laptop computers, computer 51768
tablets, and other mobile handheld devices; and their operating 51769
systems and accessories. 51770

(M) To purchase mobile units to be used for the provision of 51771

services pursuant to divisions (E), (F), (G), and (I) of this 51772
section and to pay for necessary repairs and operating costs 51773
associated with these units. 51774

(N) To reimburse costs the district incurred to store the 51775
records of a chartered nonpublic school that closes. 51776
Reimbursements under this division shall be made one time only for 51777
each chartered nonpublic school that closes. 51778

Clerical and supervisory personnel hired pursuant to division 51779
(J) of this section shall perform their services in the public 51780
schools, in nonpublic schools, public centers, or mobile units 51781
where the services are provided to the nonpublic school pupil, 51782
except that such personnel may accompany pupils to and from the 51783
service sites when necessary to ensure the safety of the children 51784
receiving the services. 51785

All services provided pursuant to this section may be 51786
provided under contract with educational service centers, the 51787
department of health, city or general health districts, or private 51788
agencies whose personnel are properly licensed by an appropriate 51789
state board or agency. 51790

Transportation of pupils provided pursuant to divisions (E), 51791
(F), (G), and (I) of this section shall be provided by the school 51792
district from its general funds and not from moneys paid to it 51793
under division ~~(I)~~(E) of section 3317.024 of the Revised Code 51794
unless a special transportation request is submitted by the parent 51795
of the child receiving service pursuant to such divisions. If such 51796
an application is presented to the school district, it may pay for 51797
the transportation from moneys paid to it under division ~~(I)~~(E) of 51798
section 3317.024 of the Revised Code. 51799

No school district shall provide health or remedial services 51800
to nonpublic school pupils as authorized by this section unless 51801
such services are available to pupils attending the public schools 51802

within the district. 51803

Materials, equipment, computer hardware or software, 51804
textbooks, electronic textbooks, and health and remedial services 51805
provided for the benefit of nonpublic school pupils pursuant to 51806
this section and the admission of pupils to such nonpublic schools 51807
shall be provided without distinction as to race, creed, color, or 51808
national origin of such pupils or of their teachers. 51809

No school district shall provide services, materials, or 51810
equipment that contain religious content for use in religious 51811
courses, devotional exercises, religious training, or any other 51812
religious activity. 51813

As used in this section, "parent" includes a person standing 51814
in loco parentis to a child. 51815

Notwithstanding section 3317.01 of the Revised Code, payments 51816
shall be made under this section to any city, local, or exempted 51817
village school district within which is located one or more 51818
nonpublic elementary or high schools and any payments made to 51819
school districts under division ~~(I)~~(E) of section 3317.024 of the 51820
Revised Code for purposes of this section may be disbursed without 51821
submission to and approval of the controlling board. 51822

The allocation of payments for materials, equipment, 51823
textbooks, electronic textbooks, health services, and remedial 51824
services to city, local, and exempted village school districts 51825
shall be on the basis of the state board of education's estimated 51826
annual average daily membership in nonpublic elementary and high 51827
schools located in the district. 51828

Payments made to city, local, and exempted village school 51829
districts under this section shall be equal to specific 51830
appropriations made for the purpose. All interest earned by a 51831
school district on such payments shall be used by the district for 51832
the same purposes and in the same manner as the payments may be 51833

used. 51834

The department of education shall adopt guidelines and 51835
procedures under which such programs and services shall be 51836
provided, under which districts shall be reimbursed for 51837
administrative costs incurred in providing such programs and 51838
services, and under which any unexpended balance of the amounts 51839
appropriated by the general assembly to implement this section may 51840
be transferred to the auxiliary services personnel unemployment 51841
compensation fund established pursuant to section 4141.47 of the 51842
Revised Code. The department shall also adopt guidelines and 51843
procedures limiting the purchase and loan of the items described 51844
in division (K) of this section to items that are in general use 51845
in the public schools of the state, that are incapable of 51846
diversion to religious use, and that are susceptible to individual 51847
use rather than classroom use. Within thirty days after the end of 51848
each biennium, each board of education shall remit to the 51849
department all moneys paid to it under division ~~(I)~~(E) of section 51850
3317.024 of the Revised Code and any interest earned on those 51851
moneys that are not required to pay expenses incurred under this 51852
section during the biennium for which the money was appropriated 51853
and during which the interest was earned. If a board of education 51854
subsequently determines that the remittal of moneys leaves the 51855
board with insufficient money to pay all valid expenses incurred 51856
under this section during the biennium for which the remitted 51857
money was appropriated, the board may apply to the department of 51858
education for a refund of money, not to exceed the amount of the 51859
insufficiency. If the department determines the expenses were 51860
lawfully incurred and would have been lawful expenditures of the 51861
refunded money, it shall certify its determination and the amount 51862
of the refund to be made to the director of job and family 51863
services who shall make a refund as provided in section 4141.47 of 51864
the Revised Code. 51865

Each school district shall label materials, equipment, 51866
computer hardware or software, textbooks, and electronic textbooks 51867
purchased or leased for loan to a nonpublic school under this 51868
section, acknowledging that they were purchased or leased with 51869
state funds under this section. However, a district need not label 51870
materials, equipment, computer hardware or software, textbooks, or 51871
electronic textbooks that the district determines are consumable 51872
in nature or have a value of less than two hundred dollars. 51873

Sec. 3317.061. The superintendent of each school district, 51874
including each cooperative education and joint vocational school 51875
district and the superintendent of each educational service 51876
center, shall, on forms prescribed and furnished by the state 51877
board of education, certify to the state board of education, on or 51878
before the fifteenth day of October of each year, the name of each 51879
licensed employee employed, on an annual salary, in each school 51880
under such superintendent's supervision during the first full 51881
school week of said month of October, the number of years of 51882
recognized college training such licensed employee has completed, 51883
the college degrees from a recognized college earned by such 51884
licensed employee, the type of teaching license held by such 51885
licensed employee, the number of months such licensed employee is 51886
employed in the school district, the annual salary of such 51887
licensed employee, and such other information as the state board 51888
of education may request. For the purposes of ~~Chapters 3306. and~~ 51889
Chapter 3317. of the Revised Code, a licensed employee is any 51890
employee in a position that requires a license issued pursuant to 51891
sections 3319.22 to 3319.31 of the Revised Code. 51892

Pursuant to standards adopted by the state board of 51893
education, experience of vocational teachers in trade and industry 51894
shall be recognized by such board for the purpose of complying 51895
with the requirements of recognized college training provided by 51896
~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. 51897

~~Sec. 3317.07. The state board of education shall establish rules for the purpose of distributing subsidies for the purchase of school buses under division (D) of section 3317.024 of the Revised Code.~~

~~No school bus subsidy payments shall be paid to any district unless such district can demonstrate that pupils residing more than one mile from the school could not be transported without such additional aid.~~

~~The amount paid to a county DD board for buses purchased for transportation of children in special education programs operated by the board shall be based on a per pupil allocation for eligible students.~~

~~The amount paid to a school district for buses purchased for transportation of pupils with disabilities and nonpublic school pupils shall be determined by a per pupil allocation based on the number of special education and nonpublic school pupils for whom transportation is provided.~~

~~The state board of education shall adopt a formula to determine the amount of payments that shall be distributed to school districts to purchase school buses for pupils other than pupils with disabilities or nonpublic school pupils.~~

~~If any district or county DD board obtains bus services for pupil transportation pursuant to a contract, such district or board may use payments received under this section to defray the costs of contracting for bus services in lieu of for purchasing buses.~~

~~If the department of education determines that a county DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no~~

longer needs a school bus to transport pupils to a nonpublic 51928
school or special education program, the department may reassign a 51929
bus that was funded with payments provided pursuant to the version 51930
of this section in effect prior to the effective date of this 51931
amendment for the purpose of transporting such pupils. The 51932
department may reassign a bus to a county DD board or school 51933
district that transports children to a special education program 51934
designated in the children's individualized education plans, or to 51935
a school district that transports pupils to a nonpublic school, 51936
and needs an additional school bus. 51937

Sec. 3317.08. A board of education may admit to its schools a 51938
child it is not required by section 3313.64 or 3313.65 of the 51939
Revised Code to admit, if tuition is paid for the child. 51940

Unless otherwise provided by law, tuition shall be computed 51941
in accordance with this section. A district's tuition charge for a 51942
school year shall be one of the following: 51943

(A) For any child, except a preschool child with a disability 51944
described in division (B) of this section, the quotient obtained 51945
by dividing the sum of the amounts described in divisions (A)(1) 51946
and (2) of this section by the district's formula ADM. 51947

(1) The district's total taxes charged and payable for 51948
current expenses for the tax year preceding the tax year in which 51949
the school year begins as certified under division (A)(3) of 51950
section 3317.021 of the Revised Code. 51951

(2) The district's total taxes collected for current expenses 51952
under a school district income tax adopted pursuant to section 51953
5748.03 or 5748.08 of the Revised Code that are disbursed to the 51954
district during the fiscal year, excluding any income tax receipts 51955
allocated for the project cost, debt service, or maintenance 51956
set-aside associated with a state-assisted classroom facilities 51957
project as authorized by section 3318.052 of the Revised Code. On 51958

or before the first day of June of each year, the tax commissioner 51959
shall certify the amount to be used in the calculation under this 51960
division for the next fiscal year to the department of education 51961
and the office of budget and management for each city, local, and 51962
exempted village school district that levies a school district 51963
income tax. 51964

(B) For any preschool child with a disability not included in 51965
a unit approved under division (B) of section 3317.05 of the 51966
Revised Code, an amount computed for the school year as follows: 51967

(1) For each type of special education service provided to 51968
the child for whom tuition is being calculated, determine the 51969
amount of the district's operating expenses in providing that type 51970
of service to all preschool children with disabilities not 51971
included in units approved under division (B) of section 3317.05 51972
of the Revised Code; 51973

(2) For each type of special education service for which 51974
operating expenses are determined under division (B)(1) of this 51975
section, determine the amount of such operating expenses that was 51976
paid from any state funds received under this chapter; 51977

(3) For each type of special education service for which 51978
operating expenses are determined under division (B)(1) of this 51979
section, divide the difference between the amount determined under 51980
division (B)(1) of this section and the amount determined under 51981
division (B)(2) of this section by the total number of preschool 51982
children with disabilities not included in units approved under 51983
division (B) of section 3317.05 of the Revised Code who received 51984
that type of service; 51985

(4) Determine the sum of the quotients obtained under 51986
division (B)(3) of this section for all types of special education 51987
services provided to the child for whom tuition is being 51988
calculated. 51989

The state board of education shall adopt rules defining the types of special education services and specifying the operating expenses to be used in the computation under this section.

If any child for whom a tuition charge is computed under this section for any school year is enrolled in a district for only part of that school year, the amount of the district's tuition charge for the child for the school year shall be computed in proportion to the number of school days the child is enrolled in the district during the school year.

Except as otherwise provided in division (J) of section 3313.64 of the Revised Code, whenever a district admits a child to its schools for whom tuition computed in accordance with this section is an obligation of another school district, the amount of the tuition shall be certified by the treasurer of the board of education of the district of attendance, to the board of education of the district required to pay tuition for its approval and payment. If agreement as to the amount payable or the district required to pay the tuition cannot be reached, or the board of education of the district required to pay the tuition refuses to pay that amount, the board of education of the district of attendance shall notify the superintendent of public instruction. The superintendent shall determine the correct amount and the district required to pay the tuition and shall deduct that amount, if any, under division ~~(G)~~(D) of section 3317.023 of the Revised Code, from the district required to pay the tuition and add that amount to the amount allocated to the district attended under such division. The superintendent of public instruction shall send to the district required to pay the tuition an itemized statement showing such deductions at the time of such deduction.

When a political subdivision owns and operates an airport, welfare, or correctional institution or other project or facility outside its corporate limits, the territory within which the

facility is located is exempt from taxation by the school district 52022
within which such territory is located, and there are school age 52023
children residing within such territory, the political subdivision 52024
owning such tax exempt territory shall pay tuition to the district 52025
in which such children attend school. The tuition for these 52026
children shall be computed as provided for in this section. 52027

Sec. 3317.081. (A) Tuition shall be computed in accordance 52028
with this section if: 52029

(1) The tuition is required by division (C)(3)(b) of section 52030
3313.64 of the Revised Code; or 52031

(2) Neither the child nor the child's parent resides in this 52032
state and tuition is required by section 3327.06 of the Revised 52033
Code. 52034

(B) Tuition computed in accordance with this section shall 52035
equal the attendance district's tuition rate computed under 52036
section 3317.08 of the Revised Code plus the amount in state 52037
education aid that district would have received for the child 52038
~~pursuant to Chapter 3306. and sections 3317.023 and 3317.025 to~~ 52039
~~3317.0211 of the Revised Code~~ during the school year had the 52040
attendance district been authorized to count the child in its 52041
formula ADM for that school year under section 3317.03 of the 52042
Revised Code. 52043

Sec. 3317.082. As used in this section, "institution" means a 52044
residential facility that receives and cares for children 52045
maintained by the department of youth services and that operates a 52046
school chartered by the state board of education under section 52047
3301.16 of the Revised Code. 52048

(A) On or before the thirty-first day of each January and 52049
July, the superintendent of each institution that during the 52050
six-month period immediately preceding each January or July 52051

provided an elementary or secondary education for any child, other 52052
than a child receiving special education under section 3323.091 of 52053
the Revised Code, shall prepare and submit to the department of 52054
education, a statement for each such child indicating the child's 52055
name, any school district responsible to pay tuition for the child 52056
as determined by the superintendent in accordance with division 52057
(C)(2) or (3) of section 3313.64 of the Revised Code, and the 52058
period of time during that six-month period that the child 52059
received an elementary or secondary education. If any school 52060
district is responsible to pay tuition for any such child, the 52061
department of education, no later than the immediately succeeding 52062
last day of February or August, as applicable, shall calculate the 52063
amount of the tuition of the district under section 3317.08 of the 52064
Revised Code for the period of time indicated on the statement and 52065
do one of the following: 52066

(1) If the tuition amount is equal to or less than the ~~amount~~ 52067
~~of state basic aid funds payable to the district under Chapter~~ 52068
~~3306. and section 3317.023 of the Revised Code~~ district's state 52069
education aid, pay to the institution submitting the statement an 52070
amount equal to the tuition amount, as provided under division 52071
~~(M)~~(G) of section 3317.024 of the Revised Code, and deduct the 52072
tuition amount from the state basic aid funds payable to the 52073
district, as provided under division ~~(F)~~(C)(2) of section 3317.023 52074
of the Revised Code; 52075

(2) If the tuition amount is greater than the ~~amount of state~~ 52076
~~basic aid funds payable to the district under Chapter 3306. and~~ 52077
~~section 3317.023 of the Revised Code~~ district's state education 52078
aid, require the district to pay to the institution submitting the 52079
statement an amount equal to the tuition amount. 52080

(B) In the case of any disagreement about the school district 52081
responsible to pay tuition for a child pursuant to this section, 52082
the superintendent of public instruction shall make the 52083

determination in any such case in accordance with division (C)(2) 52084
or (3) of section 3313.64 of the Revised Code. 52085

Sec. 3317.09. All moneys distributed to a school district, 52086
including any cooperative education or joint vocational school 52087
district and all moneys distributed to any educational service 52088
center, by the state whether from a state or federal source, shall 52089
be accounted for by the division of school finance of the 52090
department of education. All moneys distributed shall be coded as 52091
to county, school district or educational service center, source, 52092
and other pertinent information, and at the end of each month, a 52093
report of such distribution shall be made by such division of 52094
school finance to each school district and educational service 52095
center. If any board of education fails to make the report 52096
required in section 3319.33 of the Revised Code, the 52097
superintendent of public instruction shall be without authority to 52098
distribute funds to that school district or educational service 52099
center ~~pursuant to sections 3317.022 to 3317.0211, 3317.11,~~ 52100
~~3317.16, 3317.17, or 3317.19 of the Revised Code~~ under this 52101
chapter until such time as the required reports are filed with all 52102
specified officers, boards, or agencies. 52103

Sec. 3317.11. (A) As used in this section: 52104

(1) "Client school district" means a city or exempted village 52105
school district that has entered into an agreement under section 52106
3313.843 of the Revised Code to receive any services from an 52107
educational service center. 52108

(2) "Service center ADM" means the sum of the total student 52109
counts of all local school districts within an educational service 52110
center's territory and all of the service center's client school 52111
districts. 52112

(3) "STEM school" means a science, technology, engineering, 52113

and mathematics school established under Chapter 3326. of the 52114
Revised Code. 52115

(4) "Total student count" has the same meaning as in section 52116
3301.011 of the Revised Code. 52117

(B)(1) The governing board of each educational service center 52118
shall provide supervisory services to each local school district 52119
within the service center's territory. Each city or exempted 52120
village school district that enters into an agreement under 52121
section 3313.843 of the Revised Code for a governing board to 52122
provide any services also is considered to be provided supervisory 52123
services by the governing board. Except as provided in division 52124
(B)(2) of this section, the supervisory services shall not exceed 52125
one supervisory teacher for the first fifty classroom teachers 52126
required to be employed in the districts, as calculated in the 52127
manner prescribed under former division (B) of section 3317.023 of 52128
the Revised Code, as that division existed prior to the effective 52129
date of this amendment, and one for each additional one hundred 52130
required classroom teachers, as so calculated. 52131

The supervisory services shall be financed annually through 52132
supervisory units. Except as provided in division (B)(2) of this 52133
section, the number of supervisory units assigned to each district 52134
shall not exceed one unit for the first fifty classroom teachers 52135
required to be employed in the district, as calculated in the 52136
manner prescribed under former division (B) of section 3317.023 of 52137
the Revised Code, as that division existed prior to the effective 52138
date of this amendment, and one for each additional one hundred 52139
required classroom teachers, as so calculated. The cost of each 52140
supervisory unit shall be the sum of: 52141

(a) The minimum salary prescribed by section 3317.13 of the 52142
Revised Code for the licensed supervisory employee of the 52143
governing board; 52144

(b) An amount equal to fifteen per cent of ~~the~~ that salary 52145
~~prescribed by section 3317.13 of the Revised Code;~~ 52146

(c) An allowance for necessary travel expenses, limited to 52147
the lesser of two hundred twenty-three dollars and sixteen cents 52148
per month or two thousand six hundred seventy-eight dollars per 52149
year. 52150

(2) If a majority of the boards of education, or 52151
superintendents acting on behalf of the boards, of the local and 52152
client school districts receiving services from the educational 52153
service center agree to receive additional supervisory services 52154
and to pay the cost of a corresponding number of supervisory units 52155
in excess of the services and units specified in division (B)(1) 52156
of this section, the service center shall provide the additional 52157
services as agreed to by the majority of districts to, and the 52158
department of education shall apportion the cost of the 52159
corresponding number of additional supervisory units pursuant to 52160
division (B)(3) of this section among, all of the service center's 52161
local and client school districts. 52162

(3) The department shall apportion the total cost for all 52163
supervisory units among the service center's local and client 52164
school districts based on each district's total student count. The 52165
department shall deduct each district's apportioned share pursuant 52166
to division ~~(E)~~(B) of section 3317.023 of the Revised Code and pay 52167
the apportioned share to the service center. 52168

(C) The department annually shall deduct from each local and 52169
client school district of each educational service center, 52170
pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised 52171
Code, and pay to the service center an amount equal to six dollars 52172
and fifty cents times the school district's total student count. 52173
The board of education, or the superintendent acting on behalf of 52174
the board, of any local or client school district may agree to pay 52175
an amount in excess of six dollars and fifty cents per student in 52176

total student count. If a majority of the boards of education, or 52177
superintendents acting on behalf of the boards, of the local 52178
school districts within a service center's territory approve an 52179
amount in excess of six dollars and fifty cents per student in 52180
total student count, the department shall deduct the approved 52181
excess per student amount from all of the local school districts 52182
within the service center's territory and pay the excess amount to 52183
the service center. 52184

(D) The department shall pay each educational service center 52185
the amounts due to it from school districts pursuant to contracts, 52186
compacts, or agreements under which the service center furnishes 52187
services to the districts or their students. In order to receive 52188
payment under this division, an educational service center shall 52189
furnish either a copy of the contract, compact, or agreement 52190
clearly indicating the amounts of the payments, or a written 52191
statement that clearly indicates the payments owed and is signed 52192
by the superintendent or treasurer of the responsible school 52193
district. The amounts paid to service centers under this division 52194
shall be deducted from payments to school districts pursuant to 52195
division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code. 52196

(E) Each school district's deduction under this section and 52197
divisions ~~(E)~~(B) and ~~(K)~~(H)(3) of section 3317.023 of the Revised 52198
Code shall be made from the total payment computed for the 52199
district under this chapter, after making any other adjustments in 52200
that payment required by law. 52201

(F)(1) Except as provided in division (F)(2) of this section, 52202
the department annually shall pay the governing board of each 52203
educational service center state funds equal to thirty-seven 52204
dollars times its service center ADM. 52205

(2) The department annually shall pay state funds equal to 52206
forty dollars and fifty-two cents times the service center ADM to 52207
each educational service center comprising territory that was 52208

included in the territory of at least three former service centers 52209
or county school districts, which former centers or districts 52210
engaged in one or more mergers under section 3311.053 of the 52211
Revised Code to form the present center. 52212

(G) Each city, exempted village, local, joint vocational, or 52213
cooperative education school district shall pay to the governing 52214
board of an educational service center any amounts agreed to for 52215
each child enrolled in the district who receives special education 52216
and related services or career-technical education from the 52217
educational service center, unless these educational services are 52218
provided pursuant to a contract, compact, or agreement for which 52219
the department deducts and transfers payments under division (D) 52220
of this section and division ~~(K)~~(H)(3) of section 3317.023 of the 52221
Revised Code. 52222

(H) The department annually shall pay the governing board of 52223
each educational service center that has entered into a contract 52224
with a STEM school for the provision of services described in 52225
division (B) of section 3326.45 of the Revised Code state funds 52226
equal to the per-pupil amount specified in the contract for the 52227
provision of those services times the number of students enrolled 52228
in the STEM school. 52229

(I) An educational service center: 52230

(1) May provide special education and career-technical 52231
education to students in its local or client school districts; 52232

(2) Is eligible for transportation funding under division 52233
~~(G)~~(C) of section 3317.024 of the Revised Code ~~and for state~~ 52234
~~subsidies for the purchase of school buses under section 3317.07~~ 52235
~~of the Revised Code;~~ 52236

(3) May apply for and receive gifted education units and 52237
provide gifted education services to students in its local or 52238
client school districts; 52239

(4) May conduct driver education for high school students in 52240
accordance with Chapter 4508. of the Revised Code. 52241

Sec. 3317.12. Any board of education participating in funds 52242
distributed under ~~Chapters 3306.~~ and Chapter 3317. of the Revised 52243
Code shall annually adopt a salary schedule for nonteaching school 52244
employees based upon training, experience, and qualifications with 52245
initial salaries no less than the salaries in effect on October 52246
13, 1967. Each board of education shall prepare and may amend from 52247
time to time, specifications descriptive of duties, 52248
responsibilities, requirements, and desirable qualifications of 52249
the classifications of employees required to perform the duties 52250
specified in the salary schedule. All nonteaching school employees 52251
are to be notified of the position classification to which they 52252
are assigned and the salary for the classification. The 52253
compensation of all employees working for a particular school 52254
board shall be uniform for like positions except as compensation 52255
would be affected by salary increments based upon length of 52256
service. 52257

On the fifteenth day of October each year the salary schedule 52258
and the list of job classifications and salaries in effect on that 52259
date shall be filed by each board of education with the 52260
superintendent of public instruction. If such salary schedule and 52261
classification plan is not filed the superintendent of public 52262
instruction shall order the board to file such schedules 52263
forthwith. If this condition is not corrected within ten days 52264
after receipt of the order from the superintendent of public 52265
instruction, no money shall be distributed to the district under 52266
~~Chapters 3306.~~ and Chapter 3317. of the Revised Code until the 52267
superintendent has satisfactory evidence of the board of 52268
education's full compliance with such order. 52269

Sec. 3317.13. ~~(A)~~ This section shall not apply after the 52270

<u>2012-2013 school year.</u>	52271
(A) As used in this section and section 3317.14 of the Revised Code:	52272
(1) "Years of service" includes the following:	52273
(a) All years of teaching service in the same school district or educational service center, regardless of training level, with each year consisting of at least one hundred twenty days under a teacher's contract;	52274
(b) All years of teaching service in a chartered, nonpublic school located in Ohio as a teacher licensed pursuant to section 3319.22 of the Revised Code or in another public school, regardless of training level, with each year consisting of at least one hundred twenty days under a teacher's contract;	52275
(c) All years of teaching service in a chartered school or institution or a school or institution that subsequently became chartered or a chartered special education program or a special education program that subsequently became chartered operated by the state or by a subdivision or other local governmental unit of this state as a teacher licensed pursuant to section 3319.22 of the Revised Code, regardless of training level, with each year consisting of at least one hundred twenty days; and	52276
(d) All years of active military service in the armed forces of the United States, as defined in section 3307.75 of the Revised Code, to a maximum of five years. For purposes of this calculation, a partial year of active military service of eight continuous months or more in the armed forces shall be counted as a full year.	52277
(2) "Teacher" means all teachers employed by the board of education of any school district, including any cooperative education or joint vocational school district and all teachers employed by any educational service center governing board.	52278
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(B) No teacher shall be paid a salary less than that provided 52302
in the schedule set forth in division (C) of this section. In 52303
calculating the minimum salary any teacher shall be paid pursuant 52304
to this section, years of service shall include the sum of all 52305
years of the teacher's teaching service included in divisions 52306
(A)(1)(a), (b), (c), and (d) of this section; except that any 52307
school district or educational service center employing a teacher 52308
new to the district or educational service center shall grant such 52309
teacher a total of not more than ten years of service pursuant to 52310
divisions (A)(1)(b), (c), and (d) of this section. 52311

Upon written complaint to the superintendent of public 52312
instruction that the board of education of a district or the 52313
governing board of an educational service center governing board 52314
has failed or refused to annually adopt a salary schedule or to 52315
pay salaries in accordance with the salary schedule set forth in 52316
division (C) of this section, the superintendent of public 52317
instruction shall cause to be made an immediate investigation of 52318
such complaint. If the superintendent finds that the conditions 52319
complained of exist, the superintendent shall order the board to 52320
correct such conditions within ten days from the date of the 52321
finding. No moneys shall be distributed to the district or 52322
educational service center under this chapter until the 52323
superintendent has satisfactory evidence of the board of 52324
education's full compliance with such order. 52325

Each teacher shall be fully credited with placement in the 52326
appropriate academic training level column in the district's or 52327
educational service center's salary schedule with years of service 52328
properly credited pursuant to this section or section 3317.14 of 52329
the Revised Code. No rule shall be adopted or exercised by any 52330
board of education or educational service center governing board 52331
which restricts the placement or the crediting of annual salary 52332
increments for any teacher according to the appropriate academic 52333

training level column. 52334

(C) Minimum salaries exclusive of retirement and sick leave 52335
for teachers shall be as follows: 52336

Years of Service	Teachers with Less than Bachelor's Degree		Teachers with a Bachelor's Degree		Teachers with Five Years of Training, but no Master's Degree		Teachers with a Master's Degree or Higher		
	Per Cent*	Dollar Amount	Per Cent*	Dollar Amount	Per Cent*	Dollar Amount	Per Cent*	Dollar Amount	
0	86.5	\$17,300	100.0	\$20,000	103.8	\$20,760	109.5	\$21,900	52344
1	90.0	18,000	103.8	20,760	108.1	21,620	114.3	22,860	52345
2	93.5	18,700	107.6	21,520	112.4	22,480	119.1	23,820	52346
3	97.0	19,400	111.4	22,280	116.7	23,340	123.9	24,780	52347
4	100.5	20,100	115.2	23,040	121.0	24,200	128.7	25,740	52348
5	104.0	20,800	119.0	23,800	125.3	25,060	133.5	26,700	52349
6	104.0	20,800	122.8	24,560	129.6	25,920	138.3	27,660	52350
7	104.0	20,800	126.6	25,320	133.9	26,780	143.1	28,620	52351
8	104.0	20,800	130.4	26,080	138.2	27,640	147.9	29,580	52352
9	104.0	20,800	134.2	26,840	142.5	28,500	152.7	30,540	52353
10	104.0	20,800	138.0	27,600	146.8	29,360	157.5	31,500	52354
11	104.0	20,800	141.8	28,360	151.1	30,220	162.3	32,460	52355

* Percentages represent the percentage which each salary is 52356
of the base amount. 52357

For purposes of determining the minimum salary at any level 52358
of training and service, the base of one hundred per cent shall be 52359
the base amount. The percentages used in this section show the 52360
relationships between the minimum salaries required by this 52361
section and the base amount and shall not be construed as 52362
requiring any school district or educational service center to 52363
adopt a schedule containing salaries in excess of the amounts set 52364
forth in this section for corresponding levels of training and 52365

experience.	52366
As used in this division:	52367
(1) "Base amount" means twenty thousand dollars.	52368
(2) "Five years of training" means at least one hundred fifty semester hours, or the equivalent, and a bachelor's degree from a recognized college or university.	52369 52370 52371
(D) For purposes of this section, all credited training shall be from a recognized college or university.	52372 52373
Sec. 3317.14. <u>Any This section shall not apply after the 2012-2013 school year.</u>	52374 52375
<u>Any</u> school district board of education or educational service center governing board participating in funds distributed under Chapter 3317. of the Revised Code shall annually adopt a teachers' salary schedule with provision for increments based upon training and years of service. Notwithstanding sections 3317.13 and 3319.088 of the Revised Code, the board may establish its own service requirements and may grant service credit for such activities as teaching in public or nonpublic schools in this state or in another state, for service as an educational assistant other than as a classroom aide employed in accordance with section 5107.541 of the Revised Code, and for service in the military or in an appropriate state or federal governmental agency, provided no teacher receives less than the amount required to be paid pursuant to section 3317.13 of the Revised Code and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of section 3317.13 of the Revised Code is given to each teacher.	52376 52377 52378 52379 52380 52381 52382 52383 52384 52385 52386 52387 52388 52389 52390 52391 52392
On the fifteenth day of October of each year the salary schedule in effect on that date in each school district and each educational service center shall be filed with the superintendent	52393 52394 52395

of public instruction. A copy of such schedule shall also annually 52396
be filed by the board of education of each local school district 52397
with the educational service center superintendent, who thereupon 52398
shall certify to the treasurer of such local district the correct 52399
salary to be paid to each teacher in accordance with the adopted 52400
schedule. 52401

Each teacher who has completed training which would qualify 52402
such teacher for a higher salary bracket pursuant to this section 52403
shall file by the fifteenth day of September with the treasurer of 52404
the board of education or educational service center satisfactory 52405
evidence of the completion of such additional training. The 52406
treasurer shall then immediately place the teacher, pursuant to 52407
this section and section 3317.13 of the Revised Code, in the 52408
proper salary bracket in accordance with training and years of 52409
service before certifying such salary, training, and years of 52410
service to the superintendent of public instruction. No teacher 52411
shall be paid less than the salary to which such teacher is 52412
entitled pursuant to section 3317.13 of the Revised Code. 52413

Sec. 3317.141. (A) Beginning with the school year that begins 52414
July 1, 2013, the board of education of each city, exempted 52415
village, local, or joint vocational school district and the 52416
governing board of each educational service center annually shall 52417
adopt a salary schedule for teachers based upon performance as 52418
described in division (B) of this section. 52419

(B) For purposes of the schedule, a board shall measure a 52420
teacher's performance by considering all of the following: 52421

(1) The level of license issued under section 3319.22 of the 52422
Revised Code that the teacher holds; 52423

(2) Whether the teacher is a highly qualified teacher, as 52424
defined in section 3319.074 of the Revised Code; 52425

(3) The ratings received by the teacher on performance evaluations conducted under section 3319.111 of the Revised Code. 52426
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(C) The schedule shall provide for annual adjustments based on performance on the evaluations conducted under section 3319.111 of the Revised Code. The annual performance-based adjustment for a teacher rated as highly effective shall be greater than the annual performance-based adjustment for a teacher rated as effective. The annual performance-based adjustment for a teacher rated as effective shall be at least fifty per cent but not more than seventy-five per cent of the annual performance-based adjustment for a teacher rated as highly effective. 52428
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(D) The salary schedule adopted under this section may provide for additional compensation for teachers who agree to perform duties, not contracted for under a supplemental contract, that the employing board determines warrant additional compensation. Those duties may include, but are not limited to, assignment to a school building eligible for funding under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301 et seq.; assignment to a building in "school improvement" status under the "No Child Left Behind Act of 2001," as defined in section 3302.01 of the Revised Code; teaching in a grade level or subject area in which the board has determined there is a shortage within the district or service center; or assignment to a hard-to-staff school, as determined by the board. 52437
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Sec. 3317.16. (A) As used in this section: 52450

(1) The "total special education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in section 3317.022 of the Revised Code. 52451
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(2) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in section 3317.022 of the Revised Code. 52454
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(3) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts that were subject to the joint vocational school district's tax levies for both the current and preceding tax years.

(4) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(5) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula:

$$\begin{aligned} & \text{(formula amount X formula ADM) -} \\ & \text{(.0005 X total recognized valuation)} \end{aligned}$$

If the difference obtained under this division is a negative number, the district's computation shall be zero.

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\begin{aligned} & \text{state share percentage X formula amount X} \\ & \text{total vocational education weight} \end{aligned}$$

In each fiscal year, a joint vocational school district receiving funds under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the joint vocational school district to report data annually so that the

department may monitor the district's compliance with the 52488
requirements regarding the manner in which funding received under 52489
division (C)(1) of this section may be spent. 52490

(2) The department shall compute for each joint vocational 52491
school district state funds for vocational education associated 52492
services costs in accordance with the following formula: 52493

state share percentage X .05 X 52494
the formula amount X the sum of 52495
categories one and two vocational 52496
education ADM 52497

In any fiscal year, a joint vocational school district 52498
receiving funds under division (C)(2) of this section, or through 52499
a transfer of funds pursuant to division ~~(H)~~(I) of section 52500
3317.023 of the Revised Code, shall spend those funds only for the 52501
purposes that the department designates as approved for vocational 52502
education associated services expenses, which may include such 52503
purposes as apprenticeship coordinators, coordinators for other 52504
vocational education services, vocational evaluation, and other 52505
purposes designated by the department. The department may deny 52506
payment under division (C)(2) of this section to any district that 52507
the department determines is not operating those services or is 52508
using funds paid under division (C)(2) of this section, or through 52509
a transfer of funds pursuant to division ~~(H)~~(I) of section 52510
3317.023 of the Revised Code, for other purposes. 52511

(D)(1) The department shall compute and distribute state 52512
special education and related services additional weighted costs 52513
funds to each joint vocational school district in accordance with 52514
the following formula: 52515

state share percentage X formula amount X 52516
total special education weight 52517

(2)(a) As used in this division, the "personnel allowance" 52518
means thirty thousand dollars in fiscal years 2008 and 2009. 52519

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department shall pay each joint vocational school district an amount calculated under the following formula:

(formula ADM divided by 2000) X the personnel allowance X state share percentage

(3) In any fiscal year, a joint vocational school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(formula amount X the sum of categories one through six special education ADM) + (total special education weight X formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, compliance with state rules governing the education of children with disabilities, providing services identified in a student's individualized education program as defined in section 3323.01 of the Revised Code, provision of speech language pathology services, and the portion of the district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require joint vocational school districts to report data annually to allow for monitoring compliance with division (D)(3) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

(1 - state share percentage) X
Total special education weight X
~~the formula amount~~ \$5,732

(2) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The formula amount;

(b) The product of ~~the formula amount~~ \$5,732 times the applicable multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment;

(c) Any funds paid under division (E) of this section for the student;

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school

district may report the excess costs calculated under division 52614
(G)(2) of this section to the department of education. 52615

(4) If the board of education of the joint vocational school 52616
district reports excess costs under division (G)(3) of this 52617
section, the department shall pay the amount of excess cost 52618
calculated under division (G)(2) of this section to the joint 52619
vocational school district and shall deduct that amount as 52620
provided in division (G)(4)(a) or (b) of this section, as 52621
applicable: 52622

(a) If the student is not enrolled in a community school, the 52623
department shall deduct the amount from the account of the 52624
student's resident district pursuant to division ~~(M)~~(J) of section 52625
3317.023 of the Revised Code. 52626

(b) If the student is enrolled in a community school, the 52627
department shall deduct the amount from the account of the 52628
community school pursuant to section 3314.083 of the Revised Code. 52629

Sec. 3317.18. (A) As used in this section, the terms "Chapter 52630
133. securities," "credit enhancement facilities," "debt charges," 52631
"general obligation," "legislation," "public obligations," and 52632
"securities" have the same meanings as in section 133.01 of the 52633
Revised Code. 52634

(B) The board of education of any school district authorizing 52635
the issuance of securities under section 133.10, 133.301, or 52636
3313.372 of the Revised Code or general obligation Chapter 133. 52637
securities may adopt legislation requesting the state department 52638
of education to approve, and enter into an agreement with the 52639
school district and the primary paying agent or fiscal agent for 52640
such securities providing for, the withholding and deposit of 52641
funds, otherwise due the district under ~~Chapters 3306. and Chapter~~ 52642
3317. of the Revised Code, for the payment of debt service charges 52643
on such securities. 52644

The board of education shall deliver to the state department 52645
a copy of such resolution and any additional pertinent information 52646
the state department may require. 52647

The department of education and the office of budget and 52648
management shall evaluate each request received from a school 52649
district under this section and the department, with the advice 52650
and consent of the director of budget and management, shall 52651
approve or deny each request based on all of the following: 52652

(1) Whether approval of the request will enhance the 52653
marketability of the securities for which the request is made; 52654

(2) Any other pertinent factors or limitations established in 52655
rules made under division (I) of this section, including: 52656

(a) Current and projected obligations of funds due to the 52657
requesting school district under ~~Chapters 3306.~~ and Chapter 3317. 52658
of the Revised Code including obligations of those funds to public 52659
obligations or relevant credit enhancement facilities under this 52660
section, Chapter 133. and section 3313.483 of the Revised Code, 52661
and under any other similar provisions of law; 52662

(b) Whether the department of education or the office of 52663
budget and management has any reason to believe the requesting 52664
school district will be unable to pay when due the debt charges on 52665
the securities for which the request is made. 52666

The department may require a school district to establish 52667
schedules for the payment of all debt charges that take into 52668
account the amount and timing of anticipated distributions of 52669
funds to the district under Chapter 3317. of the Revised Code. 52670

(C) If the department approves the request of a school 52671
district to withhold and deposit funds pursuant to this section, 52672
the department shall enter into a written agreement with the 52673
district and the primary paying agent or fiscal agent for the 52674
securities which shall provide for the withholding of funds 52675

pursuant to this section for the payment of debt charges on those securities, and may include both of the following: 52676
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(1) Provisions for certification by the district to the department, at a time prior to any date for the payment of applicable debt charges, whether the district is able to pay those debt charges when due; 52678
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(2) Requirements that the district deposit amounts for the payment of debt charges on the securities with the primary paying agent or fiscal agent for the securities prior to the date on which those debt charge payments are due to the owners or holders of the securities. 52682
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(D) Whenever a district notifies the department of education that it will be unable to pay debt charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the department that it has not timely received from a school district the full amount needed for the payment when due of those debt charges to the holders or owners of such securities, the department shall immediately contact the school district and the paying agent or fiscal agent to confirm or determine whether the district is unable to make the required payment by the date on which it is due. 52687
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Upon demand of the treasurer of state while holding a school district obligation purchased under division (G)(1) of section 135.143 of the Revised Code, the state department of education, without a request of the school district, shall withhold and deposit funds pursuant to this section for payment of debt service charges on that obligation. 52698
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If the department confirms or determines that the district will be unable to make such payment and payment will not be made pursuant to a credit enhancement facility, the department shall 52704
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promptly pay to the applicable primary paying agent or fiscal 52707
agent the lesser of the amount due for debt charges or the amount 52708
due the district for the remainder of the fiscal year under 52709
Chapter 3317. of the Revised Code. If this amount is insufficient 52710
to pay the total amount then due the agent for the payment of debt 52711
charges, the department shall pay to the agent each fiscal year 52712
thereafter, and until the full amount due the agent for unpaid 52713
debt charges is paid in full, the lesser of the remaining amount 52714
due the agent for debt charges or the amount due the district for 52715
the fiscal year under Chapter 3317. of the Revised Code. 52716

(E) The state department may make any payments under this 52717
division by direct deposit of funds by electronic transfer. 52718

Any amount received by a paying agent or fiscal agent under 52719
this section shall be applied only to the payment of debt charges 52720
on the securities of the school district subject to this section 52721
or to the reimbursement to the provider of a credit enhancement 52722
facility that has paid such debt charges. 52723

(F) To the extent a school district whose securities are 52724
subject to this section is unable to pay applicable debt charges 52725
because of the failure to collect property taxes levied for the 52726
payment of those debt charges, the district may transfer to or 52727
deposit into any fund that would have received payments under 52728
~~3306.~~ or Chapter 3317. of the Revised Code that were withheld 52729
under this section any such delinquent property taxes when later 52730
collected, provided that transfer or deposit shall be limited to 52731
the amounts withheld from that fund under this section. 52732

(G) The department may make payments under this section to 52733
paying agents or fiscal agents only from and to the extent that 52734
money is appropriated by the general assembly for Chapter 3317. of 52735
the Revised Code or for the purposes of this section. No 52736
securities of a school district to which this section is made 52737
applicable constitute an obligation or a debt or a pledge of the 52738

faith, credit, or taxing power of the state, and the holders or 52739
owners of such securities have no right to have taxes levied or 52740
appropriations made by the general assembly for the payment of 52741
debt charges on those securities, and those securities, if the 52742
department requires, shall contain a statement to that effect. The 52743
agreement for or the actual withholding and payment of moneys 52744
under this section does not constitute the assumption by the state 52745
of any debt of a school district. 52746

(H) In the case of securities subject to the withholding 52747
provisions of this section, the issuing board of education shall 52748
appoint a paying agent or fiscal agent who is not an officer or 52749
employee of the school district. 52750

(I) The department of education, with the advice of the 52751
office of budget and management, may adopt reasonable rules not 52752
inconsistent with this section for the implementation of this 52753
section and division (B) of section 133.25 of the Revised Code as 52754
it relates to the withholding and depositing of payments under 52755
~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code to secure 52756
payment of debt charges on school district securities. Those rules 52757
shall include criteria for the evaluation and approval or denial 52758
of school district requests for withholding under this section and 52759
limits on the obligation for the purpose of paying debt charges or 52760
reimbursing credit enhancement facilities of funds otherwise to be 52761
paid to school districts under Chapter 3317. of the Revised Code. 52762

(J) The authority granted by this section is in addition to 52763
and not a limitation on any other authorizations granted by or 52764
pursuant to law for the same or similar purposes. 52765

Sec. 3317.19. (A) As used in this section, "total unit 52766
allowance" means an amount equal to the sum of the following: 52767

(1) The total of the salary allowances for the teachers 52768
employed in the cooperative education school district for all 52769

units approved under division (B) or (C) of section 3317.05 of the Revised Code. The salary allowance for each unit shall equal the minimum salary for the teacher of the unit calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001.

(2) Fifteen per cent of the total computed under division (A)(1) of this section;

(3) The total of the unit operating allowances for all approved units. The amount of each allowance shall equal one of the following:

(a) Eight thousand twenty-three dollars times the number of units for preschool children with disabilities or fraction thereof approved for the year under division (B) of section 3317.05 of the Revised Code;

(b) Two thousand one hundred thirty-two dollars times the number of units or fraction thereof approved for the year under division (C) of section 3317.05 of the Revised Code.

(B) The state board of education shall compute and distribute to each cooperative education school district for each fiscal year an amount equal to the sum of the following:

(1) An amount equal to the total of the amounts credited to the cooperative education school district pursuant to division ~~(K)~~(H) of section 3317.023 of the Revised Code;

(2) The total unit allowance;

(3) An amount for assisting in providing free lunches to needy children ~~and an amount for assisting needy school districts in purchasing necessary equipment for food preparation~~ pursuant to division ~~(H)~~(D) of section 3317.024 of the Revised Code.

(C) If a cooperative education school district has had

additional special education units approved for the year under 52800
division (F)(2) of section 3317.03 of the Revised Code, the 52801
district shall receive an additional amount during the last half 52802
of the fiscal year. For each unit, the additional amount shall 52803
equal fifty per cent of the amount computed under division (A) of 52804
this section for a unit approved under division (B) of section 52805
3317.05 of the Revised Code. 52806

Sec. 3317.20. This section does not apply to preschool 52807
children with disabilities. 52808

(A) As used in this section: 52809

(1) "Applicable weight" means the multiple specified in 52810
section ~~3306.11~~ 3317.013 of the Revised Code for a disability 52811
described in that section. 52812

(2) "Child's school district" means the school district in 52813
which a child is entitled to attend school pursuant to section 52814
3313.64 or 3313.65 of the Revised Code. 52815

(3) "State share percentage" means the state share percentage 52816
of the child's school district. 52817

(B) Except as provided in division (C) of this section, the 52818
department shall annually pay each county DD board for each child 52819
with a disability, other than a preschool child with a disability, 52820
for whom the county DD board provides special education and 52821
related services an amount equal to the formula amount + (state 52822
share percentage X formula amount X the applicable weight). 52823

(C) If any school district places with a county DD board more 52824
children with disabilities than it had placed with a county DD 52825
board in fiscal year 1998, the department shall not make a payment 52826
under division (B) of this section for the number of children 52827
exceeding the number placed in fiscal year 1998. The department 52828
instead shall deduct from the district's payments under this 52829

~~chapter and Chapter 3306. of the Revised Code, and pay to the~~ 52830
county DD board, an amount calculated in accordance with the 52831
formula prescribed in division (B) of this section for each child 52832
over the number of children placed in fiscal year 1998. 52833

(D) The department shall calculate for each county DD board 52834
receiving payments under divisions (B) and (C) of this section the 52835
following amounts: 52836

(1) The amount received by the county DD board for approved 52837
special education and related services units, other than units for 52838
preschool children with disabilities, in fiscal year 1998, divided 52839
by the total number of children served in the units that year; 52840

(2) The product of the quotient calculated under division 52841
(D)(1) of this section times the number of children for whom 52842
payments are made under divisions (B) and (C) of this section. 52843

If the amount calculated under division (D)(2) of this 52844
section is greater than the total amount calculated under 52845
divisions (B) and (C) of this section, the department shall pay 52846
the county DD board one hundred per cent of the difference in 52847
addition to the payments under divisions (B) and (C) of this 52848
section. 52849

(E) Each county DD board shall report to the department, in 52850
the manner specified by the department, the name of each child for 52851
whom the county DD board provides special education and related 52852
services and the child's school district. 52853

(F)(1) For the purpose of verifying the accuracy of the 52854
payments under this section, the department may request from 52855
either of the following entities the data verification code 52856
assigned under division (D)(2) of section 3301.0714 of the Revised 52857
Code to any child who is placed with a county DD board: 52858

(a) The child's school district; 52859

(b) The independent contractor engaged to create and maintain data verification codes. 52860
52861

(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child. 52862
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The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division. 52871
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(3) The department shall not release any data verification code that it receives under division (F) of this section to any person except as provided by law. 52875
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(G) Any document relative to special education and related services provided by a county DD board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code. 52878
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Sec. 3317.201. This section does not apply to preschool children with disabilities. 52884
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(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts: 52886
52887

(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 52888
52889

receiving services for a disability described in division 52890
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 52891
multiplied by the multiple specified in that division; 52892

(2) The number of children reported by the institution under 52893
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 52894
receiving services for a disability described in division 52895
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 52896
multiplied by the multiple specified in that division; 52897

(3) The number of children reported by the institution under 52898
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 52899
receiving services for a disability described in division 52900
~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 52901
multiplied by the multiple specified in that division; 52902

(4) The number of children reported by the institution under 52903
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 52904
receiving services for a disability described in division ~~(D)(4)~~ 52905
of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the 52906
multiple specified in that division; 52907

(5) The number of children reported by the institution under 52908
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 52909
receiving services for a disability described in division 52910
~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 52911
multiplied by the multiple specified in that division; 52912

(6) The number of children reported by the institution under 52913
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 52914
receiving services for a disability described in division 52915
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 52916
multiplied by the multiple specified in that division. 52917

(B) For each fiscal year, the department of education shall 52918
pay each state institution required to provide special education 52919
services under division (A) of section 3323.091 of the Revised 52920

Code an amount equal to the greater of:	52921
(1) The formula amount times the institution's total special education weight;	52922 52923
(2) The aggregate amount of special education and related services unit funding the institution received for all children with disabilities other than preschool children with disabilities in fiscal year 2005 under sections 3317.052 and 3317.053 of the Revised Code, as those sections existed prior to June 30, 2005.	52924 52925 52926 52927 52928
Sec. 3318.032. (A) Except as otherwise provided in divisions (C) and (D) of this section, the portion of the basic project cost supplied by the school district shall be the greater of:	52929 52930 52931
(1) The required percentage of the basic project costs;	52932
(2)(a) For all districts except a district that opts to divide its entire classroom facilities needs into segments to be completed separately as authorized by section 3318.034 of the Revised Code, an amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the required level of indebtedness;	52933 52934 52935 52936 52937 52938 52939
(b) For a district that opts to divide its entire classroom facilities needs into segments to be completed separately as authorized by section 3318.034 of the Revised Code, an amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the following:	52940 52941 52942 52943 52944 52945
The required level of indebtedness X (the basic project cost of the segment as approved	52946 52947
by the controlling board / the estimated basic project cost of the district's entire classroom facilities	52948 52949
needs as determined jointly by the staff of the Ohio	52950

school facilities commission and the district) 52951

(B) The amount of the district's share determined under this 52952
section shall be calculated only as of the date the controlling 52953
board approved the project, and that amount applies throughout the 52954
~~one-year~~ thirteen-month period permitted under section 3318.05 of 52955
the Revised Code for the district's electors to approve the 52956
propositions described in that section. If the amount reserved and 52957
encumbered for a project is released because the electors do not 52958
approve those propositions within that ~~year~~ period, and the school 52959
district later receives the controlling board's approval for the 52960
project, subject to a new project scope and estimated costs under 52961
section 3318.054 of the Revised Code, the district's portion shall 52962
be recalculated in accordance with this section as of the date of 52963
the controlling board's subsequent approval. 52964

(C) At no time shall a school district's portion of the basic 52965
project cost be greater than ninety-five per cent of the total 52966
basic project cost. 52967

(D) If the controlling board approves a project under 52968
sections 3318.01 to 3318.20 of the Revised Code for a school 52969
district that previously received assistance under those sections 52970
or section 3318.37 of the Revised Code within the twenty-year 52971
period prior to the date on which the controlling board approves 52972
the new project, the district's portion of the basic project cost 52973
for the new project shall be the lesser of the following: 52974

(1) The portion calculated under division (A) of this 52975
section; 52976

(2) The greater of the following: 52977

(a) The required percentage of the basic project costs for 52978
the new project; 52979

(b) The percentage of the basic project cost paid by the 52980
district for the previous project. 52981

Sec. 3318.05. The conditional approval of the Ohio school 52982
facilities commission for a project shall lapse and the amount 52983
reserved and encumbered for such project shall be released unless 52984
the school district board accepts such conditional approval within 52985
one hundred twenty days following the date of certification of the 52986
conditional approval to the school district board and the electors 52987
of the school district vote favorably on both of the propositions 52988
described in divisions (A) and (B) of this section within ~~one year~~ 52989
thirteen months of the date of such certification, except that a 52990
school district described in division (C) of this section does not 52991
need to submit the proposition described in division (B) of this 52992
section. The propositions described in divisions (A) and (B) of 52993
this section shall be combined in a single proposal. If the 52994
district board or the district's electors fail to meet such 52995
requirements and the amount reserved and encumbered for the 52996
district's project is released, the district shall be given first 52997
priority for project funding as such funds become available, 52998
subject to section 3318.054 of the Revised Code. 52999

(A) On the question of issuing bonds of the school district 53000
board, for the school district's portion of the basic project 53001
cost, in an amount equal to the school district's portion of the 53002
basic project cost less the amount of the proceeds of any 53003
securities authorized or to be authorized under division (J) of 53004
section 133.06 of the Revised Code and dedicated by the school 53005
district board to payment of the district's portion of the basic 53006
project cost; and 53007

(B) On the question of levying a tax the proceeds of which 53008
shall be used to pay the cost of maintaining the classroom 53009
facilities included in the project. Such tax shall be at the rate 53010
of not less than one-half mill for each dollar of valuation for a 53011
period of twenty-three years, subject to any extension approved 53012
under section 3318.061 of the Revised Code. 53013

(C) If a school district has in place a tax levied under 53014
section 5705.21 of the Revised Code for general permanent 53015
improvements for a continuing period of time and the proceeds of 53016
such tax can be used for maintenance, or if a district agrees to 53017
the transfers described in section 3318.051 of the Revised Code, 53018
the school district need not levy the additional tax required 53019
under division (B) of this section, provided the school district 53020
board includes in the agreement entered into under section 3318.08 53021
of the Revised Code provisions either: 53022

(1) Earmarking an amount from the proceeds of that permanent 53023
improvement tax for maintenance of classroom facilities equivalent 53024
to the amount of the additional tax and for the equivalent number 53025
of years otherwise required under this section; 53026

(2) Requiring the transfer of money in accordance with 53027
section 3318.051 of the Revised Code. 53028

The district board subsequently may rescind the agreement to 53029
make the transfers under section 3318.051 of the Revised Code only 53030
so long as the electors of the district have approved, in 53031
accordance with section 3318.063 of the Revised Code, the levy of 53032
a tax for the maintenance of the classroom facilities acquired 53033
under the district's project and that levy continues to be 53034
collected as approved by the electors. 53035

(D) Proceeds of the tax to be used for maintenance of the 53036
classroom facilities under either division (B) or (C)(1) of this 53037
section, and transfers of money in accordance with section 53038
3318.051 of the Revised Code shall be deposited into a separate 53039
fund established by the school district for such purpose. 53040

Sec. 3318.051. (A) Any city, exempted village, or local 53041
school district that commences a project under sections 3318.01 to 53042
3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or 53043
after September 5, 2006, need not levy the tax otherwise required 53044

under division (B) of section 3318.05 of the Revised Code, if the 53045
district board of education adopts a resolution petitioning the 53046
Ohio school facilities commission to approve the transfer of money 53047
in accordance with this section and the commission approves that 53048
transfer. If so approved, the commission and the district board 53049
shall enter into an agreement under which the board, in each of 53050
twenty-three consecutive years beginning in the year in which the 53051
board and the commission enter into the project agreement under 53052
section 3318.08 of the Revised Code, shall transfer into the 53053
maintenance fund required by division (D) of section 3318.05 of 53054
the Revised Code not less than an amount equal to one-half mill 53055
for each dollar of the district's valuation unless and until the 53056
agreement to make those transfers is rescinded by the district 53057
board pursuant to division (F) of this section. 53058

(B) On the first day of July each year, or on an alternative 53059
date prescribed by the commission, the district treasurer shall 53060
certify to the commission and the auditor of state that the amount 53061
required for the year has been transferred. The auditor of state 53062
shall include verification of the transfer as part of any audit of 53063
the district under section 117.11 of the Revised Code. If the 53064
auditor of state finds that less than the required amount has been 53065
deposited into a district's maintenance fund, the auditor of state 53066
shall notify the district board of education in writing of that 53067
fact and require the board to deposit into the fund, within ninety 53068
days after the date of the notice, the amount by which the fund is 53069
deficient for the year. If the district board fails to demonstrate 53070
to the auditor of state's satisfaction that the board has made the 53071
deposit required in the notice, the auditor of state shall notify 53072
the department of education. At that time, the department shall 53073
withhold an amount equal to ten per cent of the district's funds 53074
calculated for the current fiscal year under ~~Chapters 3306. and~~ 53075
Chapter 3317. of the Revised Code until the auditor of state 53076
notifies the department that the auditor of state is satisfied 53077

that the board has made the required transfer. 53078

(C) Money transferred to the maintenance fund shall be used 53079
for the maintenance of the facilities acquired under the 53080
district's project. 53081

(D) The transfers to the maintenance fund under this section 53082
does not affect a district's obligation to establish and maintain 53083
a capital and maintenance fund under section 3315.18 of the 53084
Revised Code. 53085

(E) Any decision by the commission to approve or not approve 53086
the transfer of money under this section is final and not subject 53087
to appeal. The commission shall not be responsible for errors or 53088
miscalculations made in deciding whether to approve a petition to 53089
make transfers under this section. 53090

(F) If the district board determines that it no longer can 53091
continue making the transfers agreed to under this section, the 53092
board may rescind the agreement only so long as the electors of 53093
the district have approved, in accordance with section 3318.063 of 53094
the Revised Code, the levy of a tax for the maintenance of the 53095
classroom facilities acquired under the district's project and 53096
that levy continues to be collected as approved by the electors. 53097
That levy shall be for a number of years that is equal to the 53098
difference between twenty-three years and the number of years that 53099
the district made transfers under this section and shall be at the 53100
rate of not less than one-half mill for each dollar of the 53101
district's valuation. The district board shall continue to make 53102
the transfers agreed to under this section until that levy has 53103
been approved by the electors. 53104

Sec. 3318.054. (A) If conditional approval of a city, 53105
exempted village, or local school district's project lapses as 53106
provided in section 3318.05 of the Revised Code, or if conditional 53107
approval of a joint vocational school district's project lapses as 53108

provided in division (D) of section 3318.41 of the Revised Code, 53109
because the district's electors have not approved the ballot 53110
measures necessary to generate the district's portion of the basic 53111
project cost, and if the district board desires to seek a new 53112
conditional approval of the project, the district board shall 53113
request that the Ohio school facilities commission establish a new 53114
scope, estimated basic project cost, estimated school district 53115
portion of the basic project cost, and rate of taxation necessary 53116
to pay the district's portion of the basic project cost prior to 53117
resubmitting the ballot measures to the electors. To do so, the 53118
commission shall use the district's current tax valuation and the 53119
district's percentile for the prior fiscal year. For a district 53120
that has entered into an agreement under section 3318.36 of the 53121
Revised Code and desires to proceed with a project under sections 53122
3318.01 to 3318.20 of the Revised Code, the district's portion of 53123
the basic project cost shall be the percentage specified in that 53124
agreement. The project scope, estimated costs, and rate of 53125
taxation established under this division shall be valid for one 53126
year from the date the commission approves them. 53127

(B) Upon the commission's approval under division (A) of this 53128
section, the district board may submit the ballot measures to the 53129
district's electors for approval of the project based on the new 53130
project scope, estimated costs, and rate of taxation. Upon 53131
electoral approval of those measures, the district shall be given 53132
first priority for project funding as such funds become available. 53133

(C) When the commission determines that funds are available 53134
for the district's project, the commission shall do all of the 53135
following: 53136

(1) Determine the school district portion of the basic 53137
project cost under section 3318.032 of the Revised Code, in the 53138
case of a city, exempted village, or local school district, or 53139

under section 3318.42 of the Revised Code, in the case of a joint vocational school district; 53140
53141

(2) Conditionally approve the project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code; 53142
53143
53144

(3) Encumber funds for the project under section 3318.11 of the Revised Code; 53145
53146

(4) Enter into an agreement with the district board under section 3318.08 of the Revised Code. 53147
53148

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the

agreement, in an amount equal to the school district's portion of 53171
the basic project cost, including any securities authorized under 53172
division (J) of section 133.06 of the Revised Code and dedicated 53173
by the school district board to payment of the district's portion 53174
of the basic project cost of the project; provided, that if at 53175
that time the county treasurer of each county in which the school 53176
district is located has not commenced the collection of taxes on 53177
the general duplicate of real and public utility property for the 53178
year in which the controlling board approved the project, the 53179
school district board shall authorize the issuance of a first 53180
installment of bond anticipation notes in an amount specified by 53181
the agreement, which amount shall not exceed an amount necessary 53182
to raise the net bonded indebtedness of the school district as of 53183
the date of the controlling board's approval to within five 53184
thousand dollars of the required level of indebtedness for the 53185
preceding year. In the event that a first installment of bond 53186
anticipation notes is issued, the school district board shall, as 53187
soon as practicable after the county treasurer of each county in 53188
which the school district is located has commenced the collection 53189
of taxes on the general duplicate of real and public utility 53190
property for the year in which the controlling board approved the 53191
project, authorize the issuance of a second and final installment 53192
of bond anticipation notes or a first and final issue of bonds. 53193

The combined value of the first and second installment of 53194
bond anticipation notes or the value of the first and final issue 53195
of bonds shall be equal to the school district's portion of the 53196
basic project cost. The proceeds of any such bonds shall be used 53197
first to retire any bond anticipation notes. Otherwise, the 53198
proceeds of such bonds and of any bond anticipation notes, except 53199
the premium and accrued interest thereon, shall be deposited in 53200
the school district's project construction fund. In determining 53201
the amount of net bonded indebtedness for the purpose of fixing 53202
the amount of an issue of either bonds or bond anticipation notes, 53203

gross indebtedness shall be reduced by moneys in the bond 53204
retirement fund only to the extent of the moneys therein on the 53205
first day of the year preceding the year in which the controlling 53206
board approved the project. Should there be a decrease in the tax 53207
valuation of the school district so that the amount of 53208
indebtedness that can be incurred on the tax duplicates for the 53209
year in which the controlling board approved the project is less 53210
than the amount of the first installment of bond anticipation 53211
notes, there shall be paid from the school district's project 53212
construction fund to the school district's bond retirement fund to 53213
be applied against such notes an amount sufficient to cause the 53214
net bonded indebtedness of the school district, as of the first 53215
day of the year following the year in which the controlling board 53216
approved the project, to be within five thousand dollars of the 53217
required level of indebtedness for the year in which the 53218
controlling board approved the project. The maximum amount of 53219
indebtedness to be incurred by any school district board as its 53220
share of the cost of the project is either an amount that will 53221
cause its net bonded indebtedness, as of the first day of the year 53222
following the year in which the controlling board approved the 53223
project, to be within five thousand dollars of the required level 53224
of indebtedness, or an amount equal to the required percentage of 53225
the basic project costs, whichever is greater. All bonds and bond 53226
anticipation notes shall be issued in accordance with Chapter 133. 53227
of the Revised Code, and notes may be renewed as provided in 53228
section 133.22 of the Revised Code. 53229

(B) The transfer of such funds of the school district board 53230
available for the project, together with the proceeds of the sale 53231
of the bonds or notes, except premium, accrued interest, and 53232
interest included in the amount of the issue, to the school 53233
district's project construction fund; 53234

(C) For all school districts except joint vocational school 53235

districts that receive assistance under sections 3318.40 to 53236
3318.45 of the Revised Code, the following provisions as 53237
applicable: 53238

(1) If section 3318.052 of the Revised Code applies, the 53239
earmarking of the proceeds of a tax levied under section 5705.21 53240
of the Revised Code for general permanent improvements or under 53241
section 5705.218 of the Revised Code for the purpose of permanent 53242
improvements, or the proceeds of a school district income tax 53243
levied under Chapter 5748. of the Revised Code, or the proceeds 53244
from a combination of those two taxes, in an amount to pay all or 53245
part of the service charges on bonds issued to pay the school 53246
district portion of the project and an amount equivalent to all or 53247
part of the tax required under division (B) of section 3318.05 of 53248
the Revised Code; 53249

(2) If section 3318.052 of the Revised Code does not apply, 53250
one of the following: 53251

(a) The levy of the tax authorized at the election for the 53252
payment of maintenance costs, as specified in division (B) of 53253
section 3318.05 of the Revised Code; 53254

(b) If the school district electors have approved a 53255
continuing tax for general permanent improvements under section 53256
5705.21 of the Revised Code and that tax can be used for 53257
maintenance, the earmarking of an amount of the proceeds from such 53258
tax for maintenance of classroom facilities as specified in 53259
division (B) of section 3318.05 of the Revised Code; 53260

(c) If, in lieu of the tax otherwise required under division 53261
(B) of section 3318.05 of the Revised Code, the commission has 53262
approved the transfer of money to the maintenance fund in 53263
accordance with section 3318.051 of the Revised Code, a 53264
requirement that the district board comply with the provisions 53265
that section. The district board may rescind the provision 53266

prescribed under division (C)(2)(c) of this section only so long 53267
as the electors of the district have approved, in accordance with 53268
section 3318.063 of the Revised Code, the levy of a tax for the 53269
maintenance of the classroom facilities acquired under the 53270
district's project and that levy continues to be collected as 53271
approved by the electors. 53272

(D) For joint vocational school districts that receive 53273
assistance under sections 3318.40 to 3318.45 of the Revised Code, 53274
provision for deposit of school district moneys dedicated to 53275
maintenance of the classroom facilities acquired under those 53276
sections as prescribed in section 3318.43 of the Revised Code; 53277

(E) Dedication of any local donated contribution as provided 53278
for under section 3318.084 of the Revised Code, including a 53279
schedule for depositing such moneys applied as an offset of the 53280
district's obligation to levy the tax described in division (B) of 53281
section 3318.05 of the Revised Code as required under division 53282
(D)(2) of section 3318.084 of the Revised Code; 53283

(F) Ownership of or interest in the project during the period 53284
of construction, which shall be divided between the commission and 53285
the school district board in proportion to their respective 53286
contributions to the school district's project construction fund; 53287

(G) Maintenance of the state's interest in the project until 53288
any obligations issued for the project under section 3318.26 of 53289
the Revised Code are no longer outstanding; 53290

(H) The insurance of the project by the school district from 53291
the time there is an insurable interest therein and so long as the 53292
state retains any ownership or interest in the project pursuant to 53293
division (F) of this section, in such amounts and against such 53294
risks as the commission shall require; provided, that the cost of 53295
any required insurance until the project is completed shall be a 53296
part of the basic project cost; 53297

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code; 53298
53299
53300
53301
53302

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission; 53303
53304
53305
53306

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board; 53307
53308
53309
53310
53311

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project; 53312
53313

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding; 53314
53315
53316

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding; 53317
53318
53319
53320

(O) Provision for deposit of an executed copy of the agreement in the office of the commission; 53321
53322

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as 53323
53324
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may be fixed by the commission; 53329

(Q) Provision for the school district to maintain the project 53330
in accordance with a plan approved by the commission; 53331

~~(R)(1) For all school districts except a district undertaking~~ 53332
~~a project under section 3318.38 of the Revised Code or a joint~~ 53333
~~vocational school district undertaking a project under sections~~ 53334
~~3318.40 to 3318.45 of the Revised Code, provision Provision that~~ 53335
all state funds reserved and encumbered to pay the state share of 53336
the cost of the project pursuant to section 3318.03 of the Revised 53337
Code be spent on the construction or acquisition of the project 53338
prior to the expenditure of any and the funds provided by the 53339
school district to pay for its share of the project cost, unless 53340
including the respective shares of the cost of a segment if the 53341
project is divided into segments, be spent on the construction and 53342
acquisition of the project or segment simultaneously in proportion 53343
to the state's and the school district's respective shares of that 53344
basic project cost as determined under section 3318.032 of the 53345
Revised Code or, if the district is a joint vocational school 53346
district, under section 3318.42 of the Revised Code. However, if 53347
the school district certifies to the commission that expenditure 53348
by the school district is necessary to maintain the federal tax 53349
status or tax-exempt status of notes or bonds issued by the school 53350
district to pay for its share of the project cost or to comply 53351
with applicable temporary investment periods or spending 53352
exceptions to rebate as provided for under federal law in regard 53353
to those notes or bonds, ~~in which cases,~~ the school district may 53354
commit to spend, or spend, a greater portion of the funds it 53355
provides; 53356

~~(2) For a school district undertaking a project under section~~ 53357
~~3318.38 of the Revised Code or a joint vocational school district~~ 53358
~~undertaking a project under sections 3318.40 to 3318.45 of the~~ 53359
~~Revised Code, provision that the state funds reserved and~~ 53360

~~encumbered and the funds provided by the school district to pay 53361
the basic project cost of any segment of the project, or of the 53362
entire project if it is not divided into segments, be spent on the 53363
construction and acquisition of the project simultaneously in 53364
proportion to the state's and the school district's respective 53365
shares of that basic project cost as determined under section 53366
3318.032 of the Revised Code or, if the district is a joint 53367
vocational school district, under section 3318.42 of the Revised 53368
Code during any specific period than would otherwise be required 53369
under this division. 53370~~

(S) A provision stipulating that the commission may prohibit 53371
the district from proceeding with any project if the commission 53372
determines that the site is not suitable for construction 53373
purposes. The commission may perform soil tests in its 53374
determination of whether a site is appropriate for construction 53375
purposes. 53376

(T) A provision stipulating that, unless otherwise authorized 53377
by the commission, any contingency reserve portion of the 53378
construction budget prescribed by the commission shall be used 53379
only to pay costs resulting from unforeseen job conditions, to 53380
comply with rulings regarding building and other codes, to pay 53381
costs related to design clarifications or corrections to contract 53382
documents, and to pay the costs of settlements or judgments 53383
related to the project as provided under section 3318.086 of the 53384
Revised Code; 53385

(U) Provision stipulating that for continued release of 53386
project funds the school district board shall comply with section 53387
3313.41 of the Revised Code throughout the project and shall 53388
notify the department of education and the Ohio community school 53389
association when the board plans to dispose of facilities by sale 53390
under that section; 53391

(V) Provision that the commission shall not approve a 53392

contract for demolition of a facility until the school district 53393
board has complied with section 3313.41 of the Revised Code 53394
relative to that facility, unless demolition of that facility is 53395
to clear a site for construction of a replacement facility 53396
included in the district's project. 53397

Sec. 3318.12. (A) The Ohio school facilities commission shall 53398
cause to be transferred to the school district's project 53399
construction fund the necessary amounts from amounts appropriated 53400
by the general assembly and set aside for such purpose, from time 53401
to time as may be necessary to pay obligations chargeable to such 53402
fund when due. All investment earnings of a school district's 53403
project construction fund shall be credited to the fund. 53404

(B)(1) The treasurer of the school district board shall 53405
disburse funds from the school district's project construction 53406
fund, including investment earnings credited to the fund, only 53407
upon the approval of the commission or the commission's designated 53408
representative. The commission or the commission's designated 53409
representative shall issue vouchers against such fund, in such 53410
amounts, and at such times as required by the contracts for 53411
construction of the project. 53412

(2) Notwithstanding anything to the contrary in division 53413
(B)(1) of this section, the school district board may, by a duly 53414
adopted resolution, choose to use all or part of the investment 53415
earnings of the district's project construction fund that are 53416
attributable to the district's contribution to the fund to pay the 53417
cost of classroom facilities or portions or components of 53418
classroom facilities that are not included in the district's basic 53419
project cost but that are related to the district's project. If 53420
the district board adopts a resolution in favor of using those 53421
investment earnings as authorized under division (B)(2) of this 53422
section, the treasurer shall disburse the amount as designated and 53423

directed by the board. However, if the district board chooses to use any part of the investment earnings for classroom facilities or portions or components of classroom facilities that are not included in the basic project cost, as authorized under division (B)(2) of this section, and, subsequently, the cost of the project exceeds the amount in the project construction fund, the district board shall restore to the project construction fund the full amount of the investment earnings used under division (B)(2) of this section before any additional state moneys shall be released for the project.

(C) After ~~the~~ a certificate of completion has been issued for a project has been completed under section 3318.48 of the Revised Code:

(1) At the discretion of the school district board, any investment earnings remaining in the project construction fund that are attributable to the school district's contribution to the fund shall be:

(a) Retained in the project construction fund for future projects;

(b) Transferred to the district's maintenance fund required by division (B) of section 3318.05 or section 3318.43 of the Revised Code, and the money so transferred shall be used solely for maintaining the classroom facilities included in the project;

(c) Transferred to the district's permanent improvement fund.

(2) Any investment earnings remaining in the project construction fund that are attributable to the state's contribution to the fund shall be transferred to the commission for expenditure pursuant to sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

(3) Any other surplus remaining in the school district's project construction fund ~~after the project has been completed~~

shall be transferred to the commission and the school district 53455
board in proportion to their respective contributions to the fund. 53456
The commission shall use the money transferred to it under this 53457
division for expenditure pursuant to sections 3318.01 to 3318.20 53458
or sections 3318.40 to 3318.45 of the Revised Code. 53459

(D) Pursuant to appropriations of the general assembly, any 53460
moneys transferred to the commission under division (C)(2) or (3) 53461
of this section from a project construction fund for a project 53462
under sections 3318.40 to 3318.45 of the Revised Code may be used 53463
for future expenditures for projects under sections 3318.40 to 53464
3318.45 of the Revised Code, notwithstanding the two per cent 53465
annual limit specified in division (B) of section 3318.40 of the 53466
Revised Code. 53467

Sec. 3318.31. (A) The Ohio school facilities commission may 53468
perform any act and ensure the performance of any function 53469
necessary or appropriate to carry out the purposes of, and 53470
exercise the powers granted under, Chapter 3318. of the Revised 53471
Code, including any of the following: 53472

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 53473
the Revised Code, rules for the administration of programs 53474
authorized under Chapter 3318. of the Revised Code. 53475

(2) Contract with, retain the services of, or designate, and 53476
fix the compensation of, such agents, accountants, consultants, 53477
advisers, and other independent contractors as may be necessary or 53478
desirable to carry out the programs authorized under Chapter 3318. 53479
of the Revised Code, or authorize the executive director to 53480
perform such powers and duties. 53481

(3) Receive and accept any gifts, grants, donations, and 53482
pledges, and receipts therefrom, to be used for the programs 53483
authorized under Chapter 3318. of the Revised Code. 53484

(4) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(5) Request the director of administrative services to debar a contractor as provided in section 153.02 of the Revised Code.

(B) The commission shall appoint and fix the compensation of an executive director who shall serve at the pleasure of the commission. The executive director shall supervise the operations of the commission and perform such other duties as delegated by the commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the commission, who shall serve at the pleasure of the executive director. The employees of the commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(C) The attorney general shall serve as the legal representative for the commission and may appoint other counsel as necessary for that purpose in accordance with section 109.07 of the Revised Code.

Sec. 3318.36. (A)(1) As used in this section:

(a) "Ohio school facilities commission," "classroom facilities," "school district," "school district board," "net bonded indebtedness," "required percentage of the basic project costs," "basic project cost," "valuation," and "percentile" have the same meanings as in section 3318.01 of the Revised Code.

(b) "Required level of indebtedness" means five per cent of the school district's valuation for the year preceding the year in

which the commission and school district enter into an agreement 53515
under division (B) of this section, plus [two one-hundredths of 53516
one per cent multiplied by (the percentile in which the district 53517
ranks minus one)]. 53518

(c) "Local resources" means any moneys generated in any 53519
manner permitted for a school district board to raise the school 53520
district portion of a project undertaken with assistance under 53521
sections 3318.01 to 3318.20 of the Revised Code. 53522

(d) "Tangible personal property phase-out impacted district" 53523
means a school district for which the taxable value of its 53524
tangible personal property certified under division (A)(2) of 53525
section 3317.021 of the Revised Code for tax year 2005, excluding 53526
the taxable value of public utility personal property, made up 53527
eighteen per cent or more of its total taxable value for tax year 53528
2005 as certified under that section. 53529

(2) For purposes of determining the required level of 53530
indebtedness, the required percentage of the basic project costs 53531
under division (C)(1) of this section, and priority for assistance 53532
under sections 3318.01 to 3318.20 of the Revised Code, the 53533
percentile ranking of a school district with which the commission 53534
has entered into an agreement under this section between the first 53535
day of July and the thirty-first day of August in each fiscal year 53536
is the percentile ranking calculated for that district for the 53537
immediately preceding fiscal year, and the percentile ranking of a 53538
school district with which the commission has entered into such 53539
agreement between the first day of September and the thirtieth day 53540
of June in each fiscal year is the percentile ranking calculated 53541
for that district for the current fiscal year. However, in the 53542
case of a tangible personal property phase-out impacted district, 53543
the district's priority for assistance under sections 3318.01 to 53544
3318.20 of the Revised Code and its portion of the basic project 53545
cost under those sections shall be determined in the manner 53546

prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of 53547
this section. 53548

(B)(1) There is hereby established the school building 53549
assistance expedited local partnership program. Under the program, 53550
the Ohio school facilities commission may enter into an agreement 53551
with the school district board of any school district under which 53552
the school district board may proceed with the new construction or 53553
major repairs of a part of the school district's classroom 53554
facilities needs, as determined under sections 3318.01 to 3318.20 53555
of the Revised Code, through the expenditure of local resources 53556
prior to the school district's eligibility for state assistance 53557
under those sections and may apply that expenditure toward meeting 53558
the school district's portion of the basic project cost of the 53559
total of the school district's classroom facilities needs, as 53560
determined under sections 3318.01 to 3318.20 of the Revised Code 53561
and as recalculated under division (E) of this section, that are 53562
eligible for state assistance under sections 3318.01 to 3318.20 of 53563
the Revised Code when the school district becomes eligible for 53564
that assistance. Any school district that is reasonably expected 53565
to receive assistance under sections 3318.01 to 3318.20 of the 53566
Revised Code within two fiscal years from the date the school 53567
district adopts its resolution under division (B) of this section 53568
shall not be eligible to participate in the program established 53569
under this section. 53570

(2) To participate in the program, a school district board 53571
shall first adopt a resolution certifying to the commission the 53572
board's intent to participate in the program. 53573

The resolution shall specify the approximate date that the 53574
board intends to seek elector approval of any bond or tax measures 53575
or to apply other local resources to use to pay the cost of 53576
classroom facilities to be constructed under this section. The 53577
resolution may specify the application of local resources or 53578

elector-approved bond or tax measures after the resolution is 53579
adopted by the board, and in such case the board may proceed with 53580
a discrete portion of its project under this section as soon as 53581
the commission and the controlling board have approved the basic 53582
project cost of the district's classroom facilities needs as 53583
specified in division (D) of this section. The board shall submit 53584
its resolution to the commission not later than ten days after the 53585
date the resolution is adopted by the board. 53586

The commission shall not consider any resolution that is 53587
submitted pursuant to division (B)(2) of this section, as amended 53588
by this amendment, sooner than September 14, 2000. 53589

(3) For purposes of determining when a district that enters 53590
into an agreement under this section becomes eligible for 53591
assistance under sections 3318.01 to 3318.20 of the Revised Code, 53592
the commission shall use one of the following as applicable: 53593

(a) Except for a tangible personal property phase-out 53594
impacted district, the district's percentile ranking determined at 53595
the time the district entered into the agreement under this 53596
section, as prescribed by division (A)(2) of this section; 53597

(b) For a tangible personal property phase-out impacted 53598
district, the lesser of (i) the district's percentile ranking 53599
determined at the time the district entered into the agreement 53600
under this section, as prescribed by division (A)(2) of this 53601
section, or (ii) the district's current percentile ranking under 53602
section 3318.011 of the Revised Code. 53603

(4) Any project under this section shall comply with section 53604
3318.03 of the Revised Code and with any specifications for plans 53605
and materials for classroom facilities adopted by the commission 53606
under section 3318.04 of the Revised Code. 53607

(5) If a school district that enters into an agreement under 53608
this section has not begun a project applying local resources as 53609

provided for under that agreement at the time the district is notified by the commission that it is eligible to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code, all assessment and agreement documents entered into under this section are void.

(6) Only construction of or repairs to classroom facilities that have been approved by the commission and have been therefore included as part of a district's basic project cost qualify for application of local resources under this section.

(C) Based on the results of on-site visits and assessment, the commission shall determine the basic project cost of the school district's classroom facilities needs. The commission shall determine the school district's portion of such basic project cost, which shall be the greater of:

(1) The required percentage of the basic project costs, determined based on the school district's percentile ranking;

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the fiscal year the commission and the school district enter into the agreement under division (B) of this section, to within five thousand dollars of the required level of indebtedness.

(D)(1) When the commission determines the basic project cost of the classroom facilities needs of a school district and the school district's portion of that basic project cost under division (C) of this section, the project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval thereof. The controlling board shall forthwith approve or reject the commission's determination, conditional approval, and the amount of the state's portion of the basic project cost; however, no state funds shall be encumbered under this section. Upon approval by the controlling board, the

school district board may identify a discrete part of its 53641
classroom facilities needs, which shall include only new 53642
construction of or additions or major repairs to a particular 53643
building, to address with local resources. Upon identifying a part 53644
of the school district's basic project cost to address with local 53645
resources, the school district board may allocate any available 53646
school district moneys to pay the cost of that identified part, 53647
including the proceeds of an issuance of bonds if approved by the 53648
electors of the school district. 53649

All local resources utilized under this division shall first 53650
be deposited in the project construction account required under 53651
section 3318.08 of the Revised Code. 53652

(2) Unless the school district board exercises its option 53653
under division (D)(3) of this section, for a school district to 53654
qualify for participation in the program authorized under this 53655
section, one of the following conditions shall be satisfied: 53656

(a) The electors of the school district by a majority vote 53657
shall approve the levy of taxes outside the ten-mill limitation 53658
for a period of twenty-three years at the rate of not less than 53659
one-half mill for each dollar of valuation to be used to pay the 53660
cost of maintaining the classroom facilities included in the basic 53661
project cost as determined by the commission. The form of the 53662
ballot to be used to submit the question whether to approve the 53663
tax required under this division to the electors of the school 53664
district shall be the form for an additional levy of taxes 53665
prescribed in section 3318.361 of the Revised Code, which may be 53666
combined in a single ballot question with the questions prescribed 53667
under section 5705.218 of the Revised Code. 53668

(b) As authorized under division (C) of section 3318.05 of 53669
the Revised Code, the school district board shall earmark from the 53670
proceeds of a permanent improvement tax levied under section 53671
5705.21 of the Revised Code, an amount equivalent to the 53672

additional tax otherwise required under division (D)(2)(a) of this 53673
section for the maintenance of the classroom facilities included 53674
in the basic project cost as determined by the commission. 53675

(c) As authorized under section 3318.051 of the Revised Code, 53676
the school district board shall, if approved by the commission, 53677
annually transfer into the maintenance fund required under section 53678
3318.05 of the Revised Code the amount prescribed in section 53679
3318.051 of the Revised Code in lieu of the tax otherwise required 53680
under division (D)(2)(a) of this section for the maintenance of 53681
the classroom facilities included in the basic project cost as 53682
determined by the commission. 53683

(d) If the school district board has rescinded the agreement 53684
to make transfers under section 3318.051 of the Revised Code, as 53685
provided under division (F) of that section, the electors of the 53686
school district, in accordance with section 3318.063 of the 53687
Revised Code, first shall approve the levy of taxes outside the 53688
ten-mill limitation for the period specified in that section at a 53689
rate of not less than one-half mill for each dollar of valuation. 53690

(e) The school district board shall apply the proceeds of a 53691
tax to leverage bonds as authorized under section 3318.052 of the 53692
Revised Code or dedicate a local donated contribution in the 53693
manner described in division (B) of section 3318.084 of the 53694
Revised Code in an amount equivalent to the additional tax 53695
otherwise required under division (D)(2)(a) of this section for 53696
the maintenance of the classroom facilities included in the basic 53697
project cost as determined by the commission. 53698

(3) A school district board may opt to delay taking any of 53699
the actions described in division (D)(2) of this section until the 53700
school district becomes eligible for state assistance under 53701
sections 3318.01 to 3318.20 of the Revised Code. In order to 53702
exercise this option, the board shall certify to the commission a 53703
resolution indicating the board's intent to do so prior to 53704

entering into an agreement under division (B) of this section. 53705

(4) If pursuant to division (D)(3) of this section a district 53706
board opts to delay levying an additional tax until the district 53707
becomes eligible for state assistance, it shall submit the 53708
question of levying that tax to the district electors as follows: 53709

(a) In accordance with section 3318.06 of the Revised Code if 53710
it will also be necessary pursuant to division (E) of this section 53711
to submit a proposal for approval of a bond issue; 53712

(b) In accordance with section 3318.361 of the Revised Code 53713
if it is not necessary to also submit a proposal for approval of a 53714
bond issue pursuant to division (E) of this section. 53715

(5) No state assistance under sections 3318.01 to 3318.20 of 53716
the Revised Code shall be released until a school district board 53717
that adopts and certifies a resolution under division (D) of this 53718
section also demonstrates to the satisfaction of the commission 53719
compliance with the provisions of division (D)(2) of this section. 53720

Any amount required for maintenance under division (D)(2) of 53721
this section shall be deposited into a separate fund as specified 53722
in division (B) of section 3318.05 of the Revised Code. 53723

(E)(1) If the school district becomes eligible for state 53724
assistance under sections 3318.01 to 3318.20 of the Revised Code 53725
based on its percentile ranking under division (B)(3) of this 53726
section, the commission shall conduct a new assessment of the 53727
school district's classroom facilities needs and shall recalculate 53728
the basic project cost based on this new assessment. The basic 53729
project cost recalculated under this division shall include the 53730
amount of expenditures made by the school district board under 53731
division (D)(1) of this section. The commission shall then 53732
recalculate the school district's portion of the new basic project 53733
cost, which shall be one of the following as applicable: 53734

(a) Except for a tangible personal property phase-out 53735

impacted district, the percentage of the original basic project 53736
cost assigned to the school district as its portion under division 53737
(C) of this section; 53738

(b) For a tangible personal property phase-out impacted 53739
district, the lesser of (i) the percentage of the original basic 53740
project cost assigned to the school district as its portion under 53741
division (C) of this section, or (ii) the percentage of the new 53742
basic project cost determined under section 3318.032 of the 53743
Revised Code using the district's current percentile ranking under 53744
section 3318.011 of the Revised Code. The 53745

The commission shall deduct the expenditure of school 53746
district moneys made under division (D)(1) of this section from 53747
the school district's portion of the basic project cost as 53748
recalculated under this division. If the amount of school district 53749
resources applied by the school district board to the school 53750
district's portion of the basic project cost under this section is 53751
less than the total amount of such portion as recalculated under 53752
this division, the school district board by a majority vote of all 53753
of its members shall, if it desires to seek state assistance under 53754
sections 3318.01 to 3318.20 of the Revised Code, adopt a 53755
resolution as specified in section 3318.06 of the Revised Code to 53756
submit to the electors of the school district the question of 53757
approval of a bond issue in order to pay any additional amount of 53758
school district portion required for state assistance. Any tax 53759
levy approved under division (D) of this section satisfies the 53760
requirements to levy the additional tax under section 3318.06 of 53761
the Revised Code. 53762

(2) If the amount of school district resources applied by the 53763
school district board to the school district's portion of the 53764
basic project cost under this section is more than the total 53765
amount of such portion as recalculated under ~~this~~ division (E)(1) 53766
of this section, within one year after the school district's 53767

portion is so recalculated ~~under division (E)(1) of this section~~ 53768
the commission may grant to the school district the difference 53769
between the two calculated portions, but at no time shall the 53770
commission expend any state funds on a project in an amount 53771
greater than the state's portion of the basic project cost as 53772
recalculated under ~~this~~ division (E)(1) of this section. 53773

Any reimbursement under this division shall be only for local 53774
resources the school district has applied toward construction cost 53775
expenditures for the classroom facilities approved by the 53776
commission, which shall not include any financing costs associated 53777
with that construction. 53778

The school district board shall use any moneys reimbursed to 53779
the district under this division to pay off any debt service the 53780
district owes for classroom facilities constructed under its 53781
project under this section before such moneys are applied to any 53782
other purpose. However, the district board first may deposit 53783
moneys reimbursed under this division into the district's general 53784
fund or a permanent improvement fund to replace local resources 53785
the district withdrew from those funds, as long as, and to the 53786
extent that, those local resources were used by the district for 53787
constructing classroom facilities included in the district's basic 53788
project cost. 53789

(3) A tangible personal property phase-out impacted district 53790
shall receive credit under division (E) of this section for the 53791
expenditure of local resources pursuant to any prior agreement 53792
authorized by this section, notwithstanding any recalculation of 53793
its average taxable value. 53794

Sec. 3318.37. (A)(1) As used in this section: 53795

(a) "Large land area school district" means a school district 53796
with a territory of greater than three hundred square miles in any 53797
percentile as determined under section 3318.011 of the Revised 53798

Code. 53799

(b) "Low wealth school district" means a school district in 53800
the first through seventy-fifth percentiles as determined under 53801
section 3318.011 of the Revised Code. 53802

(c) A "school district with an exceptional need for immediate 53803
classroom facilities assistance" means a low wealth or large land 53804
area school district with an exceptional need for new facilities 53805
in order to protect the health and safety of all or a portion of 53806
its students. 53807

~~(2) No school district reasonably expected to be eligible for 53808
state assistance under sections 3318.01 to 3318.20 of the Revised 53809
Code within three fiscal years after the year of the application 53810
for assistance under this section shall be eligible for assistance 53811
under this section, unless the district's entire classroom 53812
facilities plan consists of only a single building designed to 53813
house grades kindergarten through twelve and the district 53814
satisfies the conditions prescribed in divisions (A)(3)(a) and (b) 53815
of this section. 53816~~

~~(3) No school district that participates in the school 53817
building assistance expedited local partnership program under 53818
section 3318.36 of the Revised Code shall receive assistance under 53819
the program established under this section unless the following 53820
conditions are satisfied: 53821~~

(a) The district board adopted a resolution certifying its 53822
intent to participate in the school building assistance expedited 53823
local partnership program under section 3318.36 of the Revised 53824
Code prior to September 14, 2000. 53825

(b) The district was selected by the Ohio school facilities 53826
commission for participation in the school building assistance 53827
expedited local partnership program under section 3318.36 of the 53828
Revised Code in the manner prescribed by the commission under that 53829

section as it existed prior to September 14, 2000. 53830

(B)(1) There is hereby established the exceptional needs 53831
school facilities assistance program. Under the program, the Ohio 53832
school facilities commission may set aside from the moneys 53833
annually appropriated to it for classroom facilities assistance 53834
projects up to twenty-five per cent for assistance to school 53835
districts with exceptional needs for immediate classroom 53836
facilities assistance. 53837

(2)(a) After consulting with education and construction 53838
experts, the commission shall adopt guidelines for identifying 53839
school districts with an exceptional need for immediate classroom 53840
facilities assistance. 53841

(b) The guidelines shall include application forms and 53842
instructions for school districts to use in applying for 53843
assistance under this section. 53844

(3) The commission shall evaluate the classroom facilities, 53845
and the need for replacement classroom facilities from the 53846
applications received under this section. The commission, 53847
utilizing the guidelines adopted under division (B)(2)(a) of this 53848
section, shall prioritize the school districts to be assessed. 53849

Notwithstanding section 3318.02 of the Revised Code, the 53850
commission may conduct on-site evaluation of the school districts 53851
prioritized under this section and approve and award funds until 53852
such time as all funds set aside under division (B)(1) of this 53853
section have been encumbered. However, the commission need not 53854
conduct the evaluation of facilities if the commission determines 53855
that a district's assessment conducted under section 3318.36 of 53856
the Revised Code is sufficient for purposes of this section. 53857

(4) Notwithstanding division (A) of section 3318.05 of the 53858
Revised Code, the school district's portion of the basic project 53859
cost under this section shall be the "required percentage of the 53860

basic project costs," as defined in division (K) of section 53861
3318.01 of the Revised Code. 53862

(5) Except as otherwise specified in this section, any 53863
project undertaken with assistance under this section shall comply 53864
with all provisions of sections 3318.01 to 3318.20 of the Revised 53865
Code. A school district may receive assistance under sections 53866
3318.01 to 3318.20 of the Revised Code for the remainder of the 53867
district's classroom facilities needs as assessed under this 53868
section when the district is eligible for such assistance pursuant 53869
to section 3318.02 of the Revised Code, but any classroom facility 53870
constructed with assistance under this section shall not be 53871
included in a district's project at that time unless the 53872
commission determines the district has experienced the increased 53873
enrollment specified in division (B)(1) of section 3318.04 of the 53874
Revised Code. 53875

(C) No school district shall receive assistance under this 53876
section for a classroom facility that has been included in the 53877
discrete part of the district's classroom facilities needs 53878
identified and addressed in the district's project pursuant to an 53879
agreement entered into under section 3318.36 of the Revised Code, 53880
unless the district's entire classroom facilities plan consists of 53881
only a single building designed to house grades kindergarten 53882
through twelve. 53883

Sec. 3318.371. The Ohio school facilities commission may 53884
provide assistance under the exceptional needs school facilities 53885
program established by section 3318.37 of the Revised Code to any 53886
school district for the purpose of the relocation or replacement 53887
of classroom facilities required as a result of any contamination 53888
of air, soil, or water that impacts the occupants of the facility. 53889
Assistance under this section is not limited to school districts 53890
in the first through seventy-fifth percentiles as determined under 53891

section 3318.011 of the Revised Code. 53892

The commission shall make a determination in accordance with 53893
guidelines adopted by the commission regarding eligibility and 53894
funding for projects under this section. The commission may 53895
contract with an independent environmental consultant to conduct a 53896
study to assist the commission in making the determination. 53897

If the federal government or other public or private entity 53898
provides funds for restitution of costs incurred by the state or 53899
school district in the relocation or replacement of the classroom 53900
facilities, the school district shall use such funds in excess of 53901
the school district's share to refund the state for the state's 53902
contribution to the environmental contamination portion of the 53903
project. The school district may apply an amount of such 53904
restitution funds up to an amount equal to the school district's 53905
portion of the project, as defined by the commission, toward 53906
paying its portion of that project to reduce the amount of bonds 53907
the school district otherwise must issue to receive state 53908
assistance under sections 3318.01 to 3318.20 of the Revised Code. 53909

Sec. 3318.38. (A) As used in this section, "big-eight school 53910
district" has the same meaning as in section 3314.02 of the 53911
Revised Code. 53912

(B) There is hereby established the accelerated urban school 53913
building assistance program. Under the program, notwithstanding 53914
section 3318.02 of the Revised Code, any big-eight school district 53915
that has not been approved to receive assistance under sections 53916
3318.01 to 3318.20 of the Revised Code by July 1, 2002, may 53917
beginning on that date apply for approval of and be approved for 53918
such assistance. Except as otherwise provided in this section, any 53919
project approved and undertaken pursuant to this section shall 53920
comply with all provisions of sections 3318.01 to 3318.20 of the 53921

Revised Code. 53922

The Ohio school facilities commission shall provide 53923
assistance to any big-eight school district eligible for 53924
assistance under this section in the following manner: 53925

(1) Notwithstanding section 3318.02 of the Revised Code: 53926

(a) Not later than June 30, 2002, the commission shall 53927
conduct an on-site visit and shall assess the classroom facilities 53928
needs of each big-eight school district eligible for assistance 53929
under this section; 53930

(b) Beginning July 1, 2002, any big-eight school district 53931
eligible for assistance under this section may apply to the 53932
commission for conditional approval of its project as determined 53933
by the assessment conducted under division (B)(1)(a) of this 53934
section. The commission may conditionally approve that project and 53935
submit it to the controlling board for approval pursuant to 53936
section 3318.04 of the Revised Code. 53937

(2) If the controlling board approves the project of a 53938
big-eight school district eligible for assistance under this 53939
section, the commission and the school district shall enter into 53940
an agreement as prescribed in section 3318.08 of the Revised Code. 53941
Any agreement executed pursuant to this division shall include any 53942
applicable segmentation provisions as approved by the commission 53943
under division (B)(3) of this section. 53944

(3) Notwithstanding any provision to the contrary in sections 53945
3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight 53946
school district eligible for assistance under this section may 53947
with the approval of the commission opt to divide the project as 53948
approved under division (B)(1)(b) of this section into discrete 53949
segments to be completed sequentially. Any project divided into 53950
segments shall comply with all other provisions of sections 53951
3318.05, 3318.06, and 3318.08 of the Revised Code except as 53952

otherwise specified in this division. 53953

If a project is divided into segments under this division: 53954

(a) The school district need raise only the amount equal to 53955
its proportionate share, as determined under section 3318.032 of 53956
the Revised Code, of each segment at any one time and may seek 53957
voter approval of each segment separately; 53958

(b) The state's proportionate share, as determined under 53959
section 3318.032 of the Revised Code, of only the segment which 53960
has been approved by the school district electors or for which the 53961
district has applied a local donated contribution under section 53962
3318.084 of the Revised Code shall be encumbered in accordance 53963
with section 3318.11 of the Revised Code. Encumbrance of 53964
additional amounts to cover the state's proportionate share of 53965
later segments shall be approved separately as they are approved 53966
by the school district electors or as the district applies a local 53967
donated contribution to the segments under section 3318.084 of the 53968
Revised Code. 53969

(c) The school district's maintenance levy requirement, as 53970
defined in section 3318.18 of the Revised Code, shall run for 53971
twenty-three years from the date the first segment is undertaken. 53972

~~(4) For any project under this section~~ (C) In accordance with 53973
division (R) of section 3318.08 of the Revised Code, the state 53974
funds reserved and encumbered and the funds provided by the school 53975
district to pay the basic project cost of any segment of the 53976
project under this section, or of the entire project if it is not 53977
divided into segments, shall be spent on the construction and 53978
acquisition of the project simultaneously in proportion to the 53979
state's and the school district's respective shares of that basic 53980
project cost as determined under section 3318.032 of the Revised 53981
Code. 53982

Sec. 3318.41. (A)(1) The Ohio school facilities commission 53983
annually shall assess the classroom facilities needs of the number 53984
of joint vocational school districts that the commission 53985
reasonably expects to be able to provide assistance to in a fiscal 53986
year, based on the amount set aside for that fiscal year under 53987
division (B) of section 3318.40 of the Revised Code and the order 53988
of priority prescribed in division (B) of section 3318.42 of the 53989
Revised Code, except that in fiscal year 2004 the commission shall 53990
conduct at least the five assessments prescribed in division (E) 53991
of section 3318.40 of the Revised Code. 53992

Upon conducting an assessment of the classroom facilities 53993
needs of a school district, the commission shall make a 53994
determination of all of the following: 53995

(a) The number of classroom facilities to be included in a 53996
project and the basic project cost of acquiring the classroom 53997
facilities included in the project. The number of facilities and 53998
basic project cost shall be determined in accordance with the 53999
specifications adopted under section 3318.311 of the Revised Code 54000
except to the extent that compliance with such specifications is 54001
waived by the commission pursuant to the rule of the commission 54002
adopted under division (F) of section 3318.40 of the Revised Code. 54003

(b) The school district's portion of the basic project cost 54004
as determined under division (C) of section 3318.42 of the Revised 54005
Code; 54006

(c) The remaining portion of the basic project cost that 54007
shall be supplied by the state; 54008

(d) The amount of the state's portion of the basic project 54009
cost to be encumbered in accordance with section 3318.11 of the 54010
Revised Code in the current and subsequent fiscal years from funds 54011
set aside under division (B) of section 3318.40 of the Revised 54012
Code. 54013

(2) Divisions (A), (C), and (D) of section 3318.03 of the Revised Code apply to any project under sections 3318.40 to 3318.45 of the Revised Code.

(B)(1) If the commission makes a determination under division (A) of this section in favor of the acquisition of classroom facilities for a project under sections 3318.40 to 3318.45 of the Revised Code, such project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval. The controlling board shall immediately approve or reject the commission's determination, conditional approval, the amount of the state's portion of the basic project cost, and the amount of the state's portion of the basic project cost to be encumbered in the current fiscal year. In the event of approval by the controlling board, the commission shall certify the conditional approval to the joint vocational school district board of education and shall encumber the approved funds for the current fiscal year.

(2) No school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code shall have another such project conditionally approved until the expiration of twenty years after the school district's prior project was conditionally approved, unless the school district board demonstrates to the satisfaction of the commission that the school district has experienced since conditional approval of its prior project an exceptional increase in enrollment or program requirements significantly above the school district's design capacity under that prior project as determined by rule of the commission. Any rule adopted by the commission to implement this division shall be tailored to address the classroom facilities needs of joint vocational school districts.

(C) In addition to generating the amount of the school district's portion of the basic project cost as determined under

division (C) of section 3318.42 of the Revised Code, in order for 54046
a school district to receive assistance under sections 3318.40 to 54047
3318.45 of the Revised Code, the school district board shall set 54048
aside school district moneys for the maintenance of the classroom 54049
facilities included in the school district's project in the amount 54050
and manner prescribed in section 3318.43 of the Revised Code. 54051

(D)(1) The conditional approval for a project certified under 54052
division (B)(1) of this section shall lapse and the amount 54053
reserved and encumbered for such project shall be released unless 54054
both of the following conditions are satisfied: 54055

(a) Within one hundred twenty days following the date of 54056
certification of the conditional approval to the joint vocational 54057
school district board, the school district board accepts the 54058
conditional approval and certifies to the commission the school 54059
district board's plan to generate the school district's portion of 54060
the basic project cost, as determined under division (C) of 54061
section 3318.42 of the Revised Code, and to set aside moneys for 54062
maintenance of the classroom facilities acquired under the 54063
project, as prescribed in section 3318.43 of the Revised Code. 54064

(b) Within ~~one year~~ thirteen months following the date of 54065
certification of the conditional approval to the school district 54066
board, the electors of the school district vote favorably on any 54067
ballot measures proposed by the school district board to generate 54068
the school district's portion of the basic project cost. 54069

(2) If the school district board or electors fail to satisfy 54070
the conditions prescribed in division (D)(1) of this section and 54071
the amount reserved and encumbered for the school district's 54072
project is released, the school district shall be given first 54073
priority over other joint vocational school districts for project 54074
funding under sections 3318.40 to 3318.45 of the Revised Code as 54075
such funds become available, subject to section 3318.054 of the 54076
Revised Code. 54077

(E) If the conditions prescribed in division (D)(1) of this section are satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for construction of any project under sections 3318.40 to 3318.45 of the Revised Code shall be conducted in accordance with section 3318.10 of the Revised Code.

(H) The In accordance with division (R) of section 3318.08 of the Revised Code, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of a project under sections 3318.40 to 3318.45 of the Revised Code shall be spent simultaneously in proportion to the state's and the school district's respective portions of that basic project cost.

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised Code apply to projects under sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.48. (A) When all of the following have occurred, a project undertaken by a school district pursuant to this chapter shall be considered complete and the Ohio school facilities commission shall issue a certificate of completion to the district board of education:

(1) All facilities to be constructed under the project, as specified in the project agreement entered into under section

3318.08 of the Revised Code, have been completed and the board has 54108
received a permanent certificate of occupancy for each of those 54109
facilities. 54110

(2) The commission has issued certificates of contract 54111
completion on all prime construction contracts entered into by the 54112
board under section 3318.10 of the Revised Code. 54113

(3) The commission has completed a final accounting of the 54114
district's project construction fund and has determined that all 54115
payments from the fund were made in compliance with all policies 54116
of the commission. 54117

(4) Any litigation concerning the project has been finally 54118
resolved with no chance of appeal. 54119

(5) All construction management services typically provided 54120
by the commission to school districts have been delivered and the 54121
commission has canceled any remaining encumbrance of funds for 54122
those services. 54123

(B) The commission may issue a certificate of completion to a 54124
district board prior to all of the conditions described in 54125
division (A) of this section being satisfied, if the commission 54126
determines that the circumstances preventing the conditions from 54127
being satisfied are so minor in nature that the project should be 54128
considered complete. When issuing a certificate of completion 54129
under this division, the commission may specify any of the 54130
following: 54131

(1) Any construction or work that has yet to be completed and 54132
the manner in which the board shall oversee its completion, which 54133
may include procedures for reporting progress to the commission 54134
and for accounting of expenditures; 54135

(2) Terms and conditions for the resolution of any pending 54136
litigation; 54137

(3) Any remaining responsibilities of the construction manager regarding the project. 54138
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(C) The commission may issue a certificate of completion to a district board that does not voluntarily participate in the process of closing out the district's project, if the construction manager for the project verifies that all facilities to be constructed under the project, as specified in the project agreement entered into under section 3318.08 of the Revised Code, have been completed and the commission determines that those facilities have been occupied for at least one year. In that case, all funds due to the commission under division (C) of section 3318.12 of the Revised Code shall be returned to the commission not later than thirty days after receipt of the certificate of completion. If the funds due to the commission have not been returned within sixty days after receipt of the certificate of completion, the auditor of state shall issue a finding for recovery against the school district and shall request legal action under section 117.42 of the Revised Code. 54140
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(D) Upon issuance of a certificate of completion under this section, the commission's ownership of and interest in the project, as specified in division (F) of section 3318.08 of the Revised Code, shall cease. This cessation shall not alter or otherwise affect the state's or commission's interest in the project or any limitations on the use of the project as specified in the project agreement pursuant to divisions (G), (M), and (N) of that section or as specified in section 3318.16 of the Revised Code. 54156
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Sec. 3318.60. (A) As used in this section: 54165

(1) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities. 54166
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(2) "Ohio school facilities commission" and "classroom facilities" have the same meanings as in section 3318.01 of the Revised Code. 54169
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(B) There is hereby established the college-preparatory boarding school facilities program. Under the program, the Ohio school facilities commission shall provide assistance to the boards of trustees of college-preparatory boarding schools established under Chapter 3328. of the Revised Code for the acquisition of classroom facilities. 54172
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(C) To be eligible for assistance under this program, a board of trustees shall secure at least twenty million dollars of private money to satisfy its share of facilities acquisition. A board of trustees that receives assistance under the program shall fund the acquisition of residential facilities and any other facilities other than classroom facilities through private means. 54178
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(D) The lease payments made by the boards of trustees of college-preparatory boarding schools receiving assistance under the program shall be deposited into the state treasury and credited to the common schools capital facilities bond service fund created in section 151.03 of the Revised Code. 54184
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(E) The acquisition of classroom facilities with assistance provided under the program shall not be subject to sections 3318.01 to 3318.20 of the Revised Code. 54189
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(F) Within the ninety-day period immediately following the effective date of this section, the commission shall adopt rules necessary for the implementation and administration of the program. 54192
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Sec. 3319.02. (A)(1) As used in this section, "other administrator" means any of the following: 54196
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(a) Except as provided in division (A)(2) of this section, 54198

any employee in a position for which a board of education requires 54199
a license designated by rule of the department of education for 54200
being an administrator issued under section 3319.22 of the Revised 54201
Code, including a professional pupil services employee or 54202
administrative specialist or an equivalent of either one who is 54203
not employed as a school counselor and spends less than fifty per 54204
cent of the time employed teaching or working with students; 54205

(b) Any nonlicensed employee whose job duties enable such 54206
employee to be considered as either a "supervisor" or a 54207
"management level employee," as defined in section 4117.01 of the 54208
Revised Code; 54209

(c) A business manager appointed under section 3319.03 of the 54210
Revised Code. 54211

(2) As used in this section, "other administrator" does not 54212
include a superintendent, assistant superintendent, principal, or 54213
assistant principal. 54214

(B) The board of education of each school district and the 54215
governing board of an educational service center may appoint one 54216
or more assistant superintendents and such other administrators as 54217
are necessary. An assistant educational service center 54218
superintendent or service center supervisor employed on a 54219
part-time basis may also be employed by a local board as a 54220
teacher. The board of each city, exempted village, and local 54221
school district shall employ principals for all high schools and 54222
for such other schools as the board designates, and those boards 54223
may appoint assistant principals for any school that they 54224
designate. 54225

(C) In educational service centers and in city, exempted 54226
village, and local school districts, assistant superintendents, 54227
principals, assistant principals, and other administrators shall 54228
only be employed or reemployed in accordance with nominations of 54229

the superintendent, except that a board of education of a school 54230
district or the governing board of a service center, by a 54231
three-fourths vote of its full membership, may reemploy any 54232
assistant superintendent, principal, assistant principal, or other 54233
administrator whom the superintendent refuses to nominate. 54234

The board of education or governing board shall execute a 54235
written contract of employment with each assistant superintendent, 54236
principal, assistant principal, and other administrator it employs 54237
or reemploys. The term of such contract shall not exceed three 54238
years except that in the case of a person who has been employed as 54239
an assistant superintendent, principal, assistant principal, or 54240
other administrator in the district or center for three years or 54241
more, the term of the contract shall be for not more than five 54242
years and, unless the superintendent of the district recommends 54243
otherwise, not less than two years. If the superintendent so 54244
recommends, the term of the contract of a person who has been 54245
employed by the district or service center as an assistant 54246
superintendent, principal, assistant principal, or other 54247
administrator for three years or more may be one year, but all 54248
subsequent contracts granted such person shall be for a term of 54249
not less than two years and not more than five years. When a 54250
teacher with continuing service status becomes an assistant 54251
superintendent, principal, assistant principal, or other 54252
administrator with the district or service center with which the 54253
teacher holds continuing service status, the teacher retains such 54254
status in the teacher's nonadministrative position as provided in 54255
sections 3319.08 and 3319.09 of the Revised Code. 54256

A board of education or governing board may reemploy an 54257
assistant superintendent, principal, assistant principal, or other 54258
administrator at any regular or special meeting held during the 54259
period beginning on the first day of January of the calendar year 54260
immediately preceding the year of expiration of the employment 54261

contract and ending on the last day of March of the year the 54262
employment contract expires. 54263

Except by mutual agreement of the parties thereto, no 54264
assistant superintendent, principal, assistant principal, or other 54265
administrator shall be transferred during the life of a contract 54266
to a position of lesser responsibility. No contract may be 54267
terminated by a board except pursuant to section 3319.16 of the 54268
Revised Code. No contract may be suspended except pursuant to 54269
section 3319.17 or 3319.171 of the Revised Code. The salaries and 54270
compensation prescribed by such contracts shall not be reduced by 54271
a board unless such reduction is a part of a uniform plan 54272
affecting the entire district or center. The contract shall 54273
specify the employee's administrative position and duties as 54274
included in the job description adopted under division (D) of this 54275
section, the salary and other compensation to be paid for 54276
performance of duties, the number of days to be worked, the number 54277
of days of vacation leave, if any, and any paid holidays in the 54278
contractual year. 54279

An assistant superintendent, principal, assistant principal, 54280
or other administrator is, at the expiration of the current term 54281
of employment, deemed reemployed at the same salary plus any 54282
increments that may be authorized by the board, unless such 54283
employee notifies the board in writing to the contrary on or 54284
before the first day of June, or unless such board, on or before 54285
the last day of March of the year in which the contract of 54286
employment expires, either reemploys such employee for a 54287
succeeding term or gives written notice of its intention not to 54288
reemploy the employee. The term of reemployment of a person 54289
reemployed under this paragraph shall be one year, except that if 54290
such person has been employed by the school district or service 54291
center as an assistant superintendent, principal, assistant 54292
principal, or other administrator for three years or more, the 54293

term of reemployment shall be two years. 54294

(D)(1) Each board shall adopt procedures for the evaluation 54295
of all assistant superintendents, principals, assistant 54296
principals, and other administrators and shall evaluate such 54297
employees in accordance with those procedures. The procedures for 54298
the evaluation of principals shall be based on principles 54299
comparable to the teacher evaluation policy adopted by the board 54300
under section 3319.111 of the Revised Code, including the 54301
requirement for at least fifty per cent of each evaluation to be 54302
based on measures of student academic growth, but shall be 54303
tailored to the duties and responsibilities of principals and the 54304
environment in which principals work. An evaluation based upon 54305
~~such~~ procedures adopted under this division shall be considered by 54306
the board in deciding whether to renew the contract of employment 54307
of an assistant superintendent, principal, assistant principal, or 54308
other administrator. In the case of a principal, the evaluation 54309
also shall be considered in making decisions about compensation, 54310
termination, reductions in force, and professional development. 54311

(2) The evaluation shall measure each assistant 54312
superintendent's, principal's, assistant principal's, and other 54313
administrator's effectiveness in performing the duties included in 54314
the job description and the evaluation procedures shall provide 54315
for, but not be limited to, the following: 54316

(a) Each assistant superintendent, principal, assistant 54317
principal, and other administrator shall be evaluated annually 54318
through a written evaluation process. 54319

(b) The evaluation shall be conducted by the superintendent 54320
or designee. 54321

(c) In order to provide time to show progress in correcting 54322
the deficiencies identified in the evaluation process, the 54323
evaluation process shall be completed as follows: 54324

(i) In any school year that the employee's contract of employment is not due to expire, at least one evaluation shall be completed in that year. A written copy of the evaluation shall be provided to the employee no later than the end of the employee's contract year as defined by the employee's annual salary notice.

(ii) In any school year that the employee's contract of employment is due to expire, at least a preliminary evaluation and at least a final evaluation shall be completed in that year. A written copy of the preliminary evaluation shall be provided to the employee at least sixty days prior to any action by the board on the employee's contract of employment. The final evaluation shall indicate the superintendent's intended recommendation to the board regarding a contract of employment for the employee. A written copy of the evaluation shall be provided to the employee at least five days prior to the board's acting to renew or not renew the contract.

(3) Termination of an assistant superintendent, principal, assistant principal, or other administrator's contract shall be pursuant to section 3319.16 of the Revised Code. Suspension of any such employee shall be pursuant to section 3319.17 or 3319.171 of the Revised Code.

(4) Before taking action to renew or nonrenew the contract of an assistant superintendent, principal, assistant principal, or other administrator under this section and prior to the last day of March of the year in which such employee's contract expires, the board shall notify each such employee of the date that the contract expires and that the employee may request a meeting with the board. Upon request by such an employee, the board shall grant the employee a meeting in executive session. In that meeting, the board shall discuss its reasons for considering renewal or nonrenewal of the contract. The employee shall be permitted to have a representative, chosen by the employee, present at the

meeting. 54357

(5) The establishment of an evaluation procedure shall not 54358
create an expectancy of continued employment. Nothing in division 54359
(D) of this section shall prevent a board from making the final 54360
determination regarding the renewal or nonrenewal of the contract 54361
of any assistant superintendent, principal, assistant principal, 54362
or other administrator. However, if a board fails to provide 54363
evaluations pursuant to division (D)(2)(c)(i) or (ii) of this 54364
section, or if the board fails to provide at the request of the 54365
employee a meeting as prescribed in division (D)(4) of this 54366
section, the employee automatically shall be reemployed at the 54367
same salary plus any increments that may be authorized by the 54368
board for a period of one year, except that if the employee has 54369
been employed by the district or service center as an assistant 54370
superintendent, principal, assistant principal, or other 54371
administrator for three years or more, the period of reemployment 54372
shall be for two years. 54373

(E) On nomination of the superintendent of a service center a 54374
governing board may employ supervisors who shall be employed under 54375
written contracts of employment for terms not to exceed five years 54376
each. Such contracts may be terminated by a governing board 54377
pursuant to section 3319.16 of the Revised Code. Any supervisor 54378
employed pursuant to this division may terminate the contract of 54379
employment at the end of any school year after giving the board at 54380
least thirty days' written notice prior to such termination. On 54381
the recommendation of the superintendent the contract or contracts 54382
of any supervisor employed pursuant to this division may be 54383
suspended for the remainder of the term of any such contract 54384
pursuant to section 3319.17 or 3319.171 of the Revised Code. 54385

(F) A board may establish vacation leave for any individuals 54386
employed under this section. Upon such an individual's separation 54387
from employment, a board that has such leave may compensate such 54388

an individual at the individual's current rate of pay for all 54389
lawfully accrued and unused vacation leave credited at the time of 54390
separation, not to exceed the amount accrued within three years 54391
before the date of separation. In case of the death of an 54392
individual employed under this section, such unused vacation leave 54393
as the board would have paid to the individual upon separation 54394
under this section shall be paid in accordance with section 54395
2113.04 of the Revised Code, or to the estate. 54396

(G) The board of education of any school district may 54397
contract with the governing board of the educational service 54398
center from which it otherwise receives services to conduct 54399
searches and recruitment of candidates for assistant 54400
superintendent, principal, assistant principal, and other 54401
administrator positions authorized under this section. 54402

Sec. 3319.08. (A) The board of education of each city, 54403
exempted village, local, and joint vocational school district and 54404
the governing board of each educational service center shall enter 54405
into written contracts for the employment and reemployment of all 54406
teachers. Contracts for the employment of teachers shall be of two 54407
types, limited contracts and continuing contracts. The board of 54408
each school district or service center that authorizes 54409
compensation in addition to the ~~base salary stated in the~~ 54410
~~teachers' salary schedule~~ paid under section 3317.14 or 3317.141 54411
of the Revised Code for the performance of duties by a teacher 54412
that are in addition to the teacher's regular teaching duties, 54413
shall enter into a supplemental written contract with each teacher 54414
who is to perform additional duties. Such supplemental written 54415
contracts shall be limited contracts. Such written contracts and 54416
supplemental written contracts shall set forth the teacher's 54417
duties and shall specify the salaries and compensation to be paid 54418
for regular teaching duties and additional teaching duties, 54419
respectively, either or both of which may be increased but not 54420

diminished during the term for which the contract is made, except 54421
as provided in section 3319.12 of the Revised Code. 54422

If a board adopts a motion or resolution to employ a teacher 54423
under a limited or continuing contract and the teacher accepts 54424
such employment, the failure of such parties to execute a written 54425
contract shall not void such employment contract. 54426

(B) Teachers must be paid for all time lost when the schools 54427
in which they are employed are closed due to an epidemic or other 54428
public calamity, and for time lost due to illness or otherwise for 54429
not less than five days annually as authorized by regulations 54430
which each board shall adopt. 54431

(C) A limited contract is: 54432

(1) For a superintendent, a contract for such term as 54433
authorized by section 3319.01 of the Revised Code; 54434

(2) For an assistant superintendent, principal, assistant 54435
principal, or other administrator, a contract for such term as 54436
authorized by section 3319.02 of the Revised Code; 54437

(3) For a classroom teacher, a contract for a term not to 54438
exceed the following: 54439

(a) Five years, in the case of a contract entered into prior 54440
to the effective date of this amendment; 54441

(b) A term as authorized in division (D) of this section, in 54442
the case of a contract entered into on or after the effective date 54443
of this amendment. 54444

(4) For all other teachers, a contract for a term not to 54445
exceed five years. 54446

(D) The term of an initial limited contract for a classroom 54447
teacher described in division (C)(3)(b) of this section shall not 54448
exceed three years. Any subsequent limited contract entered into 54449
with that classroom teacher shall be for a term of not less than 54450

two years and not more than five years. 54451

(E) A continuing contract is a contract that remains in 54452
effect until the teacher resigns, elects to retire, ~~or~~ is retired 54453
pursuant to former section 3307.37 of the Revised Code, or becomes 54454
subject to division (F) of section 3319.111 of the Revised Code, 54455
or until it is terminated or suspended and shall be granted only 54456
to the following: 54457

(1) Any teacher holding a professional, permanent, or life 54458
teacher's certificate; 54459

(2) Any teacher who ~~meets~~ met the following conditions prior 54460
to the effective date of this amendment: 54461

(a) The teacher was initially issued a teacher's certificate 54462
or educator license prior to January 1, 2011. 54463

(b) The teacher ~~holds~~ held a professional educator license 54464
issued under section 3319.22 or 3319.222 or former section 3319.22 54465
of the Revised Code or a senior professional educator license or 54466
lead professional educator license issued under section 3319.22 of 54467
the Revised Code. 54468

(c) The teacher ~~has~~ had completed the applicable one of the 54469
following: 54470

(i) If the teacher did not hold a master's degree at the time 54471
of initially receiving a teacher's certificate under former law or 54472
an educator license, thirty semester hours of coursework in the 54473
area of licensure or in an area related to the teaching field 54474
since the initial issuance of such certificate or license, as 54475
specified in rules which the state board of education shall adopt; 54476

(ii) If the teacher held a master's degree at the time of 54477
initially receiving a teacher's certificate under former law or an 54478
educator license, six semester hours of graduate coursework in the 54479
area of licensure or in an area related to the teaching field 54480

since the initial issuance of such certificate or license, as 54481
specified in rules which the state board shall adopt. 54482

~~(3) Any teacher who meets the following conditions:~~ 54483

~~(a) The teacher never held a teacher's certificate and was 54484
initially issued an educator license on or after January 1, 2011. 54485~~

~~(b) The teacher holds a professional educator license, senior 54486
professional educator license, or lead professional educator 54487
license issued under section 3319.22 of the Revised Code. 54488~~

~~(c) The teacher has held an educator license for at least 54489
seven years. 54490~~

~~(d) The teacher has completed the applicable one of the 54491
following: 54492~~

~~(i) If the teacher did not hold a master's degree at the time 54493
of initially receiving an educator license, thirty semester hours 54494
of coursework in the area of licensure or in an area related to 54495
the teaching field since the initial issuance of that license, as 54496
specified in rules which the state board shall adopt; 54497~~

~~(ii) If the teacher held a master's degree at the time of 54498
initially receiving an educator license, six semester hours of 54499
graduate coursework in the area of licensure or in an area related 54500
to the teaching field since the initial issuance of that license, 54501
as specified in rules which the state board shall adopt. 54502~~

~~(E)(F) Division (D)(E) of this section applies only to 54503
continuing contracts entered into on or after the effective date 54504
of this amendment the effective date of the amendment of this 54505
section by H.B. 153 of the 129th general assembly. Nothing in that 54506
division shall be construed to void or otherwise affect a 54507
continuing contract entered into prior to that date. 54508~~

Notwithstanding any provision to the contrary in Chapter 54509
4117. of the Revised Code, ~~the:~~ 54510

(1) The requirements of division ~~(D)~~(E)(3) of this section, 54511
as it existed prior to the effective date of this amendment, 54512
prevail over any conflicting provisions of a collective bargaining 54513
agreement entered into ~~on or after the effective date of this~~ 54514
amendment between October 16, 2009, and that effective date. 54515

(2) The requirements of division (E) of this section, as it 54516
exists on and after the effective date of this amendment, prevail 54517
over any conflicting provisions of a collective bargaining 54518
agreement entered into on or after that effective date. 54519

~~(F)~~(G) Wherever the term "educator license" is used in this 54520
section without reference to a specific type of educator license, 54521
the term does not include an educator license for substitute 54522
teaching issued under section 3319.226 of the Revised Code. 54523

Sec. 3319.088. As used in this section, "educational 54524
assistant" means any nonteaching employee in a school district who 54525
directly assists a teacher as defined in section 3319.09 of the 54526
Revised Code, by performing duties for which a license issued 54527
pursuant to sections 3319.22 to 3319.30 of the Revised Code is not 54528
required. 54529

(A) The state board of education shall issue educational aide 54530
permits and educational paraprofessional licenses for educational 54531
assistants and shall adopt rules for the issuance and renewal of 54532
such permits and licenses which shall be consistent with the 54533
provisions of this section. Educational aide permits and 54534
educational paraprofessional licenses may be of several types and 54535
the rules shall prescribe the minimum qualifications of education, 54536
health, and character for the service to be authorized under each 54537
type. The prescribed minimum qualifications may require special 54538
training or educational courses designed to qualify a person to 54539
perform effectively the duties authorized under an educational 54540
aide permit or educational paraprofessional license. 54541

(B)(1) Any application for a permit or license, or a renewal
or duplicate of a permit or license, under this section shall be
accompanied by the payment of a fee in the amount established
under division (A) of section 3319.51 of the Revised Code. Any
fees received under this division shall be paid into the state
treasury to the credit of the state board of education licensure
fund established under division (B) of section 3319.51 of the
Revised Code.

(2) Any person applying for or holding a permit or license
pursuant to this section is subject to sections 3123.41 to 3123.50
of the Revised Code and any applicable rules adopted under section
3123.63 of the Revised Code and sections 3319.31 and 3319.311 of
the Revised Code.

(C) Educational assistants shall at all times while in the
performance of their duties be under the supervision and direction
of a teacher as defined in section 3319.09 of the Revised Code.
Educational assistants may assist a teacher to whom assigned in
the supervision of pupils, in assisting with instructional tasks,
and in the performance of duties which, in the judgment of the
teacher to whom the assistant is assigned, may be performed by a
person not licensed pursuant to sections 3319.22 to 3319.30 of the
Revised Code and for which a teaching license, issued pursuant to
sections 3319.22 to 3319.30 of the Revised Code is not required.
The duties of an educational assistant shall not include the
assignment of grades to pupils. The duties of an educational
assistant need not be performed in the physical presence of the
teacher to whom assigned, but the activity of an educational
assistant shall at all times be under the direction of the teacher
to whom assigned. The assignment of an educational assistant need
not be limited to assisting a single teacher. In the event an
educational assistant is assigned to assist more than one teacher
the assignments shall be clearly delineated and so arranged that

the educational assistant shall never be subject to simultaneous supervision or direction by more than one teacher.

Educational assistants assigned to supervise children shall, when the teacher to whom assigned is not physically present, maintain the degree of control and discipline that would be maintained by the teacher.

Educational assistants may not be used in place of classroom teachers or other employees and any payment of compensation by boards of education to educational assistants for such services is prohibited. The ratio between the number of licensed teachers and the pupils in a school district may not be decreased by utilization of educational assistants and no grouping, or other organization of pupils, for utilization of educational assistants shall be established which is inconsistent with sound educational practices and procedures. A school district may employ up to one full time equivalent educational assistant for each six full time equivalent licensed employees of the district. Educational assistants shall not be counted as licensed employees for purposes of state support in the school foundation program and no grouping or regrouping of pupils with educational assistants may be counted as a class or unit for school foundation program purposes. Neither special courses required by the regulations of the state board of education, prescribing minimum qualifications of education for an educational assistant, nor years of service as an educational assistant shall be counted in any way toward qualifying for a teacher license, or for a teacher contract of any type, ~~or for determining placement on a salary schedule in a school district as a teacher.~~

(D) Educational assistants employed by a board of education shall have all rights, benefits, and legal protection available to other nonteaching employees in the school district, except that provisions of Chapter 124. of the Revised Code shall not apply to

any person employed as an educational assistant, and shall be 54606
members of the school employees retirement system. Educational 54607
assistants shall be compensated according to a salary plan adopted 54608
annually by the board. 54609

Except as provided in this section nonteaching employees 54610
shall not serve as educational assistants without first obtaining 54611
an appropriate educational aide permit or educational 54612
paraprofessional license from the state board of education. A 54613
nonteaching employee who is the holder of a valid educational aide 54614
permit or educational paraprofessional license shall neither 54615
render nor be required to render services inconsistent with the 54616
type of services authorized by the permit or license held. No 54617
person shall receive compensation from a board of education for 54618
services rendered as an educational assistant in violation of this 54619
provision. 54620

Nonteaching employees whose functions are solely 54621
secretarial-clerical and who do not perform any other duties as 54622
educational assistants, even though they assist a teacher and work 54623
under the direction of a teacher shall not be required to hold a 54624
permit or license issued pursuant to this section. Students 54625
preparing to become licensed teachers or educational assistants 54626
shall not be required to hold an educational aide permit or 54627
paraprofessional license for such periods of time as such students 54628
are assigned, as part of their training program, to work with a 54629
teacher in a school district. Such students shall not be 54630
compensated for such services. 54631

Following the determination of the assignment and general job 54632
description of an educational assistant and subject to supervision 54633
by the teacher's immediate administrative officer, a teacher to 54634
whom an educational assistant is assigned shall make all final 54635
determinations of the duties to be assigned to such assistant. 54636
Teachers shall not be required to hold a license designated for 54637

being a supervisor or administrator in order to perform the 54638
necessary supervision of educational assistants. 54639

(E) No person who is, or who has been employed as an 54640
educational assistant shall divulge, except to the teacher to whom 54641
assigned, or the administrator of the school in the absence of the 54642
teacher to whom assigned, or when required to testify in a court 54643
or proceedings, any personal information concerning any pupil in 54644
the school district which was obtained or obtainable by the 54645
educational assistant while so employed. Violation of this 54646
provision is grounds for disciplinary action or dismissal, or 54647
both. 54648

Sec. 3319.11. (A) As used in this section: 54649

(1) "Evaluation procedures" means the procedures required by 54650
the policy adopted pursuant to division ~~(B)~~(A) of section 3319.111 54651
of the Revised Code. 54652

(2) "Limited contract" means a limited contract, as described 54653
in section 3319.08 of the Revised Code, that a school district 54654
board of education or governing board of an educational service 54655
center enters into with a teacher who is not eligible for 54656
continuing service status. 54657

(3) "Extended limited contract" means a limited contract, as 54658
described in section 3319.08 of the Revised Code, that a board of 54659
education or governing board enters into with a teacher who is 54660
eligible for continuing service status. 54661

(B) Teachers eligible for continuing service status in any 54662
city, exempted village, local, or joint vocational school district 54663
or educational service center shall be those teachers qualified as 54664
described in division ~~(D)~~(E) of section 3319.08 of the Revised 54665
Code, who within the ~~last~~ prior to the effective date 54666
of this amendment have taught for at least three years in the 54667

district or center, and those teachers who, having attained 54668
continuing contract status elsewhere, have served two years in the 54669
district or center, but the board, upon the recommendation of the 54670
superintendent, may at the time of employment or at any time 54671
within such two-year period, declare any of the latter teachers 54672
eligible. Notwithstanding any provision to the contrary in Chapter 54673
4117. of the Revised Code, the requirements of this paragraph 54674
prevail over any conflicting provisions of a collective bargaining 54675
agreement entered into on or after the effective date of this 54676
amendment. 54677

(1) Upon the recommendation of the superintendent that a 54678
teacher eligible for continuing service status be reemployed, a 54679
continuing contract shall be entered into between the board and 54680
the teacher unless the board by a three-fourths vote of its full 54681
membership rejects the recommendation of the superintendent. If 54682
the board rejects by a three-fourths vote of its full membership 54683
the recommendation of the superintendent that a teacher eligible 54684
for continuing service status be reemployed and the superintendent 54685
makes no recommendation to the board pursuant to division (C) of 54686
this section, the board may declare its intention not to reemploy 54687
the teacher by giving the teacher written notice on or before the 54688
thirtieth day of April of its intention not to reemploy the 54689
teacher. If evaluation procedures have not been complied with 54690
pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code 54691
or the board does not give the teacher written notice on or before 54692
the thirtieth day of April of its intention not to reemploy the 54693
teacher, the teacher is deemed reemployed under an extended 54694
limited contract for a term ~~not to exceed one year~~ of two years at 54695
the same salary plus any increment provided by the salary 54696
schedule. The teacher is presumed to have accepted employment 54697
under the extended limited contract for a term ~~not to exceed one~~ 54698
~~year~~ of two years unless such teacher notifies the board in 54699
writing to the contrary on or before the first day of June, and an 54700

extended limited contract for a term ~~not to exceed one year~~ of two 54701
years shall be executed accordingly. Upon any subsequent 54702
reemployment of the teacher only a continuing contract may be 54703
entered into. 54704

(2) If the superintendent recommends that a teacher eligible 54705
for continuing service status not be reemployed, the board may 54706
declare its intention not to reemploy the teacher by giving the 54707
teacher written notice on or before the thirtieth day of April of 54708
its intention not to reemploy the teacher. If evaluation 54709
procedures have not been complied with pursuant to ~~division (A) of~~ 54710
section 3319.111 of the Revised Code or the board does not give 54711
the teacher written notice on or before the thirtieth day of April 54712
of its intention not to reemploy the teacher, the teacher is 54713
deemed reemployed under an extended limited contract for a term 54714
~~not to exceed one year~~ of two years at the same salary plus any 54715
increment provided by the salary schedule. The teacher is presumed 54716
to have accepted employment under the extended limited contract 54717
for a term ~~not to exceed one year~~ of two years unless such teacher 54718
notifies the board in writing to the contrary on or before the 54719
first day of June, and an extended limited contract for a term ~~not~~ 54720
~~to exceed one year~~ of two years shall be executed accordingly. 54721
Upon any subsequent reemployment of a teacher only a continuing 54722
contract may be entered into. 54723

(3) Any teacher receiving written notice of the intention of 54724
a board not to reemploy such teacher pursuant to this division is 54725
entitled to the hearing provisions of division (G) of this 54726
section. 54727

(C)(1) If a board rejects the recommendation of the 54728
superintendent for reemployment of a teacher pursuant to division 54729
(B)(1) of this section, the superintendent may recommend 54730
reemployment of the teacher, if continuing service status has not 54731
previously been attained elsewhere, under an extended limited 54732

contract for a term ~~not to exceed~~ of two years, provided that 54733
written notice of the superintendent's intention to make such 54734
recommendation has been given to the teacher with reasons directed 54735
at the professional improvement of the teacher on or before the 54736
thirtieth day of April. Upon subsequent reemployment of the 54737
teacher only a continuing contract may be entered into. 54738

(2) If a board of education takes affirmative action on a 54739
superintendent's recommendation, made pursuant to division (C)(1) 54740
of this section, of an extended limited contract ~~for a term not to~~ 54741
~~exceed two years~~ but the board does not give the teacher written 54742
notice of its affirmative action on the superintendent's 54743
recommendation of an extended limited contract on or before the 54744
thirtieth day of April, the teacher is deemed reemployed under a 54745
continuing contract at the same salary plus any increment provided 54746
by the salary schedule. The teacher is presumed to have accepted 54747
employment under such continuing contract unless such teacher 54748
notifies the board in writing to the contrary on or before the 54749
first day of June, and a continuing contract shall be executed 54750
accordingly. 54751

(3) A board shall not reject a superintendent's 54752
recommendation, made pursuant to division (C)(1) of this section, 54753
of an extended limited contract ~~for a term not to exceed two years~~ 54754
except by a three-fourths vote of its full membership. If a board 54755
rejects by a three-fourths vote of its full membership the 54756
recommendation of the superintendent of an extended limited 54757
contract ~~for a term not to exceed two years~~, the board may declare 54758
its intention not to reemploy the teacher by giving the teacher 54759
written notice on or before the thirtieth day of April of its 54760
intention not to reemploy the teacher. If evaluation procedures 54761
have not been complied with pursuant to ~~division (A) of~~ section 54762
3319.111 of the Revised Code or if the board does not give the 54763
teacher written notice on or before the thirtieth day of April of 54764

its intention not to reemploy the teacher, the teacher is deemed 54765
reemployed under an extended limited contract for a term ~~not to~~ 54766
~~exceed one year of two years~~ at the same salary plus any increment 54767
provided by the salary schedule. The teacher is presumed to have 54768
accepted employment under the extended limited contract for a term 54769
~~not to exceed one year of two years~~ unless such teacher notifies 54770
the board in writing to the contrary on or before the first day of 54771
June, and an extended limited contract for a term ~~not to exceed~~ 54772
~~one year of two years~~ shall be executed accordingly. Upon any 54773
subsequent reemployment of the teacher only a continuing contract 54774
may be entered into. 54775

Any teacher receiving written notice of the intention of a 54776
board not to reemploy such teacher pursuant to this division is 54777
entitled to the hearing provisions of division (G) of this 54778
section. 54779

(D) A teacher eligible for continuing contract status 54780
employed under an extended limited contract pursuant to division 54781
(B) or (C) of this section, is, at the expiration of such extended 54782
limited contract, deemed reemployed under a continuing contract at 54783
the same salary plus any increment granted by the salary schedule, 54784
unless evaluation procedures have been complied with pursuant to 54785
~~division (A) of~~ section 3319.111 of the Revised Code and the 54786
employing board, acting on the superintendent's recommendation 54787
that the teacher not be reemployed, gives the teacher written 54788
notice on or before the thirtieth day of April of its intention 54789
not to reemploy such teacher. A teacher who does not have 54790
evaluation procedures applied in compliance with ~~division (A) of~~ 54791
section 3319.111 of the Revised Code or who does not receive 54792
notice on or before the thirtieth day of April of the intention of 54793
the board not to reemploy such teacher is presumed to have 54794
accepted employment under a continuing contract unless such 54795
teacher notifies the board in writing to the contrary on or before 54796

the first day of June, and a continuing contract shall be executed 54797
accordingly. 54798

Any teacher receiving a written notice of the intention of a 54799
board not to reemploy such teacher pursuant to this division is 54800
entitled to the hearing provisions of division (G) of this 54801
section. 54802

(E) ~~A The board shall enter into a limited contract may be~~ 54803
~~entered into by each board with each teacher who has not been in~~ 54804
~~the employ of the board for at least three years and shall be~~ 54805
~~entered into, regardless of length of previous employment,~~ with 54806
each teacher employed by the board who is not eligible to be 54807
considered for a continuing contract. 54808

Any teacher employed under a limited contract, and not 54809
eligible to be considered for a continuing contract, is, at the 54810
expiration of such limited contract, considered reemployed under 54811
the provisions of this division at the same salary plus any 54812
increment provided by the salary schedule unless evaluation 54813
procedures have been complied with pursuant to ~~division (A) of~~ 54814
section 3319.111 of the Revised Code and the employing board, 54815
acting upon the superintendent's written recommendation that the 54816
teacher not be reemployed, gives such teacher written notice of 54817
its intention not to reemploy such teacher on or before the 54818
thirtieth day of April. A teacher who does not have evaluation 54819
procedures applied in compliance with ~~division (A) of~~ section 54820
3319.111 of the Revised Code or who does not receive notice of the 54821
intention of the board not to reemploy such teacher on or before 54822
the thirtieth day of April is presumed to have accepted such 54823
employment unless such teacher notifies the board in writing to 54824
the contrary on or before the first day of June, and a written 54825
contract for the succeeding school year shall be executed 54826
accordingly. 54827

Any teacher receiving a written notice of the intention of a 54828

board not to reemploy such teacher pursuant to this division is 54829
entitled to the hearing provisions of division (G) of this 54830
section. 54831

(F) The failure of a superintendent to make a recommendation 54832
to the board under any of the conditions set forth in divisions 54833
(B) to (E) of this section, or the failure of the board to give 54834
such teacher a written notice pursuant to divisions (C) to (E) of 54835
this section shall not prejudice or prevent a teacher from being 54836
deemed reemployed under either a limited or continuing contract as 54837
the case may be under the provisions of this section. A failure of 54838
the parties to execute a written contract shall not void any 54839
automatic reemployment provisions of this section. 54840

(G)(1) Any teacher receiving written notice of the intention 54841
of a board of education not to reemploy such teacher pursuant to 54842
division (B), (C)(3), (D), or (E) of this section may, within ten 54843
days of the date of receipt of the notice, file with the treasurer 54844
of the board a written demand for a written statement describing 54845
the circumstances that led to the board's intention not to 54846
reemploy the teacher. 54847

(2) The treasurer of a board, on behalf of the board, shall, 54848
within ten days of the date of receipt of a written demand for a 54849
written statement pursuant to division (G)(1) of this section, 54850
provide to the teacher a written statement describing the 54851
circumstances that led to the board's intention not to reemploy 54852
the teacher. 54853

(3) Any teacher receiving a written statement describing the 54854
circumstances that led to the board's intention not to reemploy 54855
the teacher pursuant to division (G)(2) of this section may, 54856
within five days of the date of receipt of the statement, file 54857
with the treasurer of the board a written demand for a hearing 54858
before the board pursuant to divisions (G)(4) to (6) of this 54859
section. 54860

(4) The treasurer of a board, on behalf of the board, shall, 54861
within ten days of the date of receipt of a written demand for a 54862
hearing pursuant to division (G)(3) of this section, provide to 54863
the teacher a written notice setting forth the time, date, and 54864
place of the hearing. The board shall schedule and conclude the 54865
hearing within forty days of the date on which the treasurer of 54866
the board receives a written demand for a hearing pursuant to 54867
division (G)(3) of this section. 54868

(5) Any hearing conducted pursuant to this division shall be 54869
conducted by a majority of the members of the board. The hearing 54870
shall be held in executive session of the board unless the board 54871
and the teacher agree to hold the hearing in public. The 54872
superintendent, assistant superintendent, the teacher, and any 54873
person designated by either party to take a record of the hearing 54874
may be present at the hearing. The board may be represented by 54875
counsel and the teacher may be represented by counsel or a 54876
designee. A record of the hearing may be taken by either party at 54877
the expense of the party taking the record. 54878

(6) Within ten days of the conclusion of a hearing conducted 54879
pursuant to this division, the board shall issue to the teacher a 54880
written decision containing an order affirming the intention of 54881
the board not to reemploy the teacher reported in the notice given 54882
to the teacher pursuant to division (B), (C)(3), (D), or (E) of 54883
this section or an order vacating the intention not to reemploy 54884
and expunging any record of the intention, notice of the 54885
intention, and the hearing conducted pursuant to this division. 54886

(7) A teacher may appeal an order affirming the intention of 54887
the board not to reemploy the teacher to the court of common pleas 54888
of the county in which the largest portion of the territory of the 54889
school district or service center is located, within thirty days 54890
of the date on which the teacher receives the written decision, on 54891
the grounds that the board has not complied with this section or 54892

section 3319.111 of the Revised Code. 54893

Notwithstanding section 2506.04 of the Revised Code, the 54894
court in an appeal under this division is limited to the 54895
determination of procedural errors and to ordering the correction 54896
of procedural errors and shall have no jurisdiction to order a 54897
board to reemploy a teacher, except that the court may order a 54898
board to reemploy a teacher in compliance with the requirements of 54899
division (B), (C)(3), (D), or (E) of this section when the court 54900
determines that evaluation procedures have not been complied with 54901
pursuant to ~~division (A)~~ of section 3319.111 of the Revised Code 54902
or the board has not given the teacher written notice on or before 54903
the thirtieth day of April of its intention not to reemploy the 54904
teacher pursuant to division (B), (C)(3), (D), or (E) of this 54905
section. Otherwise, the determination whether to reemploy or not 54906
reemploy a teacher is solely a board's determination and not a 54907
proper subject of judicial review and, except as provided in this 54908
division, no decision of a board whether to reemploy or not 54909
reemploy a teacher shall be invalidated by the court on any basis, 54910
including that the decision was not warranted by the results of 54911
any evaluation or was not warranted by any statement given 54912
pursuant to division (G)(2) of this section. 54913

No appeal of an order of a board may be made except as 54914
specified in this division. 54915

(H)(1) In giving a teacher any notice required by division 54916
(B), (C), (D), or (E) of this section, the board or the 54917
superintendent shall do either of the following: 54918

(a) Deliver the notice by personal service upon the teacher; 54919

(b) Deliver the notice by certified mail, return receipt 54920
requested, addressed to the teacher at the teacher's place of 54921
employment and deliver a copy of the notice by certified mail, 54922
return receipt requested, addressed to the teacher at the 54923

teacher's place of residence. 54924

(2) In giving a board any notice required by division (B), 54925
(C), (D), or (E) of this section, the teacher shall do either of 54926
the following: 54927

(a) Deliver the notice by personal delivery to the office of 54928
the superintendent during regular business hours; 54929

(b) Deliver the notice by certified mail, return receipt 54930
requested, addressed to the office of the superintendent and 54931
deliver a copy of the notice by certified mail, return receipt 54932
requested, addressed to the president of the board at the 54933
president's place of residence. 54934

(3) When any notice and copy of the notice are mailed 54935
pursuant to division (H)(1)(b) or (2)(b) of this section, the 54936
notice or copy of the notice with the earlier date of receipt 54937
shall constitute the notice for the purposes of division (B), (C), 54938
(D), or (E) of this section. 54939

(I) The provisions of this section shall not apply to any 54940
supplemental written contracts entered into pursuant to section 54941
3319.08 of the Revised Code. 54942

Sec. 3319.111. (A) Any Not later than July 1, 2012, the board 54943
of education that of each school district, in consultation with 54944
teachers employed by the board, shall adopt a policy for the 54945
evaluation of teachers that complies with this section. The board 54946
shall submit its policy to the superintendent of public 54947
instruction for approval prior to implementing the policy. 54948

The policy shall utilize the framework for evaluation of 54949
teachers developed under section 3319.112 of the Revised Code and 54950
shall specify the relative weight of each factor described in 54951
divisions (A)(1) to (3) of that section in the overall evaluation 54952
and how each of those factors will be assessed. The policy may 54953

require evaluations to include consideration of additional aspects 54954
of teacher performance designated by the board. The policy shall 54955
establish a teacher evaluation system that does the following: 54956

(1) Requires at least fifty per cent of each evaluation to be 54957
based on measures of student academic growth in accordance with 54958
division (B) of this section; 54959

(2) Is evidence-based and uses multiple measures of a 54960
teacher's use of knowledge and skills and of students' academic 54961
progress; 54962

(3) Is aligned with the standards for teachers adopted under 54963
section 3319.61 of the Revised Code; 54964

(4) Provides statements of expectation for professional 54965
performance and establishes specific criteria of expected job 54966
performance in the areas of responsibility assigned to the 54967
teacher; 54968

(5) Requires observation of the teacher being evaluated by 54969
the person conducting the evaluation on at least two occasions for 54970
not less than thirty minutes on each occasion; 54971

(6) Assigns evaluation ratings in accordance with the 54972
standards and criteria established under division (B)(1) of 54973
section 3319.112 of the Revised Code; 54974

(7) Requires that each teacher be provided with a written 54975
report of the results of the teacher's evaluation that includes 54976
specific recommendations for any improvements needed in the 54977
teacher's performance, suggestions for professional development 54978
that will enhance future performance in areas that do not meet 54979
expected performance levels, and information on how to obtain 54980
assistance in making needed improvements. 54981

(B) For the portion of a teacher's evaluation based on 54982
measures of student academic growth, the following shall apply: 54983

(1) When applicable to a teacher, those measures shall 54984
include student performance on the assessments prescribed under 54985
sections 3301.0710 and 3301.0712 of the Revised Code and the 54986
value-added progress dimension prescribed by section 3302.021 of 54987
the Revised Code. For teachers of grade levels and subjects for 54988
which those measures are not applicable, the board shall 54989
administer student assessments that measure mastery of the course 54990
content for the appropriate grade level, which may include 54991
nationally normed standardized assessments, industry certification 54992
examinations, end-of-course examinations developed or selected by 54993
the board, or assessments on the list developed under division 54994
(B)(3) of section 3319.112 of the Revised Code. 54995

(2) The board shall include growth data for students assigned 54996
to the teacher during the three most recent school years. If less 54997
than three years of growth data are available, the board shall use 54998
the growth data for all of the school years for which it is 54999
available and, notwithstanding division (A)(1) of this section and 55000
section 3319.112 of the Revised Code, may elect to reduce the 55001
portion of the teacher's evaluation based on student academic 55002
growth to forty per cent of the total evaluation. 55003

(C)(1) The board shall conduct an evaluation of each teacher 55004
employed by the board at least once each school year, unless 55005
division (C)(2) of this section applies. The evaluation shall be 55006
completed by the first day of April and the teacher shall receive 55007
a written report of the results of the evaluation by the tenth day 55008
of April. 55009

(2) If the board has entered into ~~any~~ a limited contract or 55010
extended limited contract with a ~~the~~ teacher pursuant to section 55011
3319.11 of the Revised Code, ~~the board~~ shall evaluate ~~such a~~ the 55012
teacher in compliance with the requirements of this section at 55013
least twice in any school year in which the board may wish to 55014
declare its intention not to re-employ the teacher pursuant to 55015

division (B), (C)(3), (D), or (E) of that section 3319.11 of the Revised Code. 55016
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~~This evaluation shall be conducted at least twice in the school year in which the board may wish to declare its intention not to re-employ the teacher.~~ One evaluation shall be conducted and completed not later than the fifteenth day of January and the teacher being evaluated shall receive a written report of the results of this evaluation not later than the twenty-fifth day of January. One evaluation shall be conducted and completed between the tenth day of February and the first day of April and the teacher being evaluated shall receive a written report of the results of this evaluation not later than the tenth day of April. 55018
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~~Any (D) Each~~ evaluation conducted pursuant to this section shall be conducted by one or more of the following: 55028
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(1) A person who is under contract with a the board of education pursuant to section 3319.01 or 3319.02 of the Revised Code and holds a license designated for being a superintendent, assistant superintendent, or principal issued under section 3319.22 of the Revised Code; 55030
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(2) A person who is under contract with a the board of education pursuant to section 3319.02 of the Revised Code and holds a license designated for being a vocational director or a supervisor in any educational area issued under section 3319.22 of the Revised Code; 55035
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(3) A person designated to conduct evaluations under an agreement providing for peer review entered into by a the board of education and representatives of teachers employed by ~~that~~ the board. 55040
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~~(B) Any board of education evaluating a teacher pursuant to this section shall adopt evaluation procedures that shall be applied each time a teacher is evaluated pursuant to this section.~~ 55044
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~~These evaluation procedures shall include, but not be limited to:~~ 55047

~~(1) Criteria of expected job performance in the areas of~~ 55048
~~responsibility assigned to the teacher being evaluated;~~ 55049

~~(2) Observation of the teacher being evaluated by the person~~ 55050
~~conducting the evaluation on at least two occasions for not less~~ 55051
~~than thirty minutes on each occasion;~~ 55052

~~(3) A written report of the results of the evaluation that~~ 55053
~~includes specific recommendations regarding any improvements~~ 55054
~~needed in the performance of the teacher being evaluated and~~ 55055
~~regarding the means by which the teacher may obtain assistance in~~ 55056
~~making such improvements.~~ 55057

(C)(E) The board shall use the evaluations conducted under 55058
this section to inform decisions about compensation, nonrenewal of 55059
employment contracts, termination, reductions in force, and 55060
professional development. 55061

(F) If a teacher who has been granted a continuing contract 55062
under section 3319.08 of the Revised Code receives an evaluation 55063
rating of unsatisfactory for two consecutive years or for two of 55064
three consecutive years, receives an evaluation rating of needs 55065
improvement for three consecutive years, or receives a combination 55066
of evaluation ratings of needs improvement and unsatisfactory for 55067
three consecutive years, the board shall revoke that contract and 55068
shall only enter into a limited contract with the teacher for any 55069
subsequent school years in which the board employs the teacher. 55070

(G) The board annually shall submit to the department of 55071
education the results of teacher evaluations conducted under this 55072
section and principal evaluations conducted under section 3319.02 55073
of the Revised Code. The results shall be disaggregated by the 55074
evaluation ratings prescribed under division (B)(1) of section 55075
3319.112 of the Revised Code, but shall not identify any teacher 55076
or principal. 55077

(H) The board, its members, and any person conducting an evaluation on behalf of the board in good faith and in accordance with this section shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of conducting the evaluation.

(I) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of a collective bargaining agreement entered into on or after the effective date of this section.

(J) This section does not apply to ~~teachers~~ superintendents and administrators subject to evaluation procedures under sections 3319.01 and 3319.02 of the Revised Code or to any teacher employed as a substitute for less than one hundred twenty days during a school year pursuant to section 3319.10 of the Revised Code.

Sec. 3319.112. (A) Not later than December 31, 2011, the superintendent of public instruction shall develop a framework for the evaluation of teachers. The framework shall require at least fifty per cent of each evaluation to be based on measures of student academic growth.

The framework shall require each evaluation to consider the following additional factors, but it shall not designate the weight of any factor or prescribe a specific method of assessing any factor:

(1) Quality of instructional practice, which may be determined by announced and unannounced classroom observations and examinations of samples of work, such as lesson plans or assessments designed by the teacher;

(2) Communication and professionalism, including how well the teacher interacts with students, parents, other school employees,

<u>and members of the community;</u>	55108
<u>(3) Parent and student satisfaction, which may be measured by surveys, questionnaires, or other forms of soliciting feedback.</u>	55109
<u>(B) For purposes of the framework developed under this section, the superintendent of public instruction also shall do all of the following:</u>	55111
<u>(1) Develop specific standards and criteria that distinguish between the following levels of performance for teachers and principals for the purpose of assigning ratings on the evaluations conducted under sections 3319.02 and 3319.111 of the Revised Code:</u>	55112
<u>(a) Highly effective;</u>	55113
<u>(b) Effective;</u>	55114
<u>(c) Needs improvement;</u>	55115
<u>(d) Unsatisfactory.</u>	55116
<u>(2) Designate a standard of student academic growth that a teacher or principal must meet to be rated at each of the performance levels prescribed by division (B)(1) of this section;</u>	55117
<u>(3) Develop a list of assessments for optional use by school districts to measure student academic growth for grade levels and subjects for which the assessments prescribed under sections 3301.0710 and 3301.0712 of the Revised Code and the value-added progress dimension prescribed by section 3302.021 of the Revised Code do not apply.</u>	55118
<u>(C) The superintendent of public instruction shall consult with experts, teachers and principals employed in public schools, and representatives of stakeholder groups in developing the standards and criteria required by division (B)(1) of this section.</u>	55119
<u>(D) Not later than November 1, 2012, the superintendent of public instruction shall approve or disapprove each evaluation</u>	55120
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policy submitted under section 3319.111 of the Revised Code. If 55138
the superintendent disapproves a policy, the superintendent shall 55139
provide recommendations for policy revisions that will enable the 55140
policy to be approved. 55141

(E) Not later than December 1, 2013, and annually thereafter, 55142
the department of education shall issue a report of the evaluation 55143
results submitted under division (G) of section 3319.111 of the 55144
Revised Code for the previous school year. The report shall 55145
include the percentage of teachers and principals who receive each 55146
evaluation rating specified in division (B)(1) of this section, 55147
disaggregated by school district and by public school. The 55148
department shall post the report on its web site. 55149

(F) To assist school districts in developing evaluation 55150
policies under sections 3319.02 and 3319.111 of the Revised Code, 55151
the department shall do both of the following: 55152

(1) Serve as a clearinghouse of promising evaluation 55153
procedures and evaluation models that districts may use; 55154

(2) Provide technical assistance to districts in creating 55155
evaluation policies. 55156

Sec. 3319.113. (A) This section applies to any teacher 55157
employed by a school district who has received a rating of needs 55158
improvement or unsatisfactory on the teacher's most recent 55159
evaluation conducted under section 3319.111 of the Revised Code. 55160

(B) In assigning teachers to schools under section 3319.01 of 55161
the Revised Code, the superintendent of a school district shall 55162
not assign a teacher to whom this section applies to a school 55163
unless both the teacher and the principal of the school consent to 55164
the assignment. 55165

(C) If the superintendent is unable to assign a teacher to 55166
whom this section applies to a school because the mutual consent 55167

required by division (B) of this section has not been obtained, 55168
the district board of education may place the teacher on unpaid 55169
leave until the superintendent is able to assign the teacher to a 55170
school. If the mutual consent is subsequently obtained and the 55171
teacher is assigned to a school, the board shall pay the teacher 55172
at least the same salary the teacher was paid immediately prior to 55173
the unpaid leave. 55174

(D) If a teacher to whom this section applies has been placed 55175
on unpaid leave under division (C) of this section and has not 55176
been assigned to a school after a period of one year on that 55177
leave, notwithstanding anything in section 3319.16 of the Revised 55178
Code to the contrary, the district board may terminate the 55179
teacher's contract under that section. 55180

Sec. 3319.14. Any teacher who has left, or leaves, a teaching 55181
position, by resignation or otherwise, and within forty school 55182
days thereafter entered, or enters, the uniformed services and 55183
whose service is terminated in a manner other than as described in 55184
section 4304 of Title 38 of the United States Code, "Uniformed 55185
Services Employment and Reemployment Rights Act of 1994," 108 55186
Stat. 3149, 38 U.S.C.A. 4304, shall be reemployed by the board of 55187
education of the district in which the teacher held such teaching 55188
position, under the same type of contract as that which the 55189
teacher last held in such district, if the teacher applies to the 55190
board of education for reemployment in accordance with the 55191
"Uniformed Services Employment and Reemployment Rights Act of 55192
1994," 108 Stat. 3149, 38 U.S.C.A. 4312. Upon such application, 55193
the teacher shall be reemployed at the first of the next school 55194
semester, if the application is made not less than thirty days 55195
prior to the first of the next school semester, in which case the 55196
teacher shall be reemployed the first of the following school 55197
semester, unless the board of education waives the requirement for 55198
the thirty-day period. 55199

For the purposes of seniority ~~and placement on the salary~~ 55200
~~schedule~~, years of absence performing service in the uniformed 55201
services shall be counted as though teaching service had been 55202
performed during such time. 55203

The board of education of the district in which such teacher 55204
was employed and is reemployed under this section may suspend the 55205
contract of the teacher whose services become unnecessary by 55206
reason of the return of a teacher from service in the uniformed 55207
services in accordance with section 3319.17 or 3319.171 of the 55208
Revised Code. 55209

Sec. 3319.141. Each person who is employed by any board of 55210
education in this state, except for substitutes, adult education 55211
instructors who are scheduled to work the full-time equivalent of 55212
less than one hundred twenty days per school year, or persons who 55213
are employed on an as-needed, seasonal, or intermittent basis, 55214
shall be entitled to fifteen days sick leave with pay, for each 55215
year under contract, which shall be credited at the rate of one 55216
and one-fourth days per month. Teachers and regular nonteaching 55217
school employees, upon approval of the responsible administrative 55218
officer of the school district, may use sick leave for absence due 55219
to personal illness, pregnancy, injury, exposure to contagious 55220
disease which could be communicated to others, and for absence due 55221
to illness, injury, or death in the employee's immediate family. 55222
Unused sick leave shall be cumulative up to one hundred twenty 55223
work days, unless more than one hundred twenty days are approved 55224
by the employing board of education. The previously accumulated 55225
sick leave of a person who has been separated from public service, 55226
whether accumulated pursuant to section 124.38 of the Revised Code 55227
or pursuant to this section, shall be placed to ~~his~~ the person's 55228
credit upon ~~his~~ re-employment in the public service, provided that 55229
such re-employment takes place within ten years of the date of the 55230
last termination from public service. A teacher or nonteaching 55231

school employee who transfers from one public agency to another 55232
shall be credited with the unused balance of ~~his~~ the teacher's or 55233
nonteaching employee's accumulated sick leave up to the maximum of 55234
the sick leave accumulation permitted in the public agency to 55235
which the employee transfers. Teachers and nonteaching school 55236
employees who render regular part-time, ~~seasonal, intermittent,~~ 55237
per diem, or hourly service shall be entitled to sick leave for 55238
the time actually worked at the same rate as that granted like 55239
full-time employees, calculated in the same manner as the ratio of 55240
sick leave granted to hours of service established by section 55241
124.38 of the Revised Code. Each board of education may establish 55242
regulations for the entitlement, crediting and use of sick leave 55243
by those substitute teachers employed by such board pursuant to 55244
section 3319.10 of the Revised Code who are not otherwise entitled 55245
to sick leave pursuant to such section. A board of education shall 55246
require a teacher or nonteaching school employee to furnish a 55247
written, signed statement on forms prescribed by such board to 55248
justify the use of sick leave. If medical attention is required, 55249
the employee's statement shall list the name and address of the 55250
attending physician and the dates when ~~he~~ the physician was 55251
consulted. Nothing in this section shall be construed to waive the 55252
physician-patient privilege provided by section 2317.02 of the 55253
Revised Code. Falsification of a statement is grounds for 55254
suspension or termination of employment under sections 3319.081 55255
and 3319.16 of the Revised Code. No sick leave shall be granted or 55256
credited to a teacher after ~~his~~ the teacher's retirement or 55257
termination of employment. 55258

Except to the extent used as sick leave, leave granted under 55259
regulations adopted by a board of education pursuant to section 55260
3319.08 of the Revised Code shall not be charged against sick 55261
leave earned or earnable under this section. Nothing in this 55262
section shall be construed to affect in any other way the granting 55263
of leave pursuant to section 3319.08 of the Revised Code and any 55264

granting of sick leave pursuant to such section shall be charged 55265
against sick leave accumulated pursuant to this section. 55266

This section shall not be construed to interfere with any 55267
unused sick leave credit in any agency of government where 55268
attendance records are maintained and credit has been given for 55269
unused sick leave. Unused sick leave accumulated by teachers and 55270
nonteaching school employees under section 124.38 of the Revised 55271
Code shall continue to be credited toward the maximum accumulation 55272
permitted in accordance with this section. Each newly hired 55273
regular nonteaching and each regular nonteaching employee of any 55274
board of education who has exhausted ~~his~~ the employee's 55275
accumulated sick leave shall be entitled to an advancement of not 55276
less than five days of sick leave each year, as authorized by 55277
rules which each board shall adopt, to be charged against the sick 55278
leave ~~he~~ the employee subsequently accumulates under this section. 55279

This section shall be uniformly administered. 55280

Sec. 3319.16. The (A)(1) Except as provided in division (E) 55281
of this section, the contract of any teacher employed by the board 55282
of education of any city, exempted village, local, county, or 55283
joint vocational school district may not be terminated except for 55284
good and just cause. ~~Notwithstanding~~ The state board of education 55285
shall adopt rules defining good and just cause, which shall 55286
include, but is not limited to, the following: 55287

(a) Immorality; 55288

(b) A conviction of, a finding of guilt for, or a plea of 55289
guilty to an offense involving moral turpitude or an offense 55290
described in section 2921.41, 2921.42, 2921.43, or 2921.44 of the 55291
Revised Code; 55292

(c) Incompetency; 55293

(d) Gross insubordination; 55294

<u>(e) Willful neglect of duty;</u>	55295
<u>(f) An evaluation rating of unsatisfactory under section 3319.111 of the Revised Code for two consecutive years, an evaluation rating of unsatisfactory under that section for two of three consecutive years, an evaluation rating of needs improvement under that section for three consecutive years, or a combination of evaluation ratings under that section of needs improvement and unsatisfactory for three consecutive years.</u>	55296 55297 55298 55299 55300 55301 55302
<u>(2) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the:</u>	55303 55304
<u>(a) The provisions of this section relating to the grounds for termination of the contract of a teacher, as they existed prior to the effective date of this amendment, prevail over any conflicting provisions of a collective bargaining agreement entered into after the effective date of this amendment between October 16, 2009, and that effective date.</u>	55305 55306 55307 55308 55309 55310
<u>(b) The provisions of this section relating to the grounds for termination of the contract of a teacher, as they exist on and after the effective date of this amendment, prevail over any conflicting provisions of a collective bargaining agreement entered into on or after that effective date.</u>	55311 55312 55313 55314 55315
<u>(B) Before terminating any contract, the employing board shall furnish the teacher a written notice signed by its treasurer of its intention to consider the termination of the teacher's contract with full specification of the grounds for such consideration. The board shall not proceed with formal action to terminate the contract until after the tenth day after receipt of the notice by the teacher. Within ten days after receipt of the notice from the treasurer of the board, the teacher may file with the treasurer a written demand for a hearing before the board or before a referee, and the board shall set a time for the hearing</u>	55316 55317 55318 55319 55320 55321 55322 55323 55324 55325

which shall be within thirty days from the date of receipt of the 55326
written demand, and the treasurer shall give the teacher at least 55327
twenty days' notice in writing of the time and place of the 55328
hearing. ~~If a referee is demanded by either the teacher or board,~~ 55329
~~the treasurer also shall give twenty days' notice to the~~ 55330
~~superintendent of public instruction. No hearing shall be held~~ 55331
~~during the summer vacation without the teacher's consent.~~ The 55332
hearing shall be private unless the teacher requests a public 55333
hearing. The hearing ~~shall be conducted by a referee appointed~~ 55334
~~pursuant to section 3319.161 of the Revised Code, if demanded;~~ 55335
~~otherwise,~~ it shall be conducted by a majority of the members of 55336
the board and shall be confined to the grounds given for the 55337
termination. The board shall provide for a complete stenographic 55338
record of the proceedings, a copy of the record to be furnished to 55339
the teacher. The board may suspend a teacher pending final action 55340
to terminate the teacher's contract if, in its judgment, the 55341
character of the charges warrants such action. 55342

Both parties may be present at such hearing, be represented 55343
by counsel, require witnesses to be under oath, cross-examine 55344
witnesses, take a record of the proceedings, and require the 55345
presence of witnesses in their behalf upon subpoena to be issued 55346
by the treasurer of the board. In case of the failure of any 55347
person to comply with a subpoena, a judge of the court of common 55348
pleas of the county in which the person resides, upon application 55349
of any interested party, shall compel attendance of the person by 55350
attachment proceedings as for contempt. Any member of the board ~~or~~ 55351
~~the referee~~ may administer oaths to witnesses. ~~After a hearing by~~ 55352
~~a referee, the referee shall file a report within ten days after~~ 55353
~~the termination of the hearing. After consideration of the~~ 55354
~~referee's report, the board, by a majority vote, may accept or~~ 55355
~~reject the referee's recommendation on the termination of the~~ 55356
~~teacher's contract.~~ After a hearing by the board, the board, by 55357
majority vote, may enter its determination upon its minutes. Any 55358

order of termination of a contract shall state the grounds for 55359
termination. If the decision, after hearing, is against 55360
termination of the contract, the charges and the record of the 55361
hearing shall be physically expunged from the minutes, and, if the 55362
teacher has suffered any loss of salary by reason of being 55363
suspended, the teacher shall be paid the teacher's full salary for 55364
the period of such suspension. 55365

Any teacher affected by an order of termination of contract 55366
may appeal to the court of common pleas of the county in which the 55367
school is located in accordance with division (C) of this section 55368
or request execution of the grievance procedure specified in any 55369
collective bargaining agreement that is applicable to the teacher, 55370
but may not do both. Notwithstanding any provision to the contrary 55371
in Chapter 4117. of the Revised Code, the provisions of this 55372
paragraph prevail over any conflicting provisions of a collective 55373
bargaining agreement entered into on or after the effective date 55374
of this amendment. 55375

(C) An appeal of the board's order of termination to the 55376
court of common pleas shall be filed within thirty days after 55377
receipt of notice of the entry of such order. The appeal shall be 55378
an original action in the court and shall be commenced by the 55379
filing of a complaint against the board, in which complaint the 55380
facts shall be alleged upon which the teacher relies for a 55381
reversal or modification of such order of termination of contract. 55382
Upon service or waiver of summons in that appeal, the board 55383
immediately shall transmit to the clerk of the court for filing a 55384
transcript of the original papers filed with the board, a 55385
certified copy of the minutes of the board into which the 55386
termination finding was entered, and a certified transcript of all 55387
evidence adduced at the hearing or hearings before the board ~~or a~~ 55388
~~certified transcript of all evidence adduced at the hearing or~~ 55389
~~hearings before the referee,~~ whereupon the cause shall be at issue 55390

without further pleading and shall be advanced and heard without 55391
delay. The court shall examine the transcript and record of the 55392
hearing and shall hold such additional hearings as it considers 55393
advisable, at which it may consider other evidence in addition to 55394
the transcript and record. 55395

Upon final hearing, the court shall grant or deny the relief 55396
prayed for in the complaint as may be proper in accordance with 55397
the evidence adduced in the hearing. Such an action is a special 55398
proceeding, and either the teacher or the board may appeal from 55399
the decision of the court of common pleas pursuant to the Rules of 55400
Appellate Procedure and, to the extent not in conflict with those 55401
rules, Chapter 2505. of the Revised Code. 55402

In any court action, the board may utilize the services of 55403
the prosecuting attorney, village solicitor, city director of law, 55404
or other chief legal officer of a municipal corporation as 55405
authorized by section 3313.35 of the Revised Code, or may employ 55406
other legal counsel. 55407

(D) A violation of division (A)(7) of section 2907.03 of the 55408
Revised Code is grounds for termination of a teacher contract 55409
under this section. 55410

(E) A board may terminate the contract of a teacher without 55411
good and just cause at any time in the teacher's first year of 55412
employment with the board, if the board has entered into a 55413
one-year contract with the teacher under section 3319.08 of the 55414
Revised Code. In the case of a termination under this division, 55415
the teacher shall not be entitled to the due process procedures 55416
prescribed by divisions (B) and (C) of this section. 55417

Sec. 3319.17. (A) As used in this section, "interdistrict 55418
contract" means any contract or agreement entered into by an 55419
educational service center governing board and another board or 55420
other public entity pursuant to section 3313.17, 3313.841, 55421

3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division ~~(I)~~(E) of section 3317.024 of the Revised Code or provided in any unit approved under section 3317.05 of the Revised Code.

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including ~~leaves provided pursuant to division (B) of section 3314.10 of the Revised Code~~, suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these

interdistrict contracts. 55453

(C) In making any such reduction, ~~any city, exempted village,~~ 55454
~~local, or joint vocational school~~ the district board or service 55455
center governing board shall proceed to suspend contracts in 55456
accordance with the recommendation of the superintendent of 55457
~~schools who shall, within each teaching field affected, give~~ 55458
~~preference first to teachers on continuing contracts and then to~~ 55459
~~teachers who have greater seniority. In making any such reduction,~~ 55460
~~any governing board of a service center shall proceed to suspend~~ 55461
~~contracts in accordance with the recommendation of the~~ 55462
~~superintendent who shall, within each teaching field or service~~ 55463
~~area affected, give preference first to teachers on continuing~~ 55464
~~contracts and then to teachers who have greater seniority. The~~ 55465
board shall consider evaluations conducted under section 3319.111 55466
of the Revised Code in determining the order of reductions under 55467
this section. Within the teaching field or service area affected, 55468
the board shall suspend teachers with evaluation ratings of 55469
unsatisfactory first, teachers with evaluation ratings of needs 55470
improvement second, teachers with evaluation ratings of effective 55471
third, and teachers with evaluation ratings of highly effective 55472
last, until all necessary reductions have occurred. The board 55473
shall not give preference in retention to any teacher based on 55474
seniority. 55475

On a case-by-case basis, in lieu of suspending a contract in 55476
whole, a board may suspend a contract in part, so that an 55477
individual is required to work a percentage of the time the 55478
employee otherwise is required to work under the contract and 55479
receives a commensurate percentage of the full compensation the 55480
employee otherwise would receive under the contract. 55481

The teachers whose continuing contracts are suspended by any 55482
board pursuant to this section shall have the right of restoration 55483
to continuing service status by that board ~~in the order of~~ 55484

~~seniority of service in the district or service center~~ if and when 55485
teaching positions become vacant or are created for which any of 55486
such teachers are or become qualified. No teacher whose continuing 55487
contract has been suspended pursuant to this section shall lose 55488
that right of restoration to continuing service status by reason 55489
of having declined recall to a position that is less than 55490
full-time or, if the teacher was not employed full-time just prior 55491
to suspension of the teacher's continuing contract, to a position 55492
requiring a lesser percentage of full-time employment than the 55493
position the teacher last held while employed in the district or 55494
service center. 55495

(D) Notwithstanding any provision to the contrary in Chapter 55496
4117. of the Revised Code, ~~the:~~ 55497

(1) The requirements of this section, as it existed prior to 55498
the effective date of this amendment, prevail over any conflicting 55499
provisions of agreements between employee organizations and public 55500
employers entered into ~~after~~ between September 29, 2005, and that 55501
effective date; 55502

(2) The requirements of this section, as it exists on and 55503
after the effective date of this amendment, prevail over any 55504
conflicting provisions of agreements between employee 55505
organizations and public employers entered into on or after that 55506
effective date. 55507

Sec. 3319.18. If an entire school district or that part of a 55508
school district which comprises the territory in which a school is 55509
situated is transferred to any other district, or if a new school 55510
district is created, the teachers in such districts or schools 55511
employed on continuing contracts immediately prior to such 55512
transfer, or creation shall, subject to section 3319.17 or 55513
3319.171 of the Revised Code, have continuing service status in 55514
the newly created district, or in the district to which the 55515

territory is transferred. 55516

The limited contracts of the teachers employed in such 55517
districts or schools immediately prior to such transfer, or 55518
creation, shall become the legal obligations of the board of 55519
education in the newly created district, or in the district to 55520
which the territory is transferred, subject to section 3319.17 or 55521
3319.171 of the Revised Code. The teaching experience of such 55522
teachers in such prior districts or schools shall be included in 55523
the three years of service required under section 3319.11 of the 55524
Revised Code for a teacher to become eligible for continuing 55525
service status. 55526

Teachers employed on limited or continuing contracts in an 55527
entire school district or that part of a school district which 55528
comprises the territory in which a school is situated which is 55529
transferred to any other district or which is merged with other 55530
school territory to create a new school district, shall be placed, 55531
on the effective date of such transfer or merger, on the salary 55532
schedule of the district to which the territory is transferred or 55533
the newly created district, ~~according to their training and~~ 55534
~~experience. Such experience shall be the total sum of the years~~ 55535
~~taught in the district whose territory was transferred or merged~~ 55536
~~to create a new district, plus the total number of years of~~ 55537
~~teaching experience recognized by such previous district upon its~~ 55538
~~first employment of such teachers.~~ 55539

The placement of the teachers on the salary schedule, 55540
pursuant to this section, shall not result, however, in the salary 55541
of any teacher being less than the teacher's current annual salary 55542
for regular duties, in existence immediately prior to the merger 55543
or transfer. 55544

~~In making any reduction in the number of teachers under~~ 55545
~~section 3319.17 of the Revised Code by reason of the transfer or~~ 55546
~~consolidation of school territory, the years of teaching service~~ 55547

~~of the teachers employed in the district or schools transferred to~~ 55548
~~any other district or merged with any school territory to create a~~ 55549
~~new district, shall be included as a part of the seniority on~~ 55550
~~which the recommendation of the superintendent of schools shall be~~ 55551
~~based, under section 3319.17 of the Revised Code. Such service~~ 55552
~~shall have been continuous and shall include years of service in~~ 55553
~~the previous district as well as the years of continuous service~~ 55554
~~in any district which had been previously transferred to or~~ 55555
~~consolidated to form such district.~~ When suspending contracts in 55556
accordance with an administrative personnel suspension policy 55557
adopted under section 3319.171 of the Revised Code, a board may 55558
consider years of teaching service in the previous district in its 55559
decision if it is a part of the suspension policy. 55560

Sec. 3319.19. (A) Except as provided in division (D) of this 55561
section or division (A)(2) of section 3313.37 of the Revised Code, 55562
upon request, the board of county commissioners shall provide and 55563
equip offices in the county for the use of the superintendent of 55564
an educational service center, and shall provide heat, light, 55565
water, and janitorial services for such offices. Such offices 55566
shall be the permanent headquarters of the superintendent and 55567
shall be used by the governing board of the service center when it 55568
is in session. Except as provided in division (B) of this section, 55569
such offices shall be located in the county seat or, upon the 55570
approval of the governing board, may be located outside of the 55571
county seat. 55572

(B) In the case of a service center formed under section 55573
3311.053 ~~or 3311.059~~ of the Revised Code, the governing board 55574
shall designate the site of its offices. Except as provided in 55575
division (D) of this section or division (A)(2) of section 3313.37 55576
of the Revised Code, the board of county commissioners of the 55577
county in which the designated site is located shall provide and 55578
equip the offices as under division (A) of this section, but the 55579

costs of such offices and equipment shall be apportioned among the boards of county commissioners of all counties having any territory in the area under the control of the governing board, according to the proportion of local school district pupils under the supervision of such board residing in the respective counties. Where there is a dispute as to the amount any board of county commissioners is required to pay, the probate judge of the county in which the greatest number of pupils under the supervision of the governing board reside shall apportion such costs among the boards of county commissioners and notify each such board of its share of the costs.

(C) As used in division (C) of this section, in the case of a building, facility, or office space that a board of county commissioners leases or rents, "actual cost per square foot" means all cost on a per square foot basis incurred by the board under the lease or rental agreement. In the case of a building, facility, or office space that the board owns in fee simple, "actual cost per square foot" means the fair rental value on a per square foot basis of the building, facility, or office space either as compared to a similarly situated building, facility, or office space in the general vicinity or as calculated under a formula that accounts for depreciation, amortization of improvements, and other reasonable factors, including, but not limited to, parking space and other amenities.

Not later than the thirty-first day of March of 2002, 2003, 2004, and 2005 a board of county commissioners required to provide or equip offices pursuant to division (A) or (B) of this section shall make a written estimate of the total cost it will incur for the ensuing fiscal year to provide and equip the offices and to provide heat, light, water, and janitorial services for such offices. The total estimate of cost shall include:

(1) The total square feet of space to be utilized by the

educational service center; 55612

(2) The total square feet of any common areas that should be 55613
reasonably allocated to the center and the methodology for making 55614
this allocation; 55615

(3) The actual cost per square foot for both the space 55616
utilized by and the common area allocated to the center; 55617

(4) An explanation of the methodology used to determine the 55618
actual cost per square foot; 55619

(5) The estimated cost of providing heat, light, and water, 55620
including an explanation of how these costs were determined; 55621

(6) The estimated cost of providing janitorial services 55622
including an explanation of the methodology used to determine this 55623
cost; 55624

(7) Any other estimated costs that the board anticipates it 55625
will ~~occur~~ incur and a detailed explanation of the costs and the 55626
rationale used to determine such costs. 55627

A copy of the total estimate of costs under this division 55628
shall be sent to the superintendent of the educational service 55629
center not later than the fifth day of April. The superintendent 55630
shall review the total estimate and shall notify the board of 55631
county commissioners not later than twenty days after receipt of 55632
the estimate of either agreement with the estimate or any specific 55633
objections to the estimates and the reasons for the objections. If 55634
the superintendent agrees with the estimate, it shall become the 55635
final total estimate of cost. Failure of the superintendent to 55636
make objections to the estimate by the twentieth day after receipt 55637
of it shall be deemed to mean that the superintendent is in 55638
agreement with the estimate. 55639

If the superintendent provides specific objections to the 55640
board of county commissioners, the board shall review the 55641

objections and may modify the original estimate and shall send a 55642
revised total estimate to the superintendent within ten days after 55643
the receipt of the superintendent's objections. The superintendent 55644
shall respond to the revised estimate within ten days after its 55645
receipt. If the superintendent agrees with it, it shall become the 55646
final total estimated cost. If the superintendent fails to respond 55647
within the required time, the superintendent shall be deemed to 55648
have agreed with the revised estimate. If the superintendent 55649
disagrees with the revised estimate, the superintendent shall send 55650
specific objections to the county commissioners. 55651

If a superintendent has sent specific objections to the 55652
revised estimate within the required time, the probate judge of 55653
the county which has the greatest number of resident local school 55654
district pupils under the supervision of the educational service 55655
center shall determine the final estimated cost and certify this 55656
amount to the superintendent and the board of county commissioners 55657
prior to the first day of July. 55658

(D)(1) A board of county commissioners shall be responsible 55659
for the following percentages of the final total estimated cost 55660
established by division (C) of this section: 55661

(a) Eighty per cent for fiscal year 2003; 55662

(b) Sixty per cent for fiscal year 2004; 55663

(c) Forty per cent for fiscal year 2005; 55664

(d) Twenty per cent for fiscal year 2006. 55665

In fiscal years 2003, 2004, 2005, and 2006 the educational 55666
service center shall be responsible for the remainder of any costs 55667
in excess of the amounts specified in division (D)(1)(a),(b), (c), 55668
or (d) of this section, as applicable, associated with the 55669
provision and equipment of offices for the educational service 55670
center and for provision of heat, light, water, and janitorial 55671
services for such offices, including any unanticipated or 55672

unexpected increases in the costs beyond the final estimated cost amount. 55673
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Beginning in fiscal year 2007, no board of county commissioners shall have any obligation to provide and equip offices for an educational service center or to provide heat, light, water, or janitorial services for such offices. 55675
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(2) Nothing in this section shall prohibit the board of county commissioners and the governing board of an educational service center from entering into a contract for providing and equipping offices for the use of an educational service center and for providing heat, light, water, and janitorial services for such offices. The term of any such contract shall not exceed a period of four years and may be renewed for additional periods not to exceed four years. Any such contract shall supersede the provisions of division (D)(1) of this section and no educational service center may be charged, at any time, any additional amount for the county's provision of an office and equipment, heat, light, water, and janitorial services beyond the amount specified in such contract. 55679
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(3) No contract entered into under division (D)(2) of this section in any year prior to fiscal year 2007 between an educational service center formed under section 3311.053 ~~or~~ 3311.059 of the Revised Code and the board of county commissioners required to provide and equip its office pursuant to division (B) of this section shall take effect unless the boards of county commissioners of all other counties required to participate in the funding for such offices pursuant to division (B) of this section adopt resolutions approving the contract. 55692
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Sec. 3319.227. (A) This section applies only to a person who meets the following conditions: 55701
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(1) Holds a minimum of a baccalaureate degree; 55703

(2) Has been licensed and employed as a teacher in another state for each of the preceding five years; 55704
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(3) Was initially licensed as a teacher in any state within the preceding fifteen years; 55706
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(4) Has not had a teacher's license suspended or revoked in any state. 55708
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(B)(1) Not later than July 1, 2012, the superintendent of public instruction shall develop a list of states that the superintendent considers to have standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code. 55710
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(2) Following development of the list, the superintendent shall establish a panel of experts to evaluate the adequacy of the teacher licensure standards of each state on the list. Each person selected by the superintendent to be a member of the panel shall be approved by the state board of education. In evaluating the superintendent's list, the panel shall provide an opportunity for representatives of the department of education, or similar state-level agency, of each state on the list to provide evidence to refute the state's placement on the list. 55717
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Not later than April 1, 2013, the panel shall recommend to the state board that the list be approved without changes or that specified states be removed from the list prior to approval. Not later than July 1, 2013, the state board shall approve a final list of states with standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code. 55726
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(C) Except as otherwise provided in division (E)(1) of this section, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a one-year provisional educator license to any applicant to whom this section applies. On and after that date, neither the state board nor the department of education shall be party to any reciprocity agreement with a state on that list that requires the state board to issue a person to whom this section applies any type of professional educator license on the basis of the person's licensure and teaching experience in that state.

(D) Upon the expiration of a provisional license issued to a person under division (C) of this section, the state board shall issue the person a professional educator license, if the person satisfies either of the following conditions:

(1) The person was issued the provisional license prior to the development of the list by the state superintendent under division (B)(1) of this section and, prior to issuance of the provisional license, the person was most recently licensed to teach by a state not on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state not on that list.

(2) All of the following apply to the person:

(a) Prior to obtaining the provisional license, the person was most recently licensed to teach by a state on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state on that list.

(b) The person was employed under the provisional license by

a school district; community school established under Chapter 3314. of the Revised Code; science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code; or an entity contracted by such a district or school to provide internet- or computer-based instruction or distance learning programs to students. 55766
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(c) The district or school certifies to the state board that the person's teaching was satisfactory while employed or contracted by the district or school. 55772
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(E)(1) From July 1, 2012, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on the list developed by the state superintendent under division (B)(1) of this section. 55775
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(2) Beginning on the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on that list. 55782
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Sec. 3319.26. (A) The state board of education shall adopt rules establishing the standards and requirements for obtaining an alternative resident educator license for teaching in grades four to twelve, or the equivalent, in a designated subject area. However, an alternative resident educator license in the area of intervention specialist, as defined by rule of the state board, shall be valid for teaching in grades kindergarten to twelve. 55788
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~~(B) The superintendent of public instruction and the chancellor of the Ohio board of regents jointly shall develop an~~ 55795
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~~intensive pedagogical training institute to provide instruction in 55797
the principles and practices of teaching for individuals seeking 55798
an alternative resident educator license. The instruction shall 55799
cover such topics as student development and learning, pupil 55800
assessment procedures, curriculum development, classroom 55801
management, and teaching methodology. 55802~~

~~(C)~~ The rules adopted under this section shall require 55803
applicants for the alternative resident educator license to 55804
satisfy the following conditions prior to issuance of the license, 55805
but they shall not require applicants to have completed a major in 55806
the subject area for which application is being made: 55807

(1) Hold a minimum of a baccalaureate degree; 55808

~~(2) Successfully complete the pedagogical training institute 55809
described in division (B) of this section; 55810~~

~~(3)~~ Pass an examination in the subject area for which 55811
application is being made. 55812

~~(D)~~(C) An alternative resident educator license shall be 55813
valid for four years, except that the state board, on a 55814
case-by-case basis, may extend the license's duration as necessary 55815
to enable the license holder to complete the Ohio teacher 55816
residency program established under section 3319.223 of the 55817
Revised Code. 55818

~~(E)~~(D) The rules shall require the holder of an alternative 55819
resident educator license, as a condition of continuing to hold 55820
the license, to do all of the following: 55821

(1) Participate in the Ohio teacher residency program; 55822

(2) Show satisfactory progress in taking and successfully 55823
completing ~~at~~ one of the following: 55824

(a) At least twelve additional semester hours, or the 55825
equivalent, of college coursework in the principles and practices 55826

of teaching in such topics as student development and learning, 55827
pupil assessment procedures, curriculum development, classroom 55828
management, and teaching methodology; 55829

(b) Professional development provided to participants of a 55830
teacher preparation program that is operated by a nonprofit 55831
organization and has been approved by the chancellor of the Ohio 55832
board of regents. The chancellor shall approve any such program 55833
that requires participants to hold a bachelor's degree; have a 55834
cumulative undergraduate grade point average of at least 2.5 out 55835
of 4.0, or its equivalent; and successfully complete a summer 55836
training institute. 55837

(3) Take an assessment of professional knowledge in the 55838
second year of teaching under the license. 55839

~~(F)~~(E) The rules shall provide for the granting of a 55840
professional educator license to a holder of an alternative 55841
resident educator license upon successfully completing all of the 55842
following: 55843

(1) Four years of teaching under the alternative license; 55844

(2) The ~~twelve semester hours, or the equivalent,~~ of the 55845
additional college coursework or professional development 55846
described in division ~~(F)~~(D)(2) of this section; 55847

(3) The assessment of professional knowledge described in 55848
division ~~(F)~~(D)(3) of this section. The standards for successfully 55849
completing this assessment and the manner of conducting the 55850
assessment shall be the same as for any other individual who is 55851
required to take the assessment pursuant to rules adopted by the 55852
state board under section 3319.22 of the Revised Code. 55853

(4) The Ohio teacher residency program; 55854

(5) All other requirements for a professional educator 55855
license adopted by the state board under section 3319.22 of the 55856

Revised Code.	55857
Sec. 3319.31. (A) As used in this section and sections	55858
3123.41 to 3123.50 and 3319.311 of the Revised Code, "license"	55859
means a certificate, license, or permit described in this chapter	55860
or in division (B) of section 3301.071 or in section 3301.074 of	55861
the Revised Code.	55862
(B) For any of the following reasons, the state board of	55863
education, in accordance with Chapter 119. and section 3319.311 of	55864
the Revised Code, may refuse to issue a license to an applicant;	55865
may limit a license it issues to an applicant; may suspend,	55866
revoke, or limit a license that has been issued to any person; or	55867
may revoke a license that has been issued to any person and has	55868
expired:	55869
(1) Engaging in an immoral act, incompetence, negligence, or	55870
conduct that is unbecoming to the applicant's or person's	55871
position;	55872
(2) A plea of guilty to, a finding of guilt by a jury or	55873
court of, or a conviction of any of the following:	55874
(a) A felony other than a felony listed in division (C) of	55875
this section;	55876
(b) An offense of violence other than an offense of violence	55877
listed in division (C) of this section;	55878
(c) A theft offense, as defined in section 2913.01 of the	55879
Revised Code, other than a theft offense listed in division (C) of	55880
this section;	55881
(d) A drug abuse offense, as defined in section 2925.01 of	55882
the Revised Code, that is not a minor misdemeanor, other than a	55883
drug abuse offense listed in division (C) of this section;	55884
(e) A violation of an ordinance of a municipal corporation	55885
that is substantively comparable to an offense listed in divisions	55886

(B)(2)(a) to (d) of this section. 55887

(3) A judicial finding of eligibility for intervention in lieu of conviction under section 2951.041 of the Revised Code, or agreeing to participate in a pre-trial diversion program under section 2935.36 of the Revised Code, or a similar diversion program under rules of a court, for any offense listed in division (B)(2) or (C) of this section; 55888
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(4) Failure to comply with section 3314.40, 3319.313, 3326.24, 3328.19, or 5126.253 of the Revised Code. 55894
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(C) Upon learning of a plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the offenses listed in this division by a person who holds a current or expired license or is an applicant for a license or renewal of a license, the state board or the superintendent of public instruction, if the state board has delegated the duty pursuant to division (D) of this section, shall by a written order revoke the person's license or deny issuance or renewal of the license to the person. The state board or the superintendent shall revoke a license that has been issued to a person to whom this division applies and has expired in the same manner as a license that has not expired. 55896
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Revocation of a license or denial of issuance or renewal of a license under this division is effective immediately at the time and date that the board or superintendent issues the written order and is not subject to appeal in accordance with Chapter 119. of the Revised Code. Revocation of a license or denial of issuance or renewal of license under this division remains in force during the pendency of an appeal by the person of the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under this division. 55907
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The state board or superintendent shall take the action required by this division for a violation of division (B)(1), (2), 55916
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(3), or (4) of section 2919.22 of the Revised Code; a violation of 55918
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 55919
2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 55920
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 55921
2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 55922
2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 55923
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 55924
2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 55925
2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 55926
2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 55927
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 55928
2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 55929
of the Revised Code; a violation of section 2905.04 of the Revised 55930
Code as it existed prior to July 1, 1996; a violation of section 55931
2919.23 of the Revised Code that would have been a violation of 55932
section 2905.04 of the Revised Code as it existed prior to July 1, 55933
1996, had the violation been committed prior to that date; 55934
felonious sexual penetration in violation of former section 55935
2907.12 of the Revised Code; or a violation of an ordinance of a 55936
municipal corporation that is substantively comparable to an 55937
offense listed in this paragraph. 55938

(D) The state board may delegate to the superintendent of 55939
public instruction the authority to revoke a person's license or 55940
to deny issuance or renewal of a license to a person under 55941
division (C) or (F) of this section. 55942

(E)(1) If the plea of guilty, finding of guilt, or conviction 55943
that is the basis of the action taken under division (B)(2) or (C) 55944
of this section, or under the version of division (F) of section 55945
3319.311 of the Revised Code in effect prior to ~~the effective date~~ 55946
~~of this amendment~~ September 12, 2008, is overturned on appeal, 55947
upon exhaustion of the criminal appeal, the clerk of the court 55948
that overturned the plea, finding, or conviction or, if 55949

applicable, the clerk of the court that accepted an appeal from 55950
the court that overturned the plea, finding, or conviction, shall 55951
notify the state board that the plea, finding, or conviction has 55952
been overturned. Within thirty days after receiving the 55953
notification, the state board shall initiate proceedings to 55954
reconsider the revocation or denial of the person's license in 55955
accordance with division (E)(2) of this section. In addition, the 55956
person whose license was revoked or denied may file with the state 55957
board a petition for reconsideration of the revocation or denial 55958
along with appropriate court documents. 55959

(2) Upon receipt of a court notification or a petition and 55960
supporting court documents under division (E)(1) of this section, 55961
the state board, after offering the person an opportunity for an 55962
adjudication hearing under Chapter 119. of the Revised Code, shall 55963
determine whether the person committed the act in question in the 55964
prior criminal action against the person that is the basis of the 55965
revocation or denial and may continue the revocation or denial, 55966
may reinstate the person's license, with or without limits, or may 55967
grant the person a new license, with or without limits. The 55968
decision of the board shall be based on grounds for revoking, 55969
denying, suspending, or limiting a license adopted by rule under 55970
division (G) of this section and in accordance with the 55971
evidentiary standards the board employs for all other licensure 55972
hearings. The decision of the board under this division is subject 55973
to appeal under Chapter 119. of the Revised Code. 55974

(3) A person whose license is revoked or denied under 55975
division (C) of this section shall not apply for any license if 55976
the plea of guilty, finding of guilt, or conviction that is the 55977
basis of the revocation or denial, upon completion of the criminal 55978
appeal, either is upheld or is overturned but the state board 55979
continues the revocation or denial under division (E)(2) of this 55980
section and that continuation is upheld on final appeal. 55981

(F) The state board may take action under division (B) of 55982
this section, and the state board or the superintendent shall take 55983
the action required under division (C) of this section, on the 55984
basis of substantially comparable conduct occurring in a 55985
jurisdiction outside this state or occurring before a person 55986
applies for or receives any license. 55987

(G) The state board may adopt rules in accordance with 55988
Chapter 119. of the Revised Code to carry out this section and 55989
section 3319.311 of the Revised Code. 55990

Sec. 3319.311. (A)(1) The state board of education, or the 55991
superintendent of public instruction on behalf of the board, may 55992
investigate any information received about a person that 55993
reasonably appears to be a basis for action under section 3319.31 55994
of the Revised Code, including information received pursuant to 55995
section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, 55996
or 5153.176 of the Revised Code. Except as provided in division 55997
(A)(2) of this section, the board shall contract with the office 55998
of the Ohio attorney general to conduct any investigation of that 55999
nature. The board shall pay for the costs of the contract only 56000
from moneys in the state board of education licensure fund 56001
established under section 3319.51 of the Revised Code. Except as 56002
provided in division (A)(2) of this section, all information 56003
received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 56004
3328.19, 5126.253, or 5153.176 of the Revised Code, and all 56005
information obtained during an investigation is confidential and 56006
is not a public record under section 149.43 of the Revised Code. 56007
If an investigation is conducted under this division regarding 56008
information received about a person and no action is taken against 56009
the person under this section or section 3319.31 of the Revised 56010
Code within two years of the completion of the investigation, all 56011
records of the investigation shall be expunged. 56012

(2) In the case of a person about whom the board has learned 56013
of a plea of guilty to, finding of guilt by a jury or court of, or 56014
a conviction of an offense listed in division (C) of section 56015
3319.31 of the Revised Code, or substantially comparable conduct 56016
occurring in a jurisdiction outside this state, the board or the 56017
superintendent of public instruction need not conduct any further 56018
investigation and shall take the action required by division (C) 56019
or (F) of that section. Except as provided in division (G) of this 56020
section, all information obtained by the board or the 56021
superintendent of public instruction pertaining to the action is a 56022
public record under section 149.43 of the Revised Code. 56023

(B) The superintendent of public instruction shall review the 56024
results of each investigation of a person conducted under division 56025
(A)(1) of this section and shall determine, on behalf of the state 56026
board, whether the results warrant initiating action under 56027
division (B) of section 3319.31 of the Revised Code. The 56028
superintendent shall advise the board of such determination at a 56029
meeting of the board. Within fourteen days of the next meeting of 56030
the board, any member of the board may ask that the question of 56031
initiating action under section 3319.31 of the Revised Code be 56032
placed on the board's agenda for that next meeting. Prior to 56033
initiating that action against any person, the person's name and 56034
any other personally identifiable information shall remain 56035
confidential. 56036

(C) The board shall take no action against a person under 56037
division (B) of section 3319.31 of the Revised Code without 56038
providing the person with written notice of the charges and with 56039
an opportunity for a hearing in accordance with Chapter 119. of 56040
the Revised Code. 56041

(D) For purposes of an investigation under division (A)(1) of 56042
this section or a hearing under division (C) of this section or 56043
under division (E)(2) of section 3319.31 of the Revised Code, the 56044

board, or the superintendent on behalf of the board, may 56045
administer oaths, order the taking of depositions, issue 56046
subpoenas, and compel the attendance of witnesses and the 56047
production of books, accounts, papers, records, documents, and 56048
testimony. The issuance of subpoenas under this division may be by 56049
certified mail or personal delivery to the person. 56050

(E) The superintendent, on behalf of the board, may enter 56051
into a consent agreement with a person against whom action is 56052
being taken under division (B) of section 3319.31 of the Revised 56053
Code. The board may adopt rules governing the superintendent's 56054
action under this division. 56055

(F) No surrender of a license shall be effective until the 56056
board takes action to accept the surrender unless the surrender is 56057
pursuant to a consent agreement entered into under division (E) of 56058
this section. 56059

(G) The name of any person who is not required to report 56060
information under section 3314.40, 3319.313, 3326.24, 3328.19, 56061
5126.253, or 5153.176 of the Revised Code, but who in good faith 56062
provides information to the state board or superintendent of 56063
public instruction about alleged misconduct committed by a person 56064
who holds a license or has applied for issuance or renewal of a 56065
license, shall be confidential and shall not be released. Any such 56066
person shall be immune from any civil liability that otherwise 56067
might be incurred or imposed for injury, death, or loss to person 56068
or property as a result of the provision of that information. 56069

(H)(1) No person shall knowingly make a false report to the 56070
superintendent of public instruction or the state board of 56071
education alleging misconduct by an employee of a public or 56072
chartered nonpublic school or an employee of the operator of a 56073
community school established under Chapter 3314. or a 56074
college-preparatory boarding school established under Chapter 56075
3328. of the Revised Code. 56076

(2)(a) In any civil action brought against a person in which 56077
it is alleged and proved that the person violated division (H)(1) 56078
of this section, the court shall award the prevailing party 56079
reasonable attorney's fees and costs that the prevailing party 56080
incurred in the civil action or as a result of the false report 56081
that was the basis of the violation. 56082

(b) If a person is convicted of or pleads guilty to a 56083
violation of division (H)(1) of this section, if the subject of 56084
the false report that was the basis of the violation was charged 56085
with any violation of a law or ordinance as a result of the false 56086
report, and if the subject of the false report is found not to be 56087
guilty of the charges brought against the subject as a result of 56088
the false report or those charges are dismissed, the court that 56089
sentences the person for the violation of division (H)(1) of this 56090
section, as part of the sentence, shall order the person to pay 56091
restitution to the subject of the false report, in an amount equal 56092
to reasonable attorney's fees and costs that the subject of the 56093
false report incurred as a result of or in relation to the 56094
charges. 56095

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) 56096
of section 109.57 of the Revised Code, the appointing or hiring 56097
officer of the board of education of a school district, the 56098
governing board of an educational service center, or of a 56099
chartered nonpublic school shall request the superintendent of the 56100
bureau of criminal identification and investigation to conduct a 56101
criminal records check with respect to any applicant who has 56102
applied to the school district, educational service center, or 56103
school for employment in any position. The appointing or hiring 56104
officer shall request that the superintendent include information 56105
from the federal bureau of investigation in the criminal records 56106
check, unless all of the following apply to the applicant: 56107

(a) The applicant is applying to be an instructor of adult education. 56108
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(b) The duties of the position for which the applicant is applying do not involve routine interaction with a child or regular responsibility for the care, custody, or control of a child or, if the duties do involve such interaction or responsibility, during any period of time in which the applicant, if hired, has such interaction or responsibility, another employee of the school district, educational service center, or chartered nonpublic school will be present in the same room with the child or, if outdoors, will be within a thirty-yard radius of the child or have visual contact with the child. 56110
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(c) The applicant presents proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or provides evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check. 56120
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(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. 56127
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(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division 56138
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(C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the board of education of a school district, governing board of an educational service center, or governing authority of a chartered nonpublic school shall not employ that applicant for any position.

(4) Notwithstanding any provision of this section to the contrary, an applicant who meets the conditions prescribed in divisions (A)(1)(a) and (b) of this section and who, within the two-year period prior to the date of application, was the subject of a criminal records check under this section prior to being hired for short-term employment with the school district, educational service center, or chartered nonpublic school to which application is being made shall not be required to undergo a criminal records check prior to the applicant's rehiring by that district, service center, or school.

(B)(1) Except as provided in rules adopted by the department of education in accordance with division (E) of this section and as provided in division (B)(3) of this section, no board of education of a school district, no governing board of an educational service center, and no governing authority of a chartered nonpublic school shall employ a person if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,

2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 56172
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 56173
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 56174
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 56175
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 56176
2925.06, or 3716.11 of the Revised Code, a violation of section 56177
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 56178
violation of section 2919.23 of the Revised Code that would have 56179
been a violation of section 2905.04 of the Revised Code as it 56180
existed prior to July 1, 1996, had the violation been committed 56181
prior to that date, a violation of section 2925.11 of the Revised 56182
Code that is not a minor drug possession offense, or felonious 56183
sexual penetration in violation of former section 2907.12 of the 56184
Revised Code; 56185

(b) A violation of an existing or former law of this state, 56186
another state, or the United States that is substantially 56187
equivalent to any of the offenses or violations described in 56188
division (B)(1)(a) of this section. 56189

(2) A board, governing board of an educational service 56190
center, or a governing authority of a chartered nonpublic school 56191
may employ an applicant conditionally until the criminal records 56192
check required by this section is completed and the board or 56193
governing authority receives the results of the criminal records 56194
check. If the results of the criminal records check indicate that, 56195
pursuant to division (B)(1) of this section, the applicant does 56196
not qualify for employment, the board or governing authority shall 56197
release the applicant from employment. 56198

(3) No board and no governing authority of a chartered 56199
nonpublic school shall employ a teacher who previously has been 56200
convicted of or pleaded guilty to any of the offenses listed in 56201
section 3319.31 of the Revised Code. 56202

(C)(1) Each board and each governing authority of a chartered 56203

nonpublic school shall pay to the bureau of criminal 56204
identification and investigation the fee prescribed pursuant to 56205
division (C)(3) of section 109.572 of the Revised Code for each 56206
criminal records check conducted in accordance with that section 56207
upon the request pursuant to division (A)(1) of this section of 56208
the appointing or hiring officer of the board or governing 56209
authority. 56210

(2) A board and the governing authority of a chartered 56211
nonpublic school may charge an applicant a fee for the costs it 56212
incurs in obtaining a criminal records check under this section. A 56213
fee charged under this division shall not exceed the amount of 56214
fees the board or governing authority pays under division (C)(1) 56215
of this section. If a fee is charged under this division, the 56216
board or governing authority shall notify the applicant at the 56217
time of the applicant's initial application for employment of the 56218
amount of the fee and that, unless the fee is paid, the board or 56219
governing authority will not consider the applicant for 56220
employment. 56221

(D) The report of any criminal records check conducted by the 56222
bureau of criminal identification and investigation in accordance 56223
with section 109.572 of the Revised Code and pursuant to a request 56224
under division (A)(1) of this section is not a public record for 56225
the purposes of section 149.43 of the Revised Code and shall not 56226
be made available to any person other than the applicant who is 56227
the subject of the criminal records check or the applicant's 56228
representative, the board or governing authority requesting the 56229
criminal records check or its representative, and any court, 56230
hearing officer, or other necessary individual involved in a case 56231
dealing with the denial of employment to the applicant. 56232

(E) The department of education shall adopt rules pursuant to 56233
Chapter 119. of the Revised Code to implement this section, 56234
including rules specifying circumstances under which the board or 56235

governing authority may hire a person who has been convicted of an offense listed in division (B)(1) or (3) of this section but who meets standards in regard to rehabilitation set by the department.

The department shall amend rule 3301-83-23 of the Ohio Administrative Code that took effect August 27, 2009, and that specifies the offenses that disqualify a person for employment as a school bus or school van driver and establishes rehabilitation standards for school bus and school van drivers.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, of the requirement to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for the school district, educational service center, or school for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a board of education, governing board of an educational service center, or a chartered nonpublic school, except that "applicant" does not include a person already employed by a board or chartered nonpublic school who is under consideration for a different position with such board or school.

(2) "Teacher" means a person holding an educator license or permit issued under section 3319.22 or 3319.301 of the Revised Code and teachers in a chartered nonpublic school.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(4) "Minor drug possession offense" has the same meaning as 56267
in section 2925.01 of the Revised Code. 56268

(H) If the board of education of a local school district 56269
adopts a resolution requesting the assistance of the educational 56270
service center in which the local district has territory in 56271
conducting criminal records checks of substitute teachers and 56272
substitutes for other district employees under this section, the 56273
appointing or hiring officer of such educational service center 56274
shall serve for purposes of this section as the appointing or 56275
hiring officer of the local board in the case of hiring substitute 56276
teachers and other substitute employees for the local district. 56277

Sec. 3319.57. (A) A grant program is hereby established under 56278
which the department of education shall award grants to assist 56279
certain schools in a city, exempted village, local, or joint 56280
vocational school district in implementing one of the following 56281
innovations: 56282

(1) The use of instructional specialists to mentor and 56283
support classroom teachers; 56284

(2) The use of building managers to supervise the 56285
administrative functions of school operation so that a school 56286
principal can focus on supporting instruction, providing 56287
instructional leadership, and engaging teachers as part of the 56288
instructional leadership team; 56289

(3) The reconfiguration of school leadership structure in a 56290
manner that allows teachers to serve in leadership roles so that 56291
teachers may share the responsibility for making and implementing 56292
school decisions; 56293

(4) The adoption of new models for restructuring the school 56294
day or school year, such as including teacher planning and 56295
collaboration time as part of the school day; 56296

(5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance the professional practice of teaching;

(6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming principals;

(7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size;

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;

(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(10) The implementation of a program to increase the cultural competency of both new and veteran teachers;

(11) The implementation of a program to increase the subject matter competency of veteran teachers.

(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria:

(1) Be hard to staff, as defined by the department.

(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage for the fiscal year in which the grant is awarded).

For purposes of division (B)(2) of this section, "state share percentage" has the same meaning as in section ~~3306.02~~ 3317.02 of

the Revised Code. 56327

(C) The amount and number of grants awarded under this 56328
section shall be determined by the department based on any 56329
appropriations made by the general assembly for grants under this 56330
section. 56331

(D) The state board of education shall adopt rules for the 56332
administration of this grant program. 56333

Sec. 3319.58. (A) As used in this section: 56334

(1) "Core subject area" has the same meaning as in section 56335
3319.074 of the Revised Code. 56336

(2) "Performance index score" has the same meaning as in 56337
section 3302.01 of the Revised Code. 56338

(B) The department of education annually shall rank order 56339
into percentiles according to performance index score all school 56340
buildings of all city, exempted village, and local school 56341
districts, community schools established under Chapter 3314. of 56342
the Revised Code, and STEM schools established under Chapter 3326. 56343
of the Revised Code. The department shall notify each district 56344
board of education, each community school governing authority, and 56345
each STEM school governing body of the percentile ranking of each 56346
building of the district or school and whether division (C) of 56347
this section applies to the building based on that ranking. 56348

(C) Each year, the board of education of each school 56349
district, governing authority of each community school, and 56350
governing body of each STEM school with a building in the lowest 56351
ten percentiles of performance index score shall require each 56352
classroom teacher teaching in a core subject area in such a 56353
building to register for and take all written examinations 56354
prescribed by the state board of education for licensure to teach 56355
that core subject area and the grade level to which the teacher is 56356

assigned under section 3319.22 of the Revised Code. 56357

(D) Each district board of education, each community school governing authority, and each STEM school governing body may use the results of a teacher's examinations required under division (C) of this section in developing and revising professional development plans and in deciding whether or not to continue employing the teacher in accordance with the provisions of this chapter or Chapter 3314. or 3326. of the Revised Code. However, no decision to terminate or not to renew a teacher's employment contract shall be made solely on the basis of the results of a teacher's examination under this section until and unless the teacher has not attained a passing score on the same required examination for at least three consecutive administrations of that examination. 56358
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Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics: 56371
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(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code; 56373
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(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code; 56376
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(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code. 56379
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(B) The council shall issue its initial recommendations not later than March 31, 2010, and may issue subsequent recommendations as it considers necessary. Copies of all 56384
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56386

recommendations shall be provided to the state board of education, 56387
the chancellor of the Ohio board of regents, and the board of 56388
~~nursing, and the health care coverage and quality council.~~ 56389

Sec. 3323.09. (A) As used in this section: 56390

(1) "Home" has the meaning given in section 3313.64 of the 56391
Revised Code. 56392

(2) "Preschool child" means a child who is at least age three 56393
but under age six on the thirtieth day of September of an academic 56394
year. 56395

(B) Each county DD board shall establish special education 56396
programs for all children with disabilities who in accordance with 56397
section 3323.04 of the Revised Code have been placed in special 56398
education programs operated by the county board and for preschool 56399
children who are developmentally delayed or at risk of being 56400
developmentally delayed. The board annually shall submit to the 56401
department of education a plan for the provision of these programs 56402
and, if applicable, a request for approval of units under section 56403
3317.05 of the Revised Code. The superintendent of public 56404
instruction shall review the plan and approve or modify it in 56405
accordance with rules adopted by the state board of education 56406
under section 3301.07 of the Revised Code. The superintendent of 56407
public instruction shall compile the plans submitted by county 56408
boards and shall submit a comprehensive plan to the state board. 56409

A county DD board may combine transportation for children 56410
enrolled in classes funded under section 3317.20 or units approved 56411
under section 3317.05 with transportation for children and adults 56412
enrolled in programs and services offered by the board under 56413
~~section 5126.12~~ Chapter 5126. of the Revised Code. 56414

(C) A county DD board that during the school year provided 56415
special education pursuant to this section for any child with 56416

mental disabilities under twenty-two years of age shall prepare 56417
and submit the following reports and statements: 56418

(1) The board shall prepare a statement for each child who at 56419
the time of receiving such special education was a resident of a 56420
home and was not in the legal or permanent custody of an Ohio 56421
resident or a government agency in this state, and whose natural 56422
or adoptive parents are not known to have been residents of this 56423
state subsequent to the child's birth. The statement shall contain 56424
the child's name, the name of the child's school district of 56425
residence, the name of the county board providing the special 56426
education, and the number of months, including any fraction of a 56427
month, it was provided. Not later than the thirtieth day of June, 56428
the board shall forward a certified copy of such statement to both 56429
the director of developmental disabilities and to the home. 56430

Within thirty days after its receipt of a statement, the home 56431
shall pay tuition to the county board computed in the manner 56432
prescribed by section 3323.141 of the Revised Code. 56433

(2) The board shall prepare a report for each school district 56434
that is the school district of residence of one or more of such 56435
children for whom statements are not required by division (C)(1) 56436
of this section. The report shall contain the name of the county 56437
board providing special education, the name of each child 56438
receiving special education, the number of months, including 56439
fractions of a month, that the child received it, and the name of 56440
the child's school district of residence. Not later than the 56441
thirtieth day of June, the board shall forward certified copies of 56442
each report to the school district named in the report, the 56443
superintendent of public instruction, and the director of 56444
developmental disabilities. 56445

Sec. 3323.091. (A) The department of mental health, the 56446
department of developmental disabilities, the department of youth 56447

services, and the department of rehabilitation and correction 56448
shall establish and maintain special education programs for 56449
children with disabilities in institutions under their 56450
jurisdiction according to standards adopted by the state board of 56451
education. 56452

(B) The superintendent of each state institution required to 56453
provide services under division (A) of this section, and each 56454
county DD board, providing special education for preschool 56455
children with disabilities under this chapter may apply to the 56456
state department of education for unit funding, which shall be 56457
paid in accordance with sections 3317.052 and 3317.053 of the 56458
Revised Code. 56459

The superintendent of each state institution required to 56460
provide services under division (A) of this section may apply to 56461
the department of education for special education and related 56462
services weighted funding for children with disabilities other 56463
than preschool children with disabilities, calculated in 56464
accordance with section 3317.201 of the Revised Code. 56465

Each county DD board providing special education for children 56466
with disabilities other than preschool children with disabilities 56467
may apply to the department of education for base cost and special 56468
education and related services weighted funding calculated in 56469
accordance with section 3317.20 of the Revised Code. 56470

(C) In addition to the authorization to apply for state 56471
funding described in division (B) of this section, each state 56472
institution required to provide services under division (A) of 56473
this section is entitled to tuition payments calculated in the 56474
manner described in division (C) of this section. 56475

On or before the thirtieth day of June of each year, the 56476
superintendent of each institution that during the school year 56477
provided special education pursuant to this section shall prepare 56478

a statement for each child with a disability under twenty-two 56479
years of age who has received special education. The statement 56480
shall contain the child's data verification code assigned pursuant 56481
to division (D)(2) of section 3301.0714 of the Revised Code and 56482
the name of the child's school district of residence. Within sixty 56483
days after receipt of such statement, the department of education 56484
shall perform one of the following: 56485

(1) For any child except a preschool child with a disability 56486
described in division (C)(2) of this section, pay to the 56487
institution submitting the statement an amount equal to the 56488
tuition calculated under division (A) of section 3317.08 of the 56489
Revised Code for the period covered by the statement, and deduct 56490
the same from the amount of state funds, if any, payable under 56491
~~sections 3306.13 and 3317.023~~ Chapter 3317. of the Revised Code, 56492
to the child's school district of residence or, if the amount of 56493
such state funds is insufficient, require the child's school 56494
district of residence to pay the institution submitting the 56495
statement an amount equal to the amount determined under this 56496
division. 56497

(2) For any preschool child with a disability not included in 56498
a unit approved under division (B) of section 3317.05 of the 56499
Revised Code, perform the following: 56500

(a) Pay to the institution submitting the statement an amount 56501
equal to the tuition calculated under division (B) of section 56502
3317.08 of the Revised Code for the period covered by the 56503
statement, except that in calculating the tuition under that 56504
section the operating expenses of the institution submitting the 56505
statement under this section shall be used instead of the 56506
operating expenses of the school district of residence; 56507

(b) Deduct from the amount of state funds, if any, payable 56508
under ~~sections 3317.022 or 3306.13 and 3317.023~~ Chapter 3317. of 56509
the Revised Code to the child's school district of residence an 56510

amount equal to the amount paid under division (C)(2)(a) of this 56511
section. 56512

Sec. 3323.14. This section does not apply to any preschool 56513
child with a disability except if included in a unit approved 56514
under division (B) of section 3317.05 of the Revised Code. 56515

(A) Where a child who is a school resident of one school 56516
district receives special education from another district and the 56517
per capita cost to the educating district for that child exceeds 56518
the sum of the amount received by the educating district for that 56519
child under division (A) of section 3317.08 of the Revised Code 56520
and the amount received by the district from the state board of 56521
education for that child, then the board of education of the 56522
district of residence shall pay to the board of the school 56523
district that is providing the special education such excess cost 56524
as is determined by using a formula approved by the department of 56525
education and agreed upon in contracts entered into by the boards 56526
of the districts concerned at the time the district providing such 56527
special education accepts the child for enrollment. The department 56528
shall certify the amount of the payments under ~~Chapters 3306. and~~ 56529
Chapter 3317. of the Revised Code for such pupils with 56530
disabilities for each school year ending on the thirtieth day of 56531
July. 56532

(B) In the case of a child described in division (A) of this 56533
section who has been placed in a home, as defined in section 56534
3313.64 of the Revised Code, pursuant to the order of a court and 56535
who is not subject to section 3323.141 of the Revised Code, the 56536
district providing the child with special education and related 56537
services may charge to the child's district of residence the 56538
excess cost determined by formula approved by the department, 56539
regardless of whether the district of residence has entered into a 56540
contract with the district providing the services. If the district 56541

providing the services chooses to charge excess costs, the 56542
district may report the amount calculated under this division to 56543
the department. 56544

(C) If a district providing special education for a child 56545
reports an amount for the excess cost of those services, as 56546
authorized and calculated under division (A) or (B) of this 56547
section, the department shall pay that amount of excess cost to 56548
the district providing the services and shall deduct that amount 56549
from the child's district of residence in accordance with division 56550
(~~N~~)(K) of section 3317.023 of the Revised Code. 56551

Sec. 3323.142. This section does not apply to any preschool 56552
child with a disability except if included in a unit approved 56553
under division (B) of section 3317.05 of the Revised Code. 56554

As used in this section, "per pupil amount" for a preschool 56555
child with a disability included in such an approved unit means 56556
the amount determined by dividing the amount received for the 56557
classroom unit in which the child has been placed by the number of 56558
children in the unit. For any other child, "per pupil amount" 56559
means the amount paid for the child under section 3317.20 of the 56560
Revised Code. 56561

When a school district places or has placed a child with a 56562
county DD board for special education, but another district is 56563
responsible for tuition under section 3313.64 or 3313.65 of the 56564
Revised Code and the child is not a resident of the territory 56565
served by the county DD board, the board may charge the district 56566
responsible for tuition with the educational costs in excess of 56567
the per pupil amount received by the board under ~~Chapters 3306-~~ 56568
~~and Chapter~~ 3317. of the Revised Code. The amount of the excess 56569
cost shall be determined by the formula established by rule of the 56570
department of education under section 3323.14 of the Revised Code, 56571
and the payment for such excess cost shall be made by the school 56572

district directly to the county DD board. 56573

A school district board of education and the county DD board 56574
that serves the school district may negotiate and contract, at or 56575
after the time of placement, for payments by the board of 56576
education to the county DD board for additional services provided 56577
to a child placed with the county DD board and whose 56578
individualized education program established pursuant to section 56579
3323.08 of the Revised Code requires additional services that are 56580
not routinely provided children in the county DD board's program 56581
but are necessary to maintain the child's enrollment and 56582
participation in the program. Additional services may include, but 56583
are not limited to, specialized supplies and equipment for the 56584
benefit of the child and instruction, training, or assistance 56585
provided by staff members other than staff members for which 56586
funding is received under Chapter ~~3306.~~ or 3317. of the Revised 56587
Code. 56588

Sec. 3323.25. (A) This section applies to an individual 56589
enrolled in a dropout prevention and recovery program operated by 56590
a community school for whom all of the following conditions are 56591
met: 56592

(1) The individual is between twenty-two and thirty years of 56593
age. 56594

(2) The individual is enrolled in the school's program under 56595
section 3314.38 of the Revised Code. 56596

(3) The individual has a disability of the types described in 56597
division (A)(1) of section 3323.01 of the Revised Code. 56598

(B) In addition to its other responsibilities under this 56599
chapter, the community school may provide to any individual to 56600
whom this section applies special education and related services 56601
in accordance with rules adopted by the state board of education 56602

under division (C) of this section. 56603

(C) The state board shall adopt rules, in accordance with 56604
Chapter 119. of the Revised Code, prescribing standards and 56605
requirements for the provision of special education and related 56606
services to individuals to whom this section applies that are 56607
comparable to the standards and requirements for services to 56608
children with disabilities. The rules shall include standards and 56609
requirements for the identification of individuals with 56610
disabilities who qualify for services under this section, 56611
development and implementation of service plans for those 56612
services, appropriate procedural safeguards, and any other issues 56613
the state board determines are necessary to implement this 56614
section. 56615

Sec. 3323.31. The Franklin county educational service center 56616
shall establish the Ohio ~~Center~~ center for ~~Autism~~ autism and ~~Low~~ 56617
~~Incidence~~ low incidence. The ~~Center~~ center shall administer 56618
programs and coordinate services for infants, preschool and 56619
school-age children, and adults with autism and low incidence 56620
disabilities. The ~~Center's~~ center's principal focus shall be 56621
programs and services for persons with autism. The ~~Center~~ center 56622
shall be under the direction of an executive director, appointed 56623
by the superintendent of the service center in consultation with 56624
the advisory board established under section 3323.33 of the 56625
Revised Code. 56626

In addition to its other duties, the Ohio ~~Center~~ center for 56627
~~Autism~~ autism and ~~Low Incidence~~ low incidence shall participate as 56628
a member of ~~an~~ the interagency workgroup on autism, as it is 56629
established by the ~~department~~ director of developmental 56630
disabilities ~~and~~ under section 5123.0419 of the Revised Code. The 56631
center shall provide technical assistance and support to the 56632
department of developmental disabilities in the department's 56633

leadership role to develop and implement the ~~initiatives~~ 56634
~~identified by~~ projects and activities of the workgroup. 56635

Sec. 3324.05. (A) Each school district shall submit an annual 56636
report to the department of education specifying the number of 56637
students in each of grades kindergarten through ~~twelfth~~ twelve 56638
screened, the number assessed, and the number identified as gifted 56639
in each category specified in section 3324.03 of the Revised Code. 56640

(B) The department of education shall audit each school 56641
district's identification numbers at least once every three years 56642
and may select any district at random or upon complaint or 56643
suspicion of noncompliance for a further audit to determine 56644
compliance with sections 3324.03 to 3324.06 of the Revised Code. 56645

(C) The department shall provide technical assistance to any 56646
district found in noncompliance under division (B) of this 56647
section. The department may reduce funds received by the district 56648
under ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code by any 56649
amount if the district continues to be noncompliant. 56650

Sec. 3324.08. Any person employed by a school district and 56651
assigned to a school as a principal or any other position may also 56652
serve as the district's gifted education coordinator, if qualified 56653
to do so pursuant to the rules adopted by the state board of 56654
education under this chapter. 56655

Sec. 3325.01. The state school for the deaf and the state 56656
school for the blind shall be under the control and supervision of 56657
the state board of education. On the recommendation of the 56658
superintendent of public instruction, the state board of education 56659
shall appoint a superintendent for the state school for the deaf 56660
and a superintendent for the state school for the blind, each of 56661
whom shall serve at the pleasure of the state board. The state 56662
board may appoint one person to serve as the superintendent for 56663

both the state school for the deaf and the state school for the 56664
blind. 56665

Sec. 3325.08. (A) A diploma shall be granted by the 56666
superintendent of the state school for the blind and the 56667
superintendent of the state school for the deaf to any student 56668
enrolled in one of these state schools to whom all of the 56669
following apply: 56670

(1) The student has successfully completed the individualized 56671
education program developed for the student for the student's high 56672
school education pursuant to section 3323.08 of the Revised Code; 56673

(2) Subject to section 3313.614 of the Revised Code, the 56674
student has met the assessment requirements of division (A)(2)(a) 56675
or (b) of this section, as applicable. 56676

(a) If the student entered the ninth grade prior to the date 56677
prescribed by rule of the state board of education under division 56678
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student 56679
either: 56680

(i) Has attained at least the applicable scores designated 56681
under division (B)(1) of section 3301.0710 of the Revised Code on 56682
all the assessments prescribed by that division unless division 56683
(L) of section 3313.61 of the Revised Code applies to the student; 56684

(ii) Has satisfied the alternative conditions prescribed in 56685
section 3313.615 of the Revised Code. 56686

(b) If the student entered the ninth grade on or after the 56687
date prescribed by rule of the state board under division 56688
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student 56689
has ~~attained on~~ met the requirements of the entire assessment 56690
system prescribed under division (B)(2) of section 3301.0710 of 56691
the Revised Code ~~at least the required passing composite score,~~ 56692
~~designated under division (C)(1) of section 3301.0712 of the~~ 56693

Revised Code, except to the extent that division (L) of section 56694
3313.61 of the Revised Code applies to the student. 56695

(3) The student is not eligible to receive an honors diploma 56696
granted pursuant to division (B) of this section. 56697

No diploma shall be granted under this division to anyone 56698
except as provided under this division. 56699

(B) In lieu of a diploma granted under division (A) of this 56700
section, the superintendent of the state school for the blind and 56701
the superintendent of the state school for the deaf shall grant an 56702
honors diploma, in the same manner that the boards of education of 56703
school districts grant such diplomas under division (B) of section 56704
3313.61 of the Revised Code, to any student enrolled in one of 56705
these state schools who accomplishes all of the following: 56706

(1) Successfully completes the individualized education 56707
program developed for the student for the student's high school 56708
education pursuant to section 3323.08 of the Revised Code; 56709

(2) Subject to section 3313.614 of the Revised Code, has met 56710
the assessment requirements of division (B)(2)(a) or (b) of this 56711
section, as applicable. 56712

(a) If the student entered the ninth grade prior to the date 56713
prescribed by rule of the state board under division ~~(E)~~(D)(2) of 56714
section 3301.0712 of the Revised Code, the student either: 56715

(i) Has attained at least the applicable scores designated 56716
under division (B)(1) of section 3301.0710 of the Revised Code on 56717
all the assessments prescribed under that division; 56718

(ii) Has satisfied the alternative conditions prescribed in 56719
section 3313.615 of the Revised Code. 56720

(b) If the student entered the ninth grade on or after the 56721
date prescribed by rule of the state board under division 56722
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student 56723

~~has attained on~~ met the requirements of the entire assessment 56724
system prescribed under division (B)(2) of section 3301.0710 of 56725
the Revised Code ~~at least the required passing composite score,~~ 56726
~~designated under division (C)(1) of section 3301.0712 of the~~ 56727
~~Revised Code.~~ 56728

(3) Has met additional criteria for granting an honors 56729
diploma. 56730

These additional criteria shall be the same as those 56731
prescribed by the state board under division (B) of section 56732
3313.61 of the Revised Code for the granting of such diplomas by 56733
school districts. No honors diploma shall be granted to anyone 56734
failing to comply with this division and not more than one honors 56735
diploma shall be granted to any student under this division. 56736

(C) A diploma or honors diploma awarded under this section 56737
shall be signed by the superintendent of public instruction and 56738
the superintendent of the state school for the blind or the 56739
superintendent of the state school for the deaf, as applicable. 56740
Each diploma shall bear the date of its issue and be in such form 56741
as the school superintendent prescribes. 56742

(D) Upon granting a diploma to a student under this section, 56743
the superintendent of the state school in which the student is 56744
enrolled shall provide notice of receipt of the diploma to the 56745
board of education of the school district where the student is 56746
entitled to attend school under section 3313.64 or 3313.65 of the 56747
Revised Code when not residing at the state school for the blind 56748
or the state school for the deaf. The notice shall indicate the 56749
type of diploma granted. 56750

Sec. 3326.11. Each science, technology, engineering, and 56751
mathematics school established under this chapter and its 56752
governing body shall comply with sections 9.90, 9.91, 109.65, 56753
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 56754

3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 56755
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 56756
3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 56757
3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 56758
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 56759
3313.671, 3313.672, 3313.673, 3313.674, 3313.69, 3313.71, 56760
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 56761
3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3317.141, 3319.073, 56762
3319.08, 3319.111, 3319.17, 3319.21, 3319.32, 3319.321, 3319.35, 56763
3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 3321.041, 3321.13, 56764
3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 56765
4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 56766
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the 56767
Revised Code as if it were a school district. 56768

Sec. 3326.33. Payments and deductions under this section for 56769
fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance 56770
with section 3326.39 of the Revised Code. 56771

For each student enrolled in a science, technology, 56772
engineering, and mathematics school established under this 56773
chapter, the department of education annually shall deduct from 56774
the state education aid of a student's resident school district 56775
and, if necessary, from the payment made to the district under 56776
sections 321.24 and 323.156 of the Revised Code and pay to the 56777
school the sum of the following: 56778

(A) The sum of the formula amount plus the per pupil amount 56779
of the base funding supplements specified in divisions (C)(1) to 56780
(4) of section 3317.012 of the Revised Code. 56781

(B) If the student is receiving special education and related 56782
services pursuant to an IEP, the product of the applicable special 56783
education weight times the formula amount; 56784

(C) If the student is enrolled in vocational education 56785

programs or classes that are described in section 3317.014 of the Revised Code, are provided by the school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, the product of the applicable vocational education weight times the formula amount times the percentage of time the student spends in the vocational education programs or classes;

(D) If the student is included in the poverty student count of the student's resident district, the per pupil amount of the district's payment under division (C) of section 3317.029 of the Revised Code;

(E) If the student is identified as limited English proficient and the student's resident district receives a payment for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code, the per pupil amount of the district's payment under that division, calculated in the same manner as per pupil payments are calculated under division (C)(6) of section 3314.08 of the Revised Code;

(F) If the student's resident district receives a payment under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;

(G) If the student's resident district receives a parity aid payment under section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section.

Sec. 3326.39. For purposes of applying sections 3326.31 to 3326.37 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~

2013: 56817

(A) The formula amount for STEM schools for each of fiscal 56818
~~year 2010 is \$5,718, and for fiscal year 2011 is \$5,703. These~~ 56819
~~respective amounts~~ years 2012 and 2013 is \$5,653. That amount 56820
shall be applied wherein sections 3326.31 to 3326.37 of the 56821
Revised Code the formula amount is specified, except for deducting 56822
and paying amounts for special education weighted funding and 56823
vocational education weighted funding. 56824

(B) The base funding supplements under section 3317.012 of 56825
the Revised Code shall be deemed in each year to be the amounts 56826
specified in that section for fiscal year 2009. 56827

(C) Special education additional weighted funding shall be 56828
calculated by multiplying the applicable weight specified for 56829
fiscal year 2009 in section 3317.013 of the Revised Code, as it 56830
existed for that fiscal year ~~2009~~, times \$5,732. 56831

(D) Vocational education additional weighted funding shall be 56832
calculated by multiplying the applicable weight specified in 56833
section 3317.014 of the Revised Code for fiscal year 2009 times 56834
\$5,732. 56835

(E) The per pupil amounts paid to a school district under 56836
sections 3317.029 and 3317.0217 of the Revised Code shall be 56837
deemed to be the respective per pupil amounts paid under those 56838
sections to that district for fiscal year 2009. 56839

Sec. 3327.02. (A) After considering each of the following 56840
factors, the board of education of a city, exempted village, or 56841
local school district may determine that it is impractical to 56842
transport a pupil who is eligible for transportation to and from a 56843
school under section 3327.01 of the Revised Code: 56844

(1) The time and distance required to provide the 56845
transportation; 56846

(2) The number of pupils to be transported;	56847
(3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;	56848 56849
(4) Whether similar or equivalent service is provided to other pupils eligible for transportation;	56850 56851
(5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;	56852 56853
(6) Whether other reimbursable types of transportation are available.	56854 56855
(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.	56856 56857 56858 56859
(2) The board shall report its determination to the state board of education in a manner determined by the state board.	56860 56861
(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.	56862 56863 56864 56865 56866 56867 56868 56869 56870 56871
(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide payment in lieu of transportation by doing the following:	56872 56873 56874
(1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian,	56875 56876

or other person in charge of the pupil of both of the following: 56877

(a) The board's resolution; 56878

(b) The right of the pupil's parent, guardian, or other 56879
person in charge of the pupil to accept the offer of payment in 56880
lieu of transportation or to reject the offer and instead request 56881
the department to initiate mediation procedures. 56882

(2) Issuing the pupil's parent, guardian, or other person in 56883
charge of the pupil a contract or other form on which the parent, 56884
guardian, or other person in charge of the pupil is given the 56885
option to accept or reject the board's offer of payment in lieu of 56886
transportation. 56887

(D) If the parent, guardian, or other person in charge of the 56888
pupil accepts the offer of payment in lieu of providing 56889
transportation, the board shall pay the parent, guardian, or other 56890
person in charge of the ~~child~~ pupil an amount that shall be not 56891
less than the amount determined by the department of education as 56892
the minimum for payment in lieu of transportation, and not more 56893
than the amount determined by the department as the average cost 56894
of pupil transportation for the previous school year. Payment may 56895
be prorated if the time period involved is only a part of the 56896
school year. 56897

(E)(1)(a) Upon the request of a parent, guardian, or other 56898
person in charge of the pupil who rejected the payment in lieu of 56899
transportation, the department shall conduct mediation procedures. 56900

(b) If the mediation does not resolve the dispute, the state 56901
board of education shall conduct a hearing in accordance with 56902
Chapter 119. of the Revised Code. The state board may approve the 56903
payment in lieu of transportation or may order the board of 56904
education to provide transportation. The decision of the state 56905
board is binding in subsequent years and on future parties in 56906
interest provided the facts of the determination remain 56907

comparable. 56908

(2) The school district shall provide transportation for the 56909
pupil from the time the parent, guardian, or other person in 56910
charge of the pupil requests mediation until the matter is 56911
resolved under division (E)(1)(a) or (b) of this section. 56912

(F)(1) If the department determines that a school district 56913
board has failed or is failing to provide transportation as 56914
required by division (E)(2) of this section or as ordered by the 56915
state board under division (E)(1)(b) of this section, the 56916
department shall order the school district board to pay to the 56917
pupil's parent, guardian, or other person in charge of the pupil, 56918
an amount equal to the state average daily cost of transportation 56919
as determined by the state board of education for the previous 56920
year. The school district board shall make payments on a schedule 56921
ordered by the department. 56922

(2) If the department subsequently finds that a school 56923
district board is not in compliance with an order issued under 56924
division (F)(1) of this section and the affected pupils are 56925
enrolled in a nonpublic or community school, the department shall 56926
deduct the amount that the board is required to pay under that 56927
order from any pupil transportation payments the department makes 56928
to the school district board under section ~~3306.12~~ 3317.0212 of 56929
the Revised Code or other provisions of law. The department shall 56930
use the moneys so deducted to make payments to the nonpublic or 56931
community school attended by the pupil. The department shall 56932
continue to make the deductions and payments required under this 56933
division until the school district board either complies with the 56934
department's order issued under division (F)(1) of this section or 56935
begins providing transportation. 56936

(G) A nonpublic or community school that receives payments 56937
from the department under division (F)(2) of this section shall do 56938
either of the following: 56939

(1) Disburse the entire amount of the payments to the parent, guardian, or other person in ~~control~~ charge of the pupil affected by the failure of the school district of residence to provide transportation;

(2) Use the entire amount of the payments to provide acceptable transportation for the affected pupil.

Sec. 3327.04. (A) The board of education of any city, exempted village, or local school district may contract with the board of another district for the admission or transportation, or both, of pupils into any school in such other district, on terms agreed upon by such boards.

(B) The boards of two school districts may enter into a contract under this section to share the provision of transportation to a child who resides in one school district and attends school in the other district. Under such an agreement, one district may claim the total transportation subsidy available for such child under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law and may agree to pay any portion of such subsidy to the other district sharing the provision of transportation to that child. The contract shall delineate the transportation responsibilities of each district.

A school district that enters into a contract under this section is not liable for any injury, death, or loss to the person or property of a student that may occur while the student is being furnished transportation by the other school district that is a party to the contract.

(C) Whenever a board not maintaining a high school enters into an agreement with one or more boards maintaining such school for the schooling of all its high school pupils, the board making such agreement is exempt from the payment of tuition at other high schools of pupils living within three miles of the school

designated in the agreement. In case no such agreement is entered 56971
into, the high school to be attended can be selected by the pupil 56972
holding an eighth grade diploma, and the tuition shall be paid by 56973
the board of the district of school residence. 56974

Sec. 3327.05. (A) Except as provided in division (B) of this 56975
section, no board of education of any school district shall 56976
provide transportation for any pupil who is a school resident of 56977
another school district unless the pupil is enrolled pursuant to 56978
section 3313.98 of the Revised Code or the board of the other 56979
district has given its written consent thereto. If the board of 56980
any school district files with the state board of education a 56981
written complaint that transportation for resident pupils is being 56982
provided by the board of another school district contrary to this 56983
division, the state board of education shall make an investigation 56984
of such complaint. If the state board of education finds that 56985
transportation is being provided contrary to this section, it may 56986
withdraw from state funds due the offending district any part of 56987
the amount that has been approved for transportation pursuant to 56988
section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions 56989
of law. 56990

(B) Notwithstanding division (D) of section 3311.19 and 56991
division (D) of section 3311.52 of the Revised Code, this division 56992
does not apply to any joint vocational or cooperative education 56993
school district. 56994

A board of education may provide transportation to and from 56995
the nonpublic school of attendance if both of the following apply: 56996

(1) The parent, guardian, or other person in charge of the 56997
pupil agrees to pay the board for all costs incurred in providing 56998
the transportation that are not reimbursed pursuant to Chapter 56999
~~3306.~~ ~~or~~ 3317. of the Revised Code; 57000

(2) The pupil's school district of residence does not provide 57001

transportation for public school pupils of the same grade as the 57002
pupil being transported under this division, or that district is 57003
not required under section 3327.01 of the Revised Code to 57004
transport the pupil to and from the nonpublic school because the 57005
direct travel time to the nonpublic school is more than thirty 57006
minutes. 57007

Upon receipt of the request to provide transportation, the 57008
board shall review the request and determine whether the board 57009
will accommodate the request. If the board agrees to transport the 57010
pupil, the board may transport the pupil to and from the nonpublic 57011
school and a collection point in the district, as determined by 57012
the board. If the board transports the pupil, the board may 57013
include the pupil in the district's transportation ADM reported to 57014
the department of education under section 3317.03 of the Revised 57015
Code and, accordingly, may receive a state payment under section 57016
~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law 57017
for transporting the pupil. 57018

If the board declines to transport the pupil, the board, in a 57019
written communication to the parent, guardian, or other person in 57020
charge of the pupil, shall state the reasons for declining the 57021
request. 57022

Sec. 3328.01. As used in this chapter: 57023

(A) "Child with a disability," "IEP," and "school district of 57024
residence" have the same meanings as in section 3323.01 of the 57025
Revised Code. 57026

(B) "Eligible student" means a student who is entitled to 57027
attend school in a participating school district; is at risk of 57028
academic failure; is from a family whose income is below two 57029
hundred per cent of the federal poverty guidelines, as defined in 57030
section 5101.46 of the Revised Code; meets any additional criteria 57031
prescribed by agreement between the state board of education and 57032

the operator of the college-preparatory boarding school in which 57033
the student seeks enrollment; and meets at least two of the 57034
following additional conditions: 57035

(1) The student has a record of in-school disciplinary 57036
actions, suspensions, expulsions, or truancy. 57037

(2) The student has not attained at least a proficient score 57038
on the state achievement assessments in English language arts, 57039
reading, or mathematics prescribed under section 3301.0710 of the 57040
Revised Code, after those assessments have been administered to 57041
the student at least once, or the student has not attained at 57042
least a score designated by the board of trustees of the 57043
college-preparatory boarding school in which the student seeks 57044
enrollment under this chapter on an end-of-course examination in 57045
English language arts or mathematics prescribed under section 57046
3301.0712 of the Revised Code. 57047

(3) The student is a child with a disability. 57048

(4) The student has been referred for academic intervention 57049
services. 57050

(5) The student's head of household is a single parent. As 57051
used in this division and in division (B)(6) of this section, 57052
"head of household" means a person who occupies the same household 57053
as the student and who is financially responsible for the student. 57054

(6) The student's head of household is not the student's 57055
custodial parent. 57056

(7) A member of the student's family has been imprisoned, as 57057
defined in section 1.05 of the Revised Code. 57058

(C) "Entitled to attend school" means entitled to attend 57059
school in a school district under section 3313.64 or 3313.65 of 57060
the Revised Code. 57061

(D) "Operator" means the operator of a college-preparatory 57062

boarding school selected under section 3328.11 of the Revised Code. 57063
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(E) "Participating school district" means either of the following: 57065
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(1) The school district in which a college-preparatory boarding school established under this chapter is located; 57067
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(2) A school district other than one described in division (E)(1) of this section that, pursuant to procedures adopted by the state board of education under section 3328.04 of the Revised Code, agrees to be a participating school district so that eligible students entitled to attend school in that district may enroll in a college-preparatory boarding school established under this chapter. 57069
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Sec. 3328.02. Each college-preparatory boarding school established under this chapter is a public school and is part of the state's program of education, subject to a charter granted by the state board of education under section 3301.16 of the Revised Code. 57076
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Sec. 3328.03. In accordance with Section 22 of Article II, Ohio Constitution, no agreement or contract entered into under this chapter shall create an obligation of state funds for a period longer than two years; however, the general assembly, every two years, may authorize renewal of any such obligation. 57081
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Sec. 3328.04. The city, exempted village, or local school district in which a college-preparatory boarding school established under this chapter is located is a participating school district under this chapter. Any other city, exempted village, or local school district may agree to be a participating school district. The state board of education shall adopt 57086
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procedures for districts to agree to be participating school 57092
districts. 57093

Sec. 3328.11. (A) In accordance with the procedures 57094
prescribed in division (B) of this section, the state board of 57095
education shall select a private nonprofit corporation that meets 57096
the following qualifications to operate each college-preparatory 57097
boarding school established under this chapter: 57098

(1) The corporation has experience operating a school or 57099
program similar to the schools authorized under this chapter. 57100

(2) The school or program described in division (A)(1) of 57101
this section has demonstrated to the satisfaction of the state 57102
board success in improving the academic performance of students. 57103

(3) The corporation has demonstrated to the satisfaction of 57104
the state board that the corporation has the capacity to secure 57105
private funds for the development of the school authorized under 57106
this chapter. 57107

(B)(1) Not later than sixty days after the effective date of 57108
this section, the state board shall issue a request for proposals 57109
from private nonprofit corporations qualified to operate a 57110
college-preparatory boarding school established under this 57111
chapter. If the state board subsequently determines that the 57112
establishment of one or more additional college-preparatory 57113
boarding schools is advisable, the state board shall issue 57114
requests for proposals from private nonprofit corporations 57115
qualified to operate those additional schools. 57116

In all cases, the state board shall select the school's 57117
operator from among the qualified responders within one hundred 57118
eighty days after the issuance of the request for proposals. If no 57119
qualified responder submits a proposal, the state board may issue 57120
another request for proposals. 57121

(2) Each proposal submitted to the state board shall contain 57122
the following information: 57123

(a) The proposed location of the college-preparatory boarding 57124
school, which may differ from any location recommended by the 57125
state board in the request for proposals; 57126

(b) A plan for offering grade five or six in the school's 57127
initial year of operation and a plan for increasing the grade 57128
levels offered by the school in subsequent years; 57129

(c) Any other information about the proposed educational 57130
program, facilities, or operations of the school considered 57131
necessary by the state board. 57132

Sec. 3328.12. The state board of education shall enter into a 57133
contract with the operator of each college-preparatory boarding 57134
school established under this chapter. The contract shall 57135
stipulate the following: 57136

(A) The school may operate only if and to the extent the 57137
school holds a valid charter granted by the state board under 57138
section 3301.16 of the Revised Code. 57139

(B) The operator shall oversee the acquisition of a facility 57140
for the school. 57141

(C) The operator shall operate the school in accordance with 57142
the terms of the proposal accepted by the state board under 57143
section 3328.11 of the Revised Code, including the plan for 57144
increasing the grade levels offered by the school. 57145

(D) The school shall comply with the provisions of this 57146
chapter. 57147

(E) The school shall comply with any other provisions of law 57148
specified in the contract, the charter granted by the state board, 57149
and the rules adopted by the state board under section 3328.50 of 57150
the Revised Code. 57151

(F) The school shall comply with the bylaws adopted by the operator under section 3328.13 of the Revised Code. 57152
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(G) The school shall meet the academic goals and other performance standards specified in the contract. 57154
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(H) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination. 57156
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(I) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract. 57163
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Sec. 3328.13. Each operator of a college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, the rules adopted under section 3328.50 of the Revised Code, the contract between the operator and the state board of education, and the charter granted to the school by the state board. The bylaws shall include procedures for the appointment of members of the school's board of trustees, whose terms of office shall be as prescribed in section 3328.15 of the Revised Code. The bylaws also shall include standards for the admission of students to the school and their dismissal from the school. The bylaws shall be subject to the approval of the state board. 57166
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Sec. 3328.14. Each operator of a college-preparatory boarding school established under this chapter shall adopt a program of outreach to inform every city, local, and exempted village school 57179
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district about the school and the procedures for admission to the 57182
school and for becoming a participating school district. 57183

Sec. 3328.15. (A) Each college-preparatory boarding school 57184
established under this chapter shall be governed by a board of 57185
trustees consisting of up to twenty-five members. Five of those 57186
members shall be appointed by the governor, with the advice and 57187
consent of the senate. The governor's appointments may be based on 57188
nonbinding recommendations made by the superintendent of public 57189
instruction. The remaining members shall be appointed pursuant to 57190
the bylaws adopted under section 3328.13 of the Revised Code. 57191

(B) The terms of office of the initial members shall be as 57192
follows: 57193

(1) Two members appointed by the governor shall serve for an 57194
initial term of three years. 57195

(2) Two members appointed by the governor shall serve for an 57196
initial term of two years. 57197

(3) One member appointed by the governor shall serve for an 57198
initial term of one year. 57199

(4) One-third of the members appointed pursuant to the 57200
bylaws, rounded down to the nearest whole number, shall serve for 57201
an initial term of three years. 57202

(5) One-third of the members appointed pursuant to the 57203
bylaws, rounded down to the nearest whole number, shall serve for 57204
an initial term of two years. 57205

(6) One-third of the members appointed pursuant to the 57206
bylaws, rounded down to the nearest whole number, shall serve for 57207
an initial term of one year. 57208

(7) Any remaining members appointed pursuant to the bylaws 57209
shall serve for an initial term of one year. 57210

Thereafter the terms of office of all members shall be for 57211
three years. 57212

The beginning date and ending date of terms of office shall 57213
be as prescribed in the bylaws adopted under section 3328.13 of 57214
the Revised Code. 57215

(C) Vacancies on the board shall be filled in the same manner 57216
as the initial appointments. A member appointed to an unexpired 57217
term shall serve for the remainder of that term and may be 57218
reappointed subject to division (D) of this section. 57219

(D) No member may serve for more than three consecutive 57220
three-year terms. 57221

(E) The officers of the board shall be selected by and from 57222
among the members of the board. 57223

(F) Compensation for the members of the board, if any, shall 57224
be as prescribed in the bylaws adopted under section 3328.13 of 57225
the Revised Code. 57226

Sec. 3328.17. Employees of a college-preparatory boarding 57227
school established under this chapter may organize and 57228
collectively bargain pursuant to Chapter 4117. of the Revised 57229
Code. Notwithstanding division (D)(1) of section 4117.06 of the 57230
Revised Code, a unit containing teaching and nonteaching employees 57231
employed under this section may be considered an appropriate unit. 57232

Sec. 3328.18. (A) As used in this section, "license" has the 57233
same meaning as in section 3319.31 of the Revised Code. 57234

(B) If a person who is employed by a college-preparatory 57235
boarding school established under this chapter or its operator is 57236
arrested, summoned, or indicted for an alleged violation of an 57237
offense listed in division (C) of section 3319.31 of the Revised 57238
Code, if the person holds a license, or an offense listed in 57239

division (B)(1) of section 3319.39 of the Revised Code, if the 57240
person does not hold a license, the chief administrator of the 57241
school in which that person works shall suspend that person from 57242
all duties that require the care, custody, or control of a child 57243
during the pendency of the criminal action against the person. If 57244
the person who is arrested, summoned, or indicted for an alleged 57245
violation of an offense listed in division (C) of section 3319.31 57246
or division (B)(1) of section 3319.39 of the Revised Code is the 57247
chief administrator of the school, the board of trustees of the 57248
school shall suspend the chief administrator from all duties that 57249
require the care, custody, or control of a child. 57250

(C) When a person who holds a license is suspended in 57251
accordance with this section, the chief administrator or board 57252
that imposed the suspension promptly shall report the person's 57253
suspension to the department of education. The report shall 57254
include the offense for which the person was arrested, summoned, 57255
or indicted. 57256

Sec. 3328.19. (A) As used in this section: 57257

(1) "Conduct unbecoming to the teaching profession" shall be 57258
as described in rules adopted by the state board of education. 57259

(2) "Intervention in lieu of conviction" means intervention 57260
in lieu of conviction under section 2951.041 of the Revised Code. 57261

(3) "License" has the same meaning as in section 3319.31 of 57262
the Revised Code. 57263

(4) "Pre-trial diversion program" means a pre-trial diversion 57264
program under section 2935.36 of the Revised Code or a similar 57265
diversion program under rules of a court. 57266

(B) The chief administrator of each college-preparatory 57267
boarding school established under this chapter, or the president 57268
or chairperson of the board of trustees of the school if division 57269

(C) of this section applies, shall promptly submit to the 57270
superintendent of public instruction the information prescribed in 57271
division (D) of this section when any of the following conditions 57272
applies to a person employed to work in the school who holds a 57273
license issued by the state board of education: 57274

(1) The chief administrator, or president or chairperson, 57275
knows that the employee has pleaded guilty to, has been found 57276
guilty by a jury or court of, has been convicted of, has been 57277
found to be eligible for intervention in lieu of conviction for, 57278
or has agreed to participate in a pre-trial diversion program for 57279
an offense described in division (B)(2) or (C) of section 3319.31 57280
or division (B)(1) of section 3319.39 of the Revised Code. 57281

(2) The board of trustees of the school, or the operator, has 57282
initiated termination or nonrenewal proceedings against, has 57283
terminated, or has not renewed the contract of the employee 57284
because the board or operator has reasonably determined that the 57285
employee has committed an act that is unbecoming to the teaching 57286
profession or an offense described in division (B)(2) or (C) of 57287
section 3319.31 or division (B)(1) of section 3319.39 of the 57288
Revised Code. 57289

(3) The employee has resigned under threat of termination or 57290
nonrenewal as described in division (B)(2) of this section. 57291

(4) The employee has resigned because of or in the course of 57292
an investigation by the board or operator regarding whether the 57293
employee has committed an act that is unbecoming to the teaching 57294
profession or an offense described in division (B)(2) or (C) of 57295
section 3319.31 or division (B)(1) of section 3319.39 of the 57296
Revised Code. 57297

(C) If the employee to whom any of the conditions prescribed 57298
in divisions (B)(1) to (4) of this section applies is the chief 57299
administrator of the school, the president or chairperson of the 57300

board of trustees of the school shall make the report required 57301
under this section. 57302

(D) If a report is required under this section, the chief 57303
administrator, or president or chairperson, shall submit to the 57304
superintendent of public instruction the name and social security 57305
number of the employee about whom the information is required and 57306
a factual statement regarding any of the conditions prescribed in 57307
divisions (B)(1) to (4) of this section that apply to the 57308
employee. 57309

(E) A determination made by the board or operator as 57310
described in division (B)(2) of this section or a termination, 57311
nonrenewal, resignation, or other separation described in 57312
divisions (B)(2) to (4) of this section does not create a 57313
presumption of the commission or lack of the commission by the 57314
employee of an act unbecoming to the teaching profession or an 57315
offense described in division (B)(2) or (C) of section 3319.31 or 57316
division (B)(1) of section 3319.39 of the Revised Code. 57317

(F) No individual required to submit a report under division 57318
(B) of this section shall knowingly fail to comply with that 57319
division. 57320

(G) An individual who provides information to the 57321
superintendent of public instruction in accordance with this 57322
section in good faith shall be immune from any civil liability 57323
that otherwise might be incurred or imposed for injury, death, or 57324
loss to person or property as a result of the provision of that 57325
information. 57326

Sec. 3328.191. The board of trustees of each 57327
college-preparatory boarding school established under this chapter 57328
shall require that the reports of any investigation by the board 57329
or by the school's operator of an employee who works in the 57330
school, regarding whether the employee has committed an act or 57331

offense for which the chief administrator of the school or the 57332
president or chairperson of the board is required to make a report 57333
to the superintendent of public instruction under section 3328.19 57334
of the Revised Code, be kept in the employee's personnel file. If, 57335
after an investigation under division (A) of section 3319.311 of 57336
the Revised Code, the superintendent of public instruction 57337
determines that the results of that investigation do not warrant 57338
initiating action under section 3319.31 of the Revised Code, the 57339
board shall require the reports of the investigation to be moved 57340
from the employee's personnel file to a separate public file. 57341

Sec. 3328.192. Notwithstanding any provision to the contrary 57342
in Chapter 4117. of the Revised Code, the provisions of sections 57343
3328.19 and 3328.191 of the Revised Code prevail over any 57344
conflicting provisions of a collective bargaining agreement or 57345
contract for employment entered into on or after the effective 57346
date of this section. 57347

Sec. 3328.193. (A) As used in this section, "license" has the 57348
same meaning as in section 3319.31 of the Revised Code. 57349

(B) No employee of a college-preparatory boarding school 57350
established under this chapter or its operator shall do either of 57351
the following: 57352

(1) Knowingly make a false report to the chief administrator 57353
of the school, or the chief administrator's designee, alleging 57354
misconduct by another employee of the school or its operator; 57355

(2) Knowingly cause the chief administrator, or the chief 57356
administrator's designee, to make a false report of the alleged 57357
misconduct to the superintendent of public instruction or the 57358
state board of education. 57359

(C) Any employee of a college-preparatory boarding school 57360

established under this chapter or its operator who in good faith reports to the chief administrator of the school, or the chief administrator's designee, information about alleged misconduct committed by another employee of the school or operator shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information.

If the alleged misconduct involves a person who holds a license but the chief administrator is not required to submit a report to the superintendent of public instruction under section 3328.19 of the Revised Code and the chief administrator, or the chief administrator's designee, in good faith reports the alleged misconduct to the superintendent of public instruction or the state board, the chief administrator, or the chief administrator's designee, shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information.

(D)(1) In any civil action brought against a person in which it is alleged and proved that the person violated division (B) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation.

(2) If a person is convicted of or pleads guilty to a violation of division (B) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (B) of this section, as part of the sentence, shall order the person to pay

restitution to the subject of the false report, in an amount equal 57393
to reasonable attorney's fees and costs that the subject of the 57394
false report incurred as a result of or in relation to the 57395
charges. 57396

Sec. 3328.20. (A) As used in this section: 57397

(1) "Designated official" means the chief administrator of a 57398
college-preparatory boarding school established under this 57399
chapter, or the chief administrator's designee. 57400

(2) "Essential school services" means services provided by a 57401
private company under contract with a college-preparatory boarding 57402
school established under this chapter that the chief administrator 57403
of the school has determined are necessary for the operation of 57404
the school and that would need to be provided by persons employed 57405
by the school or its operator if the services were not provided by 57406
the private company. 57407

(3) "License" has the same meaning as in section 3319.31 of 57408
the Revised Code. 57409

(B) This section applies to any person who is an employee of 57410
a private company under contract with a college-preparatory 57411
boarding school established under this chapter to provide 57412
essential school services and who will work in the school in a 57413
position that does not require a license issued by the state board 57414
of education, is not for the operation of a vehicle for pupil 57415
transportation, and that involves routine interaction with a child 57416
or regular responsibility for the care, custody, or control of a 57417
child. 57418

(C) No college-preparatory boarding school established under 57419
this chapter shall permit a person to whom this section applies to 57420
work in the school, unless one of the following applies to the 57421
person: 57422

(1) The person's employer presents proof of both of the 57423
following to the designated official: 57424

(a) That the person has been the subject of a criminal 57425
records check conducted in accordance with division (D) of this 57426
section within the five-year period immediately prior to the date 57427
on which the person will begin working in the school; 57428

(b) That the criminal records check indicates that the person 57429
has not been convicted of or pleaded guilty to any offense 57430
described in division (B)(1) of section 3319.39 of the Revised 57431
Code. 57432

(2) During any period of time in which the person will have 57433
routine interaction with a child or regular responsibility for the 57434
care, custody, or control of a child, the designated official has 57435
arranged for an employee of the school to be present in the same 57436
room with the child or, if outdoors, to be within a thirty-yard 57437
radius of the child or to have visual contact with the child. 57438

(D) Any private company that has been hired or seeks to be 57439
hired by a college-preparatory boarding school established under 57440
this chapter to provide essential school services may request the 57441
bureau of criminal identification and investigation to conduct a 57442
criminal records check of any of its employees for the purpose of 57443
complying with division (C)(1) of this section. Each request for a 57444
criminal records check under this division shall be made to the 57445
superintendent of the bureau in the manner prescribed in section 57446
3319.39 of the Revised Code. Upon receipt of a request, the bureau 57447
shall conduct the criminal records check in accordance with 57448
section 109.572 of the Revised Code as if the request had been 57449
made under section 3319.39 of the Revised Code. 57450

Notwithstanding division (H) of section 109.57 of the Revised 57451
Code, the private company may share the results of any criminal 57452
records check conducted under this division with the designated 57453

official for the purpose of complying with division (C)(1) of this 57454
section, but in no case shall the designated official release that 57455
information to any other person. 57456

Sec. 3328.21. (A) Any eligible student may apply for 57457
admission to a college-preparatory boarding school established 57458
under this chapter in a grade level offered by the school that is 57459
appropriate for the student and shall be admitted to the school in 57460
that grade level to the extent the student's admission is within 57461
the capacity of the school as established by the school's board of 57462
trustees, subject to division (B) of this section. If more 57463
eligible students apply for admission than the number of students 57464
permitted by the capacity established by the board of trustees, 57465
admission shall be by lot. 57466

(B) In the first year of operation, each school established 57467
under this chapter shall offer only grade five or six and shall 57468
not admit more than eighty students to the school. In each 57469
subsequent year of operation, the school may add additional grade 57470
levels as specified in the contract under section 3328.12 of the 57471
Revised Code, but at no time shall the school's total student 57472
population exceed four hundred students. 57473

Sec. 3328.22. The educational program of a 57474
college-preparatory boarding school established under this chapter 57475
shall include at least all of the following: 57476

(A) A remedial curriculum for students in grades lower than 57477
grade nine; 57478

(B) A college-preparatory curriculum for high school students 57479
that, at a minimum, shall comply with section 3313.603 of the 57480
Revised Code as that section applies to school districts; 57481

(C) Extracurricular activities, including athletic and 57482
cultural activities; 57483

<u>(D) College admission counseling;</u>	57484
<u>(E) Health and mental health services;</u>	57485
<u>(F) Tutoring services;</u>	57486
<u>(G) Community services opportunities;</u>	57487
<u>(H) A residential student life program.</u>	57488

Sec. 3328.23. (A) A college-preparatory boarding school 57489
established under this chapter and the school's operator shall 57490
comply with Chapter 3323. of the Revised Code as if the school 57491
were a school district. For each child with a disability enrolled 57492
in the school for whom an IEP has been developed, the school and 57493
its operator shall verify in the manner prescribed by the 57494
department of education that the school is providing the services 57495
required under the child's IEP. 57496

(B) The school district in which a child with a disability 57497
enrolled in the college-preparatory boarding school is entitled to 57498
attend school and the child's school district of residence, if 57499
different, are not obligated to provide the student with a free 57500
appropriate public education under Chapter 3323. of the Revised 57501
Code for as long as the child is enrolled in the 57502
college-preparatory boarding school. 57503

Sec. 3328.24. A college-preparatory boarding school 57504
established under this chapter, its operator, and its board of 57505
trustees shall comply with sections 3301.0710, 3301.0711, 57506
3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as 57507
if the school and the operator were a school district and the 57508
school's board of trustees were a district board of education. 57509

Sec. 3328.25. (A) The board of trustees of a 57510
college-preparatory boarding school established under this chapter 57511
shall grant a diploma to any student enrolled in the school to 57512

whom all of the following apply: 57513

(1) The student has successfully completed the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code or has qualified under division (D) or (F) of section 3313.603 of the Revised Code, provided that the school shall not require a student to remain in school for any specific number of semesters or other terms if the student completes the required curriculum early. 57514
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(2) Subject to section 3313.614 of the Revised Code, the student has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable. 57521
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(a) If the student entered ninth grade prior to the date prescribed by rule of the state board of education under division (E)(2) of section 3301.0712 of the Revised Code, the student either: 57524
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(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed by that division unless division (L) of section 3313.61 of the Revised Code applies to the student; 57528
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(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code. 57532
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(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code, except to the extent that the student is excused from some portion of that assessment system pursuant to division (L) of section 3313.61 of the Revised Code. 57534
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(3) The student is not eligible to receive an honors diploma granted under division (B) of this section. 57543
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No diploma shall be granted under this division to anyone except as provided in this division. 57545
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(B) In lieu of a diploma granted under division (A) of this section, the board of trustees shall grant an honors diploma, in the same manner that boards of education of school districts grant honors diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in the school who accomplishes all of the following: 57547
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(1) Successfully completes the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code; 57553
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(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable. 57556
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57558

(a) If the student entered ninth grade prior to the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student either: 57559
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(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division; 57562
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(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code. 57565
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(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of 57567
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section 3301.0712 of the Revised Code. 57573

(3) Has met the additional criteria for granting an honors diploma prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of honors diplomas by school districts. 57574
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An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. No honors diploma shall be granted to anyone failing to comply with this division, and not more than one honors diploma shall be granted to any student under this division. 57578
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(C) A diploma or honors diploma awarded under this section shall be signed by the presiding officer of the board of trustees. Each diploma shall bear the date of its issue and be in such form as the board of trustees prescribes. 57585
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(D) Upon granting a diploma to a student under this section, the presiding officer of the board of trustees shall provide notice of receipt of the diploma to the board of education of the city, exempted village, or local school district where the student is entitled to attend school when not residing at the college-preparatory boarding school. The notice shall indicate the type of diploma granted. 57589
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Sec. 3328.26. (A) The department of education shall issue an annual report card for each college-preparatory boarding school established under this chapter that includes all information applicable to school buildings under section 3302.03 of the Revised Code. 57596
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(B) For each student enrolled in the school, the department shall combine data regarding the academic performance of that 57601
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student with comparable data from the school district in which the 57603
student is entitled to attend school for the purpose of 57604
calculating the performance of the district as a whole on the 57605
report card issued for the district under section 3302.03 of the 57606
Revised Code. 57607

(C) Each college-preparatory boarding school and its operator 57608
shall comply with sections 3302.04 and 3302.041 of the Revised 57609
Code, except that any action required to be taken by a school 57610
district pursuant to those sections shall be taken by the school. 57611

Sec. 3328.41. Each participating school district shall be 57612
responsible for providing transportation on a weekly basis for 57613
each student enrolled in a college-preparatory boarding school 57614
established under this chapter who is entitled to attend school in 57615
the district to and from that college-preparatory boarding school. 57616

Sec. 3328.45. (A) If the state board of education determines 57617
that a college-preparatory boarding school established under this 57618
chapter is not in compliance with any provision of this chapter or 57619
the terms of the contract entered into under section 3328.12 of 57620
the Revised Code, or that the school has failed to meet the 57621
academic goals or performance standards specified in that 57622
contract, the state board may initiate the termination procedures 57623
specified in the contract. No termination shall take effect prior 57624
to the end of a school year. Upon the effective date of a 57625
termination, the school shall close. 57626

(B) If a college-preparatory boarding school is required to 57627
close under division (A) of this section or closes for any other 57628
reason, the school's board of trustees shall execute the closing 57629
as provided in the contract under section 3328.12 of the Revised 57630
Code. 57631

Sec. 3328.50. The state board of education shall adopt rules 57632

in accordance with Chapter 119. of the Revised Code prescribing 57633
procedures necessary for the implementation of this chapter. 57634

Sec. 3328.99. (A) Whoever violates division (F) of section 57635
3328.19 of the Revised Code shall be punished as follows: 57636

(1) Except as otherwise provided in division (A)(2) of this 57637
section, the person is guilty of a misdemeanor of the fourth 57638
degree. 57639

(2) The person is guilty of a misdemeanor of the first degree 57640
if both of the following conditions apply: 57641

(a) The employee who is the subject of the report that the 57642
person fails to submit was required to be reported for the 57643
commission or alleged commission of an act or offense involving 57644
the infliction on a child of any physical or mental wound, injury, 57645
disability, or condition of a nature that constitutes abuse or 57646
neglect of the child. 57647

(b) During the period between the violation of division (F) 57648
of section 3328.19 of the Revised Code and the conviction of or 57649
plea of guilty by the person for that violation, the employee who 57650
is the subject of the report that the person fails to submit 57651
inflicts on any child attending a school district, educational 57652
service center, public or nonpublic school, or county board of 57653
developmental disabilities where the employee works any physical 57654
or mental wound, injury, disability, or condition of a nature that 57655
constitutes abuse or neglect of the child. 57656

(B) Whoever violates division (B) of section 3328.193 of the 57657
Revised Code is guilty of a misdemeanor of the first degree. 57658

Sec. 3329.08. At any regular meeting, the board of education 57659
of each local school district, from lists adopted by the 57660
educational service center governing board, and the board of 57661

~~education of each~~, city, and exempted village school district 57662
shall determine by a majority vote of all members elected or 57663
appointed under division (B) or (F) of section 3311.71 of the 57664
Revised Code which of such textbooks or electronic textbooks so 57665
filed shall be used in the schools under its control. 57666

Sec. 3331.01. (A) As used in this chapter: 57667

(1) "Superintendent" or "superintendent of schools" of a 57668
school district means the person employed as the superintendent or 57669
that person's designee. ~~In the case of a local school district,~~ 57670
~~such designee may be the superintendent of the educational service~~ 57671
~~center to which the school district belongs.~~ 57672

(2) "Chief administrative officer" means the chief 57673
administrative officer of a nonpublic or community school or that 57674
person's designee. 57675

(B)(1) Except as provided in division (B)(2) of this section, 57676
an age and schooling certificate may be issued only by the 57677
superintendent of the city, local, joint vocational, or exempted 57678
village school district in which the child in whose name such 57679
certificate is issued resides or by the chief administrative 57680
officer of the nonpublic or community school the child attends, 57681
and only upon satisfactory proof that the child to whom the 57682
certificate is issued is at least fourteen years of age. 57683

(2) A child who resides in this state shall apply for an age 57684
and schooling certificate to the superintendent of the school 57685
district in which the child resides, or to the chief 57686
administrative officer of the school that the child attends. 57687
Residents of other states who work in Ohio shall apply to the 57688
superintendent of the school district in which the place of 57689
employment is located, as a condition of employment or service. 57690

(C) Any such age and schooling certificate may be issued only 57691

upon satisfactory proof that the employment contemplated by the 57692
child is not prohibited by any law regulating the employment of 57693
such children. Section 4113.08 of the Revised Code does not apply 57694
to such employer in respect to such child while engaged in an 57695
employment legal for a child of the age stated therein. 57696

(D) Age and schooling certificate forms shall be approved by 57697
the state board of education, including forms submitted 57698
electronically. Forms shall not display the social security number 57699
of the child. Except as otherwise provided in this section, every 57700
application for an age and schooling certificate must be signed in 57701
the presence of the officer issuing it by the child in whose name 57702
it is issued. 57703

(E) A child shall furnish the superintendent or chief 57704
administrative officer all information required by this chapter in 57705
support of the issuance of a certificate. 57706

(F) On and after September 1, 2002, each superintendent and 57707
chief administrative officer who issues an age and schooling 57708
certificate shall file electronically the certificate with the 57709
director of commerce in accordance with rules adopted by the 57710
director of administrative services pursuant to section 1306.21 of 57711
the Revised Code. On and after September 1, 2002, only 57712
electronically filed certificates are valid to satisfy the 57713
requirements of Chapter 4109. of the Revised Code. 57714

Sec. 3333.03. (A) The governor, with the advice and consent 57715
of the senate, shall appoint the chancellor of the Ohio board of 57716
regents. ~~The governor may remove the chancellor in accordance with~~ 57717
~~section 3.04 of the Revised Code, except that the removal shall~~ 57718
~~not require the advice and consent of the senate.~~ The chancellor 57719
shall serve at the pleasure of the governor, and the governor 57720
shall prescribe the chancellor's duties in addition to the 57721
chancellor's duties prescribed by law. ~~In no case shall the~~ 57722

~~chancellor assume any duties prescribed by the governor or law~~ 57723
~~until the senate has consented to the chancellor's appointment.~~ 57724
The governor shall fix the compensation for the chancellor. The 57725
chancellor shall be a member of the governor's cabinet. 57726

~~(B) The term of office of the chancellor shall be five years.~~ 57727
~~Any person appointed chancellor to fill a vacancy occurring prior~~ 57728
~~to the expiration of the term for which the predecessor was~~ 57729
~~appointed shall hold office for the remainder of that term. Any~~ 57730
~~vacancy in the office shall be filled within sixty days after the~~ 57731
~~vacancy occurs. Each chancellor shall continue in office~~ 57732
~~subsequent to the expiration date of the term for which the~~ 57733
~~chancellor was appointed until a successor takes office, or until~~ 57734
~~a period of sixty days has elapsed, whichever occurs first. The~~ 57735
~~chancellor may be reappointed. The term of the chancellor in~~ 57736
~~office on the effective date of this amendment shall coincide with~~ 57737
~~the term of that chancellor's appointing governor. Subsequent~~ 57738
~~appointments to the office of chancellor shall be made pursuant to~~ 57739
~~division (A) of this section.~~ 57740

(C) The chancellor is responsible for appointing and fixing 57741
the compensation of all professional, administrative, and clerical 57742
employees and staff members necessary to assist in the performance 57743
of the chancellor's duties. All employees and staff shall serve at 57744
the chancellor's pleasure. 57745

(D) The chancellor shall be a person qualified by training 57746
and experience to understand the problems and needs of the state 57747
in the field of higher education and to devise programs, plans, 57748
and methods of solving the problems and meeting the needs. 57749

(E) Neither the chancellor nor any staff member or employee 57750
of the chancellor shall be a trustee, officer, or employee of any 57751
public or private college or university while serving as 57752
chancellor, staff member, or employee. 57753

Sec. 3333.043. (A) As used in this section: 57754

(1) "Institution of higher education" means the state 57755
universities listed in section 3345.011 of the Revised Code, 57756
municipal educational institutions established under Chapter 3349. 57757
of the Revised Code, community colleges established under Chapter 57758
3354. of the Revised Code, university branches established under 57759
Chapter 3355. of the Revised Code, technical colleges established 57760
under Chapter 3357. of the Revised Code, state community colleges 57761
established under Chapter 3358. of the Revised Code, any 57762
institution of higher education with a certificate of registration 57763
from the state board of career colleges and schools, and any 57764
institution for which the chancellor of the Ohio board of regents 57765
receives a notice pursuant to division (C) of this section. 57766

(2) "Community service" has the same meaning as in section 57767
3313.605 of the Revised Code. 57768

(B)(1) The board of trustees or other governing entity of 57769
each institution of higher education shall encourage and promote 57770
participation of students in community service through a program 57771
appropriate to the mission, student population, and environment of 57772
each institution. The program may include, but not be limited to, 57773
providing information about community service opportunities during 57774
student orientation or in student publications; providing awards 57775
for exemplary community service; encouraging faculty members to 57776
incorporate community service into students' academic experiences 57777
wherever appropriate to the curriculum; encouraging recognized 57778
student organizations to undertake community service projects as 57779
part of their purposes; and establishing advisory committees of 57780
students, faculty members, and community and business leaders to 57781
develop cooperative programs that benefit the community and 57782
enhance student experience. The program shall be flexible in 57783
design so as to permit participation by the greatest possible 57784

number of students, including part-time students and students for 57785
whom participation may be difficult due to financial, academic, 57786
personal, or other considerations. The program shall emphasize 57787
community service opportunities that can most effectively use the 57788
skills of students, such as tutoring or literacy programs. The 57789
programs shall encourage students to perform services that will 57790
not supplant the hiring of, result in the displacement of, or 57791
impair any existing employment contracts of any particular 57792
employee of any private or governmental entity for which services 57793
are performed. 57794

(2) The chancellor of the Ohio board of regents shall 57795
encourage all institutions of higher education in the development 57796
of community service programs. With the assistance of the Ohio 57797
~~community~~ commission on service council and volunteerism created 57798
in section 121.40 of the Revised Code, the chancellor shall make 57799
available information about higher education community service 57800
programs to institutions of higher education and to statewide 57801
organizations involved with or promoting volunteerism, including 57802
information about model community service programs, teacher 57803
training courses, and community service curricula and teaching 57804
materials for possible use by institutions of higher education in 57805
their programs. The chancellor shall encourage institutions of 57806
higher education to jointly coordinate higher education community 57807
service programs through consortia of institutions or other 57808
appropriate means of coordination. 57809

(C) The board of trustees of any nonprofit institution with a 57810
certificate of authorization issued pursuant to Chapter 1713. of 57811
the Revised Code or the governing authority of a private 57812
institution exempt from regulation under Chapter 3332. of the 57813
Revised Code as prescribed in section 3333.046 of the Revised Code 57814
may notify the chancellor that it is making itself subject to 57815
divisions (A) and (B) of this section. Upon receipt of such a 57816

notice, these divisions shall apply to that institution. 57817

Sec. 3333.31. (A) For state subsidy and tuition surcharge 57818
purposes, status as a resident of Ohio shall be defined by the 57819
chancellor of the Ohio board of regents by rule promulgated 57820
pursuant to Chapter 119. of the Revised Code. No adjudication as 57821
to the status of any person under such rule, however, shall be 57822
required to be made pursuant to Chapter 119. of the Revised Code. 57823
The term "resident" for these purposes shall not be equated with 57824
the definition of that term as it is employed elsewhere under the 57825
laws of this state and other states, and shall not carry with it 57826
any of the legal connotations appurtenant thereto. Rather, except 57827
as provided in ~~division~~ divisions (B) and (D) of this section, for 57828
such purposes, the rule promulgated under this section shall have 57829
the objective of excluding from treatment as residents those who 57830
are present in the state primarily for the purpose of attending a 57831
state-supported or state-assisted institution of higher education, 57832
and may prescribe presumptive rules, rebuttable or conclusive, as 57833
to such purpose based upon the source or sources of support of the 57834
student, residence prior to first enrollment, evidence of 57835
intention to remain in the state after completion of studies, or 57836
such other factors as the chancellor deems relevant. 57837

(B) The rules of the chancellor for determining student 57838
residency shall grant residency status to a veteran and to the 57839
veteran's spouse and any dependent of the veteran, if both of the 57840
following conditions are met: 57841

(1) The veteran either: 57842

(a) Served one or more years on active military duty and was 57843
honorably discharged or received a medical discharge that was 57844
related to the military service; 57845

(b) Was killed while serving on active military duty or has 57846
been declared to be missing in action or a prisoner of war. 57847

(2) If the veteran seeks residency status for tuition surcharge purposes, the veteran has established domicile in this state as of the first day of a term of enrollment in an institution of higher education. If the spouse or a dependent of the veteran seeks residency status for tuition surcharge purposes, the veteran and the spouse or dependent seeking residency status have established domicile in this state as of the first day of a term of enrollment in an institution of higher education, except that if the veteran was killed while serving on active military duty or has been declared to be missing in action or a prisoner of war, only the spouse or dependent seeking residency status shall be required to have established domicile in accordance with this division.

(C) The rules of the chancellor for determining student residency shall not deny residency status to a student who is either a dependent child of a parent, or the spouse of a person who, as of the first day of a term of enrollment in an institution of higher education, has accepted full-time employment and established domicile in this state for reasons other than gaining the benefit of favorable tuition rates.

Documentation of full-time employment and domicile shall include both of the following documents:

(1) A sworn statement from the employer or the employer's representative on the letterhead of the employer or the employer's representative certifying that the parent or spouse of the student is employed full-time in Ohio;

(2) A copy of the lease under which the parent or spouse is the lessee and occupant of rented residential property in the state, a copy of the closing statement on residential real property of which the parent or spouse is the owner and occupant in this state or, if the parent or spouse is not the lessee or owner of the residence in which the parent or spouse has

established domicile, a letter from the owner of the residence 57880
certifying that the parent or spouse resides at that residence. 57881

Residency officers may also evaluate, in accordance with the 57882
chancellor's rule, requests for immediate residency status from 57883
dependent students whose parents are not living and whose domicile 57884
follows that of a legal guardian who has accepted full-time 57885
employment and established domicile in the state for reasons other 57886
than gaining the benefit of favorable tuition rates. 57887

(D) The rules of the chancellor for determining student 57888
residency shall grant residency status to a person who, while a 57889
resident of this state for state subsidy and tuition surcharge 57890
purposes, graduated from a high school in this state, if the 57891
person enrolls in an institution of higher education and 57892
establishes domicile in this state within ten years after 57893
graduating from high school, regardless of the student's residence 57894
prior to that enrollment. 57895

(E) "Dependent," "domicile," "institution of higher 57896
education," and "residency officer" have the meanings ascribed in 57897
the chancellor's rules adopted under this section. 57898

Sec. 3333.43. (A) The chancellor of the Ohio board of regents 57899
shall require all state institutions of higher education that 57900
offer baccalaureate degrees, as a condition of reauthorization for 57901
certification of each baccalaureate program offered by the 57902
institution, to submit a statement describing how each major for 57903
which the school offers a baccalaureate degree may be completed 57904
within three academic years. The chronology of the statement shall 57905
begin with the fall semester of a student's first year of the 57906
baccalaureate program. 57907

(B) The statement required under this section may include, 57908
but not be limited to, any of the following methods to contribute 57909
to earning a baccalaureate degree in three years: 57910

<u>(1) Advanced placement credit;</u>	57911
<u>(2) International baccalaureate program credit;</u>	57912
<u>(3) A waiver of degree and credit-hour requirements by</u>	57913
<u>completion of courses that are widely available at community</u>	57914
<u>colleges in the state or through online programs offered by state</u>	57915
<u>institutions of higher education or private nonprofit institutions</u>	57916
<u>of higher education holding certificates of authorization under</u>	57917
<u>Chapter 1713. of the Revised Code, and through courses taken by</u>	57918
<u>the student through the post-secondary enrollment options program</u>	57919
<u>under Chapter 3365. of the Revised Code;</u>	57920
<u>(4) Completion of coursework during summer sessions;</u>	57921
<u>(5) A waiver of foreign-language degree requirements based on</u>	57922
<u>a proficiency examination specified by the institution.</u>	57923
<u>(C)(1) Not later than October 15, 2012, each state</u>	57924
<u>institution of higher education shall provide statements required</u>	57925
<u>under this section for ten per cent of all baccalaureate degree</u>	57926
<u>programs offered by the institution.</u>	57927
<u>(2) Not later than June 30, 2014, each state institution of</u>	57928
<u>higher education shall provide statements required under this</u>	57929
<u>section for sixty per cent of all baccalaureate degree programs</u>	57930
<u>offered by the institution.</u>	57931
<u>(D) Each state institution of higher education required to</u>	57932
<u>submit statements under this section shall post its three-year</u>	57933
<u>option on its web site and also provide that information to the</u>	57934
<u>department of education. The department shall distribute that</u>	57935
<u>information to the superintendent, high school principal, and</u>	57936
<u>guidance counselor, or equivalents, of each school district,</u>	57937
<u>community school established under Chapter 3314. of the Revised</u>	57938
<u>Code, and STEM school established under Chapter 3326. of the</u>	57939
<u>Revised Code.</u>	57940

(E) Nothing in this section requires an institution to take any action that would violate the requirements of any independent association accrediting baccalaureate degree programs.

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Sec. 3333.66. (A)(1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is implementing the pilot tuition restructuring plan originally recognized in Am. Sub. H.B. 95 of the 125th general assembly, that university's instructional and general fees shall be considered to be the average full-time in-state undergraduate instructional and general fee amount after taking into account the Ohio resident and Ohio leader scholarships and any other credit provided to all Ohio residents.

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(2) The chancellor of the Ohio board of regents may authorize a state university or college or a nonpublic Ohio institution of higher education to award a choose Ohio first scholarship in an amount greater than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities to either of the following:

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(a) Any undergraduate student who qualifies for a scholarship and is enrolled in a program leading to a teaching profession in science, technology, engineering, mathematics, or medicine;

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(b) Any graduate student who qualifies for a scholarship, if any initiatives are selected for award under division (B) of this section.

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(B) The chancellor shall encourage state universities and colleges, alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or

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other public or private Ohio entities, to submit proposals under 57972
the choose Ohio first scholarship program for initiatives that 57973
recruit either of the following: 57974

(1) Ohio residents who enrolled in colleges and universities 57975
in other states or other countries to return to Ohio and enroll in 57976
state universities or colleges as graduate students in the fields 57977
of science, technology, engineering, mathematics, and medicine, or 57978
in the fields of science, technology, engineering, mathematics, or 57979
medical education. If such proposals are submitted and meet the 57980
chancellor's competitive criteria for awards, the chancellor, 57981
subject to approval by the controlling board, shall give at least 57982
one of the proposals preference for an award. 57983

(2) Graduates, or undergraduates who will graduate in time to 57984
participate in the program described in this division by the 57985
subsequent school year, from an Ohio college or university who 57986
received, or will receive, a degree in science, technology, 57987
engineering, mathematics, or medicine to participate in a 57988
graduate-level teacher education masters program in one of those 57989
fields that requires the student to establish a domicile in the 57990
state and to commit to teach for a minimum of three years in a 57991
hard-to-staff school district in the state upon completion of the 57992
master's degree program. The chancellor may require a college or 57993
university to give priority to qualified candidates who graduated 57994
from a high school in this state. 57995

"Hard-to-staff" shall be as defined by the department of 57996
education. 57997

(C) The general assembly intends that money appropriated for 57998
the choose Ohio first scholarship program in each fiscal year be 57999
used for scholarships in the following academic year. 58000

Sec. 3333.81. As used in sections 3333.81 to 3333.88 of the 58001
Revised Code: 58002

- (A) "Clearinghouse" means the clearinghouse established under section 3333.82 of the Revised Code. 58003
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- (B) "Community school" means a community school established under Chapter 3314. of the Revised Code. 58005
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- (C) "Common statewide platform" means a software program that facilitates the delivery of courses via computers from multiple course providers to multiple end users, tracks the progress of the end user, and includes an integrated searchable database of standards-based course content. 58007
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- (D) "Course provider" means a school district, community school, STEM school, state institution of higher education, private college or university, or nonprofit or for-profit private entity that creates or is an agent of the creator of original course content for a course offered through the clearinghouse. 58012
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- (E) "Instructor" means an individual who holds a license issued by the state board of education, as defined in section 3319.31 of the Revised Code, or an individual employed as an instructor or professor by a state institution of higher education or a private college or university. 58017
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- (F) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code. 58022
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- (G) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code. 58024
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- (H) A "student's community school" means the community school in which the student is enrolled instead of being enrolled in a school operated by a school district. 58027
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- (I) A "student's school district" means the school district operating the school in which the student is lawfully enrolled. 58030
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- (J) "A student's STEM school" means the STEM school in which 58032

the student is enrolled instead of being enrolled in a school 58033
operated by a school district. 58034

(K) "School district" means a city, exempted village, local, 58035
or joint vocational school district. 58036

Sec. 3333.82. (A) The chancellor of the Ohio board of regents 58037
shall establish a clearinghouse of interactive distance learning 58038
courses and other distance learning courses delivered via a 58039
computer-based method offered by school districts, community 58040
schools, STEM schools, state institutions of higher education, 58041
private colleges and universities, and other nonprofit and 58042
for-profit course providers for sharing with other school 58043
districts, community schools, STEM schools, state institutions of 58044
higher education, private colleges and universities, and 58045
individuals for the fee set pursuant to section 3333.84 of the 58046
Revised Code. The chancellor shall not be responsible for the 58047
content of courses offered through the clearinghouse; however, all 58048
such courses shall be delivered only in accordance with technical 58049
specifications approved by the chancellor and on a common 58050
statewide platform administered by the chancellor. 58051

The clearinghouse's distance learning program for students in 58052
grades kindergarten to twelve shall be based on the following 58053
principles: 58054

(1) All Ohio students shall have access to high quality 58055
distance learning courses at any point in their educational 58056
careers. 58057

(2) All students shall be able to customize their education 58058
using distance learning courses offered through the clearinghouse 58059
and no student shall be denied access to any course in the 58060
clearinghouse in which the student is eligible to enroll. 58061

(3) Students may take distance learning courses for all or 58062

any portion of their curriculum requirements and may utilize a 58063
combination of distance learning courses and courses taught in a 58064
traditional classroom setting. 58065

(4) Students may earn an unlimited number of academic credits 58066
through distance learning courses. 58067

(5) Students may take distance learning courses at any time 58068
of the calendar year. 58069

(6) Student advancement to higher coursework shall be based 58070
on a demonstration of subject area competency instead of 58071
completion of any particular number of hours of instruction. 58072

(B) To offer a course through the clearinghouse, a course 58073
provider shall apply to the chancellor in a form and manner 58074
prescribed by the chancellor. The application for each course 58075
shall describe the course of study in as much detail as required 58076
by the chancellor, whether an instructor is provided, the 58077
qualification and credentials of the instructor, the number of 58078
hours of instruction, and any other information required by the 58079
chancellor. The chancellor may require course providers to include 58080
in their applications information recommended by the state board 58081
of education under former section 3353.30 of the Revised Code. 58082

(C) The chancellor shall review the technical specifications 58083
of each application submitted under division (B) of this section. 58084
In reviewing applications, the chancellor may consult with the 58085
department of education; however, the responsibility to either 58086
approve or not approve a course for the clearinghouse belongs to 58087
the chancellor. The chancellor may request additional information 58088
from a course provider that submits an application under division 58089
(B) of this section, if the chancellor determines that such 58090
information is necessary. The chancellor may negotiate changes in 58091
the proposal to offer a course, if the chancellor determines that 58092
changes are necessary in order to approve the course. 58093

(D) The chancellor shall catalog each course approved for the clearinghouse, through a print or electronic medium, displaying the following:

(1) Information necessary for a student and the student's parent, guardian, or custodian and the student's school district, community school, STEM school, college, or university to decide whether to enroll in or subscribe to the course;

(2) Instructions for enrolling in that course, including deadlines for enrollment.

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider.

~~(F) The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code. The eTech Ohio commission, in consultation with the chancellor and the state board, shall distribute information to students and parents describing the clearinghouse. The information shall be provided in an easily understandable format.~~

Sec. 3333.83. ~~(A) A student who is enrolled in a school operated by a school district or in a community school or STEM school may enroll in a course through the clearinghouse only if both of the following conditions are satisfied:~~

~~(1) The student's enrollment in the course is approved by the student's school district, community school, or STEM school.~~

~~(2) The student's school district, community school, or STEM school agrees to accept for credit the grade assigned by the course provider, if that provider is another school district, community school, or STEM school. Each school district, community school, and STEM school shall encourage students to take advantage~~

of the distance learning opportunities offered through the 58124
clearinghouse and shall assist any student electing to participate 58125
in the clearinghouse with the selection and scheduling of courses 58126
that satisfy the district's or school's curriculum requirements 58127
and promote the student's post-secondary college or career plans. 58128

(B) For each student enrolled in a school operated by a 58129
school district or in a community school or STEM school who is 58130
enrolling in a course provided through the clearinghouse by 58131
another school district, community school, or STEM school, the 58132
student's school district, community school, or STEM school shall 58133
transmit the student's name to the course provider. 58134

The course provider may request from the student's school 58135
district, community school, or STEM school other information from 58136
the student's school record. The district or school shall provide 58137
the requested information only in accordance with section 3319.321 58138
of the Revised Code. 58139

(C) The student's school district, community school, or STEM 58140
school shall determine the manner in which and facilities at which 58141
the student shall participate in the course consistent with 58142
specifications for technology and connectivity adopted by the 58143
chancellor of the Ohio board of regents. 58144

(D) A student may withdraw from a course prior to the end of 58145
the course only by a date and in a manner prescribed by the 58146
student's school district, community school, or STEM school. 58147

(E) A student who is enrolled in a school operated by a 58148
school district or in a community school or STEM school and who 58149
takes a course through the clearinghouse shall be counted in the 58150
formula ADM of a school district under section 3317.03 of the 58151
Revised Code as if the student were taking the course from the 58152
student's school district, community school, or STEM school. 58153

Sec. 3333.84. (A) The fee charged for any course offered 58154
through the clearinghouse shall be set by the course provider. 58155

(B) The chancellor of the Ohio board of regents shall 58156
prescribe the manner in which the fee for a course shall be 58157
collected or deducted from the school district, school, college or 58158
university, or individual subscribing to the course and in which 58159
manner the fee shall be paid to the course provider. 58160

(C) The chancellor may retain a percentage of the fee charged 58161
for a course to offset the cost of maintaining and operating the 58162
clearinghouse, including the payment of compensation for an entity 58163
or a private entity that is under contract with the chancellor 58164
under division (F) of section 3333.82 of the Revised Code. The 58165
percentage retained shall be determined by the chancellor. 58166

(D) Nothing in this section shall be construed to require the 58167
school district, community school, or STEM school in which a 58168
student is enrolled to pay the fee charged for a course taken by 58169
the student. 58170

Sec. 3333.85. (A) The grade for a student enrolled in a 58171
school operated by a school district or in a community school or 58172
STEM school for a course provided through the clearinghouse by 58173
another school district, community school, or STEM school shall be 58174
assigned by the course provider and shall be transmitted to the 58175
student's school district, community school, or STEM school. 58176

(B) The district or school enrolling the student shall award 58177
the student credit for successful completion of the course. The 58178
credit awarded shall be equivalent to any credit that would be 58179
granted for successful completion of a similar course offered by 58180
the district or school. 58181

(C) No district or school shall prohibit or otherwise limit 58182
any student's access to or participation in courses offered 58183

through the clearinghouse, or refuse to recognize such courses as 58184
fulfilling curriculum requirements, including the requirements for 58185
a high school diploma under section 3313.603 of the Revised Code. 58186

Sec. 3333.87. The chancellor of the Ohio board of regents and 58187
the state board of education jointly, and in consultation with the 58188
director of the governor's office of 21st century education, shall 58189
adopt rules in accordance with Chapter 119. of the Revised Code 58190
prescribing procedures for the implementation of sections 3333.81 58191
to 3333.86 of the Revised Code. 58192

Sec. 3333.90. (A) As used in this section: 58193

(1) "Allocated state share of instruction" means, for any 58194
fiscal year, the amount of the state share of instruction 58195
appropriated to the Ohio board of regents by the general assembly 58196
that is allocated to a community or technical college or community 58197
or technical college district for such fiscal year. 58198

(2) "~~Authority~~ Issuing authority" ~~means the Ohio building~~ 58199
~~authority~~ has the same meaning as in section 154.01 of the Revised 58200
Code. 58201

(3) "Bond service charges" has the same meaning as in section 58202
~~152.09~~ 154.01 of the Revised Code. 58203

(4) "Chancellor" means the chancellor of the Ohio board of 58204
regents. 58205

(5) "Community or technical college" or "college" means any 58206
of the following state-supported or state-assisted institutions of 58207
higher education: 58208

(a) A community college as defined in section 3354.01 of the 58209
Revised Code; 58210

(b) A technical college as defined in section 3357.01 of the 58211
Revised Code; 58212

(c) A state community college as defined in section 3358.01 of the Revised Code. 58213
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(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted: 58215
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(a) A community college district as defined in section 3354.01 of the Revised Code; 58218
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(b) A technical college district as defined in section 3357.01 of the Revised Code; 58220
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(c) A state community college district as defined in section 3358.01 of the Revised Code. 58222
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(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code. 58224
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(8) "Obligations" has the meaning as in section ~~152.09~~ 154.01 or 3345.12 of the Revised Code, as the context requires. 58226
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(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the issuing authority proposes to issue obligations under ~~division (G) of~~ section ~~152.09~~ 154.25 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations. 58228
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The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the 58241
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chancellor may require. 58243

The chancellor and the office of budget and management, and 58244
the issuing authority in the case of obligations to be issued by 58245
the issuing authority, shall evaluate each request received from a 58246
community or technical college district under this section. The 58247
chancellor, with the advice and consent of the director of budget 58248
and management and the issuing authority in the case of 58249
obligations to be issued by the issuing authority, shall approve 58250
each request if all of the following conditions are met: 58251

(1) Approval of the request will enhance the marketability of 58252
the obligations for which the request is made; 58253

(2) The chancellor and the office of budget and management, 58254
and the issuing authority in the case of obligations to be issued 58255
by the issuing authority, have no reason to believe the requesting 58256
community or technical college district or the community or 58257
technical college it operates will be unable to pay when due the 58258
bond service charges on the obligations for which the request is 58259
made, and bond service charges on those obligations are therefore 58260
not anticipated to be paid pursuant to this section from the 58261
allocated state share of instruction for purposes of Section 17 of 58262
Article VIII, Ohio Constitution. 58263

(3) Any other pertinent conditions established in rules 58264
adopted under division (H) of this section. 58265

(C) If the chancellor approves the request of a community or 58266
technical college district to withhold and deposit funds pursuant 58267
to this section, the chancellor shall enter into a written 58268
agreement with the district and the primary paying agent or fiscal 58269
agent for the obligations, which agreement shall provide for the 58270
withholding of funds pursuant to this section for the payment of 58271
bond service charges on those obligations. The agreement may also 58272
include both of the following: 58273

(1) Provisions for certification by the district to the 58274
chancellor, prior to the deadline for payment of the applicable 58275
bond service charges, whether the district and the community or 58276
technical college it operates are able to pay those bond service 58277
charges when due; 58278

(2) Requirements that the district or the community or 58279
technical college it operates deposits amounts for the payment of 58280
those bond service charges with the primary paying agent or fiscal 58281
agent for the obligations prior to the date on which the bond 58282
service charges are due to the owners or holders of the 58283
obligations. 58284

(D) Whenever a district or the community or technical college 58285
it operates notifies the chancellor that it will not be able to 58286
pay the bond service charges when they are due, subject to the 58287
withholding provisions of this section, or whenever the applicable 58288
paying agent or fiscal agent notifies the chancellor that it has 58289
not timely received from a district or from the college it 58290
operates the full amount needed for payment of the bond service 58291
charges when due to the holders or owners of such obligations, the 58292
chancellor shall immediately contact the district or college and 58293
the paying agent or fiscal agent to confirm that the district and 58294
the college are not able to make the required payment by the date 58295
on which it is due. 58296

If the chancellor confirms that the district and the college 58297
are not able to make the payment and the payment will not be made 58298
pursuant to a credit enhancement facility, the chancellor shall 58299
promptly pay to the applicable primary paying agent or fiscal 58300
agent the lesser of the amount due for bond service charges or the 58301
amount of the next periodic distribution scheduled to be made to 58302
the district or to the college in respect of its allocated state 58303
share of instruction. If this amount is insufficient to pay the 58304
total amount then due the agent for the payment of bond service 58305

charges, the chancellor shall continue to pay to the agent from 58306
each periodic distribution thereafter, and until the full amount 58307
due the agent for unpaid bond service charges is paid in full, the 58308
lesser of the remaining amount due the agent for bond service 58309
charges or the amount of the next periodic distribution scheduled 58310
to be made to the district or college in respect of its allocated 58311
state share of instruction. 58312

(E) The chancellor may make any payments under this section 58313
by direct deposit of funds by electronic transfer. 58314

Any amount received by a paying agent or fiscal agent under 58315
this section shall be applied only to the payment of bond service 58316
charges on the obligations of the community or technical college 58317
district or community or technical college subject to this section 58318
or to the reimbursement of the provider of a credit enhancement 58319
facility that has paid the bond service charges. 58320

(F) The chancellor may make payments under this section to 58321
paying agents or fiscal agents during any fiscal biennium of the 58322
state only from and to the extent that money is appropriated to 58323
the board of regents by the general assembly for distribution 58324
during such biennium for the state share of instruction and only 58325
to the extent that a portion of the state share of instruction has 58326
been allocated to the community or technical college district or 58327
community or technical college. Obligations of the issuing 58328
authority or of a community or technical college district to which 58329
this section is made applicable do not constitute an obligation or 58330
a debt or a pledge of the faith, credit, or taxing power of the 58331
state, and the holders or owners of those obligations have no 58332
right to have excises or taxes levied or appropriations made by 58333
the general assembly for the payment of bond service charges on 58334
the obligations, and the obligations shall contain a statement to 58335
that effect. The agreement for or the actual withholding and 58336
payment of money under this section does not constitute the 58337

assumption by the state of any debt of a community or technical college district or a community or technical college, and bond service charges on the related obligations are not anticipated to be paid from the state general revenue fund for purposes of Section 17 of Article VIII, Ohio Constitution.

(G) In the case of obligations subject to the withholding provisions of this section, the issuing community or technical college district, or the issuing authority in the case of obligations issued by the issuing authority, shall appoint a paying agent or fiscal agent who is not an officer or employee of the district or college.

(H) The chancellor, with the advice and consent of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section to secure payment of bond service charges on obligations issued by a community or technical college district or by the issuing authority for the benefit of a community or technical college district or the community or technical college it operates. Those rules shall include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under this section.

(I) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3334.19. (A) The Ohio tuition trust authority shall adopt an investment plan that sets forth investment policies and guidelines to be utilized in administering the variable college savings program and investment options offered by the authority. The investment options shall include a default option to benefit contributors who are first-time investors or have low to moderate incomes. Except as provided in section 3334.20 of the Revised

Code, the authority shall contract with one or more insurance 58369
companies, banks, or other financial institutions to act as its 58370
investment agents and to provide such services as the authority 58371
considers appropriate to the investment plan, including: 58372

(1) Purchase, control, and safekeeping of assets; 58373

(2) Record keeping and accounting for individual accounts and 58374
for the program as a whole; 58375

(3) Provision of consolidated statements of account. 58376

(B) The authority or its investment agents shall maintain a 58377
separate account for the beneficiary of each contract entered into 58378
under the variable college savings program. If a beneficiary has 58379
more than one such account, the authority or its agents shall 58380
track total contributions and earnings and provide a consolidated 58381
system of account distributions to institutions of higher 58382
education. 58383

(C) The authority or its investment agents may place assets 58384
of the program in savings accounts and may purchase fixed or 58385
variable life insurance or annuity contracts, securities, evidence 58386
of indebtedness, or other investment products pursuant to the 58387
investment plan. 58388

(D) Contributors shall not direct the investment of their 58389
contributions under the investment plan. The authority shall 58390
impose other limits on contributors' investment discretion to the 58391
extent required under section 529 of the Internal Revenue Code. 58392

(E) The investment agents with which the authority contracts 58393
shall discharge their duties with respect to program funds with 58394
the care and diligence that a prudent person familiar with such 58395
matters and with the character and aims of the program would use. 58396

(F) The assets of the program shall be preserved, invested, 58397
and expended solely for the purposes of this chapter and shall not 58398

be loaned or otherwise transferred or used by the state for any 58399
other purpose. This section shall not be construed to prohibit the 58400
investment agents of the authority from investing, by purchase or 58401
otherwise, in bonds, notes, or other obligations of the state or 58402
any agency or instrumentality of the state. Unless otherwise 58403
specified by the authority, assets of the program shall be 58404
expended in the following order of priority: 58405

(1) To make payments on behalf of beneficiaries; 58406

(2) To make refunds upon termination of variable college 58407
savings program contracts; 58408

(3) To pay the authority's costs of administering the 58409
program; 58410

(4) To pay or cover any other expenditure or disbursement the 58411
authority determines necessary or appropriate. 58412

(G) Fees, charges, and other costs imposed or collected by 58413
the authority in connection with the variable college savings 58414
program, including any fees or other payments that the authority 58415
requires an investment agent to pay to the authority, shall be 58416
credited to either the variable operating fund or the index 58417
operating fund at the discretion of the authority. These funds are 58418
hereby created in the state treasury. Expenses incurred in the 58419
administration of the variable college savings program, as well as 58420
other expenses, disbursements, or payments the authority considers 58421
appropriate for the benefit of any college savings programs 58422
administered by the authority, the state of Ohio and its citizens, 58423
shall be paid from the variable operating fund or the index 58424
operating fund at the discretion of the authority. 58425

(H) No records of the authority indicating the identity of 58426
purchasers, contributors, and beneficiaries under the program or 58427
amounts contributed to, earned by, or distributed from program 58428
accounts are public records within the meaning of section 149.43 58429

of the Revised Code. 58430

Sec. 3345.023. (A) No state institution of higher education 58431
shall take any action or enforce any policy that would deny a 58432
religious student group any benefit available to any other student 58433
group based on the religious student group's requirement that its 58434
leaders or voting members adhere to its sincerely held religious 58435
beliefs or standards of conduct. 58436

(B) As used in this section: 58437

(1) "Benefits" include, without limitation: 58438

(a) Recognition; 58439

(b) Registration; 58440

(c) The use of facilities of the state institution of higher 58441
education for meetings or speaking purposes, subject to section 58442
3345.021 of the Revised Code; 58443

(d) The use of channels of communication of the state 58444
institution of higher education; 58445

(e) Funding sources that are otherwise available to any other 58446
student group in the state institution of higher education. 58447

(2) "State institution of higher education" has the same 58448
meaning as in section 3345.011 of the Revised Code. 58449

Sec. 3345.061. (A) Ohio's two-year institutions of higher 58450
education are respected points of entry for students embarking on 58451
post-secondary careers and courses completed at those institutions 58452
are transferable to state universities in accordance with 58453
articulation and transfer agreements developed under sections 58454
3333.16, 3333.161, and 3333.162 of the Revised Code. 58455

(B) Beginning with undergraduate students who commence 58456
undergraduate studies in the 2014-2015 academic year, no state 58457

university listed in section 3345.011 of the Revised Code, except 58458
Central state university, Shawnee state university, and Youngstown 58459
state university, shall receive any state operating subsidies for 58460
any academic remedial or developmental courses for undergraduate 58461
students, including courses prescribed in the Ohio core curriculum 58462
for high school graduation under division (C) of section 3313.603 58463
of the Revised Code, offered at its main campus, except as 58464
provided in divisions (B)(1) to (4) of this section. 58465

(1) In the 2014-2015 and 2015-2016 academic years, a state 58466
university may receive state operating subsidies for academic 58467
remedial or developmental courses for not more than three per cent 58468
of the total undergraduate credit hours provided by the university 58469
at its main campus. 58470

(2) In the 2016-2017 academic year, a state university may 58471
receive state operating subsidies for academic remedial or 58472
developmental courses for not more than fifteen per cent of the 58473
first-year students who have graduated from high school within the 58474
previous twelve months and who are enrolled in the university at 58475
its main campus, as calculated on a full-time-equivalent basis. 58476

(3) In the 2017-2018 academic year, a state university may 58477
receive state operating subsidies for academic remedial or 58478
developmental courses for not more than ten per cent of the 58479
first-year students who have graduated from high school within the 58480
previous twelve months and who are enrolled in the university at 58481
its main campus, as calculated on a full-time-equivalent basis. 58482

(4) In the 2018-2019 academic year, a state university may 58483
receive state operating subsidies for academic remedial or 58484
developmental courses for not more than five per cent of the 58485
first-year students who have graduated from high school within the 58486
previous twelve months and who are enrolled in the university at 58487
its main campus, as calculated on a full-time-equivalent basis. 58488

Each state university may continue to offer academic remedial 58489
and developmental courses at its main campus beyond the extent for 58490
which state operating subsidies may be paid under this division 58491
and may continue to offer such courses beyond the 2018-2019 58492
academic year. However, the university shall not receive any state 58493
operating subsidies for such courses above the maximum amounts 58494
permitted in this division. 58495

(C) Except as otherwise provided in division (B) of this 58496
section, beginning with students who commence undergraduate 58497
studies in the 2014-2015 academic year, state operating subsidies 58498
for academic remedial or developmental courses offered by state 58499
institutions of higher education may be paid only to Central state 58500
university, Shawnee state university, Youngstown state university, 58501
any university branch, any community college, any state community 58502
college, or any technical college. 58503

(D) Each state university shall grant credit for academic 58504
remedial or developmental courses successfully completed at an 58505
institution described in division (C) of this section pursuant to 58506
any applicable articulation and transfer agreements the university 58507
has entered into in accordance with policies and procedures 58508
adopted under section 3333.16, 3333.161, or 3333.162 of the 58509
Revised Code. 58510

(E) The chancellor of the Ohio board of regents shall do all 58511
of the following: 58512

(1) Withhold state operating subsidies for academic remedial 58513
or developmental courses provided by a state university as 58514
required in order to conform to divisions (B) and (C) of this 58515
section; 58516

(2) Adopt uniform statewide standards for academic remedial 58517
and developmental courses offered by all state institutions of 58518
higher education, ~~as defined in section 3345.011 of the Revised~~ 58519

Code; 58520

(3) Encourage and assist in the design and establishment of 58521
academic remedial and developmental courses by institutions of 58522
higher education; 58523

(4) Define "academic year" for purposes of this section and 58524
section 3345.06 of the Revised Code; 58525

(5) Encourage and assist in the development of articulation 58526
and transfer agreements between state universities and other 58527
institutions of higher education in accordance with policies and 58528
procedures adopted under sections 3333.16, 3333.161, and 3333.162 58529
of the Revised Code. 58530

(F) Not later than December 31, 2012, the presidents, or 58531
equivalent position, of all state institutions of higher 58532
education, or their designees, jointly shall establish uniform 58533
statewide standards in mathematics, science, reading, and writing 58534
each student enrolled in a state institution of higher education 58535
must meet to be considered in remediation-free status. The 58536
presidents also shall establish assessments, if they deem 58537
necessary, to determine if a student meets the standards adopted 58538
under this division. Each institution is responsible for assessing 58539
the needs of its enrolled students in the manner adopted by the 58540
presidents. The board of trustees or managing authority of each 58541
state institution of higher education shall adopt the 58542
remediation-free status standard, and any related assessments, 58543
into the institution's policies. 58544

The chancellor shall assist in coordinating the work of the 58545
presidents under this division. 58546

(G) Each year, not later than a date established by the 58547
chancellor, each state institution of higher education shall 58548
report to the governor, the general assembly, the chancellor, and 58549
the superintendent of public instruction all of the following for 58550

the prior academic year: 58551

(1) The institution's aggregate costs for providing academic remedial or developmental courses; 58552
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(2) The amount of those costs disaggregated according to the city, local, or exempted village school districts from which the students taking those courses received their high school diplomas; 58554
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(3) Any other information with respect to academic remedial and developmental courses that the chancellor considers appropriate. 58557
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(H) Not later than December 31, 2011, and the thirty-first day of each December thereafter, the chancellor and the superintendent of public instruction shall issue a report recommending policies and strategies for reducing the need for academic remediation and developmental courses at state institutions of higher education. 58560
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(I) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code. 58566
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Sec. 3345.14. (A) As used in this section, "state college or university" means any state university or college defined in division (A)(1) of section 3345.12 of the Revised Code, and any other institution of higher education defined in division (A)(2) of that section. 58569
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(B) All rights to and interests in discoveries, inventions, or patents which result from research or investigation conducted in any experiment station, bureau, laboratory, research facility, or other facility of any state college or university, or by employees of any state college or university acting within the scope of their employment or with funding, equipment, or infrastructure provided by or through any state college or 58574
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university, shall be the sole property of that college or 58581
university. No person, firm, association, corporation, or 58582
governmental agency which uses the facilities of such college or 58583
university in connection with such research or investigation and 58584
no faculty member, employee, or student of such college or 58585
university participating in or making such discoveries or 58586
inventions, shall have any rights to or interests in such 58587
discoveries or inventions, including income therefrom, except as 58588
may, by determination of the board of trustees of such college or 58589
university, be assigned, licensed, transferred, or paid to such 58590
persons or entities in accordance with division (C) of this 58591
section or in accordance with rules adopted under division (D) of 58592
this section. 58593

(C) As may be determined from time to time by the board of 58594
trustees of any state college or university, the college or 58595
university may retain, assign, license, transfer, sell, or 58596
otherwise dispose of, in whole or in part and upon such terms as 58597
the board of trustees may direct, any and all rights to, interests 58598
in, or income from any such discoveries, inventions, or patents 58599
which the college or university owns or may acquire. Such 58600
dispositions may be to any individual, firm, association, 58601
corporation, or governmental agency, or to any faculty member, 58602
employee, or student of the college or university as the board of 58603
trustees may direct. Any and all income or proceeds derived or 58604
retained from such dispositions shall be applied to the general or 58605
special use of the college or university as determined by the 58606
board of trustees of such college or university. 58607

(D)(1) Notwithstanding any provision of the Revised Code to 58608
the contrary, including but not limited to sections 102.03, 58609
102.04, 2921.42, and 2921.43 of the Revised Code, the board of 58610
trustees of any state college or university may adopt rules in 58611
accordance with section 111.15 of the Revised Code that set forth 58612

circumstances under which an employee of the college or university 58613
may solicit or accept, and under which a person may give or 58614
promise to give to such an employee, a financial interest in any 58615
firm, corporation, or other association to which the board has 58616
assigned, licensed, transferred, or sold the college or 58617
university's interests in its intellectual property, including 58618
discoveries or inventions made or created by that employee or in 58619
patents issued to that employee. 58620

(2) Rules established under division (D)(1) of this section 58621
shall include the following: 58622

(a) A requirement that each college or university employee 58623
disclose to the college or university board of trustees any 58624
financial interest the employee holds in a firm, corporation, or 58625
other association as described in division (D)(1) of this section; 58626

(b) A requirement that all disclosures made under division 58627
(D)(2)(a) of this section are reviewed by officials designated by 58628
the college or university board of trustees. The officials 58629
designated under this division shall determine the information 58630
that shall be disclosed and safeguards that shall be applied in 58631
order to manage, reduce, or eliminate any actual or potential 58632
conflict of interest. 58633

(c) A requirement that in implementing division (D) of this 58634
section all members of the college or university board of trustees 58635
shall be governed by Chapter 102. and sections 2921.42 and 2921.43 58636
of the Revised Code. 58637

(d) Guidelines to ensure that any financial interest held by 58638
any employee of the college or university does not result in 58639
misuse of the students, employees, or resources of the college or 58640
university for the benefit of the firm, corporation, or other 58641
association in which such interest is held or does not otherwise 58642
interfere with the duties and responsibilities of the employee who 58643

holds such an interest. 58644

(3) Rules established under division (D)(1) of this section 58645
may include other provisions at the discretion of the college or 58646
university board of trustees. 58647

(E) Notwithstanding division (D) of this section, the Ohio 58648
ethics commission retains authority to provide assistance to a 58649
college or university board of trustees in the implementation of 58650
division (D)(2) of this section and to address any matter that is 58651
outside the scope of the exception to division (B) of this section 58652
as set forth in division (D) of this section or as set forth in 58653
rules established under division (D) of this section. 58654

Sec. 3345.81. (A) The chancellor of the Ohio board of regents 58655
shall develop a plan for designating public institutions of higher 58656
education as charter universities. In developing the plan, the 58657
chancellor shall: 58658

(1) Study the administrative and financial relationships 58659
between the state and its public institutions of higher education 58660
to determine the extent to which public colleges and universities 58661
can manage their operations more effectively when accorded 58662
flexibility through selected delegation of authority; 58663

(2) Examine legal and other issues related to the feasibility 58664
and practicability of restructuring the administrative and 58665
financial relationships between the state and its public 58666
institutions of higher education; 58667

(3) Consult with the presidents of the institutions of higher 58668
education of the university system of Ohio. 58669

(B) The office of budget and management, the department of 58670
administrative services, and each state institution of higher 58671
education shall provide the chancellor, upon the chancellor's 58672
request, with research assistance, fiscal and policy analysis, and 58673

other services in conducting the study and developing the plan 58674
under this section. Each state agency shall provide the chancellor 58675
with any other assistance requested by the chancellor in 58676
conducting the study and developing the plan. 58677

(C) The chancellor shall specify in the plan: 58678

(1) The manner in which a state institution of higher 58679
education may become eligible for restructured financial and 58680
operational authority, and performance measures and criteria to 58681
determine eligibility. The performance measures and criteria shall 58682
address the institution's ability to manage successfully its 58683
administrative and financial operations without jeopardizing the 58684
financial integrity and stability of the institution. 58685

(2) Specific areas of financial and operational authority 58686
that are subject to increased flexibility; 58687

(3) The nature and term of the management agreement required 58688
between the state and an institution. 58689

(D) Not later than August 15, 2011, the chancellor shall 58690
submit to the general assembly and the governor a report of 58691
findings and recommendations for use in developing policy, 58692
statutory, and administrative rule changes necessary to implement 58693
the plan. No institution shall be designated a charter university 58694
until the general assembly, after considering the chancellor's 58695
plan, has enacted legislation establishing a procedure for making 58696
the designation. The chancellor shall not adopt, amend, or rescind 58697
any rules with respect to designating institutions as charter 58698
universities until that legislation is enacted. The general 58699
assembly intends that the general assembly, governor, and 58700
chancellor will take actions necessary for implementation of the 58701
plan for charter universities to commence July 1, 2012. 58702

Sec. 3349.29. An agreement made pursuant to sections 3349.27 58703

and 3349.28 of the Revised Code is not effective unless it has 58704
been approved by the legislative authority of the municipal 58705
corporation with which the municipal university is identified, 58706
upon such legislative authority's determination that such 58707
agreement will be beneficial to the municipal corporation, and 58708
also approved by the Ohio board of regents, and, if required by 58709
any applicable appropriation measure, by the state controlling 58710
board, and any payment from state tax moneys provided for in the 58711
agreement will be subject to appropriations made by the general 58712
assembly. If provision is to be made under such agreement for the 58713
transfer of, or grant of the right to use, all or a substantial 58714
part of the assets of the municipal university to the state 58715
university and assumption by the state university of educational 58716
functions of the municipal university, such agreement shall not 58717
become effective, under sections 3349.27 to 3349.30 of the Revised 58718
Code until the electors of the municipal corporation have approved 58719
such transfer or grant. 58720

The legislative authority of the municipal corporation shall, 58721
by ordinance, submit the question to the electors at a general, 58722
primary, or a special election to be held on the date specified in 58723
the ordinance. The ordinance shall be certified to the board of 58724
elections not later than the forty-fifth day preceding the date of 58725
the election. Notice of the election shall be published in one ~~or~~ 58726
~~more newspapers~~ newspaper of general circulation in the municipal 58727
corporation once a week for two consecutive weeks or as provided 58728
in section 7.16 of the Revised Code, prior to the election ~~and,~~ 58729
~~if.~~ If the board of elections operates and maintains a web site, 58730
notice of the election also shall be posted on that web site for 58731
thirty days prior to the election. The form of the ballot to be 58732
used at the election shall be substantially as follows, with such 58733
variations as may be appropriate to reflect the general nature of 58734
the transfer or grant of use of assets and the transfer of 58735
educational functions contemplated: 58736

"Shall assets of the municipal university known as be transferred to (make available for use by) a state university known as and the state university assume educational functions of the municipal university and provide higher education in (or in close proximity to) the city of to the residents of the city of and of the state of Ohio and such others as shall be admitted?"

The favorable vote of a majority of those voting on the proposition constitutes such approval as is required by this section.

Sec. 3353.04. (A) The eTech Ohio commission may perform any act necessary to carry out the functions of this chapter, including any of the following:

(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology;

(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of the utilization, the manner in which the utilization is compatible with the statewide academic standards adopted by the state board of education pursuant to section 3301.079 of the Revised Code, and any other information determined

by the commission. 58768

(3) Ensure that, where appropriate, products produced by any 58769
entity to which the commission provides financial assistance for 58770
use in elementary and secondary education are aligned with the 58771
statewide academic standards adopted by the state board pursuant 58772
to section 3301.079 of the Revised Code; 58773

(4) Promote accessibility to educational products aligned 58774
with the statewide academic standards, adopted by the state board 58775
pursuant to section 3301.079 of the Revised Code, for school 58776
districts, community schools, and other entities serving grades 58777
kindergarten through twelve; 58778

(5) Own or operate transmission facilities and 58779
interconnection facilities, or contract for transmission 58780
facilities and interconnection facilities, for an educational 58781
television, radio, or radio reading service network; 58782

(6) Establish standards for interconnection facilities used 58783
by the commission in the transmission of educational television, 58784
radio, or radio reading service programming; 58785

(7) Enter into agreements with noncommercial educational 58786
television or radio broadcasting stations or radio reading 58787
services for the operation of the interconnection; 58788

(8) Enter into agreements with noncommercial educational 58789
television or radio broadcasting stations or radio reading 58790
services for the production and use of educational television, 58791
radio, or radio reading service programs to be transmitted by the 58792
educational telecommunications network; 58793

(9) Execute contracts and other agreements necessary and 58794
desirable to carry out the purposes of this chapter and other 58795
duties prescribed to the commission by law or authorize the 58796
executive director of the commission to execute such contracts and 58797
agreements on the commission's behalf; 58798

(10) Act as consultant with educational television and 58799
educational radio stations and radio reading services toward 58800
coordination within the state of the distribution of federal funds 58801
that may become available for equipment for educational 58802
broadcasting or radio reading services; 58803

(11) Make payments to noncommercial Ohio educational 58804
television or radio broadcasting stations or radio reading 58805
services to sustain the operation of such stations or services; 58806

(12) In consultation with participants in programs 58807
administered by the commission, establish guidelines governing 58808
purchasing and procurement that facilitate the timely and 58809
effective implementation of such programs; 58810

(13) In consultation with participants in programs 58811
administered by the commission, consider the efficiency and cost 58812
savings of statewide procurement prior to allocating and releasing 58813
funds for such programs; 58814

(14) In consultation with participants in programs 58815
administered by the commission, establish a systems support 58816
network to facilitate the timely implementation of the programs 58817
and other projects and activities for which the commission 58818
provides assistance. 58819

(B) Chapters 123., 124., 125., and 153. of the Revised Code 58820
and sections 9.331, ~~9.332~~, and ~~9.333~~ to 9.335 of the Revised Code 58821
do not apply to contracts, programs, projects, or activities of 58822
the commission. 58823

Sec. 3353.15. There is hereby created in the state treasury 58824
the information technology service fund. The fund shall consist of 58825
money received by the eTech Ohio commission pursuant to agreements 58826
with educational entities for the provision of information 58827
technology services to support initiatives to align education from 58828

preschool through college, and any other money deposited into the 58829
fund by the commission. Money in the fund shall be used to provide 58830
the services specified in the agreements, including implementation 58831
and maintenance of an electronic clearinghouse for student 58832
transcript transfers and development of the education data 58833
repository described in section 3301.94 of the Revised Code. 58834
Investment earnings of the fund shall be credited to the fund. 58835

Sec. 3354.12. (A) Upon the request by resolution approved by 58836
the board of trustees of a community college district, and upon 58837
certification to the board of elections not less than ninety days 58838
prior to the election, the boards of elections of the county or 58839
counties comprising such district shall place upon the ballot in 58840
their respective counties the question of levying a tax on all the 58841
taxable property in the community college district outside the 58842
ten-mill limitation, for a specified period of years or for a 58843
continuing period of time, to provide funds for any one or more of 58844
the following purposes: the acquisition of sites, the erection, 58845
furnishing, and equipment of buildings, the acquisition, 58846
construction, or improvement of any property which the board of 58847
trustees of a community college district is authorized to acquire, 58848
construct, or improve and which has an estimated life of 58849
usefulness of five years or more as certified by the fiscal 58850
officer, and the payment of operating costs. Not more than two 58851
special elections shall be held in any one calendar year. Levies 58852
for a continuing period of time adopted under this section may be 58853
reduced in accordance with section 5705.261 of the Revised Code. 58854

If such proposal is to be or include the renewal of an 58855
existing levy at the expiration thereof, the ballot for such 58856
election shall state whether it is a renewal of a tax; a renewal 58857
of a stated number of mills and an increase of a stated number of 58858
mills, or a renewal of a part of an existing levy with a reduction 58859

of a stated number of mills; the year of the tax duplicate on 58860
which such renewal will first be made; and if earlier, the year of 58861
the tax duplicate on which such additional levy will first be 58862
made, which may include the tax duplicate for the current year 58863
unless the election is to be held after the first Tuesday after 58864
the first Monday in November of the current tax year. The ballot 58865
shall also state the period of years for such levy or that it is 58866
for a continuing period of time. If a levy for a continuing period 58867
of time provides for but is not limited to current expenses, the 58868
resolution of the board of trustees providing for the election on 58869
such levy shall apportion the annual rate of the levy between 58870
current expenses and the other purpose or purposes. Such 58871
apportionment need not be the same for each year of the levy, but 58872
the respective portions of the rate actually levied each year for 58873
current expenses and the other purpose or purposes shall be 58874
limited by such apportionment. The portion of the rate apportioned 58875
to the other purpose or purposes shall be reduced as provided in 58876
division (B) of this section. 58877

If a majority of the electors in such district voting on such 58878
question approve thereof, the county auditor or auditors of the 58879
county or counties comprising such district shall annually, for 58880
the applicable years, place such levy on the tax duplicate in such 58881
district, in an amount determined by the board of trustees, but 58882
not to exceed the amount set forth in the proposition approved by 58883
the electors. 58884

The boards of trustees of a community college district shall 58885
establish a special fund for all revenue derived from any tax 58886
levied pursuant to this section. 58887

The boards of elections of the county or counties comprising 58888
the district shall cause to be published in a newspaper of general 58889
circulation in each such county an advertisement of the proposed 58890
tax levy question once a week for two consecutive weeks, or as 58891

provided in section 7.16 of the Revised Code, prior to the 58892
election at which the question is to appear on the ballot,~~and,~~ 58893
~~if.~~ If a board of elections operates and maintains a web site, 58894
that board also shall post ~~a similar~~ the advertisement on its web 58895
site for thirty days prior to that election. 58896

After the approval of such levy by vote, the board of 58897
trustees of a community college district may anticipate a fraction 58898
of the proceeds of such levy and from time to time issue 58899
anticipation notes having such maturity or maturities that the 58900
aggregate principal amount of all such notes maturing in any 58901
calendar year shall not exceed seventy-five per cent of the 58902
anticipated proceeds from such levy for such year, and that no 58903
note shall mature later than the thirty-first day of December of 58904
the tenth calendar year following the calendar year in which such 58905
note is issued. Each issue of notes shall be sold as provided in 58906
Chapter 133. of the Revised Code. 58907

The amount of bonds or anticipatory notes authorized pursuant 58908
to Chapter 3354. of the Revised Code, may include sums to repay 58909
moneys previously borrowed, advanced, or granted and expended for 58910
the purposes of such bond or anticipatory note issues, whether 58911
such moneys were advanced from the available funds of the 58912
community college district or by other persons, and the community 58913
college district may restore and repay to such funds or persons 58914
from the proceeds of such issues the moneys so borrowed, advanced 58915
or granted. 58916

All operating costs of such community college may be paid out 58917
of any gift or grant from the state, pursuant to division (K) of 58918
section 3354.09 of the Revised Code; out of student fees and 58919
tuition collected pursuant to division (G) of section 3354.09 of 58920
the Revised Code; or out of unencumbered funds from any other 58921
source of the community college income not prohibited by law. 58922

(B) Prior to the application of section 319.301 of the 58923

Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

Sec. 3354.16. (A) When the board of trustees of a community college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifty two hundred~~ thousand dollars, shall be advertised after notices calling for bids have been published once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code, in ~~at least~~ one a newspaper of general circulation within the community college district wherein the work is to be done. Subject to section 3354.10 of the Revised Code, the board of trustees of the district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On the first day of January of every even-numbered year, the chancellor of the board of regents shall adjust the ~~fifty two hundred~~ thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States

department of commerce, bureau of economic analysis implicit price 58956
deflator for gross domestic product, nonresidential structures, or 58957
an alternative if the federal government ceases to publish this 58958
metric, provided that no increase or decrease for any year shall 58959
exceed three per cent of the contract limit in existence at the 58960
time of the adjustment. Notwithstanding division (A) of this 58961
section, the limit adjusted under this division shall be used 58962
thereafter in lieu of the limit in division (A) of this section. 58963

(C) Before entering into an improvement pursuant to division 58964
(A) of this section, and except for contracts made with a 58965
construction manager at risk, a design-build firm, or a general 58966
contracting firm, as those terms are defined in section 153.50 of 58967
the Revised Code, the board of trustees of a community college 58968
district shall require separate and distinct proposals to be made 58969
for furnishing materials or doing work on the improvement, or 58970
both, in the board's discretion, for each separate and distinct 58971
branch or class of work entering into the improvement. The board 58972
of trustees also may require a single, combined proposal for the 58973
entire project for materials or doing work, or both, in the 58974
board's discretion, that includes each separate and distinct 58975
branch or class of work entering into the improvement. ~~The board~~ 58976
~~of trustees need not solicit separate proposals for a branch or~~ 58977
~~class of work for an improvement if the estimate cost for that~~ 58978
~~branch or class of work is less than five thousand dollars.~~ 58979

(D) When more than one branch or class of work is required, 58980
no contract for the entire job, or for a greater portion thereof 58981
than is embraced in one such branch or class of work shall be 58982
awarded, unless the separate bids do not cover all the work and 58983
materials required or the bids for the whole or for two or more 58984
kinds of work or materials are lower than the separate bids in the 58985
aggregate. ~~The board of trustees need not award separate contracts~~ 58986
~~for a branch or class of work entering into an improvement if the~~ 58987

~~estimated cost for that branch or class of work is less than five
thousand dollars.~~ 58988
58989

Sec. 3355.09. Upon receipt of a request from the university 58990
branch district managing authority, the boards of elections of the 58991
county or counties comprising such district shall place upon the 58992
ballot in the district at the next primary or general election 58993
occurring not less than ninety days after submission of such 58994
request by such managing authority, the question of levying a tax 58995
outside the ten-mill limitation, for a specified period of years, 58996
to provide funds for any of the following purposes: 58997

(A) Purchasing a site or enlargement thereof; 58998

(B) The erection and equipment of buildings; 58999

(C) Enlarging, improving, or rebuilding buildings; 59000

(D) The acquisition, construction, or improvement of any 59001
property which the university branch district managing authority 59002
is authorized to acquire, construct, or improve and which has been 59003
certified by the fiscal officer to have an estimated useful life 59004
of five or more years. 59005

If a majority of the electors in such district voting on such 59006
question approve, the county auditor of the county or counties 59007
comprising such district shall annually place such levy on the tax 59008
duplicate in such district, in the amount set forth in the 59009
proposition approved by the electors. 59010

The managing authority of the university branch district 59011
shall establish a special fund pursuant to section 3355.07 of the 59012
Revised Code for all revenue derived from any tax levied pursuant 59013
to provisions of this section. 59014

The boards of election of the county or counties comprising 59015
the district shall cause to be published in a newspaper of general 59016
circulation in each such county an advertisement of the proposed 59017

tax levy question once a week for two consecutive weeks, or as 59018
provided in section 7.16 of the Revised Code, prior to the 59019
election at which the question is to appear on the ballot, ~~and,~~ 59020
~~if.~~ If a board of elections operates and maintains a web site, 59021
that board also shall post ~~a similar~~ the advertisement on its web 59022
site for thirty days prior to the election. 59023

After the approval of such levy by vote, the managing 59024
authority of the university branch district may anticipate a 59025
fraction of the proceeds of such levy and from time to time, 59026
during the life of such levy, issue anticipation notes in an 59027
amount not to exceed seventy-five per cent of the estimated 59028
proceeds of such levy to be collected in each year over a period 59029
of five years after the date of the issuance of such notes, less 59030
an amount equal to the proceeds of such levy previously obligated 59031
for such year by the issuance of anticipation notes, provided, 59032
that the total amount maturing in any one year shall not exceed 59033
seventy-five per cent of the anticipated proceeds of such levy for 59034
that year. 59035

Each issue of notes shall be sold as provided in Chapter 133. 59036
of the Revised Code and shall mature serially in substantially 59037
equal amounts, during each remaining year of the levy, not to 59038
exceed five, after their issuance. 59039

Sec. 3357.16. (A) When the board of trustees of a technical 59040
college district has by resolution determined to let by contract 59041
the work of improvements pursuant to the official plan of such 59042
district, contracts in amounts exceeding a dollar amount set by 59043
the board, which dollar amount shall not exceed ~~fifty two hundred~~ 59044
thousand dollars, shall be advertised after notice calling for 59045
bids has been published once a week for three consecutive weeks or 59046
as provided in section 7.16 of the Revised Code, in ~~at least one a~~ 59047
newspaper of general circulation within the technical college 59048

district where the work is to be done. The board of trustees of 59049
the technical college district may let such contract to the lowest 59050
responsive and responsible bidder, in accordance with section 59051
9.312 of the Revised Code, who meets the requirements of section 59052
153.54 of the Revised Code. Such contract shall be in writing and 59053
shall be accompanied by or shall refer to plans and specifications 59054
for the work to be done. Such contract shall be approved by the 59055
board of trustees and signed by the president of the board and by 59056
the contractor. 59057

(B) On the first day of January of every even-numbered year, 59058
the chancellor of the board of regents shall adjust the fifty two 59059
hundred thousand dollar contract limit set forth in division (A) 59060
of this section, as adjusted in any previous year pursuant to this 59061
division. The chancellor shall adjust the limit according to the 59062
average increase or decrease for each of the two years immediately 59063
preceding the adjustment as set forth in the United States 59064
department of commerce, bureau of economic analysis implicit price 59065
deflator for gross domestic product, nonresidential structures, or 59066
an alternative if the federal government ceases to publish this 59067
metric, provided that no increase or decrease for any year shall 59068
exceed three per cent of the contract limit in existence at the 59069
time of the adjustment. Notwithstanding division (A) of this 59070
section, the limit adjusted under this division shall be used 59071
thereafter in lieu of the limit in division (A) of this section. 59072

(C) Before entering into an improvement pursuant to division 59073
(A) of this section, and except for contracts made with a 59074
construction manager at risk, a design-build firm, or a general 59075
contracting firm, as those terms are defined in section 153.50 of 59076
the Revised Code, the board of trustees of a technical college 59077
district shall require separate and distinct proposals to be made 59078
for furnishing materials or doing work on the improvement, or 59079
both, in the board's discretion, for each separate and distinct 59080

branch or class of work entering into the improvement. The board 59081
of trustees also may require a single, combined proposal for the 59082
entire project for materials or doing work, or both, in the 59083
board's discretion, that includes each separate and distinct 59084
branch or class of work entering into the improvement. ~~The board~~ 59085
~~of trustees need not solicit separate proposals for a branch or~~ 59086
~~class of work for an improvement if the estimate cost for that~~ 59087
~~branch or class of work is less than five thousand dollars.~~ 59088

(D) When more than one branch or class of work is required, 59089
no contract for the entire job, or for a greater portion thereof 59090
than is embraced in one such branch or class of work shall be 59091
awarded, unless the separate bids do not cover all the work and 59092
materials required or the bids for the whole or for two or more 59093
kinds of work or materials are lower than the separate bids in the 59094
aggregate. ~~The board of trustees need not award separate contracts~~ 59095
~~for a branch or class of work entering into an improvement if the~~ 59096
~~estimated cost for that branch or class of work is less than five~~ 59097
~~thousand dollars.~~ 59098

Sec. 3365.01. As used in this chapter: 59099

(A) "College" means any state-assisted college or university 59100
described in section 3333.041 of the Revised Code, any nonprofit 59101
institution holding a certificate of authorization pursuant to 59102
Chapter 1713. of the Revised Code, any private institution exempt 59103
from regulation under Chapter 3332. of the Revised Code as 59104
prescribed in section 3333.046 of the Revised Code, and any 59105
institution holding a certificate of registration from the state 59106
board of career colleges and schools and program authorization for 59107
an associate or bachelor's degree program issued under section 59108
3332.05 of the Revised Code. 59109

(B) "School district," except as specified in division (G) of 59110
this section, means any school district to which a student is 59111

admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 59112
the Revised Code and does not include a joint vocational or 59113
cooperative education school district. 59114

(C) "Parent" has the same meaning as in section 3313.64 of 59115
the Revised Code. 59116

(D) "Participant" means a student enrolled in a college under 59117
the post-secondary enrollment options program established by this 59118
chapter. 59119

(E) "Secondary grade" means the ninth through twelfth grades. 59120

(F) "School foundation payments" means the amount required to 59121
be paid to a school district for a fiscal year under ~~Chapters~~ 59122
~~3306.~~ and Chapter 3317. of the Revised Code. 59123

(G) "Tuition base" means, with respect to a participant's 59124
school district, the sum of the formula amount plus the per pupil 59125
amount of the base funding supplements specified in divisions 59126
(C)(1) to (4) of section 3317.012 of the Revised Code for fiscal 59127
year 2009. 59128

The participant's "school district" in the case of a 59129
participant enrolled in a community school shall be the school 59130
district in which the student is entitled to attend school under 59131
section 3313.64 or 3313.65 of the Revised Code. 59132

(H) "Educational program" means enrollment in one or more 59133
school districts, in a nonpublic school, or in a college under 59134
division (B) of section 3365.04 of the Revised Code. 59135

(I) "Nonpublic school" means a chartered or nonchartered 59136
school for which minimum standards are prescribed by the state 59137
board of education pursuant to division (D) of section 3301.07 of 59138
the Revised Code. 59139

(J) "School year" means the year beginning on the first day 59140
of July and ending on the thirtieth day of June. 59141

(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades.

(L) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

Sec. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code shall furnish to a participant all textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course.

(B) No student enrolled under this chapter in a course for which credit toward high school graduation is awarded shall receive direct financial aid through any state or federal program.

(C) If a school district provides transportation for resident school students in grades eleven and twelve under section 3327.01 of the Revised Code, a parent of a pupil enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the board of education for full or partial reimbursement for the necessary costs of transporting the student between the secondary school the student attends and the college in which the student is enrolled. Reimbursement may be paid solely from funds received by the district for pupil transportation under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. The state board of education shall establish guidelines, based on financial need, under which a district may provide such reimbursement.

(D) If a community school provides or arranges transportation 59173
for its pupils in grades nine through twelve under section 59174
3314.091 of the Revised Code, a parent of a pupil of the community 59175
school who is enrolled in a course under division (A)(2) or (B) of 59176
section 3365.04 of the Revised Code may apply to the governing 59177
authority of the community school for full or partial 59178
reimbursement of the necessary costs of transporting the student 59179
between the community school and the college. The governing 59180
authority may pay the reimbursement in accordance with the state 59181
board's rules adopted under division (C) of this section solely 59182
from funds paid to it under section 3314.091 of the Revised Code. 59183

Sec. 3375.41. When a board of library trustees appointed 59184
pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 59185
or 3375.30 of the Revised Code determines to construct, demolish, 59186
alter, repair, or reconstruct a library or make any improvements 59187
or repairs, the cost of which will exceed twenty-five thousand 59188
dollars, except in cases of urgent necessity or for the security 59189
and protection of library property, it shall proceed as follows: 59190

(A) The board shall advertise for a period of two weeks for 59191
sealed bids in ~~some a~~ newspaper of general circulation in the 59192
district, ~~and, if there are two such newspapers, the board shall~~ 59193
~~advertise in both of them~~ or as provided in section 7.16 of the 59194
Revised Code. If no newspaper has a general circulation in the 59195
district, the board shall post the advertisement in three public 59196
places in the district. The advertisement shall be entered in full 59197
by the fiscal officer on the record of proceedings of the board. 59198

(B) The sealed bids shall be filed with the fiscal officer by 59199
twelve noon of the last day stated in the advertisement. 59200

(C) The sealed bids shall be opened at the next meeting of 59201
the board, shall be publicly read by the fiscal officer, and shall 59202
be entered in full on the records of the board; provided that the 59203

board, by resolution, may provide for the public opening and 59204
reading of the bids by the fiscal officer, immediately after the 59205
time for their filing has expired, at the usual place of meeting 59206
of the board, and for the tabulation of the bids and a report of 59207
the tabulation to the board at its next meeting. 59208

(D) Each sealed bid shall contain the name of every person 59209
interested in it and shall meet the requirements of section 153.54 59210
of the Revised Code. 59211

(E) When both labor and materials are embraced in the work 59212
bid for, the board may require that each be separately stated in 59213
the sealed bid, with their price, or may require that bids be 59214
submitted without the separation. 59215

(F) None but the lowest responsible bid shall be accepted. 59216
The board may reject all the bids or accept any bid for both labor 59217
and material for the improvement or repair which is the lowest in 59218
the aggregate. 59219

(G) The contract shall be between the board and the bidders. 59220
The board shall pay the contract price for the work in cash at the 59221
times and in the amounts as provided by sections 153.12, 153.13, 59222
and 153.14 of the Revised Code. 59223

(H) When two or more bids are equal, in whole or in part, and 59224
are lower than any others, either may be accepted, but in no case 59225
shall the work be divided between these bidders. 59226

(I) When there is reason to believe there is collusion or 59227
combination among the bidders, the bids of those concerned in the 59228
collusion or combination shall be rejected. 59229

Sec. 3381.11. The board of trustees of a regional arts and 59230
cultural district or any officer or employee designated by such 59231
board may make any contract for the purchase of supplies or 59232
material or for labor for any work, under the supervision of the 59233

board, the cost of which shall not exceed ten thousand dollars. 59234
When an expenditure, other than for the acquisition of real 59235
estate, the discharge of noncontractual claims, personal services, 59236
or for the product or services of public utilities, exceeds ten 59237
thousand dollars, such expenditure shall be made only after a 59238
notice calling for bids has been published once a week for two 59239
consecutive weeks in ~~at least~~ one newspaper of general circulation 59240
within the territory of the district or as provided in section 59241
7.16 of the Revised Code. The board may then let said contract to 59242
the lowest and best bidder, who shall give a good and approved 59243
bond with ample security conditioned on the carrying out of the 59244
contract. Such contract shall be in writing and shall be 59245
accompanied by or shall refer to plans and specifications for the 59246
work to be done, approved by the board. The plans and 59247
specifications shall at all times be made and considered part of 59248
the contract. The contract shall be approved by the board and 59249
signed on behalf of the district and by the contractor. No sale of 59250
any real or personal property or a lease thereof having a term 59251
thereof in excess of five years shall be made except with the 59252
highest and best bidder after publication of notice for bids in 59253
the manner above provided. 59254

Competitive bidding under this section is not required when: 59255

(A) The board, by a two-thirds affirmative vote of its 59256
members, determines that a real and present emergency exists and 59257
such determination and the reasons therefor are entered in the 59258
proceedings of the board, when: 59259

(1) The estimated cost is less than fifteen thousand dollars; 59260
or 59261

(2) There is actual physical damage to structures or 59262
equipment. 59263

(B) Such purchase consists of supplies or a replacement or 59264

supplemental part or parts for a product or equipment owned or	59265
leased by the district and the only source of supply for such	59266
supplies, part, or parts is limited to a single supplier;	59267
(C) The lease is a renewal of a lease for electronic data	59268
processing equipment, services, or systems;	59269
(D) Services or supplies are available from a qualified	59270
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the	59271
Revised Code;	59272
(E) With respect to any contract, agreement, or lease by a	59273
district with any arts or cultural organization or any	59274
governmental body or agency.	59275
Sec. 3501.03. At least ten days before the time for holding	59276
an election the board of elections shall give public notice by a	59277
proclamation, posted in a conspicuous place in the courthouse and	59278
city hall, or by one insertion in a newspaper <u>published of general</u>	59279
<u>circulation</u> in the county, but if no newspaper is published in	59280
such county, then in a newspaper of general circulation therein.	59281
The board shall have authority to publicize information	59282
relative to registration or elections.	59283
Sec. 3501.17. (A) The expenses of the board of elections	59284
shall be paid from the county treasury, in pursuance of	59285
appropriations by the board of county commissioners, in the same	59286
manner as other county expenses are paid. If the board of county	59287
commissioners fails to appropriate an amount sufficient to provide	59288
for the necessary and proper expenses of the board of elections	59289
pertaining to the conduct of elections, the board of elections may	59290
apply to the court of common pleas within the county, which shall	59291
fix the amount necessary to be appropriated and the amount shall	59292
be appropriated. Payments shall be made upon vouchers of the board	59293
of elections certified to by its chairperson or acting chairperson	59294

and the director or deputy director, upon warrants of the county auditor. 59295
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The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet the obligation. If the board of elections requests a transfer of funds from one of its appropriation items to another, the board of county commissioners shall adopt a resolution providing for the transfer except as otherwise provided in section 5705.40 of the Revised Code. The expenses of the board of elections shall be apportioned among the county and the various subdivisions as provided in this section, and the amount chargeable to each subdivision shall be withheld by the county auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of the amount to be withheld from the subdivision during the next fiscal year. 59297
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A board of township trustees may, by resolution, request that the county auditor withhold expenses charged to the township from a specified township fund that is to be credited with revenue at a tax settlement. The resolution shall specify the tax levy ballot issue, the date of the election on the levy issue, and the township fund from which the expenses the board of elections incurs related to that ballot issue shall be withheld. 59314
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(B) Except as otherwise provided in division (F) of this section, the compensation of the members of the board of elections and of the director, deputy director, and regular employees in the board's offices, other than compensation for overtime worked; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the 59321
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use of the board; the expenditures for the acquisition, repair, 59327
care, and custody of the polling places, booths, guardrails, and 59328
other equipment for polling places; the cost of tally sheets, 59329
maps, flags, ballot boxes, and all other permanent records and 59330
equipment; the cost of all elections held in and for the state and 59331
county; and all other expenses of the board which are not 59332
chargeable to a political subdivision in accordance with this 59333
section shall be paid in the same manner as other county expenses 59334
are paid. 59335

(C) The compensation of judges of elections and intermittent 59336
employees in the board's offices; the cost of renting, moving, 59337
heating, and lighting polling places and of placing and removing 59338
ballot boxes and other fixtures and equipment thereof, including 59339
voting machines, marking devices, and automatic tabulating 59340
equipment; the cost of printing and delivering ballots, cards of 59341
instructions, registration lists required under section 3503.23 of 59342
the Revised Code, and other election supplies, including the 59343
supplies required to comply with division (H) of section 3506.01 59344
of the Revised Code; the cost of contractors engaged by the board 59345
to prepare, program, test, and operate voting machines, marking 59346
devices, and automatic tabulating equipment; and all other 59347
expenses of conducting primaries and elections in the odd-numbered 59348
years shall be charged to the subdivisions in and for which such 59349
primaries or elections are held. The charge for each primary or 59350
general election in odd-numbered years for each subdivision shall 59351
be determined in the following manner: first, the total cost of 59352
all chargeable items used in conducting such elections shall be 59353
ascertained; second, the total charge shall be divided by the 59354
number of precincts participating in such election, in order to 59355
fix the cost per precinct; third, the cost per precinct shall be 59356
prorated by the board of elections to the subdivisions conducting 59357
elections for the nomination or election of offices in such 59358
precinct; fourth, the total cost for each subdivision shall be 59359

determined by adding the charges prorated to it in each precinct 59360
within the subdivision. 59361

(D) The entire cost of special elections held on a day other 59362
than the day of a primary or general election, both in 59363
odd-numbered or in even-numbered years, shall be charged to the 59364
subdivision. Where a special election is held on the same day as a 59365
primary or general election in an even-numbered year, the 59366
subdivision submitting the special election shall be charged only 59367
for the cost of ballots and advertising. Where a special election 59368
is held on the same day as a primary or general election in an 59369
odd-numbered year, the subdivision submitting the special election 59370
shall be charged for the cost of ballots and advertising for such 59371
special election, in addition to the charges prorated to such 59372
subdivision for the election or nomination of candidates in each 59373
precinct within the subdivision, as set forth in the preceding 59374
paragraph. 59375

(E) Where a special election is held on the day specified by 59376
division (E) of section 3501.01 of the Revised Code for the 59377
holding of a primary election, for the purpose of submitting to 59378
the voters of the state constitutional amendments proposed by the 59379
general assembly, and a subdivision conducts a special election on 59380
the same day, the entire cost of the special election shall be 59381
divided proportionally between the state and the subdivision based 59382
upon a ratio determined by the number of issues placed on the 59383
ballot by each, except as otherwise provided in division (G) of 59384
this section. Such proportional division of cost shall be made 59385
only to the extent funds are available for such purpose from 59386
amounts appropriated by the general assembly to the secretary of 59387
state. If a primary election is also being conducted in the 59388
subdivision, the costs shall be apportioned as otherwise provided 59389
in this section. 59390

(F) When a precinct is open during a general, primary, or 59391

special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G)(1) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law. Appropriations made to the controlling board shall be used to reimburse the secretary of state for all expenses the secretary of state incurs for such advertising under division (G) of section 3505.062 of the Revised Code.

(2) There is hereby created in the state treasury the statewide ballot advertising fund. The fund shall receive transfers approved by the controlling board, and shall be used by the secretary of state to pay the costs of advertising state ballot issues as required under division (G)(1) of this section. Any such transfers may be requested from and approved by the controlling board prior to placing the advertising, in order to facilitate timely provision of the required advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. Except as otherwise provided in this division, the purpose of the fund shall be to accumulate revenue withheld by or paid to the county under this section for the payment of any expense related to the duties

of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county under this section for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board's offices, other than compensation for overtime worked.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred to the county general fund.

(J) As used in this section:

(1) "Political subdivision" and "subdivision" mean any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any other board, commission, district, or authority that is empowered to levy taxes or permitted to receive the proceeds of a tax levy, regardless of whether the entity receives tax settlement moneys as described in division (A) of this section;

(2) "Statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3505.13. A contract for the printing of ballots involving a cost in excess of ten thousand dollars shall not be let until after five days' notice published once in a ~~leading~~

newspaper ~~published~~ of general circulation in the county or upon 59455
notice given by mail by the board of elections, addressed to the 59456
responsible printing offices within the state. Except as otherwise 59457
provided in this section, each bid for such printing must be 59458
accompanied by a bond with at least two sureties, or a surety 59459
company, satisfactory to the board, in a sum double the amount of 59460
the bid, conditioned upon the faithful performance of the contract 59461
for such printing as is awarded and for the payment as damages by 59462
such bidder to the board of any excess of cost over the bid which 59463
it may be obliged to pay for such work by reason of the failure of 59464
the bidder to complete the contract. No bid unaccompanied by such 59465
bond shall be considered by the board. The board may, however, 59466
waive the requirement that each bid be accompanied by a bond if 59467
the cost of the contract is ten thousand dollars or less. The 59468
contract shall be let to the lowest responsible bidder in the 59469
state. All ballots shall be printed within the state. 59470

Sec. 3506.05. (A) As used in this section, except when used 59471
as part of the phrase "tabulating equipment" or "automatic 59472
tabulating equipment": 59473

(1) "Equipment" means a voting machine, marking device, 59474
automatic tabulating equipment, or software. 59475

(2) "Vendor" means the person that owns, manufactures, 59476
distributes, or has the legal right to control the use of 59477
equipment, or the person's agent. 59478

(B) No voting machine, marking device, automatic tabulating 59479
equipment, or software for the purpose of casting or tabulating 59480
votes or for communications among systems involved in the 59481
tabulation, storage, or casting of votes shall be purchased, 59482
leased, put in use, or continued to be used, except for 59483
experimental use as provided in division (B) of section 3506.04 of 59484
the Revised Code, unless it, a manual of procedures governing its 59485

use, and training materials, service, and other support 59486
arrangements have been certified by the secretary of state and 59487
unless the board of elections of each county where the equipment 59488
will be used has assured that a demonstration of the use of the 59489
equipment has been made available to all interested electors. The 59490
secretary of state shall appoint a board of voting machine 59491
examiners to examine and approve equipment and its related manuals 59492
and support arrangements. The board shall consist of four members, 59493
who shall be appointed as follows: 59494

(1) Two members appointed by the secretary of state. 59495

(2) One member appointed by either the speaker of the house 59496
of representatives or the minority leader of the house of 59497
representatives, whichever is a member of the opposite political 59498
party from the one to which the secretary of state belongs. 59499

(3) One member appointed by either the president of the 59500
senate or the minority leader of the senate, whichever is a member 59501
of the opposite political party from the one to which the 59502
secretary of state belongs. 59503

In all cases of a tie vote or a disagreement in the board, if 59504
no decision can be arrived at, the board shall submit the matter 59505
in controversy to the secretary of state, who shall summarily 59506
decide the question, and the secretary of state's decision shall 59507
be final. Each member of the board shall be a competent and 59508
experienced election officer or a person who is knowledgeable 59509
about the operation of voting equipment and shall serve during the 59510
secretary of state's term. Any vacancy on the board shall be 59511
filled in the same manner as the original appointment. The 59512
secretary of state shall provide staffing assistance to the board, 59513
at the board's request. 59514

For the member's service, each member of the board shall 59515
receive three hundred dollars per day for each combination of 59516

marking device, tabulating equipment, and voting machine examined 59517
and reported, but in no event shall a member receive more than six 59518
hundred dollars to examine and report on any one marking device, 59519
item of tabulating equipment, or voting machine. Each member of 59520
the board shall be reimbursed for expenses the member incurs 59521
during an examination or during the performance of any related 59522
duties that may be required by the secretary of state. 59523
Reimbursement of these expenses shall be made in accordance with, 59524
and shall not exceed, the rates provided for under section 126.31 59525
of the Revised Code. 59526

Neither the secretary of state nor the board, nor any public 59527
officer who participates in the authorization, examination, 59528
testing, or purchase of equipment, shall have any pecuniary 59529
interest in the equipment or any affiliation with the vendor. 59530

(C)(1) A vendor who desires to have the secretary of state 59531
certify equipment shall first submit the equipment, all current 59532
related procedural manuals, and a current description of all 59533
related support arrangements to the board of voting machine 59534
examiners for examination, testing, and approval. The submission 59535
shall be accompanied by a fee of ~~eighteen~~ two thousand four 59536
hundred dollars and a detailed explanation of the construction and 59537
method of operation of the equipment, a full statement of its 59538
advantages, and a list of the patents and copyrights used in 59539
operations essential to the processes of vote recording and 59540
tabulating, vote storage, system security, and other crucial 59541
operations of the equipment as may be determined by the board. An 59542
additional fee, in an amount to be set by rules promulgated by the 59543
board, may be imposed to pay for the costs of alternative testing 59544
or testing by persons other than board members, record-keeping, 59545
and other extraordinary costs incurred in the examination process. 59546
Moneys not used shall be returned to the person or entity 59547
submitting the equipment for examination. 59548

(2) Fees collected by the secretary of state under this 59549
section shall be deposited into the state treasury to the credit 59550
of the board of voting machine examiners fund, which is hereby 59551
created. All moneys credited to this fund shall be used solely for 59552
the purpose of paying for the services and expenses of each member 59553
of the board or for other expenses incurred relating to the 59554
examination, testing, reporting, or certification of voting 59555
machine devices, the performance of any related duties as required 59556
by the secretary of state, or the reimbursement of any person 59557
submitting an examination fee as provided in this chapter. 59558

(D) Within sixty days after the submission of the equipment 59559
and payment of the fee, or as soon thereafter as is reasonably 59560
practicable, but in any event within not more than ninety days 59561
after the submission and payment, the board of voting machine 59562
examiners shall examine the equipment and file with the secretary 59563
of state a written report on the equipment with its 59564
recommendations and its determination or condition of approval 59565
regarding whether the equipment, manual, and other related 59566
materials or arrangements meet the criteria set forth in sections 59567
3506.07 and 3506.10 of the Revised Code and can be safely used by 59568
the voters at elections under the conditions prescribed in Title 59569
XXXV of the Revised Code, or a written statement of reasons for 59570
which testing requires a longer period. The board may grant 59571
temporary approval for the purpose of allowing experimental use of 59572
equipment. If the board finds that the equipment meets the 59573
criteria set forth in sections 3506.06, 3506.07, and 3506.10 of 59574
the Revised Code, can be used safely and can be depended upon to 59575
record and count accurately and continuously the votes of 59576
electors, and has the capacity to be warranted, maintained, and 59577
serviced, it shall approve the equipment and recommend that the 59578
secretary of state certify the equipment. The secretary of state 59579
shall notify all boards of elections of any such certification. 59580
Equipment of the same model and make, if it provides for recording 59581

of voter intent, system security, voter privacy, retention of 59582
vote, and communication of voting records in an identical manner, 59583
may then be adopted for use at elections. 59584

(E) The vendor shall notify the secretary of state, who shall 59585
then notify the board of voting machine examiners, of any 59586
enhancement and any significant adjustment to the hardware or 59587
software that could result in a patent or copyright change or that 59588
significantly alters the methods of recording voter intent, system 59589
security, voter privacy, retention of the vote, communication of 59590
voting records, and connections between the system and other 59591
systems. The vendor shall provide the secretary of state with an 59592
updated operations manual for the equipment, and the secretary of 59593
state shall forward the manual to the board. Upon receiving such a 59594
notification and manual, the board may require the vendor to 59595
submit the equipment to an examination and test in order for the 59596
equipment to remain certified. The board or the secretary of state 59597
shall periodically examine, test, and inspect certified equipment 59598
to determine continued compliance with the requirements of this 59599
chapter and the initial certification. Any examination, test, or 59600
inspection conducted for the purpose of continuing certification 59601
of any equipment in which a significant problem has been uncovered 59602
or in which a record of continuing problems exists shall be 59603
performed pursuant to divisions (C) and (D) of this section, in 59604
the same manner as the examination, test, or inspection is 59605
performed for initial approval and certification. 59606

(F) If, at any time after the certification of equipment, the 59607
board of voting machine examiners or the secretary of state is 59608
notified by a board of elections of any significant problem with 59609
the equipment or determines that the equipment fails to meet the 59610
requirements necessary for approval or continued compliance with 59611
the requirements of this chapter, or if the board of voting 59612
machine examiners determines that there are significant 59613

enhancements or adjustments to the hardware or software, or if 59614
notice of such enhancements or adjustments has not been given as 59615
required by division (E) of this section, the secretary of state 59616
shall notify the users and vendors of that equipment that 59617
certification of the equipment may be withdrawn. 59618

(G)(1) The notice given by the secretary of state under 59619
division (F) of this section shall be in writing and shall specify 59620
both of the following: 59621

(a) The reasons why the certification may be withdrawn; 59622

(b) The date on which certification will be withdrawn unless 59623
the vendor takes satisfactory corrective measures or explains why 59624
there are no problems with the equipment or why the enhancements 59625
or adjustments to the equipment are not significant. 59626

(2) A vendor who receives a notice under division (F) of this 59627
section shall, within thirty days after receiving it, submit to 59628
the board of voting machine examiners in writing a description of 59629
the corrective measures taken and the date on which they were 59630
taken, or the explanation required under division (G)(1)(b) of 59631
this section. 59632

(3) Not later than fifteen days after receiving a written 59633
description or explanation under division (G)(2) of this section 59634
from a vendor, the board shall determine whether the corrective 59635
measures taken or the explanation is satisfactory to allow 59636
continued certification of the equipment, and the secretary of 59637
state shall send the vendor a written notice of the board's 59638
determination, specifying the reasons for it. If the board has 59639
determined that the measures taken or the explanation given is 59640
unsatisfactory, the notice shall include the effective date of 59641
withdrawal of the certification. This date may be different from 59642
the date originally specified in division (G)(1)(b) of this 59643
section. 59644

(4) A vendor who receives a notice under division (G)(3) of 59645
this section indicating a decision to withdraw certification may, 59646
within thirty days after receiving it, request in writing that the 59647
board hold a hearing to reconsider its decision. Any interested 59648
party shall be given the opportunity to submit testimony or 59649
documentation in support of or in opposition to the board's 59650
recommendation to withdraw certification. Failure of the vendor to 59651
take appropriate steps as described in division (G)(1)(b) or to 59652
comply with division (G)(2) of this section results in a waiver of 59653
the vendor's rights under division (G)(4) of this section. 59654

(H)(1) The secretary of state, in consultation with the board 59655
of voting machine examiners, shall establish, by rule, guidelines 59656
for the approval, certification, and continued certification of 59657
the voting machines, marking devices, and tabulating equipment to 59658
be used under Title XXXV of the Revised Code. The guidelines shall 59659
establish procedures requiring vendors or computer software 59660
developers to place in escrow with an independent escrow agent 59661
approved by the secretary of state a copy of all source code and 59662
related documentation, together with periodic updates as they 59663
become known or available. The secretary of state shall require 59664
that the documentation include a system configuration and that the 59665
source code include all relevant program statements in low- or 59666
high-level languages. As used in this division, "source code" does 59667
not include variable codes created for specific elections. 59668

(2) Nothing in any rule adopted under division (H) of this 59669
section shall be construed to limit the ability of the secretary 59670
of state to follow or adopt, or to preclude the secretary of state 59671
from following or adopting, any guidelines proposed by the federal 59672
election commission, any entity authorized by the federal election 59673
commission to propose guidelines, the election assistance 59674
commission, or any entity authorized by the election assistance 59675
commission to propose guidelines. 59676

(3)(a) Before the initial certification of any direct recording electronic voting machine with a voter verified paper audit trail, and as a condition for the continued certification and use of those machines, the secretary of state shall establish, by rule, standards for the certification of those machines. Those standards shall include, but are not limited to, all of the following:

(i) A definition of a voter verified paper audit trail as a paper record of the voter's choices that is verified by the voter prior to the casting of the voter's ballot and that is securely retained by the board of elections;

(ii) Requirements that the voter verified paper audit trail shall not be retained by any voter and shall not contain individual voter information;

(iii) A prohibition against the production by any direct recording electronic voting machine of anything that legally could be removed by the voter from the polling place, such as a receipt or voter confirmation;

(iv) A requirement that paper used in producing a voter verified paper audit trail be sturdy, clean, and resistant to degradation;

(v) A requirement that the voter verified paper audit trail shall be capable of being optically scanned for the purpose of conducting a recount or other audit of the voting machine and shall be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic codes;

(vi) A requirement, for office-type ballots, that the voter verified paper audit trail include the name of each candidate selected by the voter;

(vii) A requirement, for questions and issues ballots, that

the voter verified paper audit trail include the title of the 59708
question or issue, the name of the entity that placed the question 59709
or issue on the ballot, and the voter's ballot selection on that 59710
question or issue, but not the entire text of the question or 59711
issue. 59712

(b) The secretary of state, by rule adopted under Chapter 59713
119. of the Revised Code, may waive the requirement under division 59714
(H)(3)(a)(v) of this section, if the secretary of state determines 59715
that the requirement is cost prohibitive. 59716

(4)(a) Except as otherwise provided in division (H)(4)(c) of 59717
this section, any voting machine, marking device, or automatic 59718
tabulating equipment initially certified or acquired on or after 59719
December 1, 2008, shall have the most recent federal certification 59720
number issued by the election assistance commission. 59721

(b) Any voting machine, marking device, or automatic 59722
tabulating equipment certified for use in this state on ~~the~~ 59723
~~effective date of this amendment~~ September 12, 2008, shall meet, 59724
as a condition of continued certification and use, the voting 59725
system standards adopted by the federal election commission in 59726
2002. 59727

(c) A county that acquires additional voting machines, 59728
marking devices, or automatic tabulating equipment on or after 59729
December 1, 2008, shall not be considered to have acquired those 59730
machines, devices, or equipment on or after December 1, 2008, for 59731
the purpose of division (H)(4)(a) of this section if all of the 59732
following apply: 59733

(i) The voting machines, marking devices, or automatic 59734
tabulating equipment acquired are the same as the machines, 59735
devices, or equipment currently used in that county. 59736

(ii) The acquisition of the voting machines, marking devices, 59737
or automatic tabulating equipment does not replace or change the 59738

primary voting system used in that county. 59739

(iii) The acquisition of the voting machines, marking 59740
devices, or automatic tabulating equipment is for the purpose of 59741
replacing inoperable machines, devices, or equipment or for the 59742
purpose providing additional machines, devices, or equipment 59743
required to meet the allocation requirements established pursuant 59744
to division (I) of section 3501.11 of the Revised Code. 59745

Sec. 3521.04. Notwithstanding any provision of section 109.02 59746
of the Revised Code to the contrary, the speaker of the house of 59747
representatives and the president of the senate jointly may choose 59748
to have the general assembly represented by either the attorney 59749
general or by private legal counsel in regard to any lawsuit 59750
challenging the constitutionality or legality of congressional 59751
districts established under this chapter. 59752

Sec. 3701.021. (A) The public health council shall adopt, in 59753
accordance with Chapter 119. of the Revised Code, such rules as 59754
are necessary to carry out sections 3701.021 to 3701.0210 of the 59755
Revised Code, including, but not limited to, rules to establish 59756
the following: 59757

(1) Medical and financial eligibility requirements for the 59758
program for medically handicapped children; 59759

(2) Eligibility requirements for providers of services for 59760
medically handicapped children; 59761

(3) Procedures to be followed by the department of health in 59762
disqualifying providers for violating requirements adopted under 59763
division (A)(2) of this section; 59764

(4) Procedures to be used by the department regarding 59765
application for diagnostic services under division (B) of section 59766
3701.023 of the Revised Code and payment for those services under 59767
division (E) of that section; 59768

(5) Standards for the provision of service coordination by the department of health and city and general health districts;	59769 59770
(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;	59771 59772 59773 59774 59775
(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;	59776 59777 59778
(8) Criteria for payment of approved providers who provide services for medically handicapped children;	59779 59780
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	59781 59782 59783
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	59784 59785 59786
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	59787 59788 59789
(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;	59790 59791
<u>(13) If a manufacturer rebate or discount program is established under division (J) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas.</u>	59792 59793 59794 59795 59796
(B) The department of health shall develop a manual of operational procedures and guidelines for the program for	59797 59798

medically handicapped children to implement sections 3701.021 to 59799
3701.0210 of the Revised Code. 59800

Sec. 3701.023. (A) The department of health shall review 59801
applications for eligibility for the program for medically 59802
handicapped children that are submitted to the department by city 59803
and general health districts and physician providers approved in 59804
accordance with division (C) of this section. The department shall 59805
determine whether the applicants meet the medical and financial 59806
eligibility requirements established by the public health council 59807
pursuant to division (A)(1) of section 3701.021 of the Revised 59808
Code, and by the department in the manual of operational 59809
procedures and guidelines for the program for medically 59810
handicapped children developed pursuant to division (B) of that 59811
section. Referrals of potentially eligible children for the 59812
program may be submitted to the department on behalf of the child 59813
by parents, guardians, public health nurses, or any other 59814
interested person. The department of health may designate other 59815
agencies to refer applicants to the department of health. 59816

(B) In accordance with the procedures established in rules 59817
adopted under division (A)(4) of section 3701.021 of the Revised 59818
Code, the department of health shall authorize a provider or 59819
providers to provide to any Ohio resident under twenty-one years 59820
of age, without charge to the resident or the resident's family 59821
and without restriction as to the economic status of the resident 59822
or the resident's family, diagnostic services necessary to 59823
determine whether the resident has a medically handicapping or 59824
potentially medically handicapping condition. 59825

(C) The department of health shall review the applications of 59826
health professionals, hospitals, medical equipment suppliers, and 59827
other individuals, groups, or agencies that apply to become 59828
providers. The department shall enter into a written agreement 59829

with each applicant who is determined, pursuant to the 59830
requirements set forth in rules adopted under division (A)(2) of 59831
section 3701.021 of the Revised Code, to be eligible to be a 59832
provider in accordance with the provider agreement required by the 59833
medical assistance program established under section 5111.01 of 59834
the Revised Code. No provider shall charge a medically handicapped 59835
child or the child's parent or guardian for services authorized by 59836
the department under division (B) or (D) of this section. 59837

The department, in accordance with rules adopted under 59838
division (A)(3) of section 3701.021 of the Revised Code, may 59839
disqualify any provider from further participation in the program 59840
for violating any requirement set forth in rules adopted under 59841
division (A)(2) of that section. The disqualification shall not 59842
take effect until a written notice, specifying the requirement 59843
violated and describing the nature of the violation, has been 59844
delivered to the provider and the department has afforded the 59845
provider an opportunity to appeal the disqualification under 59846
division (H) of this section. 59847

(D) The department of health shall evaluate applications from 59848
city and general health districts and approved physician providers 59849
for authorization to provide treatment services, service 59850
coordination, and related goods to children determined to be 59851
eligible for the program for medically handicapped children 59852
pursuant to division (A) of this section. The department shall 59853
authorize necessary treatment services, service coordination, and 59854
related goods for each eligible child in accordance with an 59855
individual plan of treatment for the child. As an alternative, the 59856
department may authorize payment of health insurance premiums on 59857
behalf of eligible children when the department determines, in 59858
accordance with criteria set forth in rules adopted under division 59859
(A)(9) of section 3701.021 of the Revised Code, that payment of 59860
the premiums is cost-effective. 59861

(E) The department of health shall pay, from appropriations 59862
to the department, any necessary expenses, including but not 59863
limited to, expenses for diagnosis, treatment, service 59864
coordination, supportive services, transportation, and accessories 59865
and their upkeep, provided to medically handicapped children, 59866
provided that the provision of the goods or services is authorized 59867
by the department under division (B) or (D) of this section. Money 59868
appropriated to the department of health may also be expended for 59869
reasonable administrative costs incurred by the program. The 59870
department of health also may purchase liability insurance 59871
covering the provision of services under the program for medically 59872
handicapped children by physicians and other health care 59873
professionals. 59874

Payments made to providers by the department of health 59875
pursuant to this division for inpatient hospital care, outpatient 59876
care, and all other medical assistance furnished to eligible 59877
recipients shall be made in accordance with rules adopted by the 59878
public health council pursuant to division (A) of section 3701.021 59879
of the Revised Code. 59880

The departments of health and job and family services shall 59881
jointly implement procedures to ensure that duplicate payments are 59882
not made under the program for medically handicapped children and 59883
the medical assistance program established under section 5111.01 59884
of the Revised Code and to identify and recover duplicate 59885
payments. 59886

(F) At the time of applying for participation in the program 59887
for medically handicapped children, a medically handicapped child 59888
or the child's parent or guardian shall disclose the identity of 59889
any third party against whom the child or the child's parent or 59890
guardian has or may have a right of recovery for goods and 59891
services provided under division (B) or (D) of this section. The 59892
department of health shall require a medically handicapped child 59893

who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who have cystic fibrosis and who meet the eligibility requirements established by the rules of the public health council pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject

to section 3701.024 of the Revised Code. 59927

(H) The department of health shall provide for appeals, in 59928
accordance with rules adopted under section 3701.021 of the 59929
Revised Code, of denials of applications for the program for 59930
medically handicapped children under division (A) or (D) of this 59931
section, disqualification of providers, or amounts paid under 59932
division (E) of this section. Appeals under this division are not 59933
subject to Chapter 119. of the Revised Code. 59934

The department may designate ombudspersons to assist 59935
medically handicapped children or their parents or guardians, upon 59936
the request of the children, parents, or guardians, in filing 59937
appeals under this division and to serve as children's, parents', 59938
or guardians' advocates in matters pertaining to the 59939
administration of the program for medically handicapped children 59940
and eligibility for program services. The ombudspersons shall 59941
receive no compensation but shall be reimbursed by the department, 59942
in accordance with rules of the office of budget and management, 59943
for their actual and necessary travel expenses incurred in the 59944
performance of their duties. 59945

(I) The department of health, and city and general health 59946
districts providing service coordination pursuant to division 59947
(A)(2) of section 3701.024 of the Revised Code, shall provide 59948
service coordination in accordance with the standards set forth in 59949
the rules adopted under section 3701.021 of the Revised Code, 59950
without charge, and without restriction as to economic status. 59951

(J) The department of health may establish a manufacturer 59952
rebate or discount program under which it requires a manufacturer 59953
of a drug or nutritional formula to enter into a rebate or 59954
discount agreement with the department as a condition of having 59955
the drug or nutritional formula covered by the programs 59956
administered by the department's bureau for children with medical 59957
handicaps. The program shall be administered in accordance with 59958

rules adopted under section 3701.021 of the Revised Code. 59959

When entering into a rebate or discount agreement under the 59960
program, the manufacturer and the department shall negotiate the 59961
amount of the rebate or discount. A rebate shall consist of a 59962
refund of a portion of the price of a drug or nutritional formula. 59963

Sec. 3701.0211. For each year that federal funds are made 59964
available to states under Title V of the "Social Security Act," 59965
124 Stat. 352 (2010), 42 U.S.C. 710, as amended, for use in 59966
providing abstinence education, the director of health shall 59967
submit to the United States secretary of health and human services 59968
an application for the allotment of those funds that is available 59969
to this state. The director shall use the funds received in 59970
accordance with any conditions under which the application was 59971
approved. 59972

Sec. 3701.032. The director of health may adopt rules 59973
defining what constitutes a "health home" for the purpose of any 59974
entity that is authorized to provide care coordination services. 59975
The rules shall be adopted in accordance with Chapter 119. of the 59976
Revised Code. 59977

Sec. 3701.07. (A) The public health council shall adopt rules 59978
in accordance with Chapter 119. of the Revised Code defining and 59979
classifying hospitals and dispensaries and providing for the 59980
reporting of information by hospitals and dispensaries. Except as 59981
otherwise provided in the Revised Code, the rules providing for 59982
the reporting of information shall not require inclusion of any 59983
confidential patient data or any information concerning the 59984
financial condition, income, expenses, or net worth of the 59985
facilities other than that financial information already contained 59986
in those portions of the medicare or medicaid cost report that is 59987
necessary for the department of health to certify the per diem 59988

cost under section 3701.62 of the Revised Code. The rules may 59989
require the reporting of information in the following categories: 59990

(1) Information needed to identify and classify the 59991
institution; 59992

(2) Information on facilities and type and volume of services 59993
provided by the institution; 59994

(3) The number of beds listed by category of care provided; 59995

(4) The number of licensed or certified professional 59996
employees by classification; 59997

(5) The number of births that occurred at the institution the 59998
previous calendar year; 59999

(6) Any other information that the council considers relevant 60000
to the safety of patients served by the institution. 60001

Every hospital and dispensary, public or private, annually 60002
shall register with and report to the department of health. 60003
Reports shall be submitted in the manner prescribed in rules 60004
adopted under this division. 60005

(B) Every governmental entity or private nonprofit 60006
corporation or association whose employees or representatives are 60007
defined as residents' rights advocates under divisions (E)(1) and 60008
(2) of section 3721.10 ~~or division (A)(10) of section 3722.01~~ of 60009
the Revised Code shall register with the department of health on 60010
forms furnished by the director of health and shall provide such 60011
reasonable identifying information as the director may prescribe. 60012

The department shall compile a list of the governmental 60013
entities, corporations, or associations registering under this 60014
division and shall update the list annually. Copies of the list 60015
shall be made available to nursing home administrators as defined 60016
in division (C) of section 3721.10 of the Revised Code and to 60017
adult care facility managers as defined in section ~~3722.01~~ 5119.70 60018

of the Revised Code. 60019

Sec. 3701.61. (A) The department of health shall establish 60020
the help me grow program ~~for the purpose of encouraging to~~ 60021
encourage early prenatal and well-baby care and to provide 60022
family-centered parenting education, services, and support that 60023
acknowledge and support the vital role of families in ensuring the 60024
well-being of children and that promote the optimal social, 60025
emotional, cognitive, intellectual, and physical development of 60026
children. The program shall include ~~distributing subsidies to~~ 60027
~~counties to provide~~ the following services: 60028

(1) ~~Home-visiting~~ Family-centered home visiting services to 60029
~~newborn infants and their families with family incomes below two~~ 60030
~~hundred per cent of the federal poverty guidelines and with a~~ 60031
~~pregnant woman or an infant or toddler under two years of age and~~ 60032
~~other families who meet the eligibility requirements established~~ 60033
~~in rules adopted under this section;~~ 60034

(2) ~~Services~~ Part C early intervention services to infants 60035
and toddlers under three years of age who ~~are at risk for, or who~~ 60036
~~have, a developmental delay or disability and their families meet~~ 60037
~~the eligibility requirements established in rules adopted under~~ 60038
~~this section.~~ 60039

(B) The department shall obtain written consent from a 60040
pregnant woman or a parent of an infant or toddler before 60041
providing any services under the help me grow program. 60042
Participation in home visiting services is voluntary. 60043

(C) ~~The department shall not provide home visiting services~~ 60044
~~under the help me grow program unless requested in writing by a~~ 60045
~~parent of the infant or toddler~~ director of health may enter into 60046
an interagency agreement with one or more state agencies to 60047
implement the help me grow program and ensure coordination of 60048
early childhood programs. 60049

(D) The director may distribute help me grow program funds through contracts, grants, or subsidies to entities providing services under the program. 60050
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(E) To the extent funds are available, the department shall establish a system of payment to providers of home visiting and part C early intervention services. 60053
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~~(C)~~(F) Providers shall deliver home visiting services using the parents as teachers home visiting model, which is an evidence-based model that focuses on parent-child interaction, development-centered parenting, and family well-being. The director may select other home visiting models to be used by providers delivering services in addition to the parents as teachers home visiting model. 60056
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(G) As a condition of receiving payments for home visiting services, providers shall report to the director data on the program performance indicators that are used to assess progress toward achieving the goals of the program. The report shall include data on the performance indicator of birth outcomes, including risk indicators of low birth weight and pre-term births, and data on all other performance indicators specified in rules adopted under this section. The providers shall report the data in the format and within the time frames specified in the rules. 60063
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The director shall prepare an annual report on the data received from the providers. 60072
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(H) Pursuant to Chapter 119. of the Revised Code, the ~~department~~ director shall adopt rules that are necessary and proper to implement this section. The rules shall specify all of the following: 60074
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(1) Eligibility requirements for home visiting services and part C early intervention services; 60078
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(2) Eligibility requirements for providers of part C early 60080

<u>intervention services;</u>	60081
<u>(3) Standards and procedures for the provision of part C</u>	60082
<u>early intervention services, including data collection, program</u>	60083
<u>monitoring, and program evaluation;</u>	60084
<u>(4) Procedures for appealing the denial of an application for</u>	60085
<u>program services or the termination of services;</u>	60086
<u>(5) Procedures for appealing the denial of an application to</u>	60087
<u>become a provider of program services or the termination of the</u>	60088
<u>department's approval of a provider;</u>	60089
<u>(6) Procedures for addressing complaints;</u>	60090
<u>(7) The program performance indicators on which data must be</u>	60091
<u>reported by providers of home visiting services under division (G)</u>	60092
<u>of this section, which, to the extent possible, shall be</u>	60093
<u>consistent with federal reporting requirements for federally</u>	60094
<u>funded home visiting services;</u>	60095
<u>(8) The format in which reports must be submitted under</u>	60096
<u>division (G) of this section and the time frames within which the</u>	60097
<u>reports must be submitted;</u>	60098
<u>(9) Criteria for payment of approved providers of program</u>	60099
<u>services;</u>	60100
<u>(10) Any other rules necessary to implement the program.</u>	60101
<u>(I) A family enrolled in the help me grow at-risk program on</u>	60102
<u>the effective date of this amendment shall be eligible for at-risk</u>	60103
<u>services until December 31, 2013, or until the eligible child</u>	60104
<u>reaches three years of age, whichever occurs first.</u>	60105
Sec. 3701.74. (A) As used in this section and section	60106
3701.741 of the Revised Code:	60107
(1) "Ambulatory care facility" means a facility that provides	60108
medical, diagnostic, or surgical treatment to patients who do not	60109

require hospitalization, including a dialysis center, ambulatory 60110
surgical facility, cardiac catheterization facility, diagnostic 60111
imaging center, extracorporeal shock wave lithotripsy center, home 60112
health agency, inpatient hospice, birthing center, radiation 60113
therapy center, emergency facility, and an urgent care center. 60114
"Ambulatory care facility" does not include the private office of 60115
a physician or dentist, whether the office is for an individual or 60116
group practice. 60117

(2) "Chiropractor" means an individual licensed under Chapter 60118
4734. of the Revised Code to practice chiropractic. 60119

(3) "Emergency facility" means a hospital emergency 60120
department or any other facility that provides emergency medical 60121
services. 60122

(4) "Health care practitioner" means all of the following: 60123

(a) A dentist or dental hygienist licensed under Chapter 60124
4715. of the Revised Code; 60125

(b) A registered or licensed practical nurse licensed under 60126
Chapter 4723. of the Revised Code; 60127

(c) An optometrist licensed under Chapter 4725. of the 60128
Revised Code; 60129

(d) A dispensing optician, spectacle dispensing optician, 60130
contact lens dispensing optician, or spectacle-contact lens 60131
dispensing optician licensed under Chapter 4725. of the Revised 60132
Code; 60133

(e) A pharmacist licensed under Chapter 4729. of the Revised 60134
Code; 60135

(f) A physician; 60136

(g) A physician assistant authorized under Chapter 4730. of 60137
the Revised Code to practice as a physician assistant; 60138

(h) A practitioner of a limited branch of medicine issued a 60139

certificate under Chapter 4731. of the Revised Code;	60140
(i) A psychologist licensed under Chapter 4732. of the Revised Code;	60141
	60142
(j) A chiropractor;	60143
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	60144
	60145
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	60146
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(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	60148
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(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	60150
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(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	60152
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(p) A dietitian licensed under Chapter 4759. of the Revised Code;	60156
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(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	60158
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(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	60160
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(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	60163
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(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	60166
	60167
(7) "Long-term care facility" means a nursing home,	60168

residential care facility, or home for the aging, as those terms 60169
are defined in section 3721.01 of the Revised Code; an adult care 60170
facility, as defined in section ~~3722.01~~ 5119.70 of the Revised 60171
Code; a nursing facility or intermediate care facility for the 60172
mentally retarded, as those terms are defined in section 5111.20 60173
of the Revised Code; a facility or portion of a facility certified 60174
as a skilled nursing facility under Title XVIII of the "Social 60175
Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 60176

(8) "Medical record" means data in any form that pertains to 60177
a patient's medical history, diagnosis, prognosis, or medical 60178
condition and that is generated and maintained by a health care 60179
provider in the process of the patient's health care treatment. 60180

(9) "Medical records company" means a person who stores, 60181
locates, or copies medical records for a health care provider, or 60182
is compensated for doing so by a health care provider, and charges 60183
a fee for providing medical records to a patient or patient's 60184
representative. 60185

(10) "Patient" means either of the following: 60186

(a) An individual who received health care treatment from a 60187
health care provider; 60188

(b) A guardian, as defined in section 1337.11 of the Revised 60189
Code, of an individual described in division (A)(10)(a) of this 60190
section. 60191

(11) "Patient's personal representative" means a minor 60192
patient's parent or other person acting in loco parentis, a 60193
court-appointed guardian, or a person with durable power of 60194
attorney for health care for a patient, the executor or 60195
administrator of the patient's estate, or the person responsible 60196
for the patient's estate if it is not to be probated. "Patient's 60197
personal representative" does not include an insurer authorized 60198
under Title XXXIX of the Revised Code to do the business of 60199

sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

(B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care

provider shall provide the record to a physician or chiropractor 60232
designated by the patient. The health care provider shall take 60233
reasonable steps to establish the identity of the person making 60234
the request to examine or obtain a copy of the patient's record. 60235

(C) If a health care provider fails to furnish a medical 60236
record as required by division (B) of this section, the patient, 60237
personal representative, or authorized person who requested the 60238
record may bring a civil action to enforce the patient's right of 60239
access to the record. 60240

(D)(1) This section does not apply to medical records whose 60241
release is covered by section 173.20 or 3721.13 of the Revised 60242
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 60243
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 60244
Records," or by 42 C.F.R. 483.10. 60245

(2) Nothing in this section is intended to supersede the 60246
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 60247
and 2305.252 of the Revised Code. 60248

Sec. 3701.83. (A) There is hereby created in the state 60249
treasury the general operations fund. Moneys in the fund shall be 60250
used for the purposes specified in sections 3701.04, 3701.344, 60251
3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, ~~3722.04,~~ 60252
3729.07, ~~3733.04,~~ 3733.25, 3733.43, 3748.04, 3748.05, 3748.07, 60253
3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 60254
of the Revised Code. 60255

(B) The alcohol testing program fund is hereby created in the 60256
state treasury. The director of health shall use the fund to 60257
administer and enforce the alcohol testing and permit program 60258
authorized by section 3701.143 of the Revised Code. 60259

The fund shall receive transfers from the liquor control fund 60260
created under section 4301.12 of the Revised Code. All investment 60261

earnings of the alcohol testing program fund shall be credited to 60262
the fund. 60263

Sec. 3701.94. (A) As used in this section and section 60264
3701.941 of the Revised Code: 60265

(1) "Clinical laboratory services" means the microbiological, 60266
serological, chemical, hematological, biophysical, cytological, or 60267
pathological examination of materials derived from the human body 60268
for purposes of obtaining information for the diagnosis, 60269
prevention, treatment, or screening of any disease or impairment 60270
or for the assessment of health. "Clinical laboratory services" 60271
also means the collection or preparation of specimens for testing. 60272

(2) "Clinical laboratory services provider" means any person, 60273
or any employee, employer, agent, representative, or other 60274
fiduciary of such person, who provides clinical laboratory 60275
services. 60276

(3) "Group practice" has the same meaning as in section 60277
4731.65 of the Revised Code. 60278

(4) "Hospital" has the same meaning as in section 3727.01 of 60279
the Revised Code. 60280

(5) "Physician" means an individual authorized under Chapter 60281
4731. of the Revised Code to practice medicine and surgery, 60282
osteopathic medicine and surgery, or podiatric medicine and 60283
surgery. 60284

(B) No clinical laboratory services provider shall, directly 60285
or indirectly, offer, give, pay, or deliver, or agree to offer, 60286
give, pay, or deliver, any remuneration, in cash or in kind, 60287
including any kickback, bribe, or rebate, to any physician or 60288
group practice to induce the physician or group practice to do 60289
either of the following: 60290

(1) Refer patients to the clinical laboratory services 60291

provider; 60292

(2) Enter into an arrangement whereby the clinical laboratory services provider and the physician or group practice agree to split fees. 60293
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(C)(1) Subject to division (C)(2) of this section, no clinical laboratory services provider shall give to a physician or group practice, supply the physician or group practice with, or place in the physician's or group practice's office any individual, including an employee, agent, representative, or other fiduciary of the clinical laboratory services provider, whether paid or unpaid, for the purpose of having that individual perform clinical laboratory services for the physician or group practice. 60296
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(2) Nothing in division (C)(1) of this section prohibits a clinical laboratory services provider from entering into a laboratory management services contract with a hospital, including a contract that requires the clinical laboratory services provider to place employees or agents who perform functions directly related to the provision of clinical laboratory services at the hospital, as long as the contract specifies that the hospital will pay fair market value for the laboratory management services rendered. 60304
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Sec. 3701.941. If the director of health determines that a clinical laboratory services provider has violated division (B) or (C) of section 3701.94 of the Revised Code, the director shall impose a civil penalty of not less than one thousand dollars and not more than ten thousand dollars for each day that the violation continues. 60313
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Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and 60319
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sections 3702.11 to 3702.20, 3702.30, 3702.301, ~~and 3702.32,~~ and
3701.94 of the Revised Code and rules adopted pursuant to those
sections. The director shall deposit in the fund any moneys
collected pursuant to this section or section 3702.32 or 3701.941
of the Revised Code. All investment earnings of the fund shall be
credited to the fund.

(B) The director of health shall adopt rules pursuant to
Chapter 119. of the Revised Code establishing fees for both of the
following:

(1) Initial and renewal license applications submitted under
section 3702.30 of the Revised Code. The fees established under
division (B)(1) of this section shall not exceed the actual and
necessary costs of performing the activities described in division
(A) of this section.

(2) Inspections conducted under section 3702.15 or 3702.30 of
the Revised Code. The fees established under division (B)(2) of
this section shall not exceed the actual and necessary costs
incurred during an inspection, including any indirect costs
incurred by the department for staff, salary, or other
administrative costs. The director of health shall provide to each
health care facility or provider inspected pursuant to section
3702.15 or 3702.30 of the Revised Code a written statement of the
fee. The statement shall itemize and total the costs incurred.
Within fifteen days after receiving a statement from the director,
the facility or provider shall forward the total amount of the fee
to the director.

(3) The fees described in divisions (B)(1) and (2) of this
section shall meet both of the following requirements:

(a) For each service described in section 3702.11 of the
Revised Code, the fee shall not exceed one thousand seven hundred
fifty dollars annually, except that the total fees charged to a

health care provider under this section shall not exceed five 60353
thousand dollars annually. 60354

(b) The fee shall exclude any costs reimbursable by the 60355
United States centers for medicare and medicaid services as part 60356
of the certification process for the medicare program established 60357
under Title XVIII of the "Social Security Act," 79 Stat. 286 60358
(1935), 42 U.S.C.A. 1395, as amended, and the medicaid program 60359
established under Title XIX of the "Social Security Act," 79 Stat. 60360
286 (1965), 42 U.S.C. 1396. 60361

(4) The director shall not establish a fee for any service 60362
for which a licensure or inspection fee is paid by the health care 60363
provider to a state agency for the same or similar licensure or 60364
inspection. 60365

Sec. 3702.59. (A) The director of health shall accept for 60366
review certificate of need applications as provided in sections 60367
3702.592, 3702.593, and 3702.594 of the Revised Code. 60368

(B)(1) The director shall not approve an application for a 60369
certificate of need for the addition of long-term care beds to an 60370
existing health care facility or for the development of a new 60371
health care facility if any of the following apply: 60372

(a) The existing health care facility in which the beds are 60373
being placed has one or more waivers for life safety code 60374
deficiencies, one or more state fire code violations, or one or 60375
more state building code violations, and the project identified in 60376
the application does not propose to correct all life safety code 60377
deficiencies for which a waiver has been granted, all state fire 60378
code violations, and all state building code violations at the 60379
existing health care facility in which the beds are being placed; 60380

(b) During the sixty-month period preceding the filing of the 60381
application, a notice of proposed license revocation was issued 60382

under section 3721.03 of the Revised Code for the existing health 60383
care facility in which the beds are being placed or a nursing home 60384
owned or operated by the applicant or a principal participant. 60385

(c) During the period that precedes the filing of the 60386
application and is encompassed by the three most recent standard 60387
surveys of the existing health care facility in which the beds are 60388
being placed, any of the following occurred: 60389

(i) The facility was cited on three or more separate 60390
occasions for final, nonappealable actual harm but not immediate 60391
jeopardy deficiencies. 60392

(ii) The facility was cited on two or more separate occasions 60393
for final, nonappealable immediate jeopardy deficiencies. 60394

(iii) The facility was cited on two separate occasions for 60395
final, nonappealable actual harm but not immediate jeopardy 60396
deficiencies and on one occasion for a final, nonappealable 60397
immediate jeopardy deficiency. 60398

(d) More than two nursing homes owned or operated in this 60399
state by the applicant or a principal participant or, if the 60400
applicant or a principal participant owns or operates more than 60401
twenty nursing homes in this state, more than ten per cent of 60402
those nursing homes, were each cited during the period that 60403
precedes the filing of the application for the certificate of need 60404
and is encompassed by the three most recent standard surveys of 60405
the nursing homes that were so cited in any of the following 60406
manners: 60407

(i) On three or more separate occasions for final, 60408
nonappealable actual harm but not immediate jeopardy deficiencies; 60409

(ii) On two or more separate occasions for final, 60410
nonappealable immediate jeopardy deficiencies; 60411

(iii) On two separate occasions for final, nonappealable 60412

actual harm but not immediate jeopardy deficiencies and on one 60413
occasion for a final, nonappealable immediate jeopardy deficiency. 60414

(2) In applying divisions (B)(1)(a) to (d) of this section, 60415
the director shall not consider deficiencies or violations cited 60416
before the applicant or a principal participant acquired or began 60417
to own or operate the health care facility at which the 60418
deficiencies or violations were cited. The director may disregard 60419
deficiencies and violations cited after the health care facility 60420
was acquired or began to be operated by the applicant or a 60421
principal participant if the deficiencies or violations were 60422
attributable to circumstances that arose under the previous owner 60423
or operator and the applicant or principal participant has 60424
implemented measures to alleviate the circumstances. In the case 60425
of an application proposing development of a new health care 60426
facility by relocation of beds, the director shall not consider 60427
deficiencies or violations that were solely attributable to the 60428
physical plant of the existing health care facility from which the 60429
beds are being relocated. 60430

(C) The director also shall accept for review any application 60431
for the conversion of infirmary beds to long-term care beds if the 60432
infirmary meets all of the following conditions: 60433

(1) Is operated exclusively by a religious order; 60434

(2) Provides care exclusively to members of religious orders 60435
who take vows of celibacy and live by virtue of their vows within 60436
the orders as if related; 60437

(3) Was providing care exclusively to members of such a 60438
religious order on January 1, 1994. 60439

~~At no time shall individuals other than those described in 60440
division (C)(2) of this section be admitted to a facility to use 60441
beds for which a certificate of need is approved under this 60442
division. 60443~~

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the following family members of the individuals described in division (C)(2) of this section: mothers, fathers, brothers, sisters, brothers-in-law, sisters-in-law, or children.

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The long-term care beds in a facility that have been granted a certificate of need under division (C) of this section may not be relocated pursuant to sections 3702.592 to 3702.594 of the Revised Code.

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Sec. 3704.06. (A) The attorney general, upon the request of the director of environmental protection, shall prosecute any person who violates section 3704.05 or 3704.16 of the Revised Code.

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(B) The attorney general, upon request of the director, shall bring an action for an injunction, a civil penalty, or any other appropriate proceedings in any court of competent jurisdiction against any person violating or threatening to violate section 3704.05 or 3704.16 of the Revised Code. The court shall have jurisdiction to grant prohibitory and mandatory injunctive relief and to require payment of a civil penalty upon the showing that ~~such~~ the person has violated this chapter or rules adopted thereunder.

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(C) A person who violates section 3704.05 or 3704.16 of the Revised Code shall pay a civil penalty of not more than twenty-five thousand dollars for each day of each violation. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors.

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(D) One-half of the moneys collected as civil penalties under division (C) of this section shall be credited to the environmental education fund created in section 3745.22 of the

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Revised Code. The remainder of the moneys so collected shall be 60475
credited to the air pollution control administration fund, which 60476
is hereby created in the state treasury. The air pollution control 60477
administration fund shall be administered by the director. Moneys 60478
in the air pollution control administration fund shall be used to 60479
supplement other moneys available for the administration and 60480
enforcement of this chapter and the rules adopted and terms and 60481
conditions of orders and permits issued under it, including, 60482
without limitation, the issuance of permits under it, and shall 60483
not be used to satisfy any state matching fund requirements for 60484
the receipt of any federal grant funds. 60485

The director may expend not more than ~~seven~~ one million five 60486
hundred ~~fifty~~ thousand dollars of the moneys credited to the air 60487
pollution control administration fund under this division in any 60488
fiscal year for the purposes specified in this division. The 60489
director may request authority from the controlling board to 60490
expend any moneys credited to that fund in any fiscal year in 60491
excess of that amount. 60492

(E) Upon written complaint by any person, the director shall 60493
conduct such investigations and make such inquiries as are 60494
necessary to secure compliance with this chapter. The director, 60495
upon complaint or upon ~~his~~ the director's own initiative, may 60496
investigate or make inquiries into any alleged violation or act of 60497
air pollution. 60498

Sec. 3704.14. (A)(1) If the director of environmental 60499
protection determines that implementation of a motor vehicle 60500
inspection and maintenance program is necessary for the state to 60501
effectively comply with the federal Clean Air Act after June 30, 60502
~~2009~~ 2011, the director may provide for the implementation of the 60503
program in ~~those counties in this state in which such a program is~~ 60504
~~federally mandated~~ the seven counties in which the program is 60505

operating on the effective date of this amendment. Upon making 60506
such a determination, the director of environmental protection may 60507
request the director of administrative services to extend the 60508
terms of the contract that was entered into under the authority of 60509
~~Section 7 of~~ Am. Sub. H.B. ~~24~~ 1 of the ~~127th~~ 128th general 60510
assembly. Upon receiving the request, the director of 60511
administrative services shall extend the contract, beginning on 60512
July 1, ~~2009~~ 2011, in accordance with this section. The contract 60513
shall be extended for a period of up to ~~six~~ twelve months with the 60514
contractor who conducted the motor vehicle inspection and 60515
maintenance program under that contract. 60516

(2) Prior to the expiration of the contract extension that is 60517
authorized by division (A)(1) of this section, the director of 60518
environmental protection may request the director of 60519
administrative services to enter into a contract with a vendor to 60520
operate a decentralized motor vehicle inspection and maintenance 60521
program in each county in this state in which such a program is 60522
federally mandated through June 30, ~~2011~~ 2015, with an option for 60523
the state to renew the contract through June 30, ~~2012~~ 2017. The 60524
contract shall ensure that the decentralized motor vehicle 60525
inspection and maintenance program achieves ~~at least the same~~ 60526
substantially similar ozone precursor reductions as achieved by 60527
the program operated under the authority of the contract that was 60528
extended under division (A)(1) of this section. The director of 60529
administrative services shall select a vendor through a 60530
competitive selection process in compliance with Chapter 125. of 60531
the Revised Code. 60532

(3) Notwithstanding any law to the contrary, the director of 60533
administrative services shall ensure that a competitive selection 60534
process regarding a contract to operate a decentralized motor 60535
vehicle inspection and maintenance program in this state 60536
incorporates the following ~~elements~~, which shall be included in 60537

the contract: 60538

(a) A For purposes of expanding the number of testing 60539
locations for consumer convenience and increased local business 60540
participation, a requirement that the ~~vendor selected to operate~~ 60541
the program ~~provide notification of the program's requirements to~~ 60542
~~each owner of a motor vehicle that is required to be inspected~~ 60543
~~under the program. The contract shall require the notification to~~ 60544
~~be provided not later than sixty days prior to the date by which~~ 60545
~~the owner of the motor vehicle is required to have the motor~~ 60546
~~vehicle inspected. The director of environmental protection and~~ 60547
~~the vendor shall jointly agree on the content of the notice.~~ 60548
However, the notice shall include at a minimum the locations of 60549
all inspection facilities within a specified distance of the 60550
address that is listed on the owner's motor vehicle registration 60551
utilize established local businesses by authorizing existing auto 60552
repair facilities to operate as licensed inspection and waiver 60553
testing facilities; 60554

(b) A requirement that the tailpipe emissions analyzer 60555
utilized for emissions testing be BAR-97 certified; 60556

(c) A requirement that the contractor supply proven 60557
technology for on-board diagnostic testing equipment to all 60558
inspection facilities. 60559

(4) A decentralized motor vehicle inspection and maintenance 60560
program operated under this section shall comply with division (B) 60561
of this section. The director of environmental protection shall 60562
administer the decentralized motor vehicle inspection and 60563
maintenance program operated under this section. 60564

(B) The decentralized motor vehicle inspection and 60565
maintenance program authorized by this section, at a minimum, 60566
shall do all of the following: 60567

(1) Comply with the federal Clean Air Act; 60568

(2) Provide for the issuance of inspection certificates; 60569

(3) Provide for a new car exemption for motor vehicles four 60570
years old or newer and provide that a new motor vehicle is exempt 60571
for four years regardless of whether legal title to the motor 60572
vehicle is transferred during that period. 60573

(C) A motor vehicle inspection and maintenance program shall 60574
not be implemented in any county in which such a program is not 60575
authorized under division (A) of this section without the approval 60576
of the general assembly through the enactment of legislation. 60577
Further, a motor vehicle inspection and maintenance program shall 60578
not be implemented in any county beyond June 30, ~~2012~~ 2017, 60579
without the approval of the general assembly through the enactment 60580
of legislation. 60581

(D) The director of environmental protection shall adopt 60582
rules in accordance with Chapter 119. of the Revised Code that the 60583
director determines are necessary to implement this section. The 60584
director may continue to implement and enforce rules pertaining to 60585
the motor vehicle inspection and maintenance program previously 60586
implemented under former section 3704.14 of the Revised Code as 60587
that section existed prior to its repeal and reenactment by Am. 60588
Sub. H.B. 66 of the 126th general assembly, provided that the 60589
rules do not conflict with this section. 60590

(E) There is hereby created in the state treasury the auto 60591
emissions test fund, which shall consist of money received by the 60592
director from any cash transfers, state and local grants, and 60593
other contributions that are received for the purpose of funding 60594
the program established under this section. The director of 60595
environmental protection shall use money in the fund solely for 60596
the implementation, supervision, administration, operation, and 60597
enforcement of the motor vehicle inspection and maintenance 60598
program established under this section. Money in the fund shall 60599
not be used for either of the following: 60600

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

(F) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

Sec. 3705.24. (A)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.

(b) Replacement of a birth certificate following an adoption, 60631
legitimation, paternity determination or acknowledgement, or court 60632
order; 60633

(c) Filing of a delayed registration of a vital record; 60634

(d) Amendment of a vital record that is requested later than 60635
one year after the filing date of the vital record; 60636

(e) Any other documents or services for which the public 60637
health council considers the charging of a fee appropriate. 60638

(2) Fees prescribed under division (A)(1)(a) of this section 60639
shall not be less than twelve dollars. 60640

(3) Fees prescribed under division (A)(1) of this section 60641
shall be collected in addition to any fees required by sections 60642
3109.14 and 3705.242 of the Revised Code. 60643

(4) Fees prescribed under division (A) of this section shall 60644
not apply to certifications issued under division (H) of this 60645
section or copies provided under section 3705.241 of the Revised 60646
Code. 60647

(B) In addition to the fees prescribed under division (A) of 60648
this section or section 3709.09 of the Revised Code, the office of 60649
vital statistics or the board of health of a city or general 60650
health district shall charge a five-dollar fee for each certified 60651
copy of a vital record and each certification of birth. This fee 60652
shall be deposited in the general operations fund created under 60653
section 3701.83 of the Revised Code and be used to support the 60654
operations, the modernization, and the automation of the vital 60655
records program in this state. A board of health shall forward all 60656
fees collected under this division to the department of health not 60657
later than thirty days after the end of each calendar quarter. 60658

(C) Except as otherwise provided in division (H) of this 60659
section, and except as provided in section 3705.241 of the Revised 60660

Code, fees collected by the director of health under sections 60661
3705.01 to 3705.29 of the Revised Code shall be paid into the 60662
state treasury to the credit of the general operations fund 60663
created by section 3701.83 of the Revised Code. Except as provided 60664
in division (B) or (I) of this section, money generated by the 60665
fees shall be used only for administration and enforcement of this 60666
chapter and the rules adopted under it. Amounts submitted to the 60667
department of health for copies of vital records or services in 60668
excess of the fees imposed by this section shall be dealt with as 60669
follows: 60670

(1) An overpayment of two dollars or less shall be retained 60671
by the department and deposited in the state treasury to the 60672
credit of the general operations fund created by section 3701.83 60673
of the Revised Code. 60674

(2) An overpayment in excess of two dollars shall be returned 60675
to the person who made the overpayment. 60676

(D) If a local registrar is a salaried employee of a city or 60677
a general health district, any fees the local registrar receives 60678
pursuant to section 3705.23 of the Revised Code shall be paid into 60679
the general fund of the city or the health fund of the general 60680
health district. 60681

Each local registrar of vital statistics, or each health 60682
district where the local registrar is a salaried employee of the 60683
district, shall be entitled to a fee for each birth, fetal death, 60684
death, or military service certificate properly and completely 60685
made out and registered with the local registrar or district and 60686
correctly copied and forwarded to the office of vital statistics 60687
in accordance with the population of the primary registration 60688
district at the last federal census. The fee for each birth, fetal 60689
death, death, or military service certificate shall be: 60690

(1) In primary registration districts of over two hundred 60691

fifty thousand, twenty cents; 60692

(2) In primary registration districts of over one hundred 60693
twenty-five thousand and less than two hundred fifty thousand, 60694
sixty cents; 60695

(3) In primary registration districts of over fifty thousand 60696
and less than one hundred twenty-five thousand, eighty cents; 60697

(4) In primary registration districts of less than fifty 60698
thousand, one dollar. 60699

(E) The director of health shall annually certify to the 60700
county treasurers of the several counties the number of birth, 60701
fetal death, death, and military service certificates registered 60702
from their respective counties with the names of the local 60703
registrars and the amounts due each registrar and health district 60704
at the rates fixed in this section. Such amounts shall be paid by 60705
the treasurer of the county in which the registration districts 60706
are located. No fees shall be charged or collected by registrars 60707
except as provided by this chapter and section 3109.14 of the 60708
Revised Code. 60709

(F) A probate judge shall be paid a fee of fifteen cents for 60710
each certified abstract of marriage prepared and forwarded by the 60711
probate judge to the department of health pursuant to section 60712
3705.21 of the Revised Code. The fee shall be in addition to the 60713
fee paid for a marriage license and shall be paid by the 60714
applicants for the license. 60715

(G) The clerk of a court of common pleas shall be paid a fee 60716
of one dollar for each certificate of divorce, dissolution, and 60717
annulment of marriage prepared and forwarded by the clerk to the 60718
department pursuant to section 3705.21 of the Revised Code. The 60719
fee for the certified abstract of divorce, dissolution, or 60720
annulment of marriage shall be added to the court costs allowed in 60721
these cases. 60722

(H) The fee for an heirloom certification of birth issued 60723
pursuant to division (B)(2) of section 3705.23 of the Revised Code 60724
shall be an amount prescribed by rule by the director of health 60725
plus any fee required by section 3109.14 of the Revised Code. In 60726
setting the amount of the fee, the director shall establish a 60727
surcharge in addition to an amount necessary to offset the expense 60728
of processing heirloom certifications of birth. The fee prescribed 60729
by the director of health pursuant to this division shall be 60730
deposited into the state treasury to the credit of the heirloom 60731
certification of birth fund which is hereby created. Money 60732
credited to the fund shall be used by the office of vital 60733
statistics to offset the expense of processing heirloom 60734
certifications of birth. However, the money collected for the 60735
surcharge, subject to the approval of the controlling board, shall 60736
be used for the purposes specified by the family and children 60737
first council pursuant to section 121.37 of the Revised Code. 60738

(I) ~~Four~~ Three dollars of each fee collected by ~~the director~~ 60739
~~of health or~~ the board of health of a city or general health 60740
district for ~~an item or service described in division (A)(1)(a) of~~ 60741
~~this section~~ a certified copy of a vital record or a certification 60742
of birth shall be transferred to the office of vital statistics 60743
not later than thirty days after the end of each calendar quarter 60744
and shall be used to support public health systems. 60745

Sec. 3709.085. (A) The board of health of a city or general 60746
health district may enter into a contract with any political 60747
subdivision or other governmental agency to obtain or provide all 60748
or part of any services, including, but not limited to, 60749
enforcement services, for the purposes of Chapter 3704. of the 60750
Revised Code, the rules adopted and orders made pursuant thereto, 60751
or any other ordinances or rules for the prevention, control, and 60752
abatement of air pollution. 60753

(B)(1) As used in division (B)(2) of this section: 60754

(a) "Semipublic disposal system" means a disposal system that 60755
treats the sanitary sewage discharged from publicly or privately 60756
owned buildings or places of assemblage, entertainment, 60757
recreation, education, correction, hospitalization, housing, or 60758
employment, but does not include a disposal system that treats 60759
sewage in amounts of more than twenty-five thousand gallons per 60760
day; a disposal system for the treatment of sewage that is exempt 60761
from the requirements of section 6111.04 of the Revised Code 60762
pursuant to division (F)(7) of that section; or a disposal system 60763
for the treatment of industrial waste. 60764

(b) Terms defined in section 6111.01 of the Revised Code have 60765
the same meanings as in that section. 60766

(2) The board of health of a city or general health district 60767
may enter into a contract with the environmental protection agency 60768
to conduct on behalf of the agency inspection or enforcement 60769
services, for the purposes of Chapter 6111. of the Revised Code 60770
and rules adopted thereunder, for the disposal or treatment of 60771
sewage from semipublic disposal systems. The board of health of a 60772
city or general health district may charge a fee established 60773
pursuant to section 3709.09 of the Revised Code to be paid by the 60774
owner or operator of a semipublic disposal system for inspections 60775
conducted by the board pursuant to a contract entered into under 60776
division (B)(2) of this section, except that the board shall not 60777
charge a fee for those inspections conducted at any recreational 60778
vehicle park, recreation camp, or combined park-camp that is 60779
licensed under section 3729.05 of the Revised Code or at any 60780
manufactured home park that is licensed under section ~~3733.03~~ 60781
4781.26 of the Revised Code. 60782

Sec. 3709.09. (A) The board of health of a city or general 60783
health district may, by rule, establish a uniform system of fees 60784

to pay the costs of any services provided by the board. 60785

The fee for issuance of a certified copy of a vital record or 60786
a certification of birth shall not be less than the fee prescribed 60787
for the same service under division (A)(1) of section 3705.24 of 60788
the Revised Code and shall include the fees required by division 60789
(B) of section 3705.24 and section 3109.14 of the Revised Code. 60790

Fees for services provided by the board for purposes 60791
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 60792
3730.03, ~~3733.04~~, 3733.25, and 3749.04 of the Revised Code shall 60793
be established in accordance with rules adopted under division (B) 60794
of this section. The district advisory council, in the case of a 60795
general health district, and the legislative authority of the 60796
city, in the case of a city health district, may disapprove any 60797
fee established by the board of health under this division, and 60798
any such fee, as disapproved, shall not be charged by the board of 60799
health. 60800

(B) The public health council shall adopt rules under section 60801
111.15 of the Revised Code that establish fee categories and a 60802
uniform methodology for use in calculating the costs of services 60803
provided for purposes specified in sections 3701.344, 3711.10, 60804
3718.06, 3729.07, 3730.03, ~~3733.04~~, 3733.25, and 3749.04 of the 60805
Revised Code. In adopting the rules, the public health council 60806
shall consider recommendations it receives from advisory boards 60807
established either by statute or the director of health for 60808
entities subject to the fees. 60809

(C) Except when a board of health establishes a fee by 60810
adopting a rule as an emergency measure, the board of health shall 60811
hold a public hearing regarding each proposed fee for a service 60812
provided by the board for a purpose specified in section 3701.344, 60813
3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04~~, 3733.25, or 3749.04 60814
of the Revised Code. If a public hearing is held, at least twenty 60815
days prior to the public hearing the board shall give written 60816

notice of the hearing to each entity affected by the proposed fee. 60817
The notice shall be mailed to the last known address of each 60818
entity and shall specify the date, time, and place of the hearing 60819
and the amount of the proposed fee. 60820

(D) If payment of a fee established under this section is not 60821
received by the day on which payment is due, the board of health 60822
shall assess a penalty. The amount of the penalty shall be equal 60823
to twenty-five per cent of the applicable fee. 60824

(E) All rules adopted by a board of health under this section 60825
shall be adopted, recorded, and certified as are ordinances of 60826
municipal corporations and the record thereof shall be given in 60827
all courts the same effect as is given such ordinances, but the 60828
advertisements of such rules shall be by publication in one 60829
newspaper of general circulation within the health district. 60830
Publication shall be made once a week for two consecutive weeks or 60831
as provided in section 7.16 of the Revised Code, and such rules 60832
shall take effect and be in force ten days from the date of the 60833
first publication. 60834

Sec. 3709.092. (A) A board of health of a city or general 60835
health district shall transmit to the director of health all fees 60836
or additional amounts that the public health council requires to 60837
be collected under sections 3701.344, 3718.06, 3729.07, ~~3733.04,~~ 60838
3733.25, and 3749.04 of the Revised Code. The fees and amounts 60839
shall be transmitted according to the following schedule: 60840

(1) For fees and amounts received by the board on or after 60841
the first day of January but not later than the thirty-first day 60842
of March, transmit the fees and amounts not later than the 60843
fifteenth day of May; 60844

(2) For fees and amounts received by the board on or after 60845
the first day of April but not later than the thirtieth day of 60846
June, transmit the fees and amounts not later than the fifteenth 60847

day of August; 60848

(3) For fees and amounts received by the board on or after 60849
the first day of July but not later than the thirtieth day of 60850
September, transmit the fees and amounts not later than the 60851
fifteenth day of November; 60852

(4) For fees and amounts received by the board on or after 60853
the first day of October but not later than the thirty-first day 60854
of December, transmit the fees and amounts not later than the 60855
fifteenth day of February of the following year. 60856

(B) The director shall deposit the fees and amounts received 60857
under this section into the state treasury to the credit of the 60858
general operations fund created in section 3701.83 of the Revised 60859
Code. Each amount shall be used solely for the purpose for which 60860
it was collected. 60861

Sec. 3709.21. The board of health of a general health 60862
district may make such orders and regulations as are necessary for 60863
its own government, for the public health, the prevention or 60864
restriction of disease, and the prevention, abatement, or 60865
suppression of nuisances. Such board may require that no human, 60866
animal, or household wastes from sanitary installations within the 60867
district be discharged into a storm sewer, open ditch, or 60868
watercourse without a permit therefor having been secured from the 60869
board under such terms as the board requires. All orders and 60870
regulations not for the government of the board, but intended for 60871
the general public, shall be adopted, recorded, and certified as 60872
are ordinances of municipal corporations and the record thereof 60873
shall be given in all courts the same effect as is given such 60874
ordinances, but the advertisements of such orders and regulations 60875
shall be by publication in ~~one a~~ newspaper ~~published and~~ of 60876
general circulation within the district. Publication shall be made 60877
once a week for two consecutive weeks or as provided in section 60878

7.16 of the Revised Code, and such orders and regulations shall 60879
take effect and be in force ten days from the date of the first 60880
publication. In cases of emergency caused by epidemics of 60881
contagious or infectious diseases, or conditions or events 60882
endangering the public health, the board may declare such orders 60883
and regulations to be emergency measures, and such orders and 60884
regulations shall become effective immediately without such 60885
advertising, recording, and certifying. 60886

Sec. 3709.34. (A) ~~The board of county commissioners or the~~ 60887
legislative authority of any city may furnish suitable quarters 60888
for any board of health or health department having jurisdiction 60889
over all or a major part of ~~such county or~~ that city. 60890

(B)(1) Subject to division (B)(6) of this section, a board of 60891
county commissioners shall provide office space and utilities 60892
through fiscal year 2011 for the board of health having 60893
jurisdiction over the county's general health district. 60894
Thereafter, subject to division (B)(6) of this section, the board 60895
of county commissioners shall make payments as provided in 60896
division (B)(3) of this section for the office space and utilities 60897
until fiscal year 2016. Starting in fiscal year 2016, the board 60898
has no duty to provide the office space or utilities, or to make 60899
payments for the office space or utilities, for the board of 60900
health of the county's general health district. 60901

(2)(a) Not later than the thirtieth day of September 2011, 60902
2012, 2013, and 2014, the board of county commissioners shall make 60903
a written estimate of the total cost for the ensuing fiscal year 60904
to provide office space and utilities to the board of health of 60905
the county's general health district. The estimate of total cost 60906
shall include all of the following: 60907

(i) The total square feet of space to be used by the board of 60908
health; 60909

(ii) The total square feet of any common areas that should be reasonably allocated to the board of health and the method for making this allocation; 60910
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(iii) The actual cost per square foot for both the space used by and the common areas allocated to the board of health; 60913
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(iv) An explanation of the method used to determine the actual cost per square foot; 60915
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(v) The estimated cost of providing utilities, including an explanation of how this cost was determined; 60917
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(vi) Any other estimated costs the board of county commissioners anticipates will be incurred to provide office space and utilities to the board of health, including a detailed explanation of those costs and the rationale used to determine them. 60919
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(b) The board of county commissioners shall forward a copy of the estimate of total cost to the director of the board of health not later than the fifth day of October 2011, 2012, 2013, and 2014. The director shall review the estimate and, not later than twenty days after its receipt, notify the board of county commissioners that the director agrees with the estimate, or objects to it giving specific reasons for the objections. 60924
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(c) If the director agrees with the estimate, it shall become the final estimate of total cost. Failure of the director to make objections to the estimate by the twentieth day after its receipt shall be deemed to mean that the director is in agreement with the estimate. 60931
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(d) If the director timely objects to the estimate and provides specific objections to the board of county commissioners, the board shall review the objections and may modify the original estimate and send a revised estimate of total cost to the director within ten days after receipt of the objections. The director 60936
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shall respond to a revised estimate within ten days after its receipt. If the director agrees with it, the revised estimate shall become the final estimate of total cost. If the director fails to respond within the ten-day period, the director shall be deemed to have agreed with the revised estimate. If the director disagrees with the revised estimate, the director shall send specific objections to the board of county commissioners within the ten-day period. 60941
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(e) If the director timely objected to the original estimate or sends specific objections to a revised estimate within the required time, or if there is no revised estimate, the probate judge of the county shall determine the final estimate of total cost and certify this amount to the director and the board of county commissioners before the first day of January 2012, 2013, 2014, or 2015, as applicable. 60949
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(3)(a) Subject to division (B)(6) of this section, a board of county commissioners shall be responsible for the following percentages of the final estimate of total cost established by division (B)(2) of this section: 60956
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(i) Eighty per cent for fiscal year 2012; 60960

(ii) Sixty per cent for fiscal year 2013; 60961

(iii) Forty per cent for fiscal year 2014; 60962

(iv) Twenty per cent for fiscal year 2015. 60963

(b) In fiscal years 2012, 2013, 2014, and 2015, the board of health of the county's general health district shall be responsible for the payment of the remainder of any costs incurred in excess of the amount payable under division (B)(3)(a)(i), (ii), (iii), or (iv) of this section, as applicable, for the provision of office space and utilities for the board of health, including any unanticipated or unexpected increases in costs beyond the final estimate of total cost. 60964
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(c) Beginning in fiscal year 2016, the board of county commissioners has no obligation to provide office space or utilities, or to make payments for office space or utilities, for the board of health. 60972
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(4) After fiscal year 2015, the board of county commissioners and the board of health of the county's general health district may enter into a contract for the board of county commissioners to provide office space for the use of the board of health and to provide utilities for that office space. The term of the contract shall not exceed four years and may be renewed for additional periods not to exceed four years. 60976
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(5) Notwithstanding divisions (B)(1) to (4) of this section, in any fiscal year the board of county commissioners, in its discretion, may provide office space and utilities for the board of health of the county's general health district free of charge. 60983
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(6) If the board of health of a general health district rents, leases, lease-purchases, or otherwise acquires office space to facilitate the performance of its functions, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide office space to facilitate the performance of its functions, the board of county commissioners of the county served by the general health district has no further obligation under division (B) of this section to provide office space or utilities, or to make payments for office space or utilities, for the board of health, unless the board of county commissioners enters into a contract with the board of health under division (B)(4) of this section, or exercises its option under division (B)(5) of this section. 60987
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Sec. 3709.341. The board of county commissioners may donate or sell property, buildings, and furnishings to any board of health of a general or combined health district. Upon acceptance 61000
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by the board of health of the general or combined district, the 61003
board of county commissioners may convey the property, buildings, 61004
and furnishings to the board of health to be used as quarters by 61005
the board of health. The instrument conveying the property, 61006
buildings, and furnishings shall include a reverter clause that, 61007
in the event the board of health subsequently sells the property, 61008
buildings, and furnishings: 61009

(A) Reverts the property, buildings, and furnishings to the 61010
board of county commissioners if they initially were donated by 61011
the board of county commissioners; or 61012

(B) Specifies how the proceeds of the board of health's 61013
subsequent sale of the property, buildings, and furnishings shall 61014
be distributed, if they initially were sold by the board of county 61015
commissioners. 61016

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 61017
3721.99 of the Revised Code: 61018

(1)(a) "Home" means an institution, residence, or facility 61019
that provides, for a period of more than twenty-four hours, 61020
whether for a consideration or not, accommodations to three or 61021
more unrelated individuals who are dependent upon the services of 61022
others, including a nursing home, residential care facility, home 61023
for the aging, and a veterans' home operated under Chapter 5907. 61024
of the Revised Code. 61025

(b) "Home" also means both of the following: 61026

(i) Any facility that a person, as defined in section 3702.51 61027
of the Revised Code, proposes for certification as a skilled 61028
nursing facility or nursing facility under Title XVIII or XIX of 61029
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 61030
as amended, and for which a certificate of need, other than a 61031
certificate to recategorize hospital beds as described in section 61032

3702.522 of the Revised Code or division (R)(7)(d) of the version 61033
of section 3702.51 of the Revised Code in effect immediately prior 61034
to April 20, 1995, has been granted to the person under sections 61035
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 61036

(ii) A county home or district home that is or has been 61037
licensed as a residential care facility. 61038

(c) "Home" does not mean any of the following: 61039

(i) Except as provided in division (A)(1)(b) of this section, 61040
a public hospital or hospital as defined in section 3701.01 or 61041
5122.01 of the Revised Code; 61042

(ii) A residential facility for mentally ill persons as 61043
defined under section 5119.22 of the Revised Code; 61044

(iii) A residential facility as defined in section 5123.19 of 61045
the Revised Code; 61046

(iv) An adult care facility as defined in section ~~3722.01~~ 61047
5119.70 of the Revised Code; 61048

(v) An alcohol or drug addiction program as defined in 61049
section 3793.01 of the Revised Code; 61050

(vi) A facility licensed to provide methadone treatment under 61051
section 3793.11 of the Revised Code; 61052

(vii) A facility providing services under contract with the 61053
department of developmental disabilities under section 5123.18 of 61054
the Revised Code unless section 5123.192 of the Revised Code makes 61055
the facility subject to the requirements of this chapter; 61056

(viii) A facility operated by a hospice care program licensed 61057
under section 3712.04 of the Revised Code that is used exclusively 61058
for care of hospice patients; 61059

(ix) A facility, infirmary, or other entity that is operated 61060
by a religious order, provides care exclusively to members of 61061
religious orders who take vows of celibacy and live by virtue of 61062

their vows within the orders as if related, and does not 61063
participate in the medicare program established under Title XVIII 61064
of the "Social Security Act" or the medical assistance program 61065
established under Chapter 5111. of the Revised Code and Title XIX 61066
of the "Social Security Act," if on January 1, 1994, the facility, 61067
infirmary, or entity was providing care exclusively to members of 61068
the religious order; 61069

(x) A county home or district home that has never been 61070
licensed as a residential care facility. 61071

(2) "Unrelated individual" means one who is not related to 61072
the owner or operator of a home or to the spouse of the owner or 61073
operator as a parent, grandparent, child, grandchild, brother, 61074
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 61075
uncle. 61076

(3) "Mental impairment" does not mean mental illness as 61077
defined in section 5122.01 of the Revised Code or mental 61078
retardation as defined in section 5123.01 of the Revised Code. 61079

(4) "Skilled nursing care" means procedures that require 61080
technical skills and knowledge beyond those the untrained person 61081
possesses and that are commonly employed in providing for the 61082
physical, mental, and emotional needs of the ill or otherwise 61083
incapacitated. "Skilled nursing care" includes, but is not limited 61084
to, the following: 61085

(a) Irrigations, catheterizations, application of dressings, 61086
and supervision of special diets; 61087

(b) Objective observation of changes in the patient's 61088
condition as a means of analyzing and determining the nursing care 61089
required and the need for further medical diagnosis and treatment; 61090

(c) Special procedures contributing to rehabilitation; 61091

(d) Administration of medication by any method ordered by a 61092

physician, such as hypodermically, rectally, or orally, including 61093
observation of the patient after receipt of the medication; 61094

(e) Carrying out other treatments prescribed by the physician 61095
that involve a similar level of complexity and skill in 61096
administration. 61097

(5)(a) "Personal care services" means services including, but 61098
not limited to, the following: 61099

(i) Assisting residents with activities of daily living; 61100

(ii) Assisting residents with self-administration of 61101
medication, in accordance with rules adopted under section 3721.04 61102
of the Revised Code; 61103

(iii) Preparing special diets, other than complex therapeutic 61104
diets, for residents pursuant to the instructions of a physician 61105
or a licensed dietitian, in accordance with rules adopted under 61106
section 3721.04 of the Revised Code. 61107

(b) "Personal care services" does not include "skilled 61108
nursing care" as defined in division (A)(4) of this section. A 61109
facility need not provide more than one of the services listed in 61110
division (A)(5)(a) of this section to be considered to be 61111
providing personal care services. 61112

(6) "Nursing home" means a home used for the reception and 61113
care of individuals who by reason of illness or physical or mental 61114
impairment require skilled nursing care and of individuals who 61115
require personal care services but not skilled nursing care. A 61116
nursing home is licensed to provide personal care services and 61117
skilled nursing care. 61118

(7) "Residential care facility" means a home that provides 61119
either of the following: 61120

(a) Accommodations for seventeen or more unrelated 61121
individuals and supervision and personal care services for three 61122

or more of those individuals who are dependent on the services of 61123
others by reason of age or physical or mental impairment; 61124

(b) Accommodations for three or more unrelated individuals, 61125
supervision and personal care services for at least three of those 61126
individuals who are dependent on the services of others by reason 61127
of age or physical or mental impairment, and, to at least one of 61128
those individuals, any of the skilled nursing care authorized by 61129
section 3721.011 of the Revised Code. 61130

(8) "Home for the aging" means a home that provides services 61131
as a residential care facility and a nursing home, except that the 61132
home provides its services only to individuals who are dependent 61133
on the services of others by reason of both age and physical or 61134
mental impairment. 61135

The part or unit of a home for the aging that provides 61136
services only as a residential care facility is licensed as a 61137
residential care facility. The part or unit that may provide 61138
skilled nursing care beyond the extent authorized by section 61139
3721.011 of the Revised Code is licensed as a nursing home. 61140

(9) "County home" and "district home" mean a county home or 61141
district home operated under Chapter 5155. of the Revised Code. 61142

(B) The public health council may further classify homes. For 61143
the purposes of this chapter, any residence, institution, hotel, 61144
congregate housing project, or similar facility that meets the 61145
definition of a home under this section is such a home regardless 61146
of how the facility holds itself out to the public. 61147

(C) For purposes of this chapter, personal care services or 61148
skilled nursing care shall be considered to be provided by a 61149
facility if they are provided by a person employed by or 61150
associated with the facility or by another person pursuant to an 61151
agreement to which neither the resident who receives the services 61152
nor the resident's sponsor is a party. 61153

(D) Nothing in division (A)(4) of this section shall be 61154
construed to permit skilled nursing care to be imposed on an 61155
individual who does not require skilled nursing care. 61156

Nothing in division (A)(5) of this section shall be construed 61157
to permit personal care services to be imposed on an individual 61158
who is capable of performing the activity in question without 61159
assistance. 61160

(E) Division (A)(1)(c)(ix) of this section does not prohibit 61161
a facility, infirmary, or other entity described in that division 61162
from seeking licensure under sections 3721.01 to 3721.09 of the 61163
Revised Code or certification under Title XVIII or XIX of the 61164
"Social Security Act." However, such a facility, infirmary, or 61165
entity that applies for licensure or certification must meet the 61166
requirements of those sections or titles and the rules adopted 61167
under them and obtain a certificate of need from the director of 61168
health under section 3702.52 of the Revised Code. 61169

(F) Nothing in this chapter, or rules adopted pursuant to it, 61170
shall be construed as authorizing the supervision, regulation, or 61171
control of the spiritual care or treatment of residents or 61172
patients in any home who rely upon treatment by prayer or 61173
spiritual means in accordance with the creed or tenets of any 61174
recognized church or religious denomination. 61175

Sec. 3721.011. (A) In addition to providing accommodations, 61176
supervision, and personal care services to its residents, a 61177
residential care facility may ~~provide~~ do the following: 61178

(1) Provide the following skilled nursing care to its 61179
residents ~~as follows:~~ 61180

~~(1)~~(a) Supervision of special diets; 61181

~~(2)~~(b) Application of dressings, in accordance with rules 61182
adopted under section 3721.04 of the Revised Code; 61183

~~(3)(c)~~ Subject to division (B)(1) of this section, 61184
administration of medication. 61185

~~(4).~~ 61186

(2) Subject to division (C) of this section, provide other 61187
skilled nursing care ~~provided~~ on a part-time, intermittent basis 61188
for not more than a total of one hundred twenty days in a 61189
twelve-month period; 61190

~~(5) Subject to division (D) of this section, (3) Provide~~ 61191
skilled nursing care ~~provided~~ for more than one hundred twenty 61192
days in a twelve-month period to a ~~hospice patient, as defined in~~ 61193
~~section 3712.01 of the Revised Code~~ resident when the requirements 61194
of division (D) of this section are met. 61195

A residential care facility may not admit or retain an 61196
individual requiring skilled nursing care that is not authorized 61197
by this section. A residential care facility may not provide 61198
skilled nursing care beyond the limits established by this 61199
section. 61200

(B)(1) A residential care facility may admit or retain an 61201
individual requiring medication, including biologicals, only if 61202
the individual's personal physician has determined in writing that 61203
the individual is capable of self-administering the medication or 61204
the facility provides for the medication to be administered to the 61205
individual by a home health agency certified under Title XVIII of 61206
the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C.A. 1395, 61207
as amended; a hospice care program licensed under Chapter 3712. of 61208
the Revised Code; or a member of the staff of the residential care 61209
facility who is qualified to perform medication administration. 61210
Medication may be administered in a residential care facility only 61211
by the following persons authorized by law to administer 61212
medication: 61213

(a) A registered nurse licensed under Chapter 4723. of the 61214

Revised Code;	61215
(b) A licensed practical nurse licensed under Chapter 4723.	61216
of the Revised Code who holds proof of successful completion of a	61217
course in medication administration approved by the board of	61218
nursing and who administers the medication only at the direction	61219
of a registered nurse or a physician authorized under Chapter	61220
4731. of the Revised Code to practice medicine and surgery or	61221
osteopathic medicine and surgery;	61222
(c) A medication aide certified under Chapter 4723. of the	61223
Revised Code;	61224
(d) A physician authorized under Chapter 4731. of the Revised	61225
Code to practice medicine and surgery or osteopathic medicine and	61226
surgery.	61227
(2) In assisting a resident with self-administration of	61228
medication, any member of the staff of a residential care facility	61229
may do the following:	61230
(a) Remind a resident when to take medication and watch to	61231
ensure that the resident follows the directions on the container;	61232
(b) Assist a resident by taking the medication from the	61233
locked area where it is stored, in accordance with rules adopted	61234
pursuant to section 3721.04 of the Revised Code, and handing it to	61235
the resident. If the resident is physically unable to open the	61236
container, a staff member may open the container for the resident.	61237
(c) Assist a physically impaired but mentally alert resident,	61238
such as a resident with arthritis, cerebral palsy, or Parkinson's	61239
disease, in removing oral or topical medication from containers	61240
and in consuming or applying the medication, upon request by or	61241
with the consent of the resident. If a resident is physically	61242
unable to place a dose of medicine to the resident's mouth without	61243
spilling it, a staff member may place the dose in a container and	61244
place the container to the mouth of the resident.	61245

(C) A Except as provided in division (D) of this section, a 61246
residential care facility may admit or retain individuals who 61247
require skilled nursing care beyond the supervision of special 61248
diets, application of dressings, or administration of medication, 61249
only if the care will be provided on a part-time, intermittent 61250
basis for not more than a total of one hundred twenty days in any 61251
twelve-month period. In accordance with Chapter 119. of the 61252
Revised Code, the public health council shall adopt rules 61253
specifying what constitutes the need for skilled nursing care on a 61254
part-time, intermittent basis. The council shall adopt rules that 61255
are consistent with rules pertaining to home health care adopted 61256
by the director of job and family services for the ~~medical~~ 61257
~~assistance~~ medicaid program established under Chapter 5111. of the 61258
Revised Code. Skilled nursing care provided pursuant to this 61259
division may be provided by a home health agency certified under 61260
Title XVIII of the "Social Security Act," a hospice care program 61261
licensed under Chapter 3712. of the Revised Code, or a member of 61262
the staff of a residential care facility who is qualified to 61263
perform skilled nursing care. 61264

A residential care facility that provides skilled nursing 61265
care pursuant to this division shall do both of the following: 61266

(1) Evaluate each resident receiving the skilled nursing care 61267
at least once every seven days to determine whether the resident 61268
should be transferred to a nursing home; 61269

(2) Meet the skilled nursing care needs of each resident 61270
receiving the care. 61271

(D)(1) A residential care facility may admit or retain a 61272
~~hospice patient~~ an individual who requires skilled nursing care 61273
for more than one hundred twenty days in any twelve-month period 61274
only if the facility has entered into a written agreement with 61275
each of the following: 61276

<u>(a) The individual or individual's sponsor;</u>	61277
<u>(b) The individual's personal physician;</u>	61278
<u>(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;</u>	61279 61280
<u>(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code. The</u>	61281 61282 61283
<u>(2) The agreement between the residential care facility and hospice program required by division (D)(1) of this section shall include all of the following provisions:</u>	61284 61285 61286
<u>(1)(a) That the hospice patient individual will be provided skilled nursing care in the facility only if a determination has been made that the patient's individual's needs can be met at the facility;</u>	61287 61288 61289 61290
<u>(2)(b) That the hospice patient individual will be retained in the facility only if periodic redeterminations are made that the patient's individual's needs are being met at the facility;</u>	61291 61292 61293
<u>(3)(c) That the redeterminations will be made according to a schedule specified in the agreement;</u>	61294 61295
<u>(4) That the (d) If the individual is a hospice patient, that <u>the individual</u> has been given an opportunity to choose the hospice care program that best meets the patient's individual's needs;</u>	61296 61297 61298
<u>(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine.</u>	61299 61300 61301
(E) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.	61302 61303 61304
Sec. 3721.02. (A) The director of health shall license homes	61305

and establish procedures to be followed in inspecting and 61306
licensing homes. The director may inspect a home at any time. Each 61307
home shall be inspected by the director at least once prior to the 61308
issuance of a license and at least once every fifteen months 61309
thereafter. The state fire marshal or a township, municipal, or 61310
other legally constituted fire department approved by the marshal 61311
shall also inspect a home prior to issuance of a license, at least 61312
once every fifteen months thereafter, and at any other time 61313
requested by the director. A home does not have to be inspected 61314
prior to issuance of a license by the director, state fire 61315
marshal, or a fire department if ownership of the home is assigned 61316
or transferred to a different person and the home was licensed 61317
under this chapter immediately prior to the assignment or 61318
transfer. The director may enter at any time, for the purposes of 61319
investigation, any institution, residence, facility, or other 61320
structure that has been reported to the director or that the 61321
director has reasonable cause to believe is operating as a nursing 61322
home, residential care facility, or home for the aging without a 61323
valid license required by section 3721.05 of the Revised Code or, 61324
in the case of a county home or district home, is operating 61325
despite the revocation of its residential care facility license. 61326
The director may delegate the director's authority and duties 61327
under this chapter to any division, bureau, agency, or official of 61328
the department of health. 61329

(B) A single facility may be licensed both as a nursing home 61330
pursuant to this chapter and as an adult care facility pursuant to 61331
Chapter ~~3722~~. 5119. of the Revised Code if the director determines 61332
that the part or unit to be licensed as a nursing home can be 61333
maintained separate and discrete from the part or unit to be 61334
licensed as an adult care facility. 61335

(C) In determining the number of residents in a home for the 61336
purpose of licensing, the director shall consider all the 61337

individuals for whom the home provides accommodations as one group 61338
unless one of the following is the case: 61339

(1) The home is a home for the aging, in which case all the 61340
individuals in the part or unit licensed as a nursing home shall 61341
be considered as one group, and all the individuals in the part or 61342
unit licensed as a rest home shall be considered as another group. 61343

(2) The home is both a nursing home and an adult care 61344
facility. In that case, all the individuals in the part or unit 61345
licensed as a nursing home shall be considered as one group, and 61346
all the individuals in the part or unit licensed as an adult care 61347
facility shall be considered as another group. 61348

(3) The home maintains, in addition to a nursing home or 61349
residential care facility, a separate and discrete part or unit 61350
that provides accommodations to individuals who do not require or 61351
receive skilled nursing care and do not receive personal care 61352
services from the home, in which case the individuals in the 61353
separate and discrete part or unit shall not be considered in 61354
determining the number of residents in the home if the separate 61355
and discrete part or unit is in compliance with the Ohio basic 61356
building code established by the board of building standards under 61357
Chapters 3781. and 3791. of the Revised Code and the home permits 61358
the director, on request, to inspect the separate and discrete 61359
part or unit and speak with the individuals residing there, if 61360
they consent, to determine whether the separate and discrete part 61361
or unit meets the requirements of this division. 61362

(D)(1) The director of health shall charge the following 61363
application fee and annual renewal licensing and inspection fee 61364
for each fifty persons or part thereof of a home's licensed 61365
capacity: 61366

(a) For state fiscal year 2010, two hundred twenty dollars; 61367

(b) For state fiscal year 2011, two hundred seventy dollars; 61368

(c) For each state fiscal year thereafter, three hundred 61369
twenty dollars. 61370

(2) All fees collected by the director for the issuance or 61371
renewal of licenses shall be deposited into the state treasury to 61372
the credit of the general operations fund created in section 61373
3701.83 of the Revised Code for use only in administering and 61374
enforcing this chapter and rules adopted under it. 61375

(E)(1) Except as otherwise provided in this section, the 61376
results of an inspection or investigation of a home that is 61377
conducted under this section, including any statement of 61378
deficiencies and all findings and deficiencies cited in the 61379
statement on the basis of the inspection or investigation, shall 61380
be used solely to determine the home's compliance with this 61381
chapter or another chapter of the Revised Code in any action or 61382
proceeding other than an action commenced under division (I) of 61383
section 3721.17 of the Revised Code. Those results of an 61384
inspection or investigation, that statement of deficiencies, and 61385
the findings and deficiencies cited in that statement shall not be 61386
used in any court or in any action or proceeding that is pending 61387
in any court and are not admissible in evidence in any action or 61388
proceeding unless that action or proceeding is an appeal of an 61389
action by the department of health under this chapter or is an 61390
action by any department or agency of the state to enforce this 61391
chapter or another chapter of the Revised Code. 61392

(2) Nothing in division (E)(1) of this section prohibits the 61393
results of an inspection or investigation conducted under this 61394
section from being used in a criminal investigation or 61395
prosecution. 61396

Sec. 3721.04. (A) The public health council shall adopt and 61397
publish rules governing the operation of homes, which shall have 61398
uniform application throughout the state, and shall prescribe 61399

standards for homes with respect to, but not limited to, the	61400
following matters:	61401
(1) The minimum space requirements for occupants and	61402
equipping of the buildings in which homes are housed so as to	61403
ensure healthful, safe, sanitary, and comfortable conditions for	61404
all residents, so long as they are not inconsistent with Chapters	61405
3781. and 3791. of the Revised Code or with any rules adopted by	61406
the board of building standards and by the state fire marshal;	61407
(2) The number and qualifications of personnel, including	61408
management and nursing staff, for each class of home, and the	61409
qualifications of nurse aides, as defined in section 3721.21 of	61410
the Revised Code, used by long-term care facilities, as defined in	61411
that section;	61412
(3) The medical, rehabilitative, and recreational services to	61413
be provided by each class of home;	61414
(4) Dietetic services, including but not limited to	61415
sanitation, nutritional adequacy, and palatability of food;	61416
(5) The personal and social services to be provided by each	61417
class of home;	61418
(6) The business and accounting practices to be followed and	61419
the type of patient and business records to be kept by such homes;	61420
(7) The operation of adult day-care programs provided by and	61421
on the same site as homes licensed under this chapter;	61422
(8) The standards and procedures to be followed by	61423
residential care facilities in admitting and retaining a resident	61424
who requires the application of dressings, including requirements	61425
for charting and evaluating on a weekly basis;	61426
(9) The requirements for conducting weekly evaluations of	61427
residents receiving skilled nursing care in residential care	61428
facilities.	61429

(B) The public health council may adopt whatever additional 61430
rules are necessary to carry out or enforce the provisions of 61431
sections 3721.01 to 3721.09 and 3721.99 of the Revised Code. 61432

(C) The following apply to the public health council when 61433
adopting rules under division (A)(2) of this section regarding the 61434
number and qualifications of personnel in homes: 61435

(1) When adopting rules applicable to residential care 61436
facilities, the public health council shall take into 61437
consideration the effect that the following may have on the number 61438
of personnel needed: 61439

(a) Provision of personal care services; 61440

(b) Provision of part-time, intermittent skilled nursing care 61441
pursuant to division (C) of section 3721.011 of the Revised Code; 61442

(c) Provision of skilled nursing care to ~~hospice patients~~ 61443
residents pursuant to division (D) of section 3721.011 of the 61444
Revised Code. 61445

(2) The rules prescribing qualifications of nurse aides used 61446
by long-term care facilities, as those terms are defined in 61447
section 3721.21 of the Revised Code, shall be no less stringent 61448
than the requirements, guidelines, and procedures established by 61449
the United States secretary of health and human services under 61450
sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 61451
(1935), 42 U.S.C.A. 301, as amended. 61452

Sec. 3721.16. For each resident of a home, notice of a 61453
proposed transfer or discharge shall be in accordance with this 61454
section. 61455

(A)(1) The administrator of a home shall notify a resident in 61456
writing, and the resident's sponsor in writing by certified mail, 61457
return receipt requested, in advance of any proposed transfer or 61458
discharge from the home. The administrator shall send a copy of 61459

the notice to the state department of health. The notice shall be 61460
provided at least thirty days in advance of the proposed transfer 61461
or discharge, unless any of the following applies: 61462

(a) The resident's health has improved sufficiently to allow 61463
a more immediate discharge or transfer to a less skilled level of 61464
care; 61465

(b) The resident has resided in the home less than thirty 61466
days; 61467

(c) An emergency arises in which the safety of individuals in 61468
the home is endangered; 61469

(d) An emergency arises in which the health of individuals in 61470
the home would otherwise be endangered; 61471

(e) An emergency arises in which the resident's urgent 61472
medical needs necessitate a more immediate transfer or discharge. 61473

In any of the circumstances described in divisions (A)(1)(a) 61474
to (e) of this section, the notice shall be provided as many days 61475
in advance of the proposed transfer or discharge as is 61476
practicable. 61477

(2) The notice required under division (A)(1) of this section 61478
shall include all of the following: 61479

(a) The reasons for the proposed transfer or discharge; 61480

(b) The proposed date the resident is to be transferred or 61481
discharged; 61482

(c) The proposed location to which the resident is to be 61483
transferred or discharged; 61484

(d) Notice of the right of the resident and the resident's 61485
sponsor to an impartial hearing at the home on the proposed 61486
transfer or discharge, and of the manner in which and the time 61487
within which the resident or sponsor may request a hearing 61488
pursuant to section 3721.161 of the Revised Code; 61489

(e) A statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date;

(f) The address of the legal services office of the department of health;

(g) The name, address, and telephone number of a representative of the state long-term care ombudsperson program and, if the resident or patient has a developmental disability or mental illness, the name, address, and telephone number of the Ohio ~~legal rights service~~ protection and advocacy system.

(B) No home shall transfer or discharge a resident before the date specified in the notice required by division (A) of this section unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

(C) Transfer or discharge actions shall be documented in the resident's medical record by the home if there is a medical basis for the action.

(D) A resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing pursuant to section 3721.161 of the Revised Code, unless the transfer or discharge is required because of one of the following reasons:

(1) The home's license has been revoked under this chapter;

(2) The home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code;

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily

terminated or denied by the federal government; 61520

(4) The resident is a beneficiary under the medicare program 61521
and the home's certification under the medicare program has been 61522
involuntarily terminated or denied by the federal government. 61523

(E) If a resident is transferred or discharged pursuant to 61524
this section, the home from which the resident is being 61525
transferred or discharged shall provide the resident with adequate 61526
preparation prior to the transfer or discharge to ensure a safe 61527
and orderly transfer or discharge from the home, and the home or 61528
alternative setting to which the resident is to be transferred or 61529
discharged shall have accepted the resident for transfer or 61530
discharge. 61531

(F) At the time of a transfer or discharge of a resident who 61532
is a recipient of medicaid from a home to a hospital or for 61533
therapeutic leave, the home shall provide notice in writing to the 61534
resident and in writing by certified mail, return receipt 61535
requested, to the resident's sponsor, specifying the number of 61536
days, if any, during which the resident will be permitted under 61537
the medicaid program to return and resume residence in the home 61538
and specifying the medicaid program's coverage of the days during 61539
which the resident is absent from the home. An individual who is 61540
absent from a home for more than the number of days specified in 61541
the notice and continues to require the services provided by the 61542
facility shall be given priority for the first available bed in a 61543
semi-private room. 61544

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 61545
Revised Code: 61546

(A) "Franchise permit fee rate" means the ~~amount determined~~ 61547
~~as follows~~ following: 61548

(1) ~~Determine the difference between the following:~~ 61549

~~(a) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code For fiscal year 2012, eleven dollars and thirty-eight cents;~~

~~(b) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code.~~

~~(2) Multiply the amount determined under division (A)(1) of this section by five and five tenths per cent;~~

~~(3) Divide the amount determined under division (A)(2) of this section by the total number of days in the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;~~

~~(4) Subtract eleven dollars and ninety five cents from the amount determined under division (A)(3) of this section;~~

~~(5) Add eleven dollars and ninety five cents to the amount determined under division (A)(4) of this section For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty cents.~~

(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(C) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds; 61580
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(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code. 61583
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(D) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following: 61585
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(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change; 61593
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(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage. 61595
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(E) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days. 61597
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~~(E)~~(F) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 61605
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~~(F)~~(G) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made 61607
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under section 5111.26 of the Revised Code are considered medicaid 61611
days proportionate to the percentage of the nursing facility's per 61612
resident per day rate for those days. 61613

~~(G)~~(H) "Medicare" means the program established by Title 61614
XVIII. 61615

~~(H)~~(I) "Nursing facility" has the same meaning as in section 61616
5111.20 of the Revised Code. 61617

~~(I)~~(J)(1) "Nursing home" means all of the following: 61618

(a) A nursing home licensed under section 3721.02 or 3721.09 61619
of the Revised Code, including any part of a home for the aging 61620
licensed as a nursing home; 61621

(b) A facility or part of a facility, other than a hospital, 61622
that is certified as a skilled nursing facility under Title XVIII; 61623

(c) A nursing facility, other than a portion of a hospital 61624
certified as a nursing facility. 61625

(2) "Nursing home" does not include any of the following: 61626

(a) A county home, county nursing home, or district home 61627
operated pursuant to Chapter 5155. of the Revised Code; 61628

(b) A nursing home maintained and operated by the department 61629
of veterans services under section 5907.01 of the Revised Code; 61630

(c) A nursing home or part of a nursing home licensed under 61631
section 3721.02 or 3721.09 of the Revised Code that is certified 61632
as an intermediate care facility for the mentally retarded under 61633
Title XIX. 61634

~~(J)~~(K) "Title XIX" means Title XIX of the "Social Security 61635
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 61636

~~(K)~~(L) "Title XVIII" means Title XVIII of the "Social 61637
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 61638

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 and ~~3721.561~~ of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) Subject to sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 and ~~3721.561~~ of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the

first day of July of the calendar year in which the fee is 61669
determined pursuant to division (A) of section 3721.53 of the 61670
Revised Code. 61671

(C) If the total amount of the franchise permit fee assessed 61672
under divisions (A) and (B) of this section for a fiscal year 61673
exceeds ~~five and one half per cent~~ the indirect guarantee 61674
percentage of the actual net patient revenue for all nursing homes 61675
and hospital long-term care units for that fiscal year, do both of 61676
the following: 61677

(1) Recalculate the assessments under divisions (A) and (B) 61678
of this section using a per bed per day rate equal to ~~five and~~ 61679
~~one half per cent~~ the indirect guarantee percentage of actual net 61680
patient revenue for all nursing homes and hospital long-term care 61681
units for that fiscal year; 61682

(2) Refund the difference between the amount of the franchise 61683
permit fee assessed for that fiscal year under divisions (A) and 61684
(B) of this section and the amount recalculated under division 61685
(C)(1) of this section as a credit against the assessments imposed 61686
under divisions (A) and (B) of this section for the subsequent 61687
fiscal year. 61688

(D) If the United States centers for medicare and medicaid 61689
services determines that the franchise permit fee established by 61690
sections 3721.50 to 3721.58 of the Revised Code is an 61691
impermissible health care-related tax under section 1903(w) of the 61692
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 61693
amended, take all necessary actions to cease implementation of 61694
sections 3721.50 to 3721.58 of the Revised Code in accordance with 61695
rules adopted under section 3721.58 of the Revised Code. 61696

Sec. ~~3721.561~~ 3721.56. (A) There is hereby created in the 61697
state treasury the nursing ~~facility stabilization~~ home franchise 61698
permit fee fund. All payments and penalties paid by nursing homes 61699

and hospitals under sections 3721.53 and 3721.54 of the Revised Code ~~that are not deposited into the home and community based services for the aged fund~~ shall be deposited into the fund. The fund shall also consist of money deposited into it pursuant to sections 3769.08 and 3769.26 of the Revised Code. Subject to division (B) of section 3769.08 of the Revised Code, the department of job and family services shall use the money in the fund to make medicaid payments to providers of nursing facilities facility services and providers of home and community-based services. Money in the fund may also be used for the residential state supplement program established under section 5119.69 of the Revised Code.

(B) Any money remaining in the nursing ~~facility stabilization home franchise permit fee~~ fund after payments specified in division (A) of this section are made shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make medicaid payments in accordance with division (A) of this section.

Sec. 3721.58. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do ~~all~~ both of the following:

(A) Prescribe the actions the department of job and family services will take to cease implementation of sections 3721.50 through 3721.57 of the Revised Code if the United States centers for medicare and medicaid services determines that the franchise permit fee established by those sections is an impermissible health-care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended;

(B) ~~Establish the method of distributing moneys in the home~~

~~and community based services for the aged fund created under section 3721.56 of the Revised Code;~~ 61730
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~~(C) Establish any requirements or procedures the director considers necessary to implement sections 3721.50 to 3721.58 of the Revised Code.~~ 61732
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Sec. 3727.60. (A) As used in this section: 61735

(1) "Discharge planning" means the formal process for determining, prior to a patient's discharge from a hospital, the coordination and management of the care that the patient is to receive following discharge from the hospital. 61736
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(2) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code. 61740
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(B) If a hospital conducts discharge planning for a medicaid recipient and determines that the recipient has a need for rehabilitation on a temporary basis, as opposed to a need for long-term care services, the hospital shall first attempt to secure rehabilitation for the recipient through a home health agency. To facilitate this responsibility, the hospital shall maintain a resource guide of the home health agencies operating in the community in which the hospital is located. 61742
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Sec. 3729.01. As used in this chapter: 61750

(A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp. 61751
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(B) "Campsite user" means a person who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp. 61754
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(C) "Combined park-camp" means any tract of land upon which a 61758

combination of five or more self-contained recreational vehicles 61759
or portable camping units are placed and includes any roadway, 61760
building, structure, vehicle, or enclosure used or intended for 61761
use as part of the park facilities. A tract of land that is 61762
subdivided for lease or other contract of the individual lots is a 61763
combined park-camp if a combination of five or more recreational 61764
vehicles or portable camping units are placed on it for 61765
recreation, vacation, or business purposes. 61766

"Combined park-camp" does not include any tract of land used 61767
solely as a temporary park-camp or solely as a manufactured home 61768
park. 61769

(D) "Dependent recreational vehicle" means a recreational 61770
vehicle other than a self-contained recreational vehicle. 61771
"Dependent recreational vehicle" includes a park model. 61772

(E) "Development" means any artificial change to improved or 61773
unimproved real estate, including, without limitation, buildings 61774
or structures, dredging, filling, grading, paving, excavation or 61775
drilling operations, or storage of equipment or materials, and the 61776
construction, expansion, or substantial alteration of a 61777
recreational vehicle park, recreation camp, or combined park-camp, 61778
for which plan review is required under division (A) of section 61779
3729.03 of the Revised Code. "Development" does not include the 61780
building, construction, erection, or manufacture of any building 61781
to which section 3781.06 of the Revised Code is applicable. 61782

(F) "Director of health" means the director of health or the 61783
director's authorized representative. 61784

(G) "Flood" or "flooding" means either of the following: 61785

(1) A general and temporary condition of partial or complete 61786
inundation of normally dry land areas from any of the following: 61787

(a) The overflow of inland or tidal waters; 61788

(b) The unusual and rapid accumulation or runoff of surface waters from any source; 61789
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(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. 61791
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(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (G)(1)(a) of this section. 61796
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(H) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water. 61805
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(I) "Licensor" means either the board of health of a city or general health district, or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code, or the director of health, when required under division (B) of section 3729.06 of the Revised Code. "Licensor" also means an authorized representative of any of those entities or of the director. 61808
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(J) "Manufactured home park" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code. 61815
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(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year. 61817
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(L) "One-hundred-year flood plain" means that portion of a 61819

flood plain inundated by a one-hundred-year flood. 61820

(M) "Operator" means the person who has responsible charge of 61821
a recreational vehicle park, recreation camp, combined park-camp, 61822
or temporary park-camp and who is licensed under this chapter. 61823

(N) "Park model" means a recreational vehicle that meets the 61824
American national standard institute standard A119.5(1988) for 61825
park trailers, is built on a single chassis, has a gross trailer 61826
area of not more than four hundred square feet when set up, is 61827
designed for seasonal or temporary living quarters, and may be 61828
connected to utilities necessary for operation of installed 61829
features and appliances. 61830

(O) "Person" has the same meaning as in section 1.59 of the 61831
Revised Code and also includes this state, any political 61832
subdivision of this state, and any other state or local body of 61833
this state. 61834

(P) "Portable camping units" means dependent recreational 61835
vehicles, tents, portable sleeping equipment, and similar camping 61836
equipment used for travel, recreation, vacation, or business 61837
purposes. 61838

(Q) "Recreation camp" means any tract of land upon which five 61839
or more portable camping units are placed and includes any 61840
roadway, building, structure, vehicle, or enclosure used or 61841
intended for use as a part of the facilities of the camp. A tract 61842
of land that is subdivided for lease or other contract of the 61843
individual lots is a recreation camp if five or more portable 61844
camping units are placed on it for recreation, vacation, or 61845
business purposes. 61846

"Recreation camp" does not include any tract of land used 61847
solely for the storage or display for sale of dependent 61848
recreational vehicles, solely as a temporary park-camp, or solely 61849
as a manufactured home park. 61850

(R) "Recreational vehicle" has the same meaning as in section 61851
4501.01 of the Revised Code. 61852

(S) "Recreational vehicle park" means any tract of land used 61853
for parking five or more self-contained recreational vehicles and 61854
includes any roadway, building, structure, vehicle, or enclosure 61855
used or intended for use as part of the park facilities and any 61856
tract of land that is subdivided for lease or other contract of 61857
the individual lots for the express or implied purpose of placing 61858
self-contained recreational vehicles for recreation, vacation, or 61859
business purposes. 61860

"Recreational vehicle park" does not include any tract of 61861
land used solely for the storage or display for sale of 61862
self-contained recreational vehicles, solely as a temporary 61863
park-camp, or solely as a manufactured home park. 61864

(T) "Self-contained recreational vehicle" means a 61865
recreational vehicle that can operate independent of connections 61866
to sewer and water and has plumbing fixtures or appliances all of 61867
which are connected to sewage holding tanks located within the 61868
vehicle. "Self-contained recreational vehicle" includes a park 61869
model. 61870

(U) "Substantially alter" means a change in the layout or 61871
design of a recreational vehicle park, recreation camp, combined 61872
park-camp, or temporary park-camp, including, without limitation, 61873
the movement of utilities or changes in established streets, lots, 61874
or sites or in other facilities. 61875

(V) "Temporary park-camp" means any tract of land used for a 61876
period not to exceed a total of twenty-one days per calendar year 61877
for the purpose of parking five or more recreational vehicles, 61878
dependent recreational vehicles, or portable camping units, or any 61879
combination thereof, for one or more periods of time that do not 61880
exceed seven consecutive days or parts thereof. 61881

(W) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and regardless of whether the one or more parcels, lots, or sites are under common or different ownership.

Sec. 3733.41. As used in sections 3733.41 to 3733.49 of the Revised Code:

(A) "Agricultural labor camp" means one or more buildings or structures, trailers, tents, or vehicles, together with any land appertaining thereto, established, operated, or used as temporary living quarters for two or more families or five or more persons intending to engage in or engaged in agriculture or related food processing, whether occupancy is by rent, lease, or mutual agreement. "Agricultural labor camp" does not include a hotel or motel, or a ~~trailer~~ manufactured home park as defined and regulated pursuant to sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.52 of the Revised Code, and rules adopted thereunder.

(B) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code or an authorized representative of the board of health.

(C) "Director" means the director of the department of health or ~~his~~ the director's authorized representative.

(D) "Licensor" means the director of health.

(E) "Person" means the state, any political subdivision, public or private corporation, partnership, association, trust, individual, or other entity.

(F) "Public health council" means the public health council as created by section 3701.33 of the Revised Code.

Sec. 3733.99. (A) ~~Whoever violates division (A) of section 3733.08 of the Revised Code is guilty of a misdemeanor of the fourth degree.~~ 61912
61913
61914

~~(B)~~ Whoever violates section 3733.30 of the Revised Code is 61915
guilty of a minor misdemeanor. Each day that such violation 61916
continues is a separate offense. 61917

~~(C)~~(B) Whoever violates section 3733.48 of the Revised Code 61918
is guilty of a minor misdemeanor. 61919

Sec. 3734.02. (A) The director of environmental protection, 61920
in accordance with Chapter 119. of the Revised Code, shall adopt 61921
and may amend, suspend, or rescind rules having uniform 61922
application throughout the state governing solid waste facilities 61923
and the inspections of and issuance of permits and licenses for 61924
all solid waste facilities in order to ensure that the facilities 61925
will be located, maintained, and operated, and will undergo 61926
closure and post-closure care, in a sanitary manner so as not to 61927
create a nuisance, cause or contribute to water pollution, create 61928
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 61929
257.3-8, as amended. The rules may include, without limitation, 61930
financial assurance requirements for closure and post-closure care 61931
and corrective action and requirements for taking corrective 61932
action in the event of the surface or subsurface discharge or 61933
migration of explosive gases or leachate from a solid waste 61934
facility, or of ground water contamination resulting from the 61935
transfer or disposal of solid wastes at a facility, beyond the 61936
boundaries of any area within a facility that is operating or is 61937
undergoing closure or post-closure care where solid wastes were 61938
disposed of or are being disposed of. The rules shall not concern 61939
or relate to personnel policies, salaries, wages, fringe benefits, 61940
or other conditions of employment of employees of persons owning 61941
or operating solid waste facilities. The director, in accordance 61942

with Chapter 119. of the Revised Code, shall adopt and may amend, 61943
suspend, or rescind rules governing the issuance, modification, 61944
revocation, suspension, or denial of variances from the director's 61945
solid waste rules, including, without limitation, rules adopted 61946
under this chapter governing the management of scrap tires. 61947

Variances shall be issued, modified, revoked, suspended, or 61948
rescinded in accordance with this division, rules adopted under 61949
it, and Chapter 3745. of the Revised Code. The director may order 61950
the person to whom a variance is issued to take such action within 61951
such time as the director may determine to be appropriate and 61952
reasonable to prevent the creation of a nuisance or a hazard to 61953
the public health or safety or the environment. Applications for 61954
variances shall contain such detail plans, specifications, and 61955
information regarding objectives, procedures, controls, and other 61956
pertinent data as the director may require. The director shall 61957
grant a variance only if the applicant demonstrates to the 61958
director's satisfaction that construction and operation of the 61959
solid waste facility in the manner allowed by the variance and any 61960
terms or conditions imposed as part of the variance will not 61961
create a nuisance or a hazard to the public health or safety or 61962
the environment. In granting any variance, the director shall 61963
state the specific provision or provisions whose terms are to be 61964
varied and also shall state specific terms or conditions imposed 61965
upon the applicant in place of the provision or provisions. The 61966
director may hold a public hearing on an application for a 61967
variance or renewal of a variance at a location in the county 61968
where the operations that are the subject of the application for 61969
the variance are conducted. The director shall give not less than 61970
twenty days' notice of the hearing to the applicant by certified 61971
mail and shall publish at least one notice of the hearing in a 61972
newspaper with general circulation in the county where the hearing 61973
is to be held. The director shall make available for public 61974
inspection at the principal office of the environmental protection 61975

agency a current list of pending applications for variances and a 61976
current schedule of pending variance hearings. The director shall 61977
make a complete stenographic record of testimony and other 61978
evidence submitted at the hearing. Within ten days after the 61979
hearing, the director shall make a written determination to issue, 61980
renew, or deny the variance and shall enter the determination and 61981
the basis for it into the record of the hearing. The director 61982
shall issue, renew, or deny an application for a variance or 61983
renewal of a variance within six months of the date upon which the 61984
director receives a complete application with all pertinent 61985
information and data required. No variance shall be issued, 61986
revoked, modified, or denied until the director has considered the 61987
relative interests of the applicant, other persons and property 61988
affected by the variance, and the general public. Any variance 61989
granted under this division shall be for a period specified by the 61990
director and may be renewed from time to time on such terms and 61991
for such periods as the director determines to be appropriate. No 61992
application shall be denied and no variance shall be revoked or 61993
modified without a written order stating the findings upon which 61994
the denial, revocation, or modification is based. A copy of the 61995
order shall be sent to the applicant or variance holder by 61996
certified mail. 61997

(B) The director shall prescribe and furnish the forms 61998
necessary to administer and enforce this chapter. The director may 61999
cooperate with and enter into agreements with other state, local, 62000
or federal agencies to carry out the purposes of this chapter. The 62001
director may exercise all incidental powers necessary to carry out 62002
the purposes of this chapter. 62003

The director may use moneys in the infectious waste 62004
management fund created in section 3734.021 of the Revised Code 62005
exclusively for administering and enforcing the provisions of this 62006
chapter governing the management of infectious wastes. Of each 62007

registration and renewal fee collected under rules adopted under 62008
division (A)(2)(a) of section 3734.021 or under section 3734.022 62009
of the Revised Code, the director, within forty-five days of its 62010
receipt, shall remit from the fund one-half of the fee received to 62011
the board of health of the health district in which the registered 62012
premises is located, or, in the instance of an infectious wastes 62013
transporter, to the board of health of the health district in 62014
which the transporter's principal place of business is located. 62015
However, if the board of health having jurisdiction over a 62016
registrant's premises or principal place of business is not on the 62017
approved list under section 3734.08 of the Revised Code, the 62018
director shall not make that payment to the board of health. 62019

(C) Except as provided in this division and divisions (N)(2) 62020
and (3) of this section, no person shall establish a new solid 62021
waste facility or infectious waste treatment facility, or modify 62022
an existing solid waste facility or infectious waste treatment 62023
facility, without submitting an application for a permit with 62024
accompanying detail plans, specifications, and information 62025
regarding the facility and method of operation and receiving a 62026
permit issued by the director, except that no permit shall be 62027
required under this division to install or operate a solid waste 62028
facility for sewage sludge treatment or disposal when the 62029
treatment or disposal is authorized by a current permit issued 62030
under Chapter 3704. or 6111. of the Revised Code. 62031

No person shall continue to operate a solid waste facility 62032
for which the director has denied a permit for which an 62033
application was required under division (A)(3) of section 3734.05 62034
of the Revised Code, or for which the director has disapproved 62035
plans and specifications required to be filed by an order issued 62036
under division (A)(5) of that section, after the date prescribed 62037
for commencement of closure of the facility in the order issued 62038
under division (A)(6) of section 3734.05 of the Revised Code 62039

denying the permit application or approval. 62040

On and after the effective date of the rules adopted under 62041
division (A) of this section and division (D) of section 3734.12 62042
of the Revised Code governing solid waste transfer facilities, no 62043
person shall establish a new, or modify an existing, solid waste 62044
transfer facility without first submitting an application for a 62045
permit with accompanying engineering detail plans, specifications, 62046
and information regarding the facility and its method of operation 62047
to the director and receiving a permit issued by the director. 62048

No person shall establish a new compost facility or continue 62049
to operate an existing compost facility that accepts exclusively 62050
source separated yard wastes without submitting a completed 62051
registration for the facility to the director in accordance with 62052
rules adopted under divisions (A) and (N)(3) of this section. 62053

This division does not apply to an infectious waste treatment 62054
facility that meets any of the following conditions: 62055

(1) Is owned or operated by the generator of the wastes and 62056
exclusively treats, by methods, techniques, and practices 62057
established by rules adopted under division (C)(1) or (3) of 62058
section 3734.021 of the Revised Code, wastes that are generated at 62059
any premises owned or operated by that generator regardless of 62060
whether the wastes are generated on the premises where the 62061
generator's treatment facility is located or, if the generator is 62062
a hospital as defined in section 3727.01 of the Revised Code, 62063
infectious wastes that are described in division (A)(1)(g), (h), 62064
or (i) of section 3734.021 of the Revised Code; 62065

(2) Holds a license or renewal of a license to operate a 62066
crematory facility issued under Chapter 4717. and a permit issued 62067
under Chapter 3704. of the Revised Code; 62068

(3) Treats or disposes of dead animals or parts thereof, or 62069
the blood of animals, and is subject to any of the following: 62070

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;	62071 62072
(b) Chapter 918. of the Revised Code;	62073
(c) Chapter 953. of the Revised Code.	62074
(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment that are disposed of with solid wastes from the individual's residence; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.	62075 62076 62077 62078 62079 62080 62081 62082 62083 62084 62085 62086 62087 62088 62089 62090 62091 62092
(E)(1) As used in this division:	62093
(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.	62094 62095 62096
(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.	62097 62098 62099 62100
(c) "Satellite facility" means any of the following:	62101

(i) An on-site facility that also receives hazardous waste 62102
from other premises owned by the same person who generates the 62103
waste on the facility premises; 62104

(ii) An off-site facility operated so that all of the 62105
hazardous waste it receives is generated on one or more premises 62106
owned by the person who owns the facility; 62107

(iii) An on-site facility that also receives hazardous waste 62108
that is transported uninterruptedly and directly to the facility 62109
through a pipeline from a generator who is not the owner of the 62110
facility. 62111

(2) Except as provided in division (E)(3) of this section, no 62112
person shall establish or operate a hazardous waste facility, or 62113
use a solid waste facility for the storage, treatment, or disposal 62114
of any hazardous waste, without a hazardous waste facility 62115
installation and operation permit issued in accordance with 62116
section 3734.05 of the Revised Code and subject to the payment of 62117
an application fee not to exceed one thousand five hundred 62118
dollars, payable upon application for a hazardous waste facility 62119
installation and operation permit and upon application for a 62120
renewal permit issued under division (H) of section 3734.05 of the 62121
Revised Code, to be credited to the hazardous waste facility 62122
management fund created in section 3734.18 of the Revised Code. 62123
The term of a hazardous waste facility installation and operation 62124
permit shall not exceed ten years. 62125

In addition to the application fee, there is hereby levied an 62126
annual permit fee to be paid by the permit holder upon the 62127
anniversaries of the date of issuance of the hazardous waste 62128
facility installation and operation permit and of any subsequent 62129
renewal permits and to be credited to the hazardous waste facility 62130
management fund. Annual permit fees totaling forty thousand 62131
dollars or more for any one facility may be paid on a quarterly 62132
basis with the first quarterly payment each year being due on the 62133

anniversary of the date of issuance of the hazardous waste			62134
facility installation and operation permit and of any subsequent			62135
renewal permits. The annual permit fee shall be determined for			62136
each permit holder by the director in accordance with the			62137
following schedule:			62138
TYPE OF BASIC			62139
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	62140
Storage facility using:			62141
Containers	On-site, off-site, and		62142
	satellite	\$ 500	62143
Tanks	On-site, off-site, and		62144
	satellite	500	62145
Waste pile	On-site, off-site, and		62146
	satellite	3,000	62147
Surface impoundment	On-site and satellite	8,000	62148
	Off-site	10,000	62149
Disposal facility using:			62150
Deep well injection	On-site and satellite	15,000	62151
	Off-site	25,000	62152
Landfill	On-site and satellite	25,000	62153
	Off-site	40,000	62154
Land application	On-site and satellite	2,500	62155
	Off-site	5,000	62156
Surface impoundment	On-site and satellite	10,000	62157
	Off-site	20,000	62158
Treatment facility using:			62159
Tanks	On-site, off-site, and		62160
	satellite	700	62161
Surface impoundment	On-site and satellite	8,000	62162
	Off-site	10,000	62163
Incinerator	On-site and satellite	5,000	62164
	Off-site	10,000	62165
Other forms			62166

of treatment	On-site, off-site, and	62167
	satellite	1,000 62168

A hazardous waste disposal facility that disposes of 62169
hazardous waste by deep well injection and that pays the annual 62170
permit fee established in section 6111.046 of the Revised Code is 62171
not subject to the permit fee established in this division for 62172
disposal facilities using deep well injection unless the director 62173
determines that the facility is not in compliance with applicable 62174
requirements established under this chapter and rules adopted 62175
under it. 62176

In determining the annual permit fee required by this 62177
section, the director shall not require additional payments for 62178
multiple units of the same method of storage, treatment, or 62179
disposal or for individual units that are used for both storage 62180
and treatment. A facility using more than one method of storage, 62181
treatment, or disposal shall pay the permit fee indicated by the 62182
schedule for each such method. 62183

The director shall not require the payment of that portion of 62184
an annual permit fee of any permit holder that would apply to a 62185
hazardous waste management unit for which a permit has been 62186
issued, but for which construction has not yet commenced. Once 62187
construction has commenced, the director shall require the payment 62188
of a part of the appropriate fee indicated by the schedule that 62189
bears the same relationship to the total fee that the number of 62190
days remaining until the next anniversary date at which payment of 62191
the annual permit fee is due bears to three hundred sixty-five. 62192

The director, by rules adopted in accordance with Chapters 62193
119. and 3745. of the Revised Code, shall prescribe procedures for 62194
collecting the annual permit fee established by this division and 62195
may prescribe other requirements necessary to carry out this 62196
division. 62197

(3) The prohibition against establishing or operating a 62198

hazardous waste facility without a hazardous waste facility 62199
installation and operation permit does not apply to either of the 62200
following: 62201

(a) A facility that is operating in accordance with a permit 62202
renewal issued under division (H) of section 3734.05 of the 62203
Revised Code, a revision issued under division (I) of that section 62204
as it existed prior to August 20, 1996, or a modification issued 62205
by the director under division (I) of that section on and after 62206
August 20, 1996; 62207

(b) Except as provided in division (J) of section 3734.05 of 62208
the Revised Code, a facility that will operate or is operating in 62209
accordance with a permit by rule, or that is not subject to permit 62210
requirements, under rules adopted by the director. In accordance 62211
with Chapter 119. of the Revised Code, the director shall adopt, 62212
and subsequently may amend, suspend, or rescind, rules for the 62213
purposes of division (E)(3)(b) of this section. Any rules so 62214
adopted shall be consistent with and equivalent to regulations 62215
pertaining to interim status adopted under the "Resource 62216
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 62217
6921, as amended, except as otherwise provided in this chapter. 62218

If a modification is requested or proposed for a facility 62219
described in division (E)(3)(a) or (b) of this section, division 62220
(I)(7) of section 3734.05 of the Revised Code applies. 62221

(F) No person shall store, treat, or dispose of hazardous 62222
waste identified or listed under this chapter and rules adopted 62223
under it, regardless of whether generated on or off the premises 62224
where the waste is stored, treated, or disposed of, or transport 62225
or cause to be transported any hazardous waste identified or 62226
listed under this chapter and rules adopted under it to any other 62227
premises, except at or to any of the following: 62228

(1) A hazardous waste facility operating under a permit 62229

issued in accordance with this chapter; 62230

(2) A facility in another state operating under a license or 62231
permit issued in accordance with the "Resource Conservation and 62232
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 62233
amended; 62234

(3) A facility in another nation operating in accordance with 62235
the laws of that nation; 62236

(4) A facility holding a permit issued pursuant to Title I of 62237
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 62238
Stat. 1052, 33 U.S.C.A. 1401, as amended; 62239

(5) A hazardous waste facility as described in division 62240
(E)(3)(a) or (b) of this section. 62241

(G) The director, by order, may exempt any person generating, 62242
collecting, storing, treating, disposing of, or transporting solid 62243
wastes, infectious wastes, or hazardous waste, or processing solid 62244
wastes that consist of scrap tires, in such quantities or under 62245
such circumstances that, in the determination of the director, are 62246
unlikely to adversely affect the public health or safety or the 62247
environment from any requirement to obtain a registration 62248
certificate, permit, or license or comply with the manifest system 62249
or other requirements of this chapter. Such an exemption shall be 62250
consistent with and equivalent to any regulations adopted by the 62251
administrator of the United States environmental protection agency 62252
under the "Resource Conservation and Recovery Act of 1976," 90 62253
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 62254
provided in this chapter. 62255

(H) No person shall engage in filling, grading, excavating, 62256
building, drilling, or mining on land where a hazardous waste 62257
facility, or a solid waste facility, was operated without prior 62258
authorization from the director, who shall establish the procedure 62259
for granting such authorization by rules adopted in accordance 62260

with Chapter 119. of the Revised Code. 62261

A public utility that has main or distribution lines above or 62262
below the land surface located on an easement or right-of-way 62263
across land where a solid waste facility was operated may engage 62264
in any such activity within the easement or right-of-way without 62265
prior authorization from the director for purposes of performing 62266
emergency repair or emergency replacement of its lines; of the 62267
poles, towers, foundations, or other structures supporting or 62268
sustaining any such lines; or of the appurtenances to those 62269
structures, necessary to restore or maintain existing public 62270
utility service. A public utility may enter upon any such easement 62271
or right-of-way without prior authorization from the director for 62272
purposes of performing necessary or routine maintenance of those 62273
portions of its existing lines; of the existing poles, towers, 62274
foundations, or other structures sustaining or supporting its 62275
lines; or of the appurtenances to any such supporting or 62276
sustaining structure, located on or above the land surface on any 62277
such easement or right-of-way. Within twenty-four hours after 62278
commencing any such emergency repair, replacement, or maintenance 62279
work, the public utility shall notify the director or the 62280
director's authorized representative of those activities and shall 62281
provide such information regarding those activities as the 62282
director or the director's representative may request. Upon 62283
completion of the emergency repair, replacement, or maintenance 62284
activities, the public utility shall restore any land of the solid 62285
waste facility disturbed by those activities to the condition 62286
existing prior to the commencement of those activities. 62287

(I) No owner or operator of a hazardous waste facility, in 62288
the operation of the facility, shall cause, permit, or allow the 62289
emission therefrom of any particulate matter, dust, fumes, gas, 62290
mist, smoke, vapor, or odorous substance that, in the opinion of 62291
the director, unreasonably interferes with the comfortable 62292

enjoyment of life or property by persons living or working in the 62293
vicinity of the facility, or that is injurious to public health. 62294
Any such action is hereby declared to be a public nuisance. 62295

(J) Notwithstanding any other provision of this chapter, in 62296
the event the director finds an imminent and substantial danger to 62297
public health or safety or the environment that creates an 62298
emergency situation requiring the immediate treatment, storage, or 62299
disposal of hazardous waste, the director may issue a temporary 62300
emergency permit to allow the treatment, storage, or disposal of 62301
the hazardous waste at a facility that is not otherwise authorized 62302
by a hazardous waste facility installation and operation permit to 62303
treat, store, or dispose of the waste. The emergency permit shall 62304
not exceed ninety days in duration and shall not be renewed. The 62305
director shall adopt, and may amend, suspend, or rescind, rules in 62306
accordance with Chapter 119. of the Revised Code governing the 62307
issuance, modification, revocation, and denial of emergency 62308
permits. 62309

(K) No owner or operator of a sanitary landfill shall 62310
knowingly accept for disposal, or dispose of, any infectious 62311
wastes, other than those subject to division (A)(1)(c) of section 62312
3734.021 of the Revised Code, that have not been treated to render 62313
them noninfectious. For the purposes of this division, 62314
certification by the owner or operator of the treatment facility 62315
where the wastes were treated on the shipping paper required by 62316
rules adopted under division (D)(2) of that section creates a 62317
rebuttable presumption that the wastes have been so treated. 62318

(L) The director, in accordance with Chapter 119. of the 62319
Revised Code, shall adopt, and may amend, suspend, or rescind, 62320
rules having uniform application throughout the state establishing 62321
a training and certification program that shall be required for 62322
employees of boards of health who are responsible for enforcing 62323
the solid waste and infectious waste provisions of this chapter 62324

and rules adopted under them and for persons who are responsible 62325
for the operation of solid waste facilities or infectious waste 62326
treatment facilities. The rules shall provide all of the 62327
following, without limitation: 62328

(1) The program shall be administered by the director and 62329
shall consist of a course on new solid waste and infectious waste 62330
technologies, enforcement procedures, and rules; 62331

(2) The course shall be offered on an annual basis; 62332

(3) Those persons who are required to take the course under 62333
division (L) of this section shall do so triennially; 62334

(4) Persons who successfully complete the course shall be 62335
certified by the director; 62336

(5) Certification shall be required for all employees of 62337
boards of health who are responsible for enforcing the solid waste 62338
or infectious waste provisions of this chapter and rules adopted 62339
under them and for all persons who are responsible for the 62340
operation of solid waste facilities or infectious waste treatment 62341
facilities; 62342

(6)(a) All employees of a board of health who, on the 62343
effective date of the rules adopted under this division, are 62344
responsible for enforcing the solid waste or infectious waste 62345
provisions of this chapter and the rules adopted under them shall 62346
complete the course and be certified by the director not later 62347
than January 1, 1995; 62348

(b) All employees of a board of health who, after the 62349
effective date of the rules adopted under division (L) of this 62350
section, become responsible for enforcing the solid waste or 62351
infectious waste provisions of this chapter and rules adopted 62352
under them and who do not hold a current and valid certification 62353
from the director at that time shall complete the course and be 62354
certified by the director within two years after becoming 62355

responsible for performing those activities. 62356

No person shall fail to obtain the certification required 62357
under this division. 62358

(M) The director shall not issue a permit under section 62359
3734.05 of the Revised Code to establish a solid waste facility, 62360
or to modify a solid waste facility operating on December 21, 62361
1988, in a manner that expands the disposal capacity or geographic 62362
area covered by the facility, that is or is to be located within 62363
the boundaries of a state park established or dedicated under 62364
Chapter 1541. of the Revised Code, a state park purchase area 62365
established under section 1541.02 of the Revised Code, any unit of 62366
the national park system, or any property that lies within the 62367
boundaries of a national park or recreation area, but that has not 62368
been acquired or is not administered by the secretary of the 62369
United States department of the interior, located in this state, 62370
or any candidate area located in this state and identified for 62371
potential inclusion in the national park system in the edition of 62372
the "national park system plan" submitted under paragraph (b) of 62373
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 62374
U.S.C.A. 1a-5, as amended, current at the time of filing of the 62375
application for the permit, unless the facility or proposed 62376
facility is or is to be used exclusively for the disposal of solid 62377
wastes generated within the park or recreation area and the 62378
director determines that the facility or proposed facility will 62379
not degrade any of the natural or cultural resources of the park 62380
or recreation area. The director shall not issue a variance under 62381
division (A) of this section and rules adopted under it, or issue 62382
an exemption order under division (G) of this section, that would 62383
authorize any such establishment or expansion of a solid waste 62384
facility within the boundaries of any such park or recreation 62385
area, state park purchase area, or candidate area, other than a 62386
solid waste facility exclusively for the disposal of solid wastes 62387

generated within the park or recreation area when the director 62388
determines that the facility will not degrade any of the natural 62389
or cultural resources of the park or recreation area. 62390

(N)(1) The rules adopted under division (A) of this section, 62391
other than those governing variances, do not apply to scrap tire 62392
collection, storage, monocell, monofill, and recovery facilities. 62393
Those facilities are subject to and governed by rules adopted 62394
under sections 3734.70 to 3734.73 of the Revised Code, as 62395
applicable. 62396

(2) Division (C) of this section does not apply to scrap tire 62397
collection, storage, monocell, monofill, and recovery facilities. 62398
The establishment and modification of those facilities are subject 62399
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 62400
Code, as applicable. 62401

(3) The director may adopt, amend, suspend, or rescind rules 62402
under division (A) of this section creating an alternative system 62403
for authorizing the establishment, operation, or modification of a 62404
solid waste compost facility in lieu of the requirement that a 62405
person seeking to establish, operate, or modify a solid waste 62406
compost facility apply for and receive a permit under division (C) 62407
of this section and section 3734.05 of the Revised Code and a 62408
license under division (A)(1) of that section. The rules may 62409
include requirements governing, without limitation, the 62410
classification of solid waste compost facilities, the submittal of 62411
operating records for solid waste compost facilities, and the 62412
creation of a registration or notification system in lieu of the 62413
issuance of permits and licenses for solid waste compost 62414
facilities. The rules shall specify the applicability of divisions 62415
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 62416
Code to a solid waste compost facility. 62417

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 62418

(8), and (9) of this section, no person shall operate or maintain 62419
a solid waste facility without a license issued under this 62420
division by the board of health of the health district in which 62421
the facility is located or by the director of environmental 62422
protection when the health district in which the facility is 62423
located is not on the approved list under section 3734.08 of the 62424
Revised Code. 62425

During the month of December, but before the first day of 62426
January of the next year, every person proposing to continue to 62427
operate an existing solid waste facility shall procure a license 62428
under this division to operate the facility for that year from the 62429
board of health of the health district in which the facility is 62430
located or, if the health district is not on the approved list 62431
under section 3734.08 of the Revised Code, from the director. The 62432
application for such a license shall be submitted to the board of 62433
health or to the director, as appropriate, on or before the last 62434
day of September of the year preceding that for which the license 62435
is sought. In addition to the application fee prescribed in 62436
division (A)(2) of this section, a person who submits an 62437
application after that date shall pay an additional ten per cent 62438
of the amount of the application fee for each week that the 62439
application is late. Late payment fees accompanying an application 62440
submitted to the board of health shall be credited to the special 62441
fund of the health district created in division (B) of section 62442
3734.06 of the Revised Code, and late payment fees accompanying an 62443
application submitted to the director shall be credited to the 62444
general revenue fund. A person who has received a license, upon 62445
sale or disposition of a solid waste facility, and upon consent of 62446
the board of health and the director, may have the license 62447
transferred to another person. The board of health or the director 62448
may include such terms and conditions in a license or revision to 62449
a license as are appropriate to ensure compliance with this 62450
chapter and rules adopted under it. The terms and conditions may 62451

establish the authorized maximum daily waste receipts for the 62452
facility. Limitations on maximum daily waste receipts shall be 62453
specified in cubic yards of volume for the purpose of regulating 62454
the design, construction, and operation of solid waste facilities. 62455
Terms and conditions included in a license or revision to a 62456
license by a board of health shall be consistent with, and pertain 62457
only to the subjects addressed in, the rules adopted under 62458
division (A) of section 3734.02 and division (D) of section 62459
3734.12 of the Revised Code. 62460

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 62461
(9) of this section, each person proposing to open a new solid 62462
waste facility or to modify an existing solid waste facility shall 62463
submit an application for a permit with accompanying detail plans 62464
and specifications to the environmental protection agency for 62465
required approval under the rules adopted by the director pursuant 62466
to division (A) of section 3734.02 of the Revised Code and 62467
applicable rules adopted under division (D) of section 3734.12 of 62468
the Revised Code at least two hundred seventy days before proposed 62469
operation of the facility and shall concurrently make application 62470
for the issuance of a license under division (A)(1) of this 62471
section with the board of health of the health district in which 62472
the proposed facility is to be located. 62473

(b) On and after the effective date of the rules adopted 62474
under division (A) of section 3734.02 of the Revised Code and 62475
division (D) of section 3734.12 of the Revised Code governing 62476
solid waste transfer facilities, each person proposing to open a 62477
new solid waste transfer facility or to modify an existing solid 62478
waste transfer facility shall submit an application for a permit 62479
with accompanying engineering detail plans, specifications, and 62480
information regarding the facility and its method of operation to 62481
the environmental protection agency for required approval under 62482
those rules at least two hundred seventy days before commencing 62483

proposed operation of the facility and concurrently shall make 62484
application for the issuance of a license under division (A)(1) of 62485
this section with the board of health of the health district in 62486
which the facility is located or proposed. 62487

(c) Each application for a permit under division (A)(2)(a) or 62488
(b) of this section shall be accompanied by a nonrefundable 62489
application fee of four hundred dollars that shall be credited to 62490
the general revenue fund. Each application for an annual license 62491
under division (A)(1) or (2) of this section shall be accompanied 62492
by a nonrefundable application fee of one hundred dollars. If the 62493
application for an annual license is submitted to a board of 62494
health on the approved list under section 3734.08 of the Revised 62495
Code, the application fee shall be credited to the special fund of 62496
the health district created in division (B) of section 3734.06 of 62497
the Revised Code. If the application for an annual license is 62498
submitted to the director, the application fee shall be credited 62499
to the general revenue fund. If a permit or license is issued, the 62500
amount of the application fee paid shall be deducted from the 62501
amount of the permit fee due under division (Q) of section 3745.11 62502
of the Revised Code or the amount of the license fee due under 62503
division (A)(1), (2), (3), ~~or~~ (4), or (5) of section 3734.06 of 62504
the Revised Code. 62505

(d) As used in divisions (A)(2)(d), (e), and (f) of this 62506
section, "modify" means any of the following: 62507

(i) Any increase of more than ten per cent in the total 62508
capacity of a solid waste facility; 62509

(ii) Any expansion of the limits of solid waste placement at 62510
a solid waste facility; 62511

(iii) Any increase in the depth of excavation at a solid 62512
waste facility; 62513

(iv) Any change in the technique of waste receipt or type of 62514

waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than ~~thirty-five~~ forty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays,

or other materials presented by the applicant at the meeting, and 62548
the original copy of any written comments submitted at the 62549
meeting. 62550

(e) Except as provided in division (A)(2)(f) of this section, 62551
prior to taking an action, other than a proposed or final denial, 62552
upon an application submitted under division (A)(2)(a) of this 62553
section for a permit to open a new or modify an existing solid 62554
waste facility, the director shall hold a public information 62555
session and a public hearing on the application within the county 62556
in which the new or modified solid waste facility is or is 62557
proposed to be located or within a contiguous county. If the 62558
application is for a permit to open a new solid waste facility, 62559
the director shall hold the hearing not less than fourteen days 62560
after the information session. If the application is for a permit 62561
to modify an existing solid waste facility, the director may hold 62562
both the information session and the hearing on the same day 62563
unless any individual affected by the application requests in 62564
writing that the information session and the hearing not be held 62565
on the same day, in which case the director shall hold the hearing 62566
not less than fourteen days after the information session. The 62567
director shall publish notice of the public information session or 62568
public hearing not less than thirty days before holding the 62569
information session or hearing, as applicable. The notice shall be 62570
published in each newspaper of general circulation that is 62571
published in the county in which the facility is or is proposed to 62572
be located. If no newspaper of general circulation is published in 62573
the county, the director shall publish the notice in a newspaper 62574
of general circulation in the county. The notice shall contain the 62575
date, time, and location of the information session or hearing, as 62576
applicable, and a general description of the proposed new or 62577
modified facility. At the public information session, an officer 62578
or employee of the environmental protection agency shall describe 62579
the status of the permit application and be available to respond 62580

to comments or questions concerning the application. At the public 62581
hearing, any person may submit written or oral comments on or 62582
objections to the approval of the application. The applicant, or a 62583
representative of the applicant who has knowledge of the location, 62584
construction, and operation of the facility, shall attend the 62585
information session and public hearing to respond to comments or 62586
questions concerning the facility directed to the applicant or 62587
representative by the officer or employee of the environmental 62588
protection agency presiding at the information session and 62589
hearing. 62590

(f) The solid waste management policy committee of a county 62591
or joint solid waste management district may adopt a resolution 62592
requesting expeditious consideration of a specific application 62593
submitted under division (A)(2)(a) of this section for a permit to 62594
modify an existing solid waste facility within the district. The 62595
resolution shall make the finding that expedited consideration of 62596
the application without the public information session and public 62597
hearing under division (A)(2)(e) of this section is in the public 62598
interest and will not endanger human health, as determined by the 62599
director by rules adopted in accordance with Chapter 119. of the 62600
Revised Code. Upon receiving such a resolution, the director, at 62601
the director's discretion, may issue a final action upon the 62602
application without holding a public information session or public 62603
hearing pursuant to division (A)(2)(e) of this section. 62604

(3) Except as provided in division (A)(10) of this section, 62605
and unless the owner or operator of any solid waste facility, 62606
other than a solid waste transfer facility or a compost facility 62607
that accepts exclusively source separated yard wastes, that 62608
commenced operation on or before July 1, 1968, has obtained an 62609
exemption from the requirements of division (A)(3) of this section 62610
in accordance with division (G) of section 3734.02 of the Revised 62611
Code, the owner or operator shall submit to the director an 62612

application for a permit with accompanying engineering detail 62613
plans, specifications, and information regarding the facility and 62614
its method of operation for approval under rules adopted under 62615
division (A) of section 3734.02 of the Revised Code and applicable 62616
rules adopted under division (D) of section 3734.12 of the Revised 62617
Code in accordance with the following schedule: 62618

(a) Not later than September 24, 1988, if the facility is 62619
located in the city of Garfield Heights or Parma in Cuyahoga 62620
county; 62621

(b) Not later than December 24, 1988, if the facility is 62622
located in Delaware, Greene, Guernsey, Hamilton, Madison, 62623
Mahoning, Ottawa, or Vinton county; 62624

(c) Not later than March 24, 1989, if the facility is located 62625
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 62626
Washington county, or is located in the city of Brooklyn or 62627
Cuyahoga Heights in Cuyahoga county; 62628

(d) Not later than June 24, 1989, if the facility is located 62629
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 62630
Summit county or is located in Cuyahoga county outside the cities 62631
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 62632

(e) Not later than September 24, 1989, if the facility is 62633
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 62634
county; 62635

(f) Not later than December 24, 1989, if the facility is 62636
located in a county not listed in divisions (A)(3)(a) to (e) of 62637
this section; 62638

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 62639
section, not later than December 31, 1990, if the facility is a 62640
solid waste facility owned by a generator of solid wastes when the 62641
solid waste facility exclusively disposes of solid wastes 62642
generated at one or more premises owned by the generator 62643

regardless of whether the facility is located on a premises where 62644
the wastes are generated and if the facility disposes of more than 62645
one hundred thousand tons of solid wastes per year, provided that 62646
any such facility shall be subject to division (A)(5) of this 62647
section. 62648

(4) Except as provided in divisions (A)(8), (9), and (10) of 62649
this section, unless the owner or operator of any solid waste 62650
facility for which a permit was issued after July 1, 1968, but 62651
before January 1, 1980, has obtained an exemption from the 62652
requirements of division (A)(4) of this section under division (G) 62653
of section 3734.02 of the Revised Code, the owner or operator 62654
shall submit to the director an application for a permit with 62655
accompanying engineering detail plans, specifications, and 62656
information regarding the facility and its method of operation for 62657
approval under those rules. 62658

(5) The director may issue an order in accordance with 62659
Chapter 3745. of the Revised Code to the owner or operator of a 62660
solid waste facility requiring the person to submit to the 62661
director updated engineering detail plans, specifications, and 62662
information regarding the facility and its method of operation for 62663
approval under rules adopted under division (A) of section 3734.02 62664
of the Revised Code and applicable rules adopted under division 62665
(D) of section 3734.12 of the Revised Code if, in the director's 62666
judgment, conditions at the facility constitute a substantial 62667
threat to public health or safety or are causing or contributing 62668
to or threatening to cause or contribute to air or water pollution 62669
or soil contamination. Any person who receives such an order shall 62670
submit the updated engineering detail plans, specifications, and 62671
information to the director within one hundred eighty days after 62672
the effective date of the order. 62673

(6) The director shall act upon an application submitted 62674
under division (A)(3) or (4) of this section and any updated 62675

engineering plans, specifications, and information submitted under 62676
division (A)(5) of this section within one hundred eighty days 62677
after receiving them. If the director denies any such permit 62678
application, the order denying the application or disapproving the 62679
plans shall include the requirements that the owner or operator 62680
submit a plan for closure and post-closure care of the facility to 62681
the director for approval within six months after issuance of the 62682
order, cease accepting solid wastes for disposal or transfer at 62683
the facility, and commence closure of the facility not later than 62684
one year after issuance of the order. If the director determines 62685
that closure of the facility within that one-year period would 62686
result in the unavailability of sufficient solid waste management 62687
facility capacity within the county or joint solid waste 62688
management district in which the facility is located to dispose of 62689
or transfer the solid waste generated within the district, the 62690
director in the order of denial or disapproval may postpone 62691
commencement of closure of the facility for such period of time as 62692
the director finds necessary for the board of county commissioners 62693
or directors of the district to secure access to or for there to 62694
be constructed within the district sufficient solid waste 62695
management facility capacity to meet the needs of the district, 62696
provided that the director shall certify in the director's order 62697
that postponing the date for commencement of closure will not 62698
endanger ground water or any property surrounding the facility, 62699
allow methane gas migration to occur, or cause or contribute to 62700
any other type of environmental damage. 62701

If an emergency need for disposal capacity that may affect 62702
public health and safety exists as a result of closure of a 62703
facility under division (A)(6) of this section, the director may 62704
issue an order designating another solid waste facility to accept 62705
the wastes that would have been disposed of at the facility to be 62706
closed. 62707

(7) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(9) Divisions (A)(1) to (7) of this section do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(10) Divisions (A)(3) and (4) of this section do not apply to a solid waste incinerator that was placed into operation on or

before October 12, 1994, and that is not authorized to accept and 62740
treat infectious wastes pursuant to division (B) of this section. 62741

(B)(1) Each person who is engaged in the business of treating 62742
infectious wastes for profit at a treatment facility located off 62743
the premises where the wastes are generated that is in operation 62744
on August 10, 1988, and who proposes to continue operating the 62745
facility shall submit to the board of health of the health 62746
district in which the facility is located an application for a 62747
license to operate the facility. 62748

Thereafter, no person shall operate or maintain an infectious 62749
waste treatment facility without a license issued by the board of 62750
health of the health district in which the facility is located or 62751
by the director when the health district in which the facility is 62752
located is not on the approved list under section 3734.08 of the 62753
Revised Code. 62754

(2)(a) During the month of December, but before the first day 62755
of January of the next year, every person proposing to continue to 62756
operate an existing infectious waste treatment facility shall 62757
procure a license to operate the facility for that year from the 62758
board of health of the health district in which the facility is 62759
located or, if the health district is not on the approved list 62760
under section 3734.08 of the Revised Code, from the director. The 62761
application for such a license shall be submitted to the board of 62762
health or to the director, as appropriate, on or before the last 62763
day of September of the year preceding that for which the license 62764
is sought. In addition to the application fee prescribed in 62765
division (B)(2)(c) of this section, a person who submits an 62766
application after that date shall pay an additional ten per cent 62767
of the amount of the application fee for each week that the 62768
application is late. Late payment fees accompanying an application 62769
submitted to the board of health shall be credited to the special 62770
infectious waste fund of the health district created in division 62771

(C) of section 3734.06 of the Revised Code, and late payment fees 62772
accompanying an application submitted to the director shall be 62773
credited to the general revenue fund. A person who has received a 62774
license, upon sale or disposition of an infectious waste treatment 62775
facility and upon consent of the board of health and the director, 62776
may have the license transferred to another person. The board of 62777
health or the director may include such terms and conditions in a 62778
license or revision to a license as are appropriate to ensure 62779
compliance with the infectious waste provisions of this chapter 62780
and rules adopted under them. 62781

(b) Each person proposing to open a new infectious waste 62782
treatment facility or to modify an existing infectious waste 62783
treatment facility shall submit an application for a permit with 62784
accompanying detail plans and specifications to the environmental 62785
protection agency for required approval under the rules adopted by 62786
the director pursuant to section 3734.021 of the Revised Code two 62787
hundred seventy days before proposed operation of the facility and 62788
concurrently shall make application for a license with the board 62789
of health of the health district in which the facility is or is 62790
proposed to be located. Not later than ninety days after receiving 62791
a completed application under division (B)(2)(b) of this section 62792
for a permit to open a new infectious waste treatment facility or 62793
modify an existing infectious waste treatment facility to expand 62794
its treatment capacity, or receiving a completed application under 62795
division (A)(2)(a) of this section for a permit to open a new 62796
solid waste incineration facility, or modify an existing solid 62797
waste incineration facility to also treat infectious wastes or to 62798
increase its infectious waste treatment capacity, that pertains to 62799
a facility for which a notation authorizing infectious waste 62800
treatment is included or proposed to be included in the solid 62801
waste incineration facility's license pursuant to division (B)(3) 62802
of this section, the director shall hold a public hearing on the 62803
application within the county in which the new or modified 62804

infectious waste or solid waste facility is or is proposed to be 62805
located or within a contiguous county. Not less than thirty days 62806
before holding the public hearing on the application, the director 62807
shall publish notice of the hearing in each newspaper that has 62808
general circulation and that is published in the county in which 62809
the facility is or is proposed to be located. If there is no 62810
newspaper that has general circulation and that is published in 62811
the county, the director shall publish the notice in a newspaper 62812
of general circulation in the county. The notice shall contain the 62813
date, time, and location of the public hearing and a general 62814
description of the proposed new or modified facility. At the 62815
public hearing, any person may submit written or oral comments on 62816
or objections to the approval or disapproval of the application. 62817
The applicant, or a representative of the applicant who has 62818
knowledge of the location, construction, and operation of the 62819
facility, shall attend the public hearing to respond to comments 62820
or questions concerning the facility directed to the applicant or 62821
representative by the officer or employee of the environmental 62822
protection agency presiding at the hearing. 62823

(c) Each application for a permit under division (B)(2)(b) of 62824
this section shall be accompanied by a nonrefundable application 62825
fee of four hundred dollars that shall be credited to the general 62826
revenue fund. Each application for an annual license under 62827
division (B)(2)(a) of this section shall be accompanied by a 62828
nonrefundable application fee of one hundred dollars. If the 62829
application for an annual license is submitted to a board of 62830
health on the approved list under section 3734.08 of the Revised 62831
Code, the application fee shall be credited to the special 62832
infectious waste fund of the health district created in division 62833
(C) of section 3734.06 of the Revised Code. If the application for 62834
an annual license is submitted to the director, the application 62835
fee shall be credited to the general revenue fund. If a permit or 62836
license is issued, the amount of the application fee paid shall be 62837

deducted from the amount of the permit fee due under division (Q) 62838
of section 3745.11 of the Revised Code or the amount of the 62839
license fee due under division (C) of section 3734.06 of the 62840
Revised Code. 62841

(d) The owner or operator of any infectious waste treatment 62842
facility that commenced operation on or before July 1, 1968, shall 62843
submit to the director an application for a permit with 62844
accompanying engineering detail plans, specifications, and 62845
information regarding the facility and its method of operation for 62846
approval under rules adopted under section 3734.021 of the Revised 62847
Code in accordance with the following schedule: 62848

(i) Not later than December 24, 1988, if the facility is 62849
located in Delaware, Greene, Guernsey, Hamilton, Madison, 62850
Mahoning, Ottawa, or Vinton county; 62851

(ii) Not later than March 24, 1989, if the facility is 62852
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 62853
or Washington county, or is located in the city of Brooklyn, 62854
Cuyahoga Heights, or Parma in Cuyahoga county; 62855

(iii) Not later than June 24, 1989, if the facility is 62856
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 62857
Lucas, or Summit county or is located in Cuyahoga county outside 62858
the cities of Brooklyn, Cuyahoga Heights, and Parma; 62859

(iv) Not later than September 24, 1989, if the facility is 62860
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 62861
county; 62862

(v) Not later than December 24, 1989, if the facility is 62863
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 62864
of this section. 62865

The owner or operator of an infectious waste treatment 62866
facility required to submit a permit application under division 62867
(B)(2)(d) of this section is not required to pay any permit 62868

application fee under division (B)(2)(c) of this section, or 62869
permit fee under division (Q) of section 3745.11 of the Revised 62870
Code, with respect thereto unless the owner or operator also 62871
proposes to modify the facility. 62872

(e) The director may issue an order in accordance with 62873
Chapter 3745. of the Revised Code to the owner or operator of an 62874
infectious waste treatment facility requiring the person to submit 62875
to the director updated engineering detail plans, specifications, 62876
and information regarding the facility and its method of operation 62877
for approval under rules adopted under section 3734.021 of the 62878
Revised Code if, in the director's judgment, conditions at the 62879
facility constitute a substantial threat to public health or 62880
safety or are causing or contributing to or threatening to cause 62881
or contribute to air or water pollution or soil contamination. Any 62882
person who receives such an order shall submit the updated 62883
engineering detail plans, specifications, and information to the 62884
director within one hundred eighty days after the effective date 62885
of the order. 62886

(f) The director shall act upon an application submitted 62887
under division (B)(2)(d) of this section and any updated 62888
engineering plans, specifications, and information submitted under 62889
division (B)(2)(e) of this section within one hundred eighty days 62890
after receiving them. If the director denies any such permit 62891
application or disapproves any such updated engineering plans, 62892
specifications, and information, the director shall include in the 62893
order denying the application or disapproving the plans the 62894
requirement that the owner or operator cease accepting infectious 62895
wastes for treatment at the facility. 62896

(3) Division (B) of this section does not apply to an 62897
infectious waste treatment facility that meets any of the 62898
following conditions: 62899

(a) Is owned or operated by the generator of the wastes and 62900

exclusively treats, by methods, techniques, and practices 62901
established by rules adopted under division (C)(1) or (3) of 62902
section 3734.021 of the Revised Code, wastes that are generated at 62903
any premises owned or operated by that generator regardless of 62904
whether the wastes are generated on the same premises where the 62905
generator's treatment facility is located or, if the generator is 62906
a hospital as defined in section 3727.01 of the Revised Code, 62907
infectious wastes that are described in division (A)(1)(g), (h), 62908
or (i) of section 3734.021 of the Revised Code; 62909

(b) Holds a license or renewal of a license to operate a 62910
crematory facility issued under Chapter 4717. and a permit issued 62911
under Chapter 3704. of the Revised Code; 62912

(c) Treats or disposes of dead animals or parts thereof, or 62913
the blood of animals, and is subject to any of the following: 62914

(i) Inspection under the "Federal Meat Inspection Act," 81 62915
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 62916

(ii) Chapter 918. of the Revised Code; 62917

(iii) Chapter 953. of the Revised Code. 62918

Nothing in division (B) of this section requires a facility 62919
that holds a license issued under division (A) of this section as 62920
a solid waste facility and that also treats infectious wastes by 62921
the same method, technique, or process to obtain a license under 62922
division (B) of this section as an infectious waste treatment 62923
facility. However, the solid waste facility license for the 62924
facility shall include the notation that the facility also treats 62925
infectious wastes. 62926

On and after the effective date of the amendments to the 62927
rules adopted under division (C)(2) of section 3734.021 of the 62928
Revised Code that are required by Section 6 of Substitute House 62929
Bill No. 98 of the 120th General Assembly, the director shall not 62930
issue a permit to open a new solid waste incineration facility 62931

unless the proposed facility complies with the requirements for 62932
the location of new infectious waste incineration facilities 62933
established in the required amendments to those rules. 62934

(C) Except for a facility or activity described in division 62935
(E)(3) of section 3734.02 of the Revised Code, a person who 62936
proposes to establish or operate a hazardous waste facility shall 62937
submit a complete application for a hazardous waste facility 62938
installation and operation permit and accompanying detail plans, 62939
specifications, and such information as the director may require 62940
to the environmental protection agency at least one hundred eighty 62941
days before the proposed beginning of operation of the facility. 62942
The applicant shall notify by certified mail the legislative 62943
authority of each municipal corporation, township, and county in 62944
which the facility is proposed to be located of the submission of 62945
the application within ten days after the submission or at such 62946
earlier time as the director may establish by rule. If the 62947
application is for a proposed new hazardous waste disposal or 62948
thermal treatment facility, the applicant also shall give actual 62949
notice of the general design and purpose of the facility to the 62950
legislative authority of each municipal corporation, township, and 62951
county in which the facility is proposed to be located at least 62952
ninety days before the permit application is submitted to the 62953
environmental protection agency. 62954

In accordance with rules adopted under section 3734.12 of the 62955
Revised Code, prior to the submission of a complete application 62956
for a hazardous waste facility installation and operation permit, 62957
the applicant shall hold at least one meeting in the township or 62958
municipal corporation in which the facility is proposed to be 62959
located, whichever is geographically closer to the proposed 62960
location of the facility. The meeting shall be open to the public 62961
and shall be held to inform the community of the proposed 62962
hazardous waste management activities and to solicit questions 62963

from the community concerning the activities. 62964

(D)(1) Except as provided in section 3734.123 of the Revised 62965
Code, upon receipt of a complete application for a hazardous waste 62966
facility installation and operation permit under division (C) of 62967
this section, the director shall consider the application and 62968
accompanying information to determine whether the application 62969
complies with agency rules and the requirements of division (D)(2) 62970
of this section. After making a determination, the director shall 62971
issue either a draft permit or a notice of intent to deny the 62972
permit. The director, in accordance with rules adopted under 62973
section 3734.12 of the Revised Code or with rules adopted to 62974
implement Chapter 3745. of the Revised Code, shall provide public 62975
notice of the application and the draft permit or the notice of 62976
intent to deny the permit, provide an opportunity for public 62977
comments, and, if significant interest is shown, schedule a public 62978
meeting in the county in which the facility is proposed to be 62979
located and give public notice of the date, time, and location of 62980
the public meeting in a newspaper of general circulation in that 62981
county. 62982

(2) The director shall not approve an application for a 62983
hazardous waste facility installation and operation permit or an 62984
application for a modification under division (I)(3) of this 62985
section unless the director finds and determines as follows: 62986

(a) The nature and volume of the waste to be treated, stored, 62987
or disposed of at the facility; 62988

(b) That the facility complies with the director's hazardous 62989
waste standards adopted pursuant to section 3734.12 of the Revised 62990
Code; 62991

(c) That the facility represents the minimum adverse 62992
environmental impact, considering the state of available 62993
technology and the nature and economics of various alternatives, 62994

and other pertinent considerations;	62995
(d) That the facility represents the minimum risk of all of the following:	62996
(i) Fires or explosions from treatment, storage, or disposal methods;	62997
(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;	62998
(iii) Adverse impact on the public health and safety.	62999
(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;	63000
(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised	63001
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Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

(i) Two thousand feet of any residence, school, hospital, jail, or prison;

(ii) Any naturally occurring wetland;

(iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established

under section 1541.02 of the Revised Code, any unit of the 63057
national park system, or any property that lies within the 63058
boundaries of a national park or recreation area, but that has not 63059
been acquired or is not administered by the secretary of the 63060
United States department of the interior, located in this state, 63061
or any candidate area located in this state identified for 63062
potential inclusion in the national park system in the edition of 63063
the "national park system plan" submitted under paragraph (b) of 63064
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 63065
U.S.C.A. 1a-5, as amended, current at the time of filing of the 63066
application for the permit, unless the facility will be used 63067
exclusively for the storage of hazardous waste generated within 63068
the park or recreation area in conjunction with the operation of 63069
the park or recreation area. Division (D)(2)(h) of this section 63070
does not apply to the facility of any applicant for modification 63071
of a permit unless the modification application proposes to 63072
increase the land area included in the facility or to increase the 63073
quantity of hazardous waste that will be treated, stored, or 63074
disposed of at the facility. 63075

(3) Not later than one hundred eighty days after the end of 63076
the public comment period, the director, without prior hearing, 63077
shall issue or deny the permit in accordance with Chapter 3745. of 63078
the Revised Code. If the director approves an application for a 63079
hazardous waste facility installation and operation permit, the 63080
director shall issue the permit, upon such terms and conditions as 63081
the director finds are necessary to ensure the construction and 63082
operation of the hazardous waste facility in accordance with the 63083
standards of this section. 63084

(E) No political subdivision of this state shall require any 63085
additional zoning or other approval, consent, permit, certificate, 63086
or condition for the construction or operation of a hazardous 63087
waste facility authorized by a hazardous waste facility 63088

installation and operation permit issued pursuant to this chapter, 63089
nor shall any political subdivision adopt or enforce any law, 63090
ordinance, or rule that in any way alters, impairs, or limits the 63091
authority granted in the permit. 63092

(F) The director may issue a single hazardous waste facility 63093
installation and operation permit to a person who operates two or 63094
more adjoining facilities where hazardous waste is stored, 63095
treated, or disposed of if the application includes detail plans, 63096
specifications, and information on all facilities. For the 63097
purposes of this section, "adjoining" means sharing a common 63098
boundary, separated only by a public road, or in such proximity 63099
that the director determines that the issuance of a single permit 63100
will not create a hazard to the public health or safety or the 63101
environment. 63102

(G) No person shall falsify or fail to keep or submit any 63103
plans, specifications, data, reports, records, manifests, or other 63104
information required to be kept or submitted to the director by 63105
this chapter or the rules adopted under it. 63106

(H)(1) Each person who holds an installation and operation 63107
permit issued under this section and who wishes to obtain a permit 63108
renewal shall submit a completed application for an installation 63109
and operation permit renewal and any necessary accompanying 63110
general plans, detail plans, specifications, and such information 63111
as the director may require to the director no later than one 63112
hundred eighty days prior to the expiration date of the existing 63113
permit or upon a later date prior to the expiration of the 63114
existing permit if the permittee can demonstrate good cause for 63115
the late submittal. The director shall consider the application 63116
and accompanying information, inspection reports of the facility, 63117
results of performance tests, a report regarding the facility's 63118
compliance or noncompliance with the terms and conditions of its 63119
permit and rules adopted by the director under this chapter, and 63120

such other information as is relevant to the operation of the 63121
facility and shall issue a draft renewal permit or a notice of 63122
intent to deny the renewal permit. The director, in accordance 63123
with rules adopted under this section or with rules adopted to 63124
implement Chapter 3745. of the Revised Code, shall give public 63125
notice of the application and draft renewal permit or notice of 63126
intent to deny the renewal permit, provide for the opportunity for 63127
public comments within a specified time period, schedule a public 63128
meeting in the county in which the facility is located if 63129
significant interest is shown, and give public notice of the 63130
public meeting. 63131

(2) Within sixty days after the public meeting or close of 63132
the public comment period, the director, without prior hearing, 63133
shall issue or deny the renewal permit in accordance with Chapter 63134
3745. of the Revised Code. The director shall not issue a renewal 63135
permit unless the director determines that the facility under the 63136
existing permit has a history of compliance with this chapter, 63137
rules adopted under it, the existing permit, or orders entered to 63138
enforce such requirements that demonstrates sufficient 63139
reliability, expertise, and competency to operate the facility 63140
henceforth under this chapter, rules adopted under it, and the 63141
renewal permit. If the director approves an application for a 63142
renewal permit, the director shall issue the permit subject to the 63143
payment of the annual permit fee required under division (E) of 63144
section 3734.02 of the Revised Code and upon such terms and 63145
conditions as the director finds are reasonable to ensure that 63146
continued operation, maintenance, closure, and post-closure care 63147
of the hazardous waste facility are in accordance with the rules 63148
adopted under section 3734.12 of the Revised Code. 63149

(3) An installation and operation permit renewal application 63150
submitted to the director that also contains or would constitute 63151
an application for a modification shall be acted upon by the 63152

director in accordance with division (I) of this section in the 63153
same manner as an application for a modification. In approving or 63154
disapproving the renewal portion of a permit renewal application 63155
containing an application for a modification, the director shall 63156
apply the criteria established under division (H)(2) of this 63157
section. 63158

(4) An application for renewal or modification of a permit 63159
that does not contain an application for a modification as 63160
described in divisions (I)(3)(a) to (d) of this section shall not 63161
be subject to division (D)(2) of this section. 63162

(I)(1) As used in this section, "modification" means a change 63163
or alteration to a hazardous waste facility or its operations that 63164
is inconsistent with or not authorized by its existing permit or 63165
authorization to operate. Modifications shall be classified as 63166
Class 1, 2, or 3 modifications in accordance with rules adopted 63167
under division (K) of this section. Modifications classified as 63168
Class 3 modifications, in accordance with rules adopted under that 63169
division, shall be further classified by the director as either 63170
Class 3 modifications that are to be approved or disapproved by 63171
the director under divisions (I)(3)(a) to (d) of this section or 63172
as Class 3 modifications that are to be approved or disapproved by 63173
the director under division (I)(5) of this section. Not later than 63174
thirty days after receiving a request for a modification under 63175
division (I)(4) of this section that is not listed in Appendix I 63176
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 63177
section, the director shall classify the modification and shall 63178
notify the owner or operator of the facility requesting the 63179
modification of the classification. Notwithstanding any other law 63180
to the contrary, a modification that involves the transfer of a 63181
hazardous waste facility installation and operation permit to a 63182
new owner or operator for any off-site facility as defined in 63183
section 3734.41 of the Revised Code shall be classified as a Class 63184

3 modification. The transfer of a hazardous waste facility 63185
installation and operation permit to a new owner or operator for a 63186
facility that is not an off-site facility shall be classified as a 63187
Class 1 modification requiring prior approval of the director. 63188

(2) Except as provided in section 3734.123 of the Revised 63189
Code, a hazardous waste facility installation and operation permit 63190
may be modified at the request of the director or upon the written 63191
request of the permittee only if any of the following applies: 63192

(a) The permittee desires to accomplish alterations, 63193
additions, or deletions to the permitted facility or to undertake 63194
alterations, additions, deletions, or activities that are 63195
inconsistent with or not authorized by the existing permit; 63196

(b) New information or data justify permit conditions in 63197
addition to or different from those in the existing permit; 63198

(c) The standards, criteria, or rules upon which the existing 63199
permit is based have been changed by new, amended, or rescinded 63200
standards, criteria, or rules, or by judicial decision after the 63201
existing permit was issued, and the change justifies permit 63202
conditions in addition to or different from those in the existing 63203
permit; 63204

(d) The permittee proposes to transfer the permit to another 63205
person. 63206

(3) The director shall approve or disapprove an application 63207
for a modification in accordance with division (D)(2) of this 63208
section and rules adopted under division (K) of this section for 63209
all of the following categories of Class 3 modifications: 63210

(a) Authority to conduct treatment, storage, or disposal at a 63211
site, location, or tract of land that has not been authorized for 63212
the proposed category of treatment, storage, or disposal activity 63213
by the facility's permit; 63214

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types 63247
listed or characterized as reactive or explosive, in rules adopted 63248
under section 3734.12 of the Revised Code, or any acute hazardous 63249
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 63250
previously authorized to treat, store, or dispose of those types 63251
of wastes by the facility's permit unless the requested authority 63252
is limited to wastes that no longer exhibit characteristics 63253
meeting the criteria for listing or characterization as reactive 63254
or explosive wastes, or for listing as acute hazardous waste, but 63255
still are required to carry those waste codes as established in 63256
rules adopted under section 3734.12 of the Revised Code because of 63257
the requirements established in 40 C.F.R. 261(a) and (e), as 63258
amended, that is, the "mixture," "derived-from," or "contained-in" 63259
regulations. 63260

(4) A written request for a modification from the permittee 63261
shall be submitted to the director and shall contain such 63262
information as is necessary to support the request. Requests for 63263
modifications shall be acted upon by the director in accordance 63264
with this section and rules adopted under it. 63265

(5) Class 1 modification applications that require prior 63266
approval of the director, as provided in division (I)(1) of this 63267
section or as determined in accordance with rules adopted under 63268
division (K) of this section, Class 2 modification applications, 63269
and Class 3 modification applications that are not described in 63270
divisions (I)(3)(a) to (d) of this section shall be approved or 63271
disapproved by the director in accordance with rules adopted under 63272
division (K) of this section. The board of county commissioners of 63273
the county, the board of township trustees of the township, and 63274
the city manager or mayor of the municipal corporation in which a 63275
hazardous waste facility is located shall receive notification of 63276
any application for a modification for that facility and shall be 63277
considered as interested persons with respect to the director's 63278

consideration of the application. 63279

As used in division (I) of this section: 63280

(a) "Owner" means the person who owns a majority or 63281
controlling interest in a facility. 63282

(b) "Operator" means the person who is responsible for the 63283
overall operation of a facility. 63284

The director shall approve or disapprove an application for a 63285
Class 1 modification that requires the director's approval within 63286
sixty days after receiving the request for modification. The 63287
director shall approve or disapprove an application for a Class 2 63288
modification within three hundred days after receiving the request 63289
for modification. The director shall approve or disapprove an 63290
application for a Class 3 modification within three hundred 63291
sixty-five days after receiving the request for modification. 63292

(6) The approval or disapproval by the director of a Class 1 63293
modification application is not a final action that is appealable 63294
under Chapter 3745. of the Revised Code. The approval or 63295
disapproval by the director of a Class 2 modification or a Class 3 63296
modification is a final action that is appealable under that 63297
chapter. In approving or disapproving a request for a 63298
modification, the director shall consider all comments pertaining 63299
to the request that are received during the public comment period 63300
and the public meetings. The administrative record for appeal of a 63301
final action by the director in approving or disapproving a 63302
request for a modification shall include all comments received 63303
during the public comment period relating to the request for 63304
modification, written materials submitted at the public meetings 63305
relating to the request, and any other documents related to the 63306
director's action. 63307

(7) Notwithstanding any other provision of law to the 63308
contrary, a change or alteration to a hazardous waste facility 63309

described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance

with division (I) of this section. Notwithstanding any other 63342
provision of law to the contrary, the director shall approve or 63343
disapprove the modification application in accordance with 63344
division (I)(5) of this section. 63345

(2) The owner or operator of a boiler or industrial furnace 63346
that is conducting thermal treatment activities in accordance with 63347
a permit by rule under rules adopted by the director under 63348
division (E)(3)(b) of section 3734.02 of the Revised Code shall 63349
submit a hazardous waste facility installation and operation 63350
permit application if the owner or operator does not have such a 63351
permit for any hazardous waste treatment, storage, or disposal 63352
activities at the facility or, if the owner or operator has such a 63353
permit for hazardous waste treatment, storage, or disposal 63354
activities at the facility other than thermal treatment activities 63355
authorized by the permit by rule, a modification application to 63356
add those activities authorized by the permit by rule, whichever 63357
is applicable, within one hundred eighty days after the director 63358
has requested the submission of the application or upon a later 63359
date if the owner or operator demonstrates to the director good 63360
cause for the late submittal. The application shall be accompanied 63361
by information necessary to support the request. The director 63362
shall approve or disapprove an application for a hazardous waste 63363
facility installation and operation permit in accordance with 63364
division (D) of this section and approve or disapprove an 63365
application for a modification in accordance with division (I)(3) 63366
of this section, except that the director shall not disapprove an 63367
application for the thermal treatment activities on the basis of 63368
the criteria set forth in division (D)(2)(g) or (h) of this 63369
section. 63370

(3) As used in division (J) of this section: 63371

(a) "Modification application" means a request for a 63372
modification submitted in accordance with division (I) of this 63373

section. 63374

(b) "Thermal treatment," "boiler," and "industrial furnace" 63375
have the same meanings as in rules adopted under section 3734.12 63376
of the Revised Code. 63377

(K) The director shall adopt, and may amend, suspend, or 63378
rescind, rules in accordance with Chapter 119. of the Revised Code 63379
in order to implement divisions (H) and (I) of this section. 63380
Except when in actual conflict with this section, rules governing 63381
the classification of and procedures for the modification of 63382
hazardous waste facility installation and operation permits shall 63383
be substantively and procedurally identical to the regulations 63384
governing hazardous waste facility permitting and permit 63385
modifications adopted under the "Resource Conservation and 63386
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 63387
amended. 63388

Sec. 3734.06. (A)(1) Except as provided in ~~division~~ divisions 63389
(A)(2), (3), ~~and~~ (4), and (5) of this section and in section 63390
3734.82 of the Revised Code, the annual fee for a solid waste 63391
facility license shall be in accordance with the following 63392
schedule: 63393

AUTHORIZED MAXIMUM	ANNUAL	63394
DAILY WASTE	LICENSE	63395
RECEIPT (TONS)	FEE	63396
100 or less	\$ 5,000	63397
101 to 200	12,500	63398
201 to 500	30,000	63399
501 or more	60,000	63400

For the purpose of determining the applicable license fee 63401
under divisions (A)(1) ~~and~~, (2), and (3) of this section, the 63402
authorized maximum daily waste receipt shall be the maximum amount 63403
of wastes the facility is authorized to receive daily that is 63404

established in the permit for the facility, and any modifications 63405
to that permit, issued under division (A)(2) or (3) of section 63406
3734.05 of the Revised Code; the annual license for the facility, 63407
and any revisions to that license, issued under division (A)(1) of 63408
section 3734.05 of the Revised Code; the approved operating plan 63409
or operational report for which submission and approval are 63410
required by rules adopted by the director of environmental 63411
protection under section 3734.02 of the Revised Code; an order 63412
issued by the director as authorized by rule; or the updated 63413
engineering plans, specifications, and facility and operation 63414
information approved under division (A)(4) of section 3734.05 of 63415
the Revised Code. If no authorized maximum daily waste receipt is 63416
so established, the annual license fee is sixty thousand dollars 63417
under division (A)(1) of this section and thirty thousand dollars 63418
under ~~division~~ divisions (A)(2) and (3) of this section. 63419

The authorized maximum daily waste receipt set forth in any 63420
such document shall be stated in terms of cubic yards of volume 63421
for the purpose of regulating the design, construction, and 63422
operation of a solid waste facility. For the purpose of 63423
determining applicable license fees under this section, the 63424
authorized maximum daily waste receipt so stated shall be 63425
converted from cubic yards to tons as the unit of measurement 63426
based upon a conversion factor of three cubic yards per ton for 63427
compacted wastes generally and one cubic yard per ton for baled 63428
wastes. 63429

(2) The annual license fee for a facility that is an 63430
incinerator facility is one-half the amount shown in division 63431
(A)(1) of this section. When a municipal corporation, county, or 63432
township owns and operates more than one incinerator within its 63433
boundaries, the municipal corporation, county, or township shall 63434
pay one fee for the licenses for all of its incinerators. The fee 63435
shall be determined on the basis of the aggregate maximum daily 63436

waste receipt for all the incinerators owned and operated by the 63437
municipal corporation, county, or township in an amount that is 63438
one-half the amount shown in division (A)(1) of this section. 63439

(3) The annual fee for a solid waste compost facility license 63440
shall be in accordance with the following schedule: 63441

AUTHORIZED MAXIMUM	ANNUAL	63442
DAILY WASTE	LICENSE	63443
RECEIPT (TONS)	FEE	63444
12 or less	\$ 300	63445
13 to 25	600	63446
26 to 50	1,200	63447
51 to 75	1,800	63448
76 to 100	2,500	63449
101 to 200 <u>150</u>	6,250 <u>3,750</u>	63450
<u>151 to 200</u>	<u>5,000</u>	63451
201 to 500 <u>250</u>	15,000 <u>6,250</u>	63452
<u>251 to 300</u>	<u>7,500</u>	63453
<u>301 to 400</u>	<u>10,000</u>	63454
<u>401 to 500</u>	<u>12,500</u>	63455
501 or more	30,000	63456

~~(3)~~(4) The annual license fee for a solid waste facility, 63457
regardless of its authorized maximum daily waste receipt, is five 63458
thousand dollars for a facility meeting either of the following 63459
qualifications: 63460

(a) The facility is owned by a generator of solid wastes when 63461
the solid waste facility exclusively disposes of solid wastes 63462
generated at one or more premises owned by the generator 63463
regardless of whether the facility is located on a premises where 63464
the wastes are generated. 63465

(b) The facility exclusively disposes of wastes that are 63466
generated from the combustion of coal, or from the combustion of 63467
primarily coal in combination with scrap tires, that is not 63468

combined in any way with garbage at one or more premises owned by 63469
the generator. 63470

~~(4)~~(5) The annual license fee for a facility that is a 63471
transfer facility is seven hundred fifty dollars. 63472

~~(5)~~(6) The same fees shall apply to private operators and to 63473
the state and its political subdivisions and shall be paid within 63474
thirty days after issuance of a license. The fee includes the cost 63475
of licensing, all inspections, and other costs associated with the 63476
administration of the solid waste provisions of this chapter and 63477
rules adopted under them, excluding the provisions governing scrap 63478
tires. Each such license shall specify that it is conditioned upon 63479
payment of the applicable fee to the board of health or the 63480
director, as appropriate, within thirty days after issuance of the 63481
license. 63482

(B) The board of health shall retain two thousand five 63483
hundred dollars of each license fee collected by the board under 63484
divisions (A)(1), (2), ~~and (3)~~, and (4) of this section or the 63485
entire amount of any such fee that is less than two thousand five 63486
hundred dollars. The moneys retained shall be paid into a special 63487
fund, which is hereby created in each health district, and used 63488
solely to administer and enforce the solid waste provisions of 63489
this chapter and the rules adopted under them, excluding the 63490
provisions governing scrap tires. The remainder of each license 63491
fee collected by the board shall be transmitted to the director 63492
within forty-five days after receipt of the fee. The director 63493
shall transmit these moneys to the treasurer of state to be 63494
credited to the general revenue fund. The board of health shall 63495
retain the entire amount of each fee collected under division 63496
(A)~~(4)~~(5) of this section, which moneys shall be paid into the 63497
special fund of the health district. 63498

(C)(1) Except as provided in divisions (C)(2) and (3) of this 63499
section, the annual fee for an infectious waste treatment facility 63500

license shall be in accordance with the following schedule:	63501
AVERAGE ANNUAL	63502
DAILY WASTE LICENSE	63503
RECEIPT (TONS) FEE	63504
100 or less \$ 5,000	63505
101 to 200 12,500	63506
201 to 500 30,000	63507
501 or more 60,000	63508

For the purpose of determining the applicable license fee 63509
under divisions (C)(1) and (2) of this section, the average daily 63510
waste receipt shall be the average amount of infectious wastes the 63511
facility is authorized to receive daily that is established in the 63512
permit for the facility, and any modifications to that permit, 63513
issued under division (B)(2)(b) or (d) of section 3734.05 of the 63514
Revised Code; or the annual license for the facility, and any 63515
revisions to that license, issued under division (B)(2)(a) of 63516
section 3734.05 of the Revised Code. If no average daily waste 63517
receipt is so established, the annual license fee is sixty 63518
thousand dollars under division (C)(1) of this section and thirty 63519
thousand dollars under division (C)(2) of this section. 63520

(2) The annual license fee for an infectious waste treatment 63521
facility that is an incinerator is one-half the amount shown in 63522
division (C)(1) of this section. 63523

(3) Fees levied under divisions (C)(1) and (2) of this 63524
section shall apply to private operators and to the state and its 63525
political subdivisions and shall be paid within thirty days after 63526
issuance of a license. The fee includes the cost of licensing, all 63527
inspections, and other costs associated with the administration of 63528
the infectious waste provisions of this chapter and rules adopted 63529
under them. Each such license shall specify that it is conditioned 63530
upon payment of the applicable fee to the board of health or the 63531
director, as appropriate, within thirty days after issuance of the 63532

license. 63533

(4) The board of health shall retain two thousand five 63534
hundred dollars of each license fee collected by the board under 63535
divisions (C)(1) and (2) of this section. The moneys retained 63536
shall be paid into a special infectious waste fund, which is 63537
hereby created in each health district, and used solely to 63538
administer and enforce the infectious waste provisions of this 63539
chapter and the rules adopted under them. The remainder of each 63540
license fee collected by the board shall be transmitted to the 63541
director within forty-five days after receipt of the fee. The 63542
director shall transmit these moneys to the treasurer of state to 63543
be credited to the general revenue fund. 63544

Sec. 3734.18. (A) As used in this section: 63545

(1) "On-site facility" means a facility that treats or 63546
disposes of hazardous waste that is generated on the premises of 63547
the facility. 63548

(2) "Off-site facility" means a facility that treats or 63549
disposes of hazardous waste that is generated off the premises of 63550
the facility. 63551

(3) "Satellite facility" means any of the following: 63552

(a) An on-site facility that also receives hazardous waste 63553
from other premises owned by the same person who generates the 63554
waste on the facility premises; 63555

(b) An off-site facility operated so that all of the 63556
hazardous waste it receives is generated on one or more premises 63557
owned by the person who owns the facility; 63558

(c) An on-site facility that also receives hazardous waste 63559
that is transported uninterruptedly and directly to the facility 63560
through a pipeline from a generator who is not the owner of the 63561
facility. 63562

(B) A treatment or disposal facility that is subject to the fees that are levied under this section may be both an on-site facility and an off-site facility. The determination of whether an on-site facility fee or an off-site facility fee is to be paid for a hazardous waste that is treated or disposed of at the facility shall be based on whether that hazardous waste was generated on or off the premises of the facility.

(C) There are hereby levied fees on the disposal of hazardous waste to be collected according to the following schedule at each disposal facility to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued under this chapter or that is operating in accordance with a permit by rule under rules adopted by the director of environmental protection:

(1) For disposal facilities that are off-site facilities, fees shall be levied at the rate of four dollars and fifty cents per ton for hazardous waste disposed of by deep well injection and nine dollars per ton for hazardous waste disposed of by land application or landfilling. The owner or operator of the facility, as a trustee for the state, shall collect the fees and forward them to the director in accordance with rules adopted under this section.

(2) For disposal facilities that are on-site or satellite facilities, fees shall be levied at the rate of two dollars per ton for hazardous waste disposed of by deep well injection and four dollars per ton for hazardous waste disposed of by land application or landfilling. The maximum annual disposal fee for an on-site disposal facility that disposes of one hundred thousand tons or less of hazardous waste in a year is twenty-five thousand dollars. The maximum annual disposal fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by land application or landfilling is fifty

thousand dollars, and the maximum annual fee for an on-site 63595
facility that disposes of more than one hundred thousand tons of 63596
hazardous waste in a year by deep well injection is one hundred 63597
thousand dollars. The maximum annual disposal fee for a satellite 63598
facility that disposes of one hundred thousand tons or less of 63599
hazardous waste in a year is thirty-seven thousand five hundred 63600
dollars, and the maximum annual disposal fee for a satellite 63601
facility that disposes of more than one hundred thousand tons of 63602
hazardous waste in a year is seventy-five thousand dollars, except 63603
that a satellite facility defined under division (A)(3)(b) of this 63604
section that receives hazardous waste from a single generation 63605
site is subject to the same maximum annual disposal fees as an 63606
on-site disposal facility. The owner or operator shall pay the fee 63607
to the director each year upon the anniversary of the date of 63608
issuance of the owner's or operator's installation and operation 63609
permit during the term of that permit and any renewal permit 63610
issued under division (H) of section 3734.05 of the Revised Code 63611
or on the anniversary of the date of a permit by rule. If payment 63612
is late, the owner or operator shall pay an additional ten per 63613
cent of the amount of the fee for each month that it is late. 63614

(D) There are hereby levied fees at the rate of two dollars 63615
per ton on hazardous waste that is treated at treatment facilities 63616
that are not on-site or satellite facilities to which a hazardous 63617
waste facility installation and operation permit or renewal of a 63618
permit has been issued under this chapter, whose owner or operator 63619
is operating in accordance with a permit by rule under rules 63620
adopted by the director, or that are not subject to the hazardous 63621
waste facility installation and operation permit requirements 63622
under rules adopted by the director. 63623

(E) There are hereby levied additional fees on the treatment 63624
and disposal of hazardous waste at the rate of ten per cent of the 63625
applicable fees prescribed in division (C) or (D) of this section 63626

for the purposes of paying the costs of municipal corporations and 63627
counties for conducting reviews of applications for hazardous 63628
waste facility installation and operation permits for proposed new 63629
or modified hazardous waste landfills within their boundaries, 63630
emergency response actions with respect to releases of hazardous 63631
waste from hazardous waste facilities within their boundaries, 63632
monitoring the operation of such hazardous waste facilities, and 63633
local waste management planning programs. The owner or operator of 63634
a facility located within a municipal corporation, as a trustee 63635
for the municipal corporation, shall collect the fees levied by 63636
this division and forward them to the treasurer of the municipal 63637
corporation or such officer as, by virtue of the charter, has the 63638
duties of the treasurer in accordance with rules adopted under 63639
this section. The owner or operator of a facility located in an 63640
unincorporated area, as a trustee of the county in which the 63641
facility is located, shall collect the fees levied by this 63642
division and forward them to the county treasurer of that county 63643
in accordance with rules adopted under this section. The owner or 63644
operator shall pay the fees levied by this division to the 63645
treasurer or such other officer of the municipal corporation or to 63646
the county treasurer each year upon the anniversary of the date of 63647
issuance of the owner's or operator's installation and operation 63648
permit during the term of that permit and any renewal permit 63649
issued under division (H) of section 3734.05 of the Revised Code 63650
or on the anniversary of the date of a permit by rule or the date 63651
on which the facility became exempt from hazardous waste facility 63652
installation and operation permit requirements under rules adopted 63653
by the director. If payment is late, the owner or operator shall 63654
pay an additional ten per cent of the amount of the fee for each 63655
month that the payment is late. 63656

Moneys received by a municipal corporation under this 63657
division shall be paid into a special fund of the municipal 63658
corporation and used exclusively for the purposes of conducting 63659

reviews of applications for hazardous waste facility installation 63660
and operation permits for new or modified hazardous waste 63661
landfills located or proposed within the municipal corporation, 63662
conducting emergency response actions with respect to releases of 63663
hazardous waste from facilities located within the municipal 63664
corporation, monitoring operation of such hazardous waste 63665
facilities, and conducting waste management planning programs 63666
within the municipal corporation through employees of the 63667
municipal corporation or pursuant to contracts entered into with 63668
persons or political subdivisions. Moneys received by a board of 63669
county commissioners under this division shall be paid into a 63670
special fund of the county and used exclusively for those purposes 63671
within the unincorporated area of the county through employees of 63672
the county or pursuant to contracts entered into with persons or 63673
political subdivisions. 63674

(F) As used in this section, "treatment" or "treated" does 63675
not include any method, technique, or process designed to recover 63676
energy or material resources from the waste or to render the waste 63677
amenable for recovery. The fees levied by division (D) of this 63678
section do not apply to hazardous waste that is treated and 63679
disposed of on the same premises or by the same person. 63680

(G) The director, by rules adopted in accordance with 63681
Chapters 119. and 3745. of the Revised Code, shall prescribe any 63682
dates not specified in this section and procedures for collecting 63683
and forwarding the fees prescribed by this section and may 63684
prescribe other requirements that are necessary to carry out this 63685
section. 63686

The director shall deposit the moneys collected under 63687
divisions (C) and (D) of this section ~~into one or more minority~~ 63688
~~banks, as "minority bank" is defined in division (F)(1) of section~~ 63689
~~135.04 of the Revised Code,~~ to the credit of the hazardous waste 63690
facility management fund, which is hereby created in the state 63691

treasury, except that the director shall deposit to the credit of 63692
the underground injection control fund created in section 6111.046 63693
of the Revised Code moneys in excess of fifty thousand dollars 63694
that are collected during a fiscal year under division (C)(2) of 63695
this section from the fee levied on the disposal of hazardous 63696
waste by deep well injection at an on-site disposal facility that 63697
disposes of more than one hundred thousand tons of hazardous waste 63698
in a year. 63699

The environmental protection agency may use moneys in the 63700
hazardous waste facility management fund for administration of the 63701
hazardous waste program established under this chapter and, in 63702
accordance with this section, may request approval by the 63703
controlling board on an annual basis for that use ~~on an annual~~ 63704
~~basis. In addition, the agency may use and pledge moneys in that~~ 63705
~~fund for repayment of and for interest on any loans made by the~~ 63706
~~Ohio water development authority to the agency for the hazardous~~ 63707
~~waste program established under this chapter without the necessity~~ 63708
~~of requesting approval by the controlling board, which use and~~ 63709
~~pledge shall have priority over any other use of the moneys in the~~ 63710
~~fund and for the purposes specified in sections 3734.19 to 3734.27~~ 63711
of the Revised Code. 63712

~~Until September 28, 1996, the director also may use moneys in~~ 63713
~~the fund to pay the start up costs of administering Chapter 3746.~~ 63714
~~of the Revised Code.~~ 63715

If moneys in the fund that the agency uses in accordance with 63716
this chapter are reimbursed by grants or other moneys from the 63717
United States government, the grants or other moneys shall be 63718
placed in the fund. 63719

Before the agency makes any expenditure from the fund other 63720
than for repayment of and interest on any loan made by the Ohio 63721
water development authority to the agency ~~in accordance with this~~ 63722
~~section,~~ the controlling board shall approve the expenditure. 63723

Sec. 3734.19. (A) If the legislative or executive authority 63724
of a municipal corporation, county, or township has evidence to 63725
indicate that locations within its boundaries once served as 63726
hazardous waste facilities or that significant quantities of 63727
hazardous waste were disposed of in solid waste facilities within 63728
its boundaries, it may file a formal written request with the 63729
director of environmental protection, accompanied by supporting 63730
evidence, to survey the locations or facilities. 63731

Upon receipt of a request and a review of the evidence 63732
submitted with the request, the director shall conduct an 63733
investigation to determine if hazardous waste was actually 63734
treated, stored, or disposed of at the locations or facilities 63735
and, if so, to determine the nature and approximate quantity and 63736
types of the waste treated, stored, or disposed of at the 63737
particular locations or facilities. In addition, the director 63738
shall determine whether the locations or facilities, because of 63739
their present condition and the nature and quantities of waste 63740
treated, stored, or disposed of therein, result or are likely to 63741
result in air pollution, pollution of the waters of the state, or 63742
soil contamination or constitute a present or imminent and 63743
substantial threat to public health or safety. The director shall 63744
report the findings of ~~his~~ the investigation to the municipal 63745
corporation, county, or township requesting the survey. 63746

For the purpose of conducting investigations under this 63747
section, the director or ~~his~~ the director's authorized 63748
representative may enter upon any public or private property. The 63749
director or ~~his~~ the director's authorized representative may apply 63750
for, and any judge of a court of common pleas shall issue, an 63751
appropriate search warrant necessary to achieve the purposes of 63752
this section within the court's territorial jurisdiction. When 63753
conducting investigations under this section, the director shall 63754
cause no unnecessary damage to any property. The director may 63755

expend moneys from the hazardous waste facility management fund 63756
created in section 3734.18 of the Revised Code, the hazardous 63757
waste clean-up fund created in section 3734.28 of the Revised 63758
Code, or the environmental protection remediation fund created in 63759
section 3734.281 of the Revised Code for conducting 63760
investigations. 63761

(B) As used in this section and in sections 3734.20, 3734.21, 63762
3734.23, 3734.25, and 3734.26 of the Revised Code, "soil 63763
contamination" means the presence in or on the soil of any 63764
hazardous waste or hazardous waste residue resulting from the 63765
discharge, deposit, injection, dumping, spilling, leaking, 63766
emitting, or placing into or on the soil of hazardous waste or 63767
hazardous waste residue, or any material that when discharged, 63768
deposited, injected, dumped, spilled, leaked, emitted, or placed 63769
into or on the soil becomes a hazardous waste, in any quantity or 63770
having any characteristics that are or threaten to be injurious to 63771
public health or safety, plant or animal life, or the environment 63772
or that unreasonably interfere with the comfortable enjoyment of 63773
life or property. 63774

Sec. 3734.20. (A) If the director of environmental protection 63775
has reason to believe that hazardous waste was treated, stored, or 63776
disposed of at any location within the state, the director may 63777
conduct such investigations and make such inquiries, including 63778
obtaining samples and examining and copying records, as are 63779
reasonable or necessary to determine if conditions at a hazardous 63780
waste facility, solid waste facility, or other location where the 63781
director has reason to believe hazardous waste was treated, 63782
stored, or disposed of constitute a substantial threat to public 63783
health or safety or are causing or contributing to or threatening 63784
to cause or contribute to air or water pollution or soil 63785
contamination. The director or the director's authorized 63786
representative may apply for, and any judge of a court of common 63787

pleas shall issue, an appropriate search warrant necessary to 63788
achieve the purposes of this section within the court's 63789
territorial jurisdiction. The director may expend moneys from the 63790
hazardous waste facility management fund created in section 63791
3734.18 of the Revised Code, the hazardous waste clean-up fund 63792
created in section 3734.28 of the Revised Code, or the 63793
environmental protection remediation fund created in section 63794
3734.281 of the Revised Code for conducting investigations under 63795
this section. 63796

(B) If the director determines that conditions at a hazardous 63797
waste facility, solid waste facility, or other location where 63798
hazardous waste was treated, stored, or disposed of constitute a 63799
substantial threat to public health or safety or are causing or 63800
contributing to or threatening to cause or contribute to air or 63801
water pollution or soil contamination, the director shall initiate 63802
appropriate action under this chapter or Chapter 3704. or 6111. of 63803
the Revised Code or seek any other appropriate legal or equitable 63804
remedies to abate the pollution or contamination or to protect 63805
public health or safety. 63806

If an order of the director to abate or prevent air or water 63807
pollution or soil contamination or to remedy a threat to public 63808
health or safety caused by conditions at such a facility issued 63809
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 63810
Code is not wholly complied with within the time prescribed in the 63811
order, the director may, through officers or employees of the 63812
environmental protection agency or through contractors employed 63813
for that purpose in accordance with the bidding procedure 63814
established in division (C) of section 3734.23 of the Revised 63815
Code, enter upon the facility and perform those measures necessary 63816
to abate or prevent air or water pollution or soil contamination 63817
from the facility or to protect public health or safety, 63818
including, but not limited to, measures prescribed in division (B) 63819

of section 3734.23 of the Revised Code. The director shall keep an itemized record of the cost of the investigation and measures performed, including costs for labor, materials, and any contract services required. Upon completion of the investigation or measures, the director shall record the cost of performing those measures at the office of the county recorder of the county in which the facility is located. The cost so recorded constitutes a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the cost. Any moneys so received shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.

When entering upon a facility under this division, the director shall perform or cause to be performed only those measures necessary to abate or prevent air or water pollution or soil contamination caused by conditions at the facility or to abate threats to public health or safety caused by conditions at the facility. For this purpose the director may expend moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans.

Sec. 3734.21. (A) The director of environmental protection may expend moneys credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund

created in section 3734.281 of the Revised Code for the payment of 63852
the cost of measures necessary for the proper closure of hazardous 63853
waste facilities or any solid waste facilities containing 63854
significant quantities of hazardous waste, for the payment of 63855
costs of the development and construction of suitable hazardous 63856
waste facilities required by division (B) of section 3734.23 of 63857
the Revised Code to the extent the director determines that such 63858
facilities are not available, and for the payment of costs that 63859
are necessary to abate conditions thereon that are causing or 63860
contributing to or threatening to cause or contribute to air or 63861
water pollution or soil contamination or that constitute a 63862
substantial threat to public health or safety. In addition, the 63863
director may expend and pledge moneys credited to ~~either~~ the 63864
hazardous waste facility management fund, the hazardous waste 63865
clean-up fund, or the environmental protection remediation fund 63866
for repayment of and for interest on any loan made by the Ohio 63867
water development authority to the environmental protection agency 63868
for the payment of such costs. 63869

(B) Before beginning to clean up any facility under this 63870
section, the director shall develop a plan for the cleanup and an 63871
estimate of the cost thereof. The plan shall include only those 63872
measures necessary to abate conditions thereon that are causing or 63873
contributing to or threatening to cause or contribute to air or 63874
water pollution or soil contamination or that constitute a 63875
substantial threat to public health or safety, including, but not 63876
limited to, establishment and maintenance of an adequate cover of 63877
soil and vegetation on any facility for the burial of hazardous 63878
waste to prevent the infiltration of water into cells where 63879
hazardous waste is buried, the accumulation or runoff of 63880
contaminated surface water, the production of leachate, and air 63881
emissions of hazardous waste; the collection and treatment of 63882
contaminated surface water runoff; the collection and treatment of 63883
leachate; or, if conditions so require, the removal of hazardous 63884

waste from the facility and the treatment or disposal of the waste 63885
at a suitable hazardous waste facility. The plan or any part of 63886
the plan for the cleanup of the facility shall be carried out by 63887
entering into contracts therefor in accordance with the procedures 63888
established in division (C) of section 3734.23 of the Revised 63889
Code. 63890

Sec. 3734.22. Before beginning to clean up any facility under 63891
section 3734.21 of the Revised Code, the director of environmental 63892
protection shall endeavor to enter into an agreement with the 63893
owner of the land on which the facility is located, or with the 63894
owner of the facility, specifying the measures to be performed and 63895
authorizing the director, employees of the agency, or contractors 63896
retained by the director to enter upon the land and perform the 63897
specified measures. 63898

Each agreement may contain provisions for the reimbursement 63899
of the state for the costs of the cleanup. 63900

All reimbursements and payments shall be credited to the 63901
hazardous waste facility management fund created in section 63902
3734.18 of the Revised Code, the hazardous waste clean-up fund 63903
created in section 3734.28 of the Revised Code, or the 63904
environmental protection remediation fund created in section 63905
3734.281 of the Revised Code, as applicable. 63906

The agreement may require the owner to execute an easement 63907
whereby the director, an authorized employee of the agency, or a 63908
contractor employed by the agency in accordance with the bidding 63909
procedure established in division (C) of section 3734.23 of the 63910
Revised Code may enter upon the facility to sample, repair, or 63911
reconstruct air and water quality monitoring equipment constructed 63912
under the agreement. Such easements shall be for a specified 63913
period of years and may be extinguished by agreement between the 63914
owner and the director. When necessary to protect the public 63915

health or safety, the agreement may require the owner to enter 63916
into an environmental covenant with the director in accordance 63917
with sections 5301.80 to 5301.92 of the Revised Code. 63918

Upon a breach of the reimbursement provisions of the 63919
agreement by the owner of the land or facility, or upon 63920
notification to the director by the owner that the owner is unable 63921
to perform the duties under the reimbursement provisions of the 63922
agreement, the director may record the unreimbursed portion of the 63923
costs of cleanup at the office of the county recorder of the 63924
county in which the facility is located. The costs so recorded 63925
constitute a lien against the property on which the facility is 63926
located until discharged. Upon written request of the director, 63927
the attorney general shall institute a civil action to recover the 63928
unreimbursed portion of the costs of cleanup. Any moneys so 63929
recovered shall be credited to the hazardous waste facility 63930
management fund, the hazardous waste clean-up fund, or the 63931
environmental protection remediation fund, as applicable. 63932

Sec. 3734.23. (A) The director of environmental protection 63933
may acquire by purchase, gift, donation, contribution, or 63934
appropriation in accordance with sections 163.01 to 163.21 of the 63935
Revised Code any hazardous waste facility or any solid waste 63936
facility containing significant quantities of hazardous waste 63937
that, because of its condition and the types and quantities of 63938
hazardous waste contained in the facility, constitutes an imminent 63939
and substantial threat to public health or safety or results in 63940
air pollution, pollution of the waters of the state, or soil 63941
contamination. For this purpose and for the purposes of division 63942
(B) of this section, the director may expend moneys from the 63943
hazardous waste facility management fund created in section 63944
3734.18 of the Revised Code, the hazardous waste clean-up fund 63945
created in section 3734.28 of the Revised Code, or the 63946
environmental protection remediation fund created in section 63947

3734.281 of the Revised Code and may expend moneys from loans from 63948
the Ohio water development authority to the environmental 63949
protection agency that pledge moneys from ~~either~~ the hazardous 63950
waste facility management fund, the hazardous waste clean-up fund, 63951
or the environmental protection remediation fund for the repayment 63952
of and for the interest on such loans. Any lands or facilities 63953
purchased or acquired under this section shall be deeded to the 63954
state, but no deed shall be accepted or the purchase price paid 63955
until the title has been approved by the attorney general. 63956

(B) The director shall, with respect to any land or facility 63957
acquired under this section or cleaned up under section 3734.20 of 63958
the Revised Code, perform closure or other measures necessary to 63959
abate conditions thereon that are causing or contributing to or 63960
threatening to cause or contribute to air or water pollution or 63961
soil contamination or that constitute a substantial threat to 63962
public health or safety, including, but not limited to, 63963
establishment and maintenance of an adequate cover of soil and 63964
vegetation on any facility for the burial of hazardous waste to 63965
prevent the infiltration of water into cells where hazardous waste 63966
is buried, the accumulation or runoff of contaminated surface 63967
water, the production of leachate, and air emissions of hazardous 63968
waste; the collection and treatment of contaminated surface water 63969
runoff; the collection and treatment of leachate; or, if 63970
conditions so require, the removal of hazardous waste from the 63971
facility and the treatment or disposal of the waste at a suitable 63972
hazardous waste facility. After performing these measures, the 63973
director shall provide for the post-closure care, maintenance, and 63974
monitoring of facilities cleaned up under this section. 63975

(C) Before proceeding to clean up any facility under this 63976
section or section 3734.20 or 3734.21 of the Revised Code, the 63977
director shall develop a plan for the cleanup of the facility and 63978
an estimate of the cost thereof. The director may carry out the 63979

plan or any part of the plan by contracting for the services, 63980
construction, and repair necessary therefor. The director shall 63981
award each such contract to the lowest responsible bidder after 63982
sealed bids therefor are received, opened, and published at the 63983
time fixed by the director and notice of the time and place at 63984
which the sealed bids will be received, opened, and published has 63985
been published by the director in a newspaper of general 63986
circulation in the county in which the facility to be cleaned up 63987
under the contract is located at least once within the ten days 63988
before the opening of the bids. However, if after advertising for 63989
bids for the contract, no bids are received by the director at the 63990
time and place fixed for receiving them, the director may 63991
advertise again for bids, or the director may, if the director 63992
considers the public interest will best be served thereby, enter 63993
into a contract for the cleanup of the facility without further 63994
advertisement for bids. The director may reject any or all bids 63995
received and fix and publish again notice of the time and place at 63996
which bids for the contracts will be received, opened, and 63997
published. 63998

(D) The director shall keep an itemized record of the costs 63999
of any acquisition under division (A) of this section and the 64000
costs of cleanup under division (B) of this section. 64001

Sec. 3734.24. After the cleanup of a solid waste facility or 64002
a hazardous waste facility acquired and cleaned up under section 64003
3734.23 of the Revised Code, the director of environmental 64004
protection may, if the facility is suitable for use by any other 64005
state department, agency, office, or institution and if the 64006
proposed use of the facility is compatible with the condition of 64007
the facility as cleaned up, transfer the facility to that state 64008
department, agency, office, or institution. The director shall 64009
continue to provide for the post-closure care, maintenance, and 64010
monitoring of any such cleaned-up facility as required by section 64011

3734.23 of the Revised Code. 64012

If the director determines that any facility so cleaned up is 64013
suitable, because of its condition as cleaned up, for restricted 64014
or unrestricted use, the director may, with the approval of the 64015
attorney general, sell the facility if the sale is advantageous to 64016
the state. Prior to selling the cleaned-up facility, the director 64017
shall, when necessary to protect public health or safety, enter 64018
into an environmental covenant in accordance with sections 5301.80 64019
to 5301.92 of the Revised Code. When selling any such cleaned-up 64020
facility, the director shall retain the right to enter upon the 64021
facility, in person or by an authorized agent, to provide for the 64022
post-closure care, maintenance, and monitoring of the facility. 64023
The director shall provide for the post-closure care, maintenance, 64024
and monitoring of any such facility sold as required by section 64025
3734.23 of the Revised Code. 64026

With the approval of the attorney general, the director may 64027
grant easements or leases on any such cleaned-up facility if the 64028
director determines that the use of the facility under the 64029
easement or lease is compatible with its condition as cleaned up. 64030

Any moneys derived from the sale of such cleaned-up 64031
facilities or from payments from easements or leases shall be 64032
credited to the hazardous waste facility management fund created 64033
in section 3734.18 of the Revised Code, the hazardous waste 64034
clean-up fund created in section 3734.28 of the Revised Code, or 64035
the environmental protection remediation fund created in section 64036
3734.281 of the Revised Code, as applicable. 64037

Sec. 3734.25. (A) The director of environmental protection 64038
may make grants of moneys from the hazardous waste facility 64039
management fund created in section 3734.18 of the Revised Code or 64040
the hazardous waste clean-up fund created in section 3734.28 of 64041
the Revised Code for payment by the state of up to two-thirds of 64042

the reasonable and necessary expenses incurred by a municipal corporation, county, or township for the proper closure of or abatement of air or water pollution or soil contamination from a solid waste facility in which significant quantities of hazardous waste were disposed of and that the political subdivision owns and once operated.

(B) A municipal corporation, county, or township shall submit an application for a grant on forms provided by the director, together with detail plans and specifications indicating the measures to be performed, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the director prescribes. The plan for closure or abatement of air or water pollution or soil contamination may be prepared in consultation with the director or the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only if the director finds that the proposed measures will provide for the proper closure of the facility and will abate or prevent air or water pollution or soil contamination, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility at which land burial of hazardous waste occurred, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface waters and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to

monitor the quality of surface waters receiving runoff from the 64074
facility or to monitor air emissions of hazardous waste from the 64075
facility; 64076

(5) Regularly monitor and analyze surface water runoff from 64077
the facility, the quality of waters receiving the runoff, and 64078
ground water quality in the vicinity of the facility, and 64079
regularly monitor leachate collection and treatment systems 64080
installed under the grant and analyze samples from them; 64081

(6) Remove and dispose of hazardous waste from the facility 64082
at a suitable hazardous waste disposal facility where necessary to 64083
protect public health or safety or to prevent or abate air or 64084
water pollution or soil contamination. 64085

(C) The director shall determine the amount of the grant 64086
based upon the director's determination of what constitutes 64087
reasonable and necessary expenses for the proper closure of the 64088
facility or for the prevention or elimination of air or water 64089
pollution or soil contamination from the facility. In making a 64090
grant, the director shall enter into a contract with the municipal 64091
corporation, county, or township that owns the facility to ensure 64092
that the moneys granted are used for the purposes of this section 64093
and that measures performed are properly done. The final payment 64094
under a grant may not be made until the director inspects and 64095
approves the completed cleanup. 64096

The contract shall require the municipal corporation, county, 64097
or township to execute an easement whereby the director, an 64098
authorized employee of the agency, or a contractor employed by the 64099
director may enter upon the facility to sample, repair, or 64100
reconstruct air and water quality monitoring equipment constructed 64101
under the contract. Such easements shall be for a specified period 64102
of years and may be extinguished by agreement between the 64103
political subdivision and the director. 64104

When necessary to protect public health or safety, the 64105
contract may require the municipal corporation, county, or 64106
township to enter into an environmental covenant with the director 64107
in accordance with sections 5301.80 to 5301.92 of the Revised 64108
Code. 64109

Sec. 3734.26. (A) The director of environmental protection 64110
may make grants of moneys from the hazardous waste facility 64111
management fund created in section 3734.18 of the Revised Code or 64112
the hazardous waste clean-up fund created in section 3734.28 of 64113
the Revised Code to the owner, other than a political subdivision, 64114
of a solid waste facility in which significant quantities of 64115
hazardous waste were disposed of or a hazardous waste facility for 64116
up to fifty per cent of the cost of the reasonable and necessary 64117
expenses incurred for the proper closure of or abatement or 64118
prevention of air or water pollution or soil contamination from 64119
the facility and for developing the land on which it was located 64120
for use in industry, commerce, distribution, or research. 64121

The director shall not make grants to the owner of any land 64122
on which such facilities are located if the owner at any time 64123
owned or operated the facility located thereon for profit or in 64124
conjunction with any profit-making enterprise located in this 64125
state or to any person who at any time owned or operated a 64126
facility concerning which the director has taken action under 64127
section 3734.20, 3734.22, or 3734.23 of the Revised Code. However, 64128
the director may make grants under this section to any subsequent 64129
owner of the land, provided that the person has no affiliation 64130
with any person who owned or operated the facility located on the 64131
land for profit or in conjunction with any profit-making 64132
enterprise located in this state or who owned or operated a 64133
facility concerning which the director has taken action under 64134
section 3734.20, 3734.22, or 3734.23 of the Revised Code. 64135

(B) The owner shall submit an application for a grant on 64136
forms furnished by the director, together with detail plans and 64137
specifications for the measures to be performed to close the 64138
facility properly or to abate or prevent air or water pollution or 64139
soil contamination from the facility, an itemized estimate of the 64140
project's cost, a description of the project's estimated benefits, 64141
and such other information as the director prescribes. The plan 64142
may be prepared in consultation with the director or with the 64143
board of health of the city or general health district in which 64144
the facility is located. The director may award the applicant a 64145
grant only after finding that the proposed measures will provide 64146
for the proper closure of the facility or will abate or prevent 64147
air or water pollution or soil contamination from the facility, 64148
including, but not limited to, those measures necessary or 64149
desirable to: 64150

(1) In the case of a facility for the land burial of 64151
hazardous waste, establish and maintain a suitable cover of soil 64152
and vegetation over the cells in which waste is buried in order to 64153
minimize erosion, the infiltration of surface water into the 64154
cells, the production of leachate, and the accumulation or runoff 64155
of contaminated surface water and to prevent air emissions of 64156
hazardous waste from the facility; 64157

(2) Collect and treat contaminated surface water runoff from 64158
the facility; 64159

(3) Collect and treat leachate produced at the facility; 64160

(4) Install test wells and other equipment or facilities to 64161
monitor the quality of surface waters receiving runoff from the 64162
facility or to monitor air emissions of hazardous waste from the 64163
facility; 64164

(5) Regularly monitor and analyze surface water runoff from 64165
the facility, the quality of waters receiving the runoff, and 64166

ground water quality in the vicinity of the facility, and 64167
regularly monitor leachate collection and treatment systems 64168
installed under the grant and analyze samples from them; 64169

(6) Remove and dispose of hazardous waste from the facility 64170
at a suitable hazardous waste disposal facility where necessary to 64171
protect public health or safety or to abate or prevent air or 64172
water pollution or soil contamination. 64173

(C) The director shall determine the amount of the grant 64174
based upon the director's determination of what constitutes 64175
reasonable and necessary expenses for the proper closure of the 64176
facility or for the abatement or prevention of air or water 64177
pollution or soil contamination from the facility. The amount of 64178
the grant shall not exceed one-half of the total, as determined by 64179
the director, of what constitutes reasonable and necessary 64180
expenses actually incurred for the proper closure of or abatement 64181
or prevention of air or water pollution or soil contamination from 64182
the facility. 64183

In making a grant, the director shall enter into a contract 64184
for funding with each applicant awarded a grant to ensure that the 64185
moneys granted are used for the purpose of this section and that 64186
the measures performed are properly performed. The final payment 64187
under a grant may not be made until the director inspects and 64188
approves the completed cleanup and the plans for developing the 64189
land for use in industry, commerce, distribution, or research. 64190

Each contract for funding shall contain provisions for the 64191
reimbursement of the state of a portion of the costs of the 64192
cleanup that is commensurate with the increase in the market value 64193
of the property attributable to the cleanup thereon, as determined 64194
by appraisals made before and after cleanup in the manner stated 64195
in the contract. For reimbursement of that portion, the contract 64196
may include provisions for: 64197

(1) Payment to the state of the share of the income derived from the productive use of the land;	64198 64199
(2) Imposition of a lien in the amount of the increase in fair market value payable upon the transfer or conveyance to a new owner;	64200 64201 64202
(3) Waiver of all reimbursement if the determination discloses an increase in value that is insubstantial in comparison to the benefits to the public from the abatement of threats to public health or safety or from the abatement or prevention of pollution or contamination, considering the applicant's share of the cleanup cost.	64203 64204 64205 64206 64207 64208
All reimbursements and payments shall be credited to <u>the hazardous waste facility management fund or the hazardous waste clean-up fund</u> created in section 3734.28 of the Revised Code, as applicable.	64209 64210 64211 64212
(D) The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the contract may require the owner to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.	64213 64214 64215 64216 64217 64218 64219 64220 64221 64222 64223
(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.	64224 64225
Sec. 3734.27. Before making grants from <u>the hazardous waste facility management fund created in section 3734.18 of the Revised</u>	64226 64227

Code or the hazardous waste clean-up fund created in section 64228
3734.28 of the Revised Code, the director of environmental 64229
protection shall consider each project application submitted by a 64230
political subdivision under section 3734.25 of the Revised Code, 64231
each application submitted by the owner of a facility under 64232
section 3734.26 of the Revised Code, and each facility surveyed 64233
under section 3734.19 of the Revised Code and, based upon the 64234
feasibility, cost, and public benefits of restoring the particular 64235
land and the availability of federal or other financial assistance 64236
for restoration, establish priorities for awarding grants from the 64237
fund. 64238

Sec. 3734.28. Except as otherwise provided in ~~section~~ 64239
sections 3734.281 and 3734.282 of the Revised Code, moneys 64240
collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 64241
3734.24, and 3734.26 of the Revised Code and under the 64242
"Comprehensive Environmental Response, Compensation, and Liability 64243
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, 64244
including moneys recovered under division (B)(1) of this section, 64245
shall be paid into the state treasury to the credit of the 64246
hazardous waste clean-up fund, which is hereby created. In 64247
addition, ~~any moneys~~ both of the following shall be credited to 64248
the fund: 64249

(A) Moneys recovered for costs paid from the fund for 64250
activities described in divisions (A)(1) and (2) of section 64251
3745.12 of the Revised Code ~~shall be credited to the fund;~~ 64252

(B) Natural resource damage assessment costs recovered under 64253
any of the following: 64254

(1) The "Comprehensive Environmental Response, Compensation, 64255
and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et 64256
seq., as amended; 64257

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 64258

2701, et seq., as amended; 64259

(3) The Federal Water Pollution Control Act as defined in 64260
section 6111.01 of the Revised Code; 64261

(4) Any other applicable federal or state law. The 64262

The environmental protection agency shall use the moneys in 64263
the fund for the purposes set forth in division (D) of section 64264
3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 64265
3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, 64266
and Chapter 3746. of the Revised Code, including any related 64267
enforcement expenses. In addition, the agency shall use the moneys 64268
in the fund to pay the state's long-term operation and maintenance 64269
costs or matching share for actions taken under the "Comprehensive 64270
Environmental Response, Compensation, and Liability Act of 1980," 64271
as amended. If those moneys are reimbursed by grants or other 64272
moneys from the United States or any other person, the moneys 64273
shall be placed in the fund and not in the general revenue fund. 64274

The director of environmental protection may enter into 64275
contracts and grant agreements with federal, state, or local 64276
government agencies, nonprofit organizations, and colleges and 64277
universities for the purpose of carrying out the responsibilities 64278
of the environmental protection agency for which money may be 64279
expended from the fund. 64280

Sec. 3734.282. All Except for natural resource damage 64281
assessment costs recovered by the state that are required by 64282
section 3734.28 of the Revised Code to be credited to the 64283
hazardous waste clean-up fund created in that section, all money 64284
collected by the state for natural resources damages under the 64285
"Comprehensive Environmental Response, Compensation, and Liability 64286
Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, 64287
the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et 64288
seq., as amended, the ~~"Clean~~ Federal Water Pollution Control Act," 64289

~~86 Stat. 862, 33 U.S.C. 1321, as amended~~ defined in section 64290
6111.01 of the Revised Code, or any other applicable federal or 64291
state law shall be paid into the state treasury to the credit of 64292
the natural resource damages fund, which is hereby created. The 64293
director of environmental protection shall use money in the fund 64294
only in accordance with the purposes of and the limitations on 64295
natural resources damages set forth in the "Comprehensive 64296
Environmental Response, Compensation, and Liability Act of 1980," 64297
as amended, the "Oil Pollution Act of 1990," as amended, the 64298
~~"Clean Federal Water Pollution Control Act," as amended,~~ or 64299
another applicable federal or state law. All investment earnings 64300
of the fund shall be credited to the fund. 64301

The director of environmental protection may enter into 64302
contracts and grant agreements with federal, state, or local 64303
government agencies, nonprofit organizations, and colleges and 64304
universities for the purpose of carrying out the director's 64305
responsibilities for which money may be expended from the fund. 64306

Sec. 3734.57. (A) The following fees are hereby levied on the 64307
transfer or disposal of solid wastes in this state: 64308

(1) One dollar per ton ~~on and after July 1, 2003,~~ through 64309
June 30, ~~2012~~ 2014, one-half of the proceeds of which shall be 64310
deposited in the state treasury to the credit of the hazardous 64311
waste facility management fund created in section 3734.18 of the 64312
Revised Code and one-half of the proceeds of which shall be 64313
deposited in the state treasury to the credit of the hazardous 64314
waste clean-up fund created in section 3734.28 of the Revised 64315
Code; 64316

(2) An additional one dollar per ton ~~on and after July 1,~~ 64317
~~2003,~~ through June 30, ~~2012~~ 2014, the proceeds of which shall be 64318
deposited in the state treasury to the credit of the solid waste 64319

fund, which is hereby created. The environmental protection agency 64320
shall use money in the solid waste fund to pay the costs of 64321
administering and enforcing the laws pertaining to solid wastes, 64322
infectious wastes, and construction and demolition debris, 64323
including, without limitation, ground water evaluations related to 64324
solid wastes, infectious wastes, and construction and demolition 64325
debris, under this chapter and Chapter 3714. of the Revised Code 64326
and any rules adopted under them, providing compliance assistance 64327
to small businesses, and paying a share of the administrative 64328
costs of the environmental protection agency pursuant to section 64329
3745.014 of the Revised Code. 64330

(3) An additional ~~one dollar~~ two dollars and fifty cents per 64331
ton ~~on and after July 1, 2005,~~ through June 30, ~~2012~~ 2014, the 64332
proceeds of which shall be deposited in the state treasury to the 64333
credit of the environmental protection fund created in section 64334
3745.015 of the Revised Code; 64335

(4) ~~An additional one dollar per ton on and after August 1,~~ 64336
~~2009, through June 30, 2012, the proceeds of which shall be~~ 64337
~~deposited in the state treasury to the credit of the environmental~~ 64338
~~protection fund.~~ 64339

~~(5) An additional twenty-five cents per ton on and after~~ 64340
~~August 1, 2009,~~ through June 30, ~~2012~~ 2013, the proceeds of which 64341
shall be deposited in the state treasury to the credit of the soil 64342
and water conservation district assistance fund created in section 64343
1515.14 of the Revised Code. 64344

In the case of solid wastes that are taken to a solid waste 64345
transfer facility located in this state prior to being transported 64346
for disposal at a solid waste disposal facility located in this 64347
state or outside of this state, the fees levied under this 64348
division shall be collected by the owner or operator of the 64349
transfer facility as a trustee for the state. The amount of fees 64350
required to be collected under this division at such a transfer 64351

facility shall equal the total tonnage of solid wastes received at 64352
the facility multiplied by the fees levied under this division. In 64353
the case of solid wastes that are not taken to a solid waste 64354
transfer facility located in this state prior to being transported 64355
to a solid waste disposal facility, the fees shall be collected by 64356
the owner or operator of the solid waste disposal facility as a 64357
trustee for the state. The amount of fees required to be collected 64358
under this division at such a disposal facility shall equal the 64359
total tonnage of solid wastes received at the facility that was 64360
not previously taken to a solid waste transfer facility located in 64361
this state multiplied by the fees levied under this division. Fees 64362
levied under this division do not apply to materials separated 64363
from a mixed waste stream for recycling by a generator or 64364
materials removed from the solid waste stream through recycling, 64365
as "recycling" is defined in rules adopted under section 3734.02 64366
of the Revised Code. 64367

The owner or operator of a solid waste transfer facility or 64368
disposal facility, as applicable, shall prepare and file with the 64369
director of environmental protection each month a return 64370
indicating the total tonnage of solid wastes received at the 64371
facility during that month and the total amount of the fees 64372
required to be collected under this division during that month. In 64373
addition, the owner or operator of a solid waste disposal facility 64374
shall indicate on the return the total tonnage of solid wastes 64375
received from transfer facilities located in this state during 64376
that month for which the fees were required to be collected by the 64377
transfer facilities. The monthly returns shall be filed on a form 64378
prescribed by the director. Not later than thirty days after the 64379
last day of the month to which a return applies, the owner or 64380
operator shall mail to the director the return for that month 64381
together with the fees required to be collected under this 64382
division during that month as indicated on the return or may 64383
submit the return and fees electronically in a manner approved by 64384

the director. If the return is filed and the amount of the fees 64385
due is paid in a timely manner as required in this division, the 64386
owner or operator may retain a discount of three-fourths of one 64387
per cent of the total amount of the fees that are required to be 64388
paid as indicated on the return. 64389

The owner or operator may request an extension of not more 64390
than thirty days for filing the return and remitting the fees, 64391
provided that the owner or operator has submitted such a request 64392
in writing to the director together with a detailed description of 64393
why the extension is requested, the director has received the 64394
request not later than the day on which the return is required to 64395
be filed, and the director has approved the request. If the fees 64396
are not remitted within thirty days after the last day of the 64397
month to which the return applies or are not remitted by the last 64398
day of an extension approved by the director, the owner or 64399
operator shall not retain the three-fourths of one per cent 64400
discount and shall pay an additional ten per cent of the amount of 64401
the fees for each month that they are late. For purposes of 64402
calculating the late fee, the first month in which fees are late 64403
begins on the first day after the deadline has passed for timely 64404
submitting the return and fees, and one additional month shall be 64405
counted every thirty days thereafter. 64406

The owner or operator of a solid waste facility may request a 64407
refund or credit of fees levied under this division and remitted 64408
to the director that have not been paid to the owner or operator. 64409
Such a request shall be made only if the fees have not been 64410
collected by the owner or operator, have become a debt that has 64411
become worthless or uncollectable for a period of six months or 64412
more, and may be claimed as a deduction, including a deduction 64413
claimed if the owner or operator keeps accounts on an accrual 64414
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 64415
U.S.C. 166, as amended, and regulations adopted under it. Prior to 64416

making a request for a refund or credit, an owner or operator 64417
shall make reasonable efforts to collect the applicable fees. A 64418
request for a refund or credit shall not include any costs 64419
resulting from those efforts to collect unpaid fees. 64420

A request for a refund or credit of fees shall be made in 64421
writing, on a form prescribed by the director, and shall be 64422
supported by evidence that may be required in rules adopted by the 64423
director under this chapter. After reviewing the request, and if 64424
the request and evidence submitted with the request indicate that 64425
a refund or credit is warranted, the director shall grant a refund 64426
to the owner or operator or shall permit a credit to be taken by 64427
the owner or operator on a subsequent monthly return submitted by 64428
the owner or operator. The amount of a refund or credit shall not 64429
exceed an amount that is equal to ninety days' worth of fees owed 64430
to an owner or operator by a particular debtor of the owner or 64431
operator. A refund or credit shall not be granted by the director 64432
to an owner or operator more than once in any twelve-month period 64433
for fees owed to the owner or operator by a particular debtor. 64434

If, after receiving a refund or credit from the director, an 64435
owner or operator receives payment of all or part of the fees, the 64436
owner or operator shall remit the fees with the next monthly 64437
return submitted to the director together with a written 64438
explanation of the reason for the submittal. 64439

For purposes of computing the fees levied under this division 64440
or division (B) of this section, any solid waste transfer or 64441
disposal facility that does not use scales as a means of 64442
determining gate receipts shall use a conversion factor of three 64443
cubic yards per ton of solid waste or one cubic yard per ton for 64444
baled waste, as applicable. 64445

The fees levied under this division and divisions (B) and (C) 64446
of this section are in addition to all other applicable fees and 64447
taxes and shall be paid by the customer or a political subdivision 64448

to the owner or operator of a solid waste transfer or disposal 64449
facility. In the alternative, the fees shall be paid by a customer 64450
or political subdivision to a transporter of waste who 64451
subsequently transfers the fees to the owner or operator of such a 64452
facility. The fees shall be paid notwithstanding the existence of 64453
any provision in a contract that the customer or a political 64454
subdivision may have with the owner or operator or with a 64455
transporter of waste to the facility that would not require or 64456
allow such payment regardless of whether the contract was entered 64457
prior to or after the effective date of this amendment. For those 64458
purposes, "customer" means a person who contracts with, or 64459
utilizes the solid waste services of, the owner or operator of a 64460
solid waste transfer or disposal facility or a transporter of 64461
solid waste to such a facility. 64462

(B) For the purposes specified in division (G) of this 64463
section, the solid waste management policy committee of a county 64464
or joint solid waste management district may levy fees upon the 64465
following activities: 64466

(1) The disposal at a solid waste disposal facility located 64467
in the district of solid wastes generated within the district; 64468

(2) The disposal at a solid waste disposal facility within 64469
the district of solid wastes generated outside the boundaries of 64470
the district, but inside this state; 64471

(3) The disposal at a solid waste disposal facility within 64472
the district of solid wastes generated outside the boundaries of 64473
this state. 64474

The solid waste management plan of the county or joint 64475
district approved under section 3734.521 or 3734.55 of the Revised 64476
Code and any amendments to it, or the resolution adopted under 64477
this division, as appropriate, shall establish the rates of the 64478
fees levied under divisions (B)(1), (2), and (3) of this section, 64479

if any, and shall specify whether the fees are levied on the basis 64480
of tons or cubic yards as the unit of measurement. A solid waste 64481
management district that levies fees under this division on the 64482
basis of cubic yards shall do so in accordance with division (A) 64483
of this section. 64484

The fee levied under division (B)(1) of this section shall be 64485
not less than one dollar per ton nor more than two dollars per 64486
ton, the fee levied under division (B)(2) of this section shall be 64487
not less than two dollars per ton nor more than four dollars per 64488
ton, and the fee levied under division (B)(3) of this section 64489
shall be not more than the fee levied under division (B)(1) of 64490
this section. 64491

Prior to the approval of the solid waste management plan of a 64492
district under section 3734.55 of the Revised Code, the solid 64493
waste management policy committee of a district may levy fees 64494
under this division by adopting a resolution establishing the 64495
proposed amount of the fees. Upon adopting the resolution, the 64496
committee shall deliver a copy of the resolution to the board of 64497
county commissioners of each county forming the district and to 64498
the legislative authority of each municipal corporation and 64499
township under the jurisdiction of the district and shall prepare 64500
and publish the resolution and a notice of the time and location 64501
where a public hearing on the fees will be held. Upon adopting the 64502
resolution, the committee shall deliver written notice of the 64503
adoption of the resolution; of the amount of the proposed fees; 64504
and of the date, time, and location of the public hearing to the 64505
director and to the fifty industrial, commercial, or institutional 64506
generators of solid wastes within the district that generate the 64507
largest quantities of solid wastes, as determined by the 64508
committee, and to their local trade associations. The committee 64509
shall make good faith efforts to identify those generators within 64510
the district and their local trade associations, but the 64511

nonprovision of notice under this division to a particular 64512
generator or local trade association does not invalidate the 64513
proceedings under this division. The publication shall occur at 64514
least thirty days before the hearing. After the hearing, the 64515
committee may make such revisions to the proposed fees as it 64516
considers appropriate and thereafter, by resolution, shall adopt 64517
the revised fee schedule. Upon adopting the revised fee schedule, 64518
the committee shall deliver a copy of the resolution doing so to 64519
the board of county commissioners of each county forming the 64520
district and to the legislative authority of each municipal 64521
corporation and township under the jurisdiction of the district. 64522
Within sixty days after the delivery of a copy of the resolution 64523
adopting the proposed revised fees by the policy committee, each 64524
such board and legislative authority, by ordinance or resolution, 64525
shall approve or disapprove the revised fees and deliver a copy of 64526
the ordinance or resolution to the committee. If any such board or 64527
legislative authority fails to adopt and deliver to the policy 64528
committee an ordinance or resolution approving or disapproving the 64529
revised fees within sixty days after the policy committee 64530
delivered its resolution adopting the proposed revised fees, it 64531
shall be conclusively presumed that the board or legislative 64532
authority has approved the proposed revised fees. The committee 64533
shall determine if the resolution has been ratified in the same 64534
manner in which it determines if a draft solid waste management 64535
plan has been ratified under division (B) of section 3734.55 of 64536
the Revised Code. 64537

The committee may amend the schedule of fees levied pursuant 64538
to a resolution adopted and ratified under this division by 64539
adopting a resolution establishing the proposed amount of the 64540
amended fees. The committee may repeal the fees levied pursuant to 64541
such a resolution by adopting a resolution proposing to repeal 64542
them. Upon adopting such a resolution, the committee shall proceed 64543
to obtain ratification of the resolution in accordance with this 64544

division. 64545

Not later than fourteen days after declaring the new fees to 64546
be ratified or the fees to be repealed under this division, the 64547
committee shall notify by certified mail the owner or operator of 64548
each solid waste disposal facility that is required to collect the 64549
fees of the ratification and the amount of the fees or of the 64550
repeal of the fees. Collection of any fees shall commence or 64551
collection of repealed fees shall cease on the first day of the 64552
second month following the month in which notification is sent to 64553
the owner or operator. 64554

Fees levied under this division also may be established, 64555
amended, or repealed by a solid waste management policy committee 64556
through the adoption of a new district solid waste management 64557
plan, the adoption of an amended plan, or the amendment of the 64558
plan or amended plan in accordance with sections 3734.55 and 64559
3734.56 of the Revised Code or the adoption or amendment of a 64560
district plan in connection with a change in district composition 64561
under section 3734.521 of the Revised Code. 64562

Not later than fourteen days after the director issues an 64563
order approving a district's solid waste management plan, amended 64564
plan, or amendment to a plan or amended plan that establishes, 64565
amends, or repeals a schedule of fees levied by the district, the 64566
committee shall notify by certified mail the owner or operator of 64567
each solid waste disposal facility that is required to collect the 64568
fees of the approval of the plan or amended plan, or the amendment 64569
to the plan, as appropriate, and the amount of the fees, if any. 64570
In the case of an initial or amended plan approved under section 64571
3734.521 of the Revised Code in connection with a change in 64572
district composition, other than one involving the withdrawal of a 64573
county from a joint district, the committee, within fourteen days 64574
after the change takes effect pursuant to division (G) of that 64575
section, shall notify by certified mail the owner or operator of 64576

each solid waste disposal facility that is required to collect the 64577
fees that the change has taken effect and of the amount of the 64578
fees, if any. Collection of any fees shall commence or collection 64579
of repealed fees shall cease on the first day of the second month 64580
following the month in which notification is sent to the owner or 64581
operator. 64582

If, in the case of a change in district composition involving 64583
the withdrawal of a county from a joint district, the director 64584
completes the actions required under division (G)(1) or (3) of 64585
section 3734.521 of the Revised Code, as appropriate, forty-five 64586
days or more before the beginning of a calendar year, the policy 64587
committee of each of the districts resulting from the change that 64588
obtained the director's approval of an initial or amended plan in 64589
connection with the change, within fourteen days after the 64590
director's completion of the required actions, shall notify by 64591
certified mail the owner or operator of each solid waste disposal 64592
facility that is required to collect the district's fees that the 64593
change is to take effect on the first day of January immediately 64594
following the issuance of the notice and of the amount of the fees 64595
or amended fees levied under divisions (B)(1) to (3) of this 64596
section pursuant to the district's initial or amended plan as so 64597
approved or, if appropriate, the repeal of the district's fees by 64598
that initial or amended plan. Collection of any fees set forth in 64599
such a plan or amended plan shall commence on the first day of 64600
January immediately following the issuance of the notice. If such 64601
an initial or amended plan repeals a schedule of fees, collection 64602
of the fees shall cease on that first day of January. 64603

If, in the case of a change in district composition involving 64604
the withdrawal of a county from a joint district, the director 64605
completes the actions required under division (G)(1) or (3) of 64606
section 3734.521 of the Revised Code, as appropriate, less than 64607
forty-five days before the beginning of a calendar year, the 64608

director, on behalf of each of the districts resulting from the 64609
change that obtained the director's approval of an initial or 64610
amended plan in connection with the change proceedings, shall 64611
notify by certified mail the owner or operator of each solid waste 64612
disposal facility that is required to collect the district's fees 64613
that the change is to take effect on the first day of January 64614
immediately following the mailing of the notice and of the amount 64615
of the fees or amended fees levied under divisions (B)(1) to (3) 64616
of this section pursuant to the district's initial or amended plan 64617
as so approved or, if appropriate, the repeal of the district's 64618
fees by that initial or amended plan. Collection of any fees set 64619
forth in such a plan or amended plan shall commence on the first 64620
day of the second month following the month in which notification 64621
is sent to the owner or operator. If such an initial or amended 64622
plan repeals a schedule of fees, collection of the fees shall 64623
cease on the first day of the second month following the month in 64624
which notification is sent to the owner or operator. 64625

If the schedule of fees that a solid waste management 64626
district is levying under divisions (B)(1) to (3) of this section 64627
is amended or repealed, the fees in effect immediately prior to 64628
the amendment or repeal shall continue to be collected until 64629
collection of the amended fees commences or collection of the 64630
repealed fees ceases, as applicable, as specified in this 64631
division. In the case of a change in district composition, money 64632
so received from the collection of the fees of the former 64633
districts shall be divided among the resulting districts in 64634
accordance with division (B) of section 343.012 of the Revised 64635
Code and the agreements entered into under division (B) of section 64636
343.01 of the Revised Code to establish the former and resulting 64637
districts and any amendments to those agreements. 64638

For the purposes of the provisions of division (B) of this 64639
section establishing the times when newly established or amended 64640

fees levied by a district are required to commence and the 64641
collection of fees that have been amended or repealed is required 64642
to cease, "fees" or "schedule of fees" includes, in addition to 64643
fees levied under divisions (B)(1) to (3) of this section, those 64644
levied under section 3734.573 or 3734.574 of the Revised Code. 64645

(C) For the purposes of defraying the added costs to a 64646
municipal corporation or township of maintaining roads and other 64647
public facilities and of providing emergency and other public 64648
services, and compensating a municipal corporation or township for 64649
reductions in real property tax revenues due to reductions in real 64650
property valuations resulting from the location and operation of a 64651
solid waste disposal facility within the municipal corporation or 64652
township, a municipal corporation or township in which such a 64653
solid waste disposal facility is located may levy a fee of not 64654
more than twenty-five cents per ton on the disposal of solid 64655
wastes at a solid waste disposal facility located within the 64656
boundaries of the municipal corporation or township regardless of 64657
where the wastes were generated. 64658

The legislative authority of a municipal corporation or 64659
township may levy fees under this division by enacting an 64660
ordinance or adopting a resolution establishing the amount of the 64661
fees. Upon so doing the legislative authority shall mail a 64662
certified copy of the ordinance or resolution to the board of 64663
county commissioners or directors of the county or joint solid 64664
waste management district in which the municipal corporation or 64665
township is located or, if a regional solid waste management 64666
authority has been formed under section 343.011 of the Revised 64667
Code, to the board of trustees of that regional authority, the 64668
owner or operator of each solid waste disposal facility in the 64669
municipal corporation or township that is required to collect the 64670
fee by the ordinance or resolution, and the director of 64671
environmental protection. Although the fees levied under this 64672

division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

~~(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more regardless of whether the disposal facility is located on the premises owned by the generator where the wastes are generated.~~

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the

Revised Code by the board of county commissioners or board of 64704
directors of the county or joint district where the wastes are 64705
generated and disposed of. 64706

(3) When solid wastes, other than solid wastes that consist 64707
of scrap tires, are burned in a disposal facility that is an 64708
incinerator or energy recovery facility, the fees levied under 64709
divisions (A), (B), and (C) of this section shall be levied upon 64710
the disposal of the fly ash and bottom ash remaining after burning 64711
of the solid wastes and shall be collected by the owner or 64712
operator of the sanitary landfill where the ash is disposed of. 64713

(4) When solid wastes are delivered to a solid waste transfer 64714
facility, the fees levied under divisions (B) and (C) of this 64715
section shall be levied upon the disposal of solid wastes 64716
transported off the premises of the transfer facility for disposal 64717
and shall be collected by the owner or operator of the solid waste 64718
disposal facility where the wastes are disposed of. 64719

(5) The fees levied under divisions (A), (B), and (C) of this 64720
section do not apply to sewage sludge that is generated by a waste 64721
water treatment facility holding a national pollutant discharge 64722
elimination system permit and that is disposed of through 64723
incineration, land application, or composting or at another 64724
resource recovery or disposal facility that is not a landfill. 64725

(6) The fees levied under divisions (A), (B), and (C) of this 64726
section do not apply to solid wastes delivered to a solid waste 64727
composting facility for processing. When any unprocessed solid 64728
waste or compost product is transported off the premises of a 64729
composting facility and disposed of at a landfill, the fees levied 64730
under divisions (A), (B), and (C) of this section shall be 64731
collected by the owner or operator of the landfill where the 64732
unprocessed waste or compost product is disposed of. 64733

(7) When solid wastes that consist of scrap tires are 64734

processed at a scrap tire recovery facility, the fees levied under 64735
divisions (A), (B), and (C) of this section shall be levied upon 64736
the disposal of the fly ash and bottom ash or other solid wastes 64737
remaining after the processing of the scrap tires and shall be 64738
collected by the owner or operator of the solid waste disposal 64739
facility where the ash or other solid wastes are disposed of. 64740

(8) The director of environmental protection may issue an 64741
order exempting from the fees levied under this section solid 64742
wastes, including, but not limited to, scrap tires, that are 64743
generated, transferred, or disposed of as a result of a contract 64744
providing for the expenditure of public funds entered into by the 64745
administrator or regional administrator of the United States 64746
environmental protection agency, the director of environmental 64747
protection, or the director of administrative services on behalf 64748
of the director of environmental protection for the purpose of 64749
remediating conditions at a hazardous waste facility, solid waste 64750
facility, or other location at which the administrator or regional 64751
administrator or the director of environmental protection has 64752
reason to believe that there is a substantial threat to public 64753
health or safety or the environment or that the conditions are 64754
causing or contributing to air or water pollution or soil 64755
contamination. An order issued by the director of environmental 64756
protection under division (D)(8) of this section shall include a 64757
determination that the amount of the fees not received by a solid 64758
waste management district as a result of the order will not 64759
adversely impact the implementation and financing of the 64760
district's approved solid waste management plan and any approved 64761
amendments to the plan. Such an order is a final action of the 64762
director of environmental protection. 64763

(E) The fees levied under divisions (B) and (C) of this 64764
section shall be collected by the owner or operator of the solid 64765
waste disposal facility where the wastes are disposed of as a 64766

trustee for the county or joint district and municipal corporation 64767
or township where the wastes are disposed of. Moneys from the fees 64768
levied under division (B) of this section shall be forwarded to 64769
the board of county commissioners or board of directors of the 64770
district in accordance with rules adopted under division (H) of 64771
this section. Moneys from the fees levied under division (C) of 64772
this section shall be forwarded to the treasurer or such other 64773
officer of the municipal corporation as, by virtue of the charter, 64774
has the duties of the treasurer or to the fiscal officer of the 64775
township, as appropriate, in accordance with those rules. 64776

(F) Moneys received by the treasurer or other officer of the 64777
municipal corporation under division (E) of this section shall be 64778
paid into the general fund of the municipal corporation. Moneys 64779
received by the fiscal officer of the township under that division 64780
shall be paid into the general fund of the township. The treasurer 64781
or other officer of the municipal corporation or the township 64782
fiscal officer, as appropriate, shall maintain separate records of 64783
the moneys received from the fees levied under division (C) of 64784
this section. 64785

(G) Moneys received by the board of county commissioners or 64786
board of directors under division (E) of this section or section 64787
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 64788
shall be paid to the county treasurer, or other official acting in 64789
a similar capacity under a county charter, in a county district or 64790
to the county treasurer or other official designated by the board 64791
of directors in a joint district and kept in a separate and 64792
distinct fund to the credit of the district. If a regional solid 64793
waste management authority has been formed under section 343.011 64794
of the Revised Code, moneys received by the board of trustees of 64795
that regional authority under division (E) of this section shall 64796
be kept by the board in a separate and distinct fund to the credit 64797
of the district. Moneys in the special fund of the county or joint 64798

district arising from the fees levied under division (B) of this 64799
section and the fee levied under division (A) of section 3734.573 64800
of the Revised Code shall be expended by the board of county 64801
commissioners or directors of the district in accordance with the 64802
district's solid waste management plan or amended plan approved 64803
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 64804
exclusively for the following purposes: 64805

(1) Preparation of the solid waste management plan of the 64806
district under section 3734.54 of the Revised Code, monitoring 64807
implementation of the plan, and conducting the periodic review and 64808
amendment of the plan required by section 3734.56 of the Revised 64809
Code by the solid waste management policy committee; 64810

(2) Implementation of the approved solid waste management 64811
plan or amended plan of the district, including, without 64812
limitation, the development and implementation of solid waste 64813
recycling or reduction programs; 64814

(3) Providing financial assistance to boards of health within 64815
the district, if solid waste facilities are located within the 64816
district, for enforcement of this chapter and rules, orders, and 64817
terms and conditions of permits, licenses, and variances adopted 64818
or issued under it, other than the hazardous waste provisions of 64819
this chapter and rules adopted and orders and terms and conditions 64820
of permits issued under those provisions; 64821

(4) Providing financial assistance to each county within the 64822
district to defray the added costs of maintaining roads and other 64823
public facilities and of providing emergency and other public 64824
services resulting from the location and operation of a solid 64825
waste facility within the county under the district's approved 64826
solid waste management plan or amended plan; 64827

(5) Pursuant to contracts entered into with boards of health 64828
within the district, if solid waste facilities contained in the 64829

district's approved plan or amended plan are located within the 64830
district, for paying the costs incurred by those boards of health 64831
for collecting and analyzing samples from public or private water 64832
wells on lands adjacent to those facilities; 64833

(6) Developing and implementing a program for the inspection 64834
of solid wastes generated outside the boundaries of this state 64835
that are disposed of at solid waste facilities included in the 64836
district's approved solid waste management plan or amended plan; 64837

(7) Providing financial assistance to boards of health within 64838
the district for the enforcement of section 3734.03 of the Revised 64839
Code or to local law enforcement agencies having jurisdiction 64840
within the district for enforcing anti-littering laws and 64841
ordinances; 64842

(8) Providing financial assistance to boards of health of 64843
health districts within the district that are on the approved list 64844
under section 3734.08 of the Revised Code to defray the costs to 64845
the health districts for the participation of their employees 64846
responsible for enforcement of the solid waste provisions of this 64847
chapter and rules adopted and orders and terms and conditions of 64848
permits, licenses, and variances issued under those provisions in 64849
the training and certification program as required by rules 64850
adopted under division (L) of section 3734.02 of the Revised Code; 64851

(9) Providing financial assistance to individual municipal 64852
corporations and townships within the district to defray their 64853
added costs of maintaining roads and other public facilities and 64854
of providing emergency and other public services resulting from 64855
the location and operation within their boundaries of a 64856
composting, energy or resource recovery, incineration, or 64857
recycling facility that either is owned by the district or is 64858
furnishing solid waste management facility or recycling services 64859
to the district pursuant to a contract or agreement with the board 64860
of county commissioners or directors of the district; 64861

(10) Payment of any expenses that are agreed to, awarded, or 64862
ordered to be paid under section 3734.35 of the Revised Code and 64863
of any administrative costs incurred pursuant to that section. In 64864
the case of a joint solid waste management district, if the board 64865
of county commissioners of one of the counties in the district is 64866
negotiating on behalf of affected communities, as defined in that 64867
section, in that county, the board shall obtain the approval of 64868
the board of directors of the district in order to expend moneys 64869
for administrative costs incurred. 64870

Prior to the approval of the district's solid waste 64871
management plan under section 3734.55 of the Revised Code, moneys 64872
in the special fund of the district arising from the fees shall be 64873
expended for those purposes in the manner prescribed by the solid 64874
waste management policy committee by resolution. 64875

Notwithstanding division (G)(6) of this section as it existed 64876
prior to October 29, 1993, or any provision in a district's solid 64877
waste management plan prepared in accordance with division 64878
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 64879
prior to that date, any moneys arising from the fees levied under 64880
division (B)(3) of this section prior to January 1, 1994, may be 64881
expended for any of the purposes authorized in divisions (G)(1) to 64882
(10) of this section. 64883

(H) The director shall adopt rules in accordance with Chapter 64884
119. of the Revised Code prescribing procedures for collecting and 64885
forwarding the fees levied under divisions (B) and (C) of this 64886
section to the boards of county commissioners or directors of 64887
county or joint solid waste management districts and to the 64888
treasurers or other officers of municipal corporations and the 64889
fiscal officers of townships. The rules also shall prescribe the 64890
dates for forwarding the fees to the boards and officials and may 64891
prescribe any other requirements the director considers necessary 64892
or appropriate to implement and administer divisions (A), (B), and 64893

(C) of this section. 64894

Sec. 3734.85. (A) On and after the effective date of the 64895
rules adopted under sections 3734.70, 3734.71, 3734.72, and 64896
3734.73 of the Revised Code, the director of environmental 64897
protection may take action under this section to abate 64898
accumulations of scrap tires. If the director determines that an 64899
accumulation of scrap tires constitutes a danger to the public 64900
health or safety or to the environment, the director shall issue 64901
an order under section 3734.13 of the Revised Code to the person 64902
responsible for the accumulation of scrap tires directing that 64903
person, within one hundred twenty days after the issuance of the 64904
order, to remove the accumulation of scrap tires from the premises 64905
on which it is located and transport the tires to a scrap tire 64906
storage, monocell, monofill, or recovery facility licensed under 64907
section 3734.81 of the Revised Code, to such a facility in another 64908
state operating in compliance with the laws of the state in which 64909
it is located, or to any other solid waste disposal facility in 64910
another state that is operating in compliance with the laws of 64911
that state. If the person responsible for causing the accumulation 64912
of scrap tires is a person different from the owner of the land on 64913
which the accumulation is located, the director may issue such an 64914
order to the landowner. 64915

If the director is unable to ascertain immediately the 64916
identity of the person responsible for causing the accumulation of 64917
scrap tires, the director shall examine the records of the 64918
applicable board of health and law enforcement agencies to 64919
ascertain that person's identity. Before initiating any 64920
enforcement or removal actions under this division against the 64921
owner of the land on which the accumulation is located, the 64922
director shall initiate any such actions against the person that 64923
the director has identified as responsible for causing the 64924
accumulation of scrap tires. Failure of the director to make 64925

diligent efforts to ascertain the identity of the person 64926
responsible for causing the accumulation of scrap tires or to 64927
initiate an action against the person responsible for causing the 64928
accumulation shall not constitute an affirmative defense by a 64929
landowner to an enforcement action initiated by the director under 64930
this division requiring immediate removal of any accumulation of 64931
scrap tires. 64932

Upon the written request of the recipient of an order issued 64933
under this division, the director may extend the time for 64934
compliance with the order if the request demonstrates that the 64935
recipient has acted in good faith to comply with the order. If the 64936
recipient of an order issued under this division fails to comply 64937
with the order within one hundred twenty days after the issuance 64938
of the order or, if the time for compliance with the order was so 64939
extended, within that time, the director shall take such actions 64940
as the director considers reasonable and necessary to remove and 64941
properly manage the scrap tires located on the land named in the 64942
order. The director, through employees of the environmental 64943
protection agency or a contractor, may enter upon the land on 64944
which the accumulation of scrap tires is located and remove and 64945
transport them to a scrap tire recovery facility for processing, 64946
to a scrap tire storage facility for storage, or to a scrap tire 64947
monocell or monofill facility for storage or disposal. 64948

The director shall enter into contracts ~~with the owners or~~ 64949
~~operators of scrap tire storage, monocell, monofill, or recovery~~ 64950
~~facilities~~ for the storage, disposal, or processing of scrap tires 64951
removed through removal operations conducted under this section. 64952
~~In doing so, the director shall give preference to scrap tire~~ 64953
~~recovery facilities.~~ 64954

If a person to whom a removal order is issued under this 64955
division fails to comply with the order and if the director 64956
performs a removal action under this section, the person to whom 64957

the removal order is issued is liable to the director for the 64958
costs incurred by the director for conducting the removal 64959
operation, storage at a scrap tire storage facility, storage or 64960
disposal at a scrap tire monocell or monofill facility, or 64961
processing of the scrap tires so removed, the transportation of 64962
the scrap tires from the site of the accumulation to the scrap 64963
tire storage, monocell, monofill, or recovery facility where the 64964
scrap tires were stored, disposed of, or processed, and the 64965
administrative and legal expenses incurred by the director in 64966
connection with the removal operation. The director shall keep an 64967
itemized record of those costs. Upon completion of the actions for 64968
which the costs were incurred, the director shall record the costs 64969
at the office of the county recorder of the county in which the 64970
accumulation of scrap tires was located. The costs so recorded 64971
constitute a lien on the property on which the accumulation of 64972
scrap tires was located until discharged. Upon the written request 64973
of the director, the attorney general shall bring a civil action 64974
against the person responsible for the accumulation of the scrap 64975
tires that were the subject of the removal operation to recover 64976
the costs for which the person is liable under this division. Any 64977
money so received or recovered shall be credited to the scrap tire 64978
management fund created in section 3734.82 of the Revised Code. 64979

If, in a civil action brought under this division, an owner 64980
of real property is ordered to pay to the director the costs of a 64981
removal action that removed an accumulation of scrap tires from 64982
the person's land or if a lien is placed on the person's land for 64983
the costs of such a removal action, and, in either case, if the 64984
landowner was not the person responsible for causing the 64985
accumulation of scrap tires so removed, the landowner may bring a 64986
civil action against the person who was responsible for causing 64987
the accumulation to recover the amount of the removal costs that 64988
the court ordered the landowner to pay to the director or the 64989
amount of the removal costs certified to the county recorder as a 64990

lien on the landowner's property, whichever is applicable. If the 64991
landowner prevails in the civil action against the person who was 64992
responsible for causing the accumulation of scrap tires, the 64993
court, as it considers appropriate, may award to the landowner the 64994
reasonable attorney's fees incurred by the landowner for bringing 64995
the action, court costs, and other reasonable expenses incurred by 64996
the landowner in connection with the civil action. A landowner 64997
shall bring such a civil action within two years after making the 64998
final payment of the removal costs to the director pursuant to the 64999
judgment rendered against the landowner in the civil action 65000
brought under this division upon the director's request or within 65001
two years after the director certified the costs of the removal 65002
action to the county recorder, as appropriate. A person who, at 65003
the time that a removal action was conducted under this division, 65004
owned the land on which the removal action was performed may bring 65005
an action under this division to recover the costs of the removal 65006
action from the person responsible for causing the accumulation of 65007
scrap tires so removed regardless of whether the person owns the 65008
land at the time of bringing the action. 65009

Subject to the limitations set forth in division (G) of 65010
section 3734.82 of the Revised Code, the director may use moneys 65011
in the scrap tire management fund for conducting removal actions 65012
under this division. Any moneys recovered under this division 65013
shall be credited to the scrap tire management fund. 65014

(B) The director shall initiate enforcement and removal 65015
actions under division (A) of this section in accordance with the 65016
following descending listing of priorities: 65017

(1) Accumulations of scrap tires that the director finds 65018
constitute a fire hazard or threat to public health; 65019

(2) Accumulations of scrap tires determined by the director 65020
to contain more than one million scrap tires; 65021

(3) Accumulations of scrap tires in densely populated areas;	65022
(4) Other accumulations of scrap tires that the director or board of health of the health district in which the accumulation is located determines constitute a public nuisance;	65023 65024 65025
(5) Any other accumulations of scrap tires present on premises operating without a valid license issued under section 3734.05 or 3734.81 of the Revised Code.	65026 65027 65028
(C) The director shall not take enforcement and removal actions under division (A) of this section against the owner or operator of, or the owner of the land on which is located, any of the following:	65029 65030 65031 65032
(1) A premises where not more than one hundred scrap tires are present at any time;	65033 65034
(2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:	65035 65036
(a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location.	65037 65038
(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.	65039 65040
(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;	65041 65042 65043 65044
(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;	65045 65046 65047 65048
(5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually	65049 65050 65051

stored does not exceed ten thousand square feet; 65052

(6) A premises where not more than two hundred fifty scrap 65053
tires are stored or kept for agricultural use; 65054

(7) A construction site where scrap tires are stored for use 65055
or used in road resurfacing or the construction of embankments; 65056

(8) A scrap tire collection, storage, monocell, monofill, or 65057
recovery facility licensed under section 3734.81 of the Revised 65058
Code; 65059

(9) A solid waste incineration or energy recovery facility 65060
that is subject to regulation under this chapter and that burns 65061
scrap tires; 65062

(10) A premises where scrap tires are beneficially used and 65063
for which the notice required by rules adopted under section 65064
3734.84 of the Revised Code has been given; 65065

(11) A transporter registered under section 3734.83 of the 65066
Revised Code that collects and holds scrap tires in a covered 65067
trailer or vehicle for not longer than thirty days prior to 65068
transporting them to their final destination. 65069

(D) Nothing in this section restricts any right any person 65070
may have under statute or common law to enforce or seek 65071
enforcement of any law applicable to the management of scrap 65072
tires, abate a nuisance, or seek any other appropriate relief. 65073

(E) An owner of real property upon which there is located an 65074
accumulation of not more than two thousand scrap tires is not 65075
liable under division (A) of this section for the cost of the 65076
removal of the scrap tires, and no lien shall attach to the 65077
property under this section, if all of the following conditions 65078
are met: 65079

(1) The tires were placed on the property after the owner 65080
acquired title to the property, or the tires were placed on the 65081

property before the owner acquired title to the property and the 65082
owner acquired title to the property by bequest or devise. 65083

(2) The owner of the property did not have knowledge that the 65084
tires were being placed on the property, or the owner posted on 65085
the property signs prohibiting dumping or took other action to 65086
prevent the placing of tires on the property. 65087

(3) The owner of the property did not participate in or 65088
consent to the placing of the tires on the property. 65089

(4) The owner of the property received no financial benefit 65090
from the placing of the tires on the property or otherwise having 65091
the tires on the property. 65092

(5) Title to the property was not transferred to the owner 65093
for the purpose of evading liability under division (A) of this 65094
section. 65095

(6) The person responsible for placing the tires on the 65096
property, in doing so, was not acting as an agent for the owner of 65097
the property. 65098

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 65099
defray the cost of administering and enforcing the scrap tire 65100
provisions of this chapter, rules adopted under those provisions, 65101
and terms and conditions of orders, variances, and licenses issued 65102
under those provisions; to abate accumulations of scrap tires; to 65103
make grants supporting market development activities for scrap 65104
tires and synthetic rubber from tire manufacturing processes and 65105
tire recycling processes and to support scrap tire amnesty and 65106
cleanup events; to make loans to promote the recycling or recovery 65107
of energy from scrap tires; and to defray the costs of 65108
administering and enforcing sections 3734.90 to 3734.9014 of the 65109
Revised Code, a fee of fifty cents per tire is hereby levied on 65110
the sale of tires. The proceeds of the fee shall be deposited in 65111

the state treasury to the credit of the scrap tire management fund 65112
created in section 3734.82 of the Revised Code. The fee is levied 65113
from the first day of the calendar month that begins next after 65114
thirty days from October 29, 1993, through June 30, ~~2011~~ 2013. 65115

(2) Beginning on ~~September 5, 2001~~ July 1, 2011, and ending 65116
on June 30, ~~2011~~ 2013, there is hereby levied an additional fee of 65117
fifty cents per tire on the sale of tires the proceeds of which 65118
shall be deposited in the state treasury to the credit of the 65119
~~scrap tire management fund and be used exclusively for the~~ 65120
~~purposes specified in division (C)(3) of that section until July~~ 65121
~~1, 2010, whereupon the proceeds shall be deposited in the state~~ 65122
~~treasury to the credit of the soil and water conservation district~~ 65123
assistance fund created in section 1515.14 of the Revised Code. 65124

(B) Only one sale of the same article shall be used in 65125
computing the amount of the fee due. 65126

Sec. 3735.36. When a metropolitan housing authority has 65127
acquired the property necessary for any project, it shall proceed 65128
to make plans and specifications for carrying out such project, 65129
and shall advertise for bids for all work ~~which~~ that it desires to 65130
have done by contract, such advertisements to be published as 65131
provided in section 7.16 of the Revised Code or once a week for 65132
two consecutive weeks in a newspaper of general circulation in the 65133
political subdivision in which the project is to be developed. The 65134
contract shall be awarded to the lowest and best bidder. 65135

Sec. 3735.66. The legislative authorities of municipal 65136
corporations and counties may survey the housing within their 65137
jurisdictions and, after the survey, may adopt resolutions 65138
describing the boundaries of community reinvestment areas which 65139
contain the conditions required for the finding under division (B) 65140
of section 3735.65 of the Revised Code. The findings resulting 65141

from the survey shall be incorporated in the resolution describing 65142
the boundaries of an area. The legislative authority may stipulate 65143
in the resolution that only new structures or remodeling 65144
classified as to use as commercial, industrial, or residential, or 65145
some combination thereof, and otherwise satisfying the 65146
requirements of section 3735.67 of the Revised Code are eligible 65147
for exemption from taxation under that section. If the resolution 65148
does not include such a stipulation, all new structures and 65149
remodeling satisfying the requirements of section 3735.67 of the 65150
Revised Code are eligible for exemption from taxation regardless 65151
of classification. Whether or not the resolution includes such a 65152
stipulation, the classification of the structures or remodeling 65153
eligible for exemption in the area shall at all times be 65154
consistent with zoning restrictions applicable to the area. For 65155
the purposes of sections 3735.65 to 3735.70 of the Revised Code, 65156
whether a structure or remodeling composed of multiple units is 65157
classified as commercial or residential shall be determined by 65158
resolution or ordinance of the legislative authority or, in the 65159
absence of such a determination, by the classification of the use 65160
of the structure or remodeling under the applicable zoning 65161
regulations. 65162

If construction or remodeling classified as residential is 65163
eligible for exemption from taxation, the resolution shall specify 65164
a percentage, not to exceed one hundred per cent, of the assessed 65165
valuation of such property to be exempted. The percentage 65166
specified shall apply to all residential construction or 65167
remodeling for which exemption is granted. 65168

The resolution adopted pursuant to this section shall be 65169
published in a newspaper of general circulation in the municipal 65170
corporation, if the resolution is adopted by the legislative 65171
authority of a municipal corporation, or in a newspaper of general 65172
circulation in the county, if the resolution is adopted by the 65173

legislative authority of the county, once a week for two 65174
consecutive weeks or as provided in section 7.16 of the Revised 65175
Code, immediately following its adoption. 65176

Each legislative authority adopting a resolution pursuant to 65177
this section shall designate a housing officer. In addition, each 65178
such legislative authority, not later than fifteen days after the 65179
adoption of the resolution, shall petition the director of 65180
development for the director to confirm the findings described in 65181
the resolution. The petition shall be accompanied by a copy of the 65182
resolution and by a map of the community reinvestment area in 65183
sufficient detail to denote the specific boundaries of the area 65184
and to indicate zoning restrictions applicable to the area. The 65185
director shall determine whether the findings contained in the 65186
resolution are valid, and whether the classification of structures 65187
or remodeling eligible for exemption under the resolution is 65188
consistent with zoning restrictions applicable to the area as 65189
indicated on the map. Within thirty days of receiving the 65190
petition, the director shall forward the director's determination 65191
to the legislative authority. The legislative authority or housing 65192
officer shall not grant any exemption from taxation under section 65193
3735.67 of the Revised Code until the director forwards the 65194
director's determination to the legislative authority. The 65195
director shall assign to each community reinvestment area a unique 65196
designation by which the area shall be identified for purposes of 65197
sections 3735.65 to 3735.70 of the Revised Code. 65198

If zoning restrictions in any part of a community 65199
reinvestment area are changed at any time after the legislative 65200
authority petitions the director under this section, the 65201
legislative authority shall notify the director and shall submit a 65202
map of the area indicating the new zoning restrictions in the 65203
area. 65204

Sec. 3737.83. The fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;

(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt.

(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards.

In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.

With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.

(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined

in section 5104.01 of the Revised Code. 65235

(F) Establish minimum standards for fire prevention and 65236
safety an adult group home seeking licensure as an adult care 65237
facility must meet under section ~~3722.02~~ 5119.71 of the Revised 65238
Code. The fire marshal shall adopt the rules under this division 65239
in consultation with the directors of mental health and aging and 65240
interested parties designated by the directors of mental health 65241
and aging. 65242

Sec. 3737.841. As used in this section and section 3737.842 65243
of the Revised Code: 65244

(A) "Public occupancy" means all of the following: 65245

(1) Any state correctional institution as defined in section 65246
2967.01 of the Revised Code and any county, multicounty, 65247
municipal, or municipal-county jail or workhouse; 65248

(2) Any hospital as defined in section 3727.01 of the Revised 65249
Code, any hospital licensed by the department of mental health 65250
under section 5119.20 of the Revised Code, and any institution, 65251
hospital, or other place established, controlled, or supervised by 65252
the department of mental health under Chapter 5119. of the Revised 65253
Code; 65254

(3) Any nursing home, residential care facility, or home for 65255
the aging as defined in section 3721.01 of the Revised Code and 65256
any adult care facility as defined in section ~~3722.01~~ 5119.70 of 65257
the Revised Code; 65258

(4) Any child day-care center and any type A family day-care 65259
home as defined in section 5104.01 of the Revised Code; 65260

(5) Any public auditorium or stadium; 65261

(6) Public assembly areas of hotels and motels containing 65262
more than ten articles of seating furniture. 65263

(B) "Sell" includes sell, offer or expose for sale, barter, 65264
trade, deliver, give away, rent, consign, lease, possess for sale, 65265
or dispose of in any other commercial manner. 65266

(C) Except as provided in division (D) of this section, 65267
"seating furniture" means any article of furniture, including 65268
children's furniture, that can be used as a support for an 65269
individual, or ~~his~~ an individual's limbs or feet, when sitting or 65270
resting in an upright or reclining position and that either: 65271

(1) Is made with loose or attached cushions or pillows; 65272

(2) Is stuffed or filled in whole or in part with any filling 65273
material; 65274

(3) Is or can be stuffed or filled in whole or in part with 65275
any substance or material, concealed by fabric or any other 65276
covering. 65277

"Seating furniture" includes the cushions or pillows 65278
belonging to or forming a part of the furniture, the structural 65279
unit, and the filling material and its container or covering. 65280

(D) "Seating furniture" does not include, except if intended 65281
for use by children or in facilities designed for the care or 65282
treatment of humans, any of the following: 65283

(1) Cushions or pads intended solely for outdoor use; 65284

(2) Any article with a smooth surface that contains no more 65285
than one-half inch of filling material, if that article does not 65286
have an upholstered horizontal surface meeting an upholstered 65287
vertical surface; 65288

(3) Any article manufactured solely for recreational use or 65289
physical fitness purposes, including weight-lifting benches, 65290
gymnasium mats or pads, and sidehorses. 65291

(E) "Filling material" means cotton, wool, kapok, feathers, 65292
down, hair, liquid, or any other natural or ~~manmade~~ artificial 65293

material or substance that is used or can be used as stuffing in 65294
seating furniture. 65295

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the 65296
Revised Code: 65297

(A) "Accidental release" means any sudden or nonsudden 65298
release of petroleum that was neither expected nor intended by the 65299
owner or operator of the applicable underground storage tank 65300
system and that results in the need for corrective action or 65301
compensation for bodily injury or property damage. 65302

(B) "Corrective action" means any action necessary to protect 65303
human health and the environment in the event of a release of 65304
petroleum into the environment, including, without limitation, any 65305
action necessary to monitor, assess, and evaluate the release. In 65306
the instance of a suspected release, ~~the term~~ "corrective action" 65307
includes, without limitation, an investigation to confirm or 65308
disprove the occurrence of the release. In the instance of a 65309
confirmed release, ~~the term~~ "corrective action" includes, without 65310
limitation, the initial corrective action taken under section 65311
3737.88 or 3737.882 of the Revised Code and rules adopted or 65312
orders issued under those sections and any action taken consistent 65313
with a remedial action to clean up contaminated ground water, 65314
surface water, soils, and subsurface material and to address the 65315
residual effects of a release after the initial corrective action 65316
is taken. 65317

(C) "Eligible lending institution" means a financial 65318
institution that is eligible to make commercial loans, is a public 65319
depository of state funds under section 135.03 of the Revised 65320
Code, and agrees to participate in the petroleum underground 65321
storage tank linked deposit program provided for in sections 65322
3737.95 to 3737.98 of the Revised Code. 65323

(D) "Eligible owner" means any person that owns six or fewer 65324

petroleum underground storage tanks comprising a petroleum 65325
underground storage tank or underground storage tank system. 65326

(E) "Installer" means a person who supervises the 65327
installation of, performance of major repairs on site to, 65328
abandonment of, or removal of underground storage tank systems. 65329

(F) "Major repair" means the restoration of a tank or an 65330
underground storage tank system component that has caused a 65331
release of a product from the underground storage tank system, the 65332
upgrading of a tank or an underground storage tank system 65333
component, or the modification of a tank or an underground storage 65334
tank system component. "Major repair" does not include routine 65335
maintenance for normal operational upkeep to prevent an 65336
underground storage tank system from releasing a product. 65337

(G) "Operator" means the person in daily control of, or 65338
having responsibility for the daily operation of, an underground 65339
storage tank system. 65340

(H) "Owner" means: 65341

(1) In the instance of an underground storage tank system in 65342
use on November 8, 1984, or brought into use after that date, the 65343
person who owns the underground storage tank system; 65344

(2) In the instance of an underground storage tank system in 65345
use before November 8, 1984, that was no longer in use on that 65346
date, the person who owned the underground storage tank system 65347
immediately before the discontinuation of its use. 65348

~~The term~~ "Owner" includes any person who holds, or, in the 65349
instance of an underground storage tank system in use before 65350
November 8, 1984, but no longer in use on that date, any person 65351
who held immediately before the discontinuation of its use, a 65352
legal, equitable, or possessory interest of any kind in an 65353
underground storage tank system or in the property on which the 65354
underground storage tank system is located, including, without 65355

limitation, a trust, vendor, vendee, lessor, or lessee. ~~The term~~ 65356
"Owner" does not include any person who, without participating in 65357
the management of an underground storage tank system and without 65358
otherwise being engaged in petroleum production, refining, or 65359
marketing, holds indicia of ownership in an underground storage 65360
tank system primarily to protect the person's security interest in 65361
it. 65362

(I) "Person," in addition to the meaning in section 3737.01 65363
of the Revised Code, means the United States and any department, 65364
agency, or instrumentality thereof. 65365

(J) "Petroleum" means petroleum, including crude oil or any 65366
fraction thereof, that is a liquid at the temperature of sixty 65367
degrees Fahrenheit and the pressure of fourteen and seven-tenths 65368
pounds per square inch absolute. ~~The term~~ "Petroleum" includes, 65369
without limitation, motor fuels, jet fuels, distillate fuel oils, 65370
residual fuel oils, lubricants, petroleum solvents, and used oils. 65371

(K) "Petroleum underground storage tank linked deposit" means 65372
a certificate of deposit placed by the treasurer of state with an 65373
eligible lending institution pursuant to sections 3737.95 to 65374
3737.98 of the Revised Code. 65375

(L) "Regulated substance" means petroleum or any substance 65376
identified or listed as a hazardous substance in rules adopted 65377
under division (D) of section 3737.88 of the Revised Code. 65378

(M) "Release" means any spilling, leaking, emitting, 65379
discharging, escaping, leaching, or disposing of from an 65380
underground storage tank system into ground or surface water or 65381
subsurface soils or otherwise into the environment. 65382

(N) Notwithstanding division (F) of section 3737.01 of the 65383
Revised Code, "responsible person" means the person who is the 65384
owner or operator of an underground storage tank system. 65385

(O) "Tank" means a stationary device designed to contain an 65386

accumulation of regulated substances that is constructed of 65387
~~manmade~~ manufactured materials. 65388

(P) "Underground storage tank" means one or any combination 65389
of tanks, including the underground pipes connected thereto, that 65390
are used to contain an accumulation of regulated substances the 65391
volume of which, including the volume of the underground pipes 65392
connected thereto, is ten per cent or more beneath the surface of 65393
the ground. 65394

~~The term~~ "Underground storage tank" does not include any of 65395
the following or any pipes connected to any of the following: 65396

(1) Pipeline facilities, including gathering lines, regulated 65397
under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 65398
49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline 65399
Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.A. 2001, as amended; 65400

(2) Farm or residential tanks of one thousand one hundred 65401
gallons or less capacity used for storing motor fuel for 65402
noncommercial purposes; 65403

(3) Tanks used for storing heating fuel for consumptive use 65404
on the premises where stored; 65405

(4) Surface impoundments, pits, ponds, or lagoons; 65406

(5) Storm or waste water collection systems; 65407

(6) Flow-through process tanks; 65408

(7) Storage tanks located in underground areas, including, 65409
without limitation, basements, cellars, mine workings, drifts, 65410
shafts, or tunnels, when the tanks are located on or above the 65411
surface of the floor; 65412

(8) Septic tanks; 65413

(9) Liquid traps or associated gathering lines directly 65414
related to oil or gas production and gathering operations. 65415

(Q) "Underground storage tank system" means an underground storage tank and the connected underground piping, underground ancillary equipment, and containment system, if any.

(R) "Revenues" means all fees, premiums, and charges paid by owners and operators of petroleum underground storage tanks to the petroleum underground storage tank release compensation board created in section 3737.90 of the Revised Code; proceeds received by the board from any insurance, condemnation, or guaranty; the proceeds of petroleum underground storage tank revenue bonds; and the income and profits from the investment of any such revenues.

(S) "Revenue bonds," unless the context indicates a different meaning or intent, means petroleum underground storage tank revenue bonds and petroleum underground storage tank revenue refunding bonds that are issued by the petroleum underground storage tank release compensation board pursuant to sections 3737.90 to 3737.948 of the Revised Code.

(T) "Class C release" means a release of petroleum occurring or identified from an underground storage tank system subject to sections 3737.87 to 3737.89 of the Revised Code for which the responsible person for the release is specifically determined by the fire marshal not to be a viable person capable of undertaking or completing the corrective actions required under those sections for the release. "Class C release" also includes any release designated as a "class C release" in accordance with rules adopted under section 3737.88 of the Revised Code.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground ~~petroleum~~ storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the ~~program~~ programs,

the fire marshal may adopt, amend, and rescind such rules, conduct 65447
such inspections, require annual registration of underground 65448
storage tanks, issue such citations and orders to enforce those 65449
rules, enter into environmental covenants in accordance with 65450
sections 5301.80 to 5301.92 of the Revised Code, and perform such 65451
other duties, as are consistent with those programs. The fire 65452
marshal, by rule, may delegate the authority to conduct 65453
inspections of underground storage tanks to certified fire safety 65454
inspectors. 65455

(2) In the place of any rules regarding release containment 65456
and release detection for underground storage tanks adopted under 65457
division (A)(1) of this section, the fire marshal, by rule, shall 65458
designate areas as being sensitive for the protection of human 65459
health and the environment and adopt alternative rules regarding 65460
release containment and release detection methods for new and 65461
upgraded underground storage tank systems located in those areas. 65462
In designating such areas, the fire marshal shall take into 65463
consideration such factors as soil conditions, hydrogeology, water 65464
use, and the location of public and private water supplies. Not 65465
later than July 11, 1990, the fire marshal shall file the rules 65466
required under this division with the secretary of state, director 65467
of the legislative service commission, and joint committee on 65468
agency rule review in accordance with divisions (B) and (H) of 65469
section 119.03 of the Revised Code. 65470

(3) Notwithstanding sections 3737.87 to 3737.89 of the 65471
Revised Code, a person who is not a responsible person may conduct 65472
a voluntary action in accordance with Chapter 3746. of the Revised 65473
Code and rules adopted under it for a class C release. The 65474
director of environmental protection, pursuant to section 3746.12 65475
of the Revised Code, may issue a covenant not to sue to any person 65476
who properly completes a voluntary action with respect to a class 65477
C release in accordance with Chapter 3746. of the Revised Code and 65478

rules adopted under it. 65479

(B) Before adopting any rule under this section or section 65480
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 65481
file written notice of the proposed rule with the chairperson of 65482
the state fire commission, and, within sixty days after notice is 65483
filed, the commission may file responses to or comments on and may 65484
recommend alternative or supplementary rules to the fire marshal. 65485
At the end of the sixty-day period or upon the filing of 65486
responses, comments, or recommendations by the commission, the 65487
fire marshal may adopt the rule filed with the commission or any 65488
alternative or supplementary rule recommended by the commission. 65489

(C) The fire commission may recommend courses of action to be 65490
taken by the fire marshal in carrying out the fire marshal's 65491
duties under this section. The commission shall file its 65492
recommendations in the office of the fire marshal, and, within 65493
sixty days after the recommendations are filed, the fire marshal 65494
shall file with the chairperson of the commission comments on, and 65495
proposed action in response to, the recommendations. 65496

(D) For the purpose of sections 3737.87 to 3737.89 of the 65497
Revised Code, the fire marshal shall adopt, and may amend and 65498
rescind, rules identifying or listing hazardous substances. The 65499
rules shall be consistent with and equivalent in scope, coverage, 65500
and content to regulations identifying or listing hazardous 65501
substances adopted under the "Comprehensive Environmental 65502
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 65503
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 65504
not identify or list as a hazardous substance any hazardous waste 65505
identified or listed in rules adopted under division (A) of 65506
section 3734.12 of the Revised Code. 65507

(E) ~~Notwithstanding any provision of the laws of this state~~ 65508
~~to the contrary~~ Except as provided in division (A)(3) of this 65509
section, the fire marshal ~~has~~ shall have exclusive jurisdiction to 65510

regulate the storage, treatment, and disposal of petroleum 65511
contaminated soil generated from corrective actions undertaken in 65512
response to releases of petroleum from underground storage tank 65513
systems. The fire marshal may adopt, amend, or rescind such rules 65514
as the fire marshal considers to be necessary or appropriate to 65515
regulate the storage, treatment, or disposal of petroleum 65516
contaminated soil so generated. 65517

(F) The fire marshal shall adopt, amend, and rescind rules 65518
under sections 3737.88 to 3737.882 of the Revised Code in 65519
accordance with Chapter 119. of the Revised Code. 65520

Sec. 3745.015. There is hereby created in the state treasury 65521
the environmental protection fund consisting of money credited to 65522
the fund under ~~divisions~~ division (A)(3) ~~and (4)~~ of section 65523
3734.57 of the Revised Code. The environmental protection agency 65524
shall use money in the fund to pay the agency's costs associated 65525
with administering and enforcing, or otherwise conducting 65526
activities under, this chapter and Chapters 3704., 3734., 3746., 65527
3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 65528
6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and 65529
sections 122.65 and 1521.19 of the Revised Code. 65530

Sec. 3745.016. There is hereby created in the state treasury 65531
the federally supported cleanup and response fund consisting of 65532
money credited to the fund from federal grants, gifts, and 65533
contributions to support the investigation and remediation of 65534
contaminated property. The environmental protection agency shall 65535
use money in the fund to support the investigation and remediation 65536
of contaminated property. 65537

Sec. 3745.05. (A) In hearing the appeal, if an adjudication 65538
hearing was conducted by the director of environmental protection 65539
in accordance with sections 119.09 and 119.10 of the Revised Code 65540

or conducted by a board of health, the environmental review 65541
appeals commission is confined to the record as certified to it by 65542
the director or the board of health, as applicable. The commission 65543
may grant a request for the admission of additional evidence when 65544
satisfied that such additional evidence is newly discovered and 65545
could not with reasonable diligence have been ascertained prior to 65546
the hearing before the director or the board, as applicable. If no 65547
adjudication hearing was conducted in accordance with sections 65548
119.09 and 119.10 of the Revised Code or conducted by a board of 65549
health, the commission shall conduct a hearing de novo on the 65550
appeal. 65551

For the purpose of conducting a de novo hearing, or where the 65552
commission has granted a request for the admission of additional 65553
evidence, the commission may require the attendance of witnesses 65554
and the production of written or printed materials. 65555

When conducting a de novo hearing, or when a request for the 65556
admission of additional evidence has been granted, the commission 65557
may, and at the request of any party it shall, issue subpoenas for 65558
witnesses or for books, papers, correspondence, memoranda, 65559
agreements, or other documents or records relevant or material to 65560
the inquiry directed to the sheriff of the counties where the 65561
witnesses or documents or records are found, which subpoenas shall 65562
be served and returned in the same manner as those allowed by the 65563
court of common pleas in criminal cases. 65564

(B) The fees of sheriffs shall be the same as those allowed 65565
by the court of common pleas in criminal cases. Witnesses shall be 65566
paid the fees and mileage provided for under section 119.094 of 65567
the Revised Code. The fee and mileage expenses incurred at the 65568
request of the appellant shall be paid in advance by the 65569
appellant, and the remainder of the expenses shall be paid out of 65570
funds appropriated for the expenses of the commission. 65571

(C) In case of disobedience or neglect of any subpoena served 65572

on any person, or the refusal of any witness to testify to any 65573
matter regarding which the witness may be lawfully interrogated, 65574
the court of common pleas of the county in which the disobedience, 65575
neglect, or refusal occurs, or any judge thereof, on application 65576
of the commission or any member thereof, may compel obedience by 65577
attachment proceedings for contempt as in the case of disobedience 65578
of the requirements of a subpoena issued from the court or a 65579
refusal to testify therein. 65580

(D) A witness at any hearing shall testify under oath or 65581
affirmation, which any member of the commission may administer. A 65582
witness, if the witness requests, shall be permitted to be 65583
accompanied, represented, and advised by an attorney, whose 65584
participation in the hearing shall be limited to the protection of 65585
the rights of the witness, and who may not examine or 65586
cross-examine witnesses. A witness shall be advised of the right 65587
to counsel before the witness is interrogated. 65588

(E) A stenographic or electronic record of the testimony and 65589
other evidence submitted shall be taken by an official court 65590
~~shorthand~~ reporter. The record shall include all of the testimony 65591
and other evidence and the rulings on the admissibility thereof 65592
presented at the hearing. The commission shall pass upon the 65593
admissibility of evidence, but any party may at the time object to 65594
the admission of any evidence and except to the rulings of the 65595
commission thereon, and if the commission refuses to admit 65596
evidence the party offering same may make a proffer thereof, and 65597
such proffer shall be made a part of the record of such hearing. 65598

Any party may request the stenographic or electronic record 65599
of the hearing. Promptly after receiving such a request, the 65600
commission shall prepare and provide the stenographic or 65601
electronic record of the hearing to the party who requested it. 65602
The commission may charge a fee to the party who requested the 65603
stenographic or electronic record that does not exceed the cost to 65604

the commission for preparing and transcribing or transmitting it. 65605

(F) If, upon completion of the hearing, the commission finds 65606
that the action appealed from was lawful and reasonable, it shall 65607
make a written order affirming the action, or if the commission 65608
finds that the action was unreasonable or unlawful, it shall make 65609
a written order vacating or modifying the action appealed from. 65610

The commission shall issue a written order affirming, 65611
vacating, or modifying an action pursuant to the following 65612
schedule: 65613

(1) For an appeal that was filed with the commission before 65614
April 15, 2008, the commission shall issue a written order not 65615
later than December 15, 2009. 65616

(2) For all other appeals that have been filed with the 65617
commission as of October 15, 2009, the commission shall issue a 65618
written order not later than July 15, 2010. 65619

(3) For an appeal that is filed with the commission after 65620
October 15, 2009, the commission shall issue a written order not 65621
later than twelve months after the filing of the appeal with the 65622
commission. 65623

(G) Every order made by the commission shall contain a 65624
written finding by the commission of the facts upon which the 65625
order is based. Notice of the making of the order shall be given 65626
forthwith to each party to the appeal by mailing a certified copy 65627
thereof to each party by certified mail, with a statement of the 65628
time and method by which an appeal may be perfected. 65629

(H) The order of the commission is final unless vacated or 65630
modified upon judicial review. 65631

Sec. 3745.11. (A) Applicants for and holders of permits, 65632
licenses, variances, plan approvals, and certifications issued by 65633
the director of environmental protection pursuant to Chapters 65634

3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 65635
to the environmental protection agency for each such issuance and 65636
each application for an issuance as provided by this section. No 65637
fee shall be charged for any issuance for which no application has 65638
been submitted to the director. 65639

(B) Each person who is issued a permit to install prior to 65640
July 1, 2003, pursuant to rules adopted under division (F) of 65641
section 3704.03 of the Revised Code shall pay the fees specified 65642
in the following schedules: 65643

(1) Fuel-burning equipment (boilers) 65644

Input capacity (maximum) 65645

(million British thermal units per hour) Permit to install 65646

Greater than 0, but less than 10 \$ 200 65647

10 or more, but less than 100 400 65648

100 or more, but less than 300 800 65649

300 or more, but less than 500 1500 65650

500 or more, but less than 1000 2500 65651

1000 or more, but less than 5000 4000 65652

5000 or more 6000 65653

Units burning exclusively natural gas, number two fuel oil, 65654

or both shall be assessed a fee that is one-half of the applicable 65655

amount established in division (F)(1) of this section. 65656

(2) Incinerators 65657

Input capacity (pounds per hour) Permit to install 65658

0 to 100 \$ 100 65659

101 to 500 400 65660

501 to 2000 750 65661

2001 to 20,000 1000 65662

more than 20,000 2500 65663

(3)(a) Process 65664

Process weight rate (pounds per hour) Permit to install 65665

0 to 1000	\$ 200	65666
1001 to 5000	400	65667
5001 to 10,000	600	65668
10,001 to 50,000	800	65669
more than 50,000	1000	65670

In any process where process weight rate cannot be 65671
ascertained, the minimum fee shall be assessed. 65672

(b) Notwithstanding division (B)(3)(a) of this section, any 65673
person issued a permit to install pursuant to rules adopted under 65674
division (F) of section 3704.03 of the Revised Code shall pay the 65675
fees established in division (B)(3)(c) of this section for a 65676
process used in any of the following industries, as identified by 65677
the applicable four-digit standard industrial classification code 65678
according to the Standard Industrial Classification Manual 65679
published by the United States office of management and budget in 65680
the executive office of the president, 1972, as revised: 65681

1211 Bituminous coal and lignite mining; 65682

1213 Bituminous coal and lignite mining services; 65683

1411 Dimension stone; 65684

1422 Crushed and broken limestone; 65685

1427 Crushed and broken stone, not elsewhere classified; 65686

1442 Construction sand and gravel; 65687

1446 Industrial sand; 65688

3281 Cut stone and stone products; 65689

3295 Minerals and earth, ground or otherwise treated. 65690

(c) The fees established in the following schedule apply to 65691
the issuance of a permit to install pursuant to rules adopted 65692
under division (F) of section 3704.03 of the Revised Code for a 65693
process listed in division (B)(3)(b) of this section: 65694

Process weight rate (pounds per hour)	Permit to install	65695
0 to 1000	\$ 200	65696
10,001 to 50,000	300	65697
50,001 to 100,000	400	65698
100,001 to 200,000	500	65699
200,001 to 400,000	600	65700
400,001 or more	700	65701
(4) Storage tanks		65702
Gallons (maximum useful capacity)	Permit to install	65703
0 to 20,000	\$ 100	65704
20,001 to 40,000	150	65705
40,001 to 100,000	200	65706
100,001 to 250,000	250	65707
250,001 to 500,000	350	65708
500,001 to 1,000,000	500	65709
1,000,001 or greater	750	65710
(5) Gasoline/fuel dispensing facilities		65711
For each gasoline/fuel dispensing facility	Permit to install	65712
	\$ 100	65713
(6) Dry cleaning facilities		65714
For each dry cleaning facility	Permit to install	65715
(includes all units at the facility)	\$ 100	65716
(7) Registration status		65717
For each source covered by registration status	Permit to install	65718
	\$ 75	65719
(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering		65720 65721 65722 65723 65724 65725 65726

calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual

emissions from the generating unit during the preceding calendar 65758
year. 65759

(4) The director shall issue invoices to owners or operators 65760
of air contaminant sources who are required to pay a fee assessed 65761
under division (C) or (D) of this section. Any such invoice shall 65762
be issued no sooner than the applicable date when the fee first 65763
may be collected in a year under the applicable division, shall 65764
identify the nature and amount of the fee assessed, and shall 65765
indicate that the fee is required to be paid within thirty days 65766
after the issuance of the invoice. 65767

(D)(1) Except as provided in division (D)(3) of this section, 65768
from January 1, 1994, through December 31, 2003, each person who 65769
owns or operates an air contaminant source; who is required to 65770
apply for a permit to operate pursuant to rules adopted under 65771
division (G), or a variance pursuant to division (H), of section 65772
3704.03 of the Revised Code; and who is not required to apply for 65773
and obtain a Title V permit under section 3704.036 of the Revised 65774
Code shall pay a single fee based upon the sum of the actual 65775
annual emissions from the facility of the regulated pollutants 65776
particulate matter, sulfur dioxide, nitrogen oxides, organic 65777
compounds, and lead in accordance with the following schedule: 65778

Total tons per year 65779		
of regulated pollutants 65780	Annual fee	
emitted 65781	per facility	
More than 0, but less than 50 65782	\$ 75	
50 or more, but less than 100 65783	300	
100 or more 65784	700	

(2) Except as provided in division (D)(3) of this section, 65785
beginning January 1, 2004, each person who owns or operates an air 65786
contaminant source; who is required to apply for a permit to 65787
operate pursuant to rules adopted under division (G), or a 65788
variance pursuant to division (H), of section 3704.03 of the 65789

Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2012~~ 2014, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	\$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670

30 or more, but less than 40	1,010	65822
40 or more, but less than 50	1,340	65823
50 or more, but less than 60	1,680	65824
60 or more, but less than 70	2,010	65825
70 or more, but less than 80	2,350	65826
80 or more, but less than 90	2,680	65827
90 or more, but less than 100	3,020	65828
100 or more	3,350	65829

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for

the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity		65886
Generating capacity (mega watts)	Permit to install	65888
0 or more, but less than 10	\$ 25	65889
10 or more, but less than 25	150	65890
25 or more, but less than 50	300	65891
50 or more, but less than 100	500	65892
100 or more, but less than 250	1000	65893
250 or more	2000	65894
(3) Incinerators		65895
Input capacity (pounds per hour)	Permit to install	65896
0 to 100	\$ 100	65897
101 to 500	500	65898
501 to 2000	1000	65899
2001 to 20,000	1500	65900
more than 20,000	3750	65901
(4)(a) Process		65902
Process weight rate (pounds per hour)	Permit to install	65903
0 to 1000	\$ 200	65904
1001 to 5000	500	65905
5001 to 10,000	750	65906
10,001 to 50,000	1000	65907
more than 50,000	1250	65908
In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.		65909 65910 65911 65912 65913 65914 65915 65916 65917

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

- Major group 10, metal mining;
- Major group 12, coal mining;
- Major group 14, mining and quarrying of nonmetallic minerals;
- Industry group 204, grain mill products;
- 2873 Nitrogen fertilizers;
- 2874 Phosphatic fertilizers;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated;
- 4221 Grain elevators (storage only);
- 5159 Farm related raw materials;
- 5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install	
0 to 10,000	\$ 200	
10,001 to 50,000	400	

50,001 to 100,000	500	65946
100,001 to 200,000	600	65947
200,001 to 400,000	750	65948
400,001 or more	900	65949
(5) Storage tanks		65950
Gallons (maximum useful capacity)	Permit to install	65951
0 to 20,000	\$ 100	65952
20,001 to 40,000	150	65953
40,001 to 100,000	250	65954
100,001 to 500,000	400	65955
500,001 or greater	750	65956
(6) Gasoline/fuel dispensing facilities		65957
For each gasoline/fuel		65958
dispensing facility (includes all	Permit to install	65959
units at the facility)	\$ 100	65960
(7) Dry cleaning facilities		65961
For each dry cleaning		65962
facility (includes all units	Permit to install	65963
at the facility)	\$ 100	65964
(8) Registration status		65965
For each source covered	Permit to install	65966
by registration status	\$ 75	65967
(G) An owner or operator who is responsible for an asbestos		65968
demolition or renovation project pursuant to rules adopted under		65969
section 3704.03 of the Revised Code shall pay the fees set forth		65970
in the following schedule:		65971
Action	Fee	65972
Each notification	\$75	65973
Asbestos removal	\$3/unit	65974
Asbestos cleanup	\$4/cubic yard	65975
For purposes of this division, "unit" means any combination of		65976

linear feet or square feet equal to fifty. 65977

(H) A person who is issued an extension of time for a permit 65978
to install an air contaminant source pursuant to rules adopted 65979
under division (F) of section 3704.03 of the Revised Code shall 65980
pay a fee equal to one-half the fee originally assessed for the 65981
permit to install under this section, except that the fee for such 65982
an extension shall not exceed two hundred dollars. 65983

(I) A person who is issued a modification to a permit to 65984
install an air contaminant source pursuant to rules adopted under 65985
section 3704.03 of the Revised Code shall pay a fee equal to 65986
one-half of the fee that would be assessed under this section to 65987
obtain a permit to install the source. The fee assessed by this 65988
division only applies to modifications that are initiated by the 65989
owner or operator of the source and shall not exceed two thousand 65990
dollars. 65991

(J) Notwithstanding division (B) or (F) of this section, a 65992
person who applies for or obtains a permit to install pursuant to 65993
rules adopted under division (F) of section 3704.03 of the Revised 65994
Code after the date actual construction of the source began shall 65995
pay a fee for the permit to install that is equal to twice the fee 65996
that otherwise would be assessed under the applicable division 65997
unless the applicant received authorization to begin construction 65998
under division (W) of section 3704.03 of the Revised Code. This 65999
division only applies to sources for which actual construction of 66000
the source begins on or after July 1, 1993. The imposition or 66001
payment of the fee established in this division does not preclude 66002
the director from taking any administrative or judicial 66003
enforcement action under this chapter, Chapter 3704., 3714., 66004
3734., or 6111. of the Revised Code, or a rule adopted under any 66005
of them, in connection with a violation of rules adopted under 66006
division (F) of section 3704.03 of the Revised Code. 66007

As used in this division, "actual construction of the source" 66008

means the initiation of physical on-site construction activities 66009
in connection with improvements to the source that are permanent 66010
in nature, including, without limitation, the installation of 66011
building supports and foundations and the laying of underground 66012
pipework. 66013

(K) Fifty cents per ton of each fee assessed under division 66014
(C) of this section on actual emissions from a source and received 66015
by the environmental protection agency pursuant to that division 66016
shall be deposited into the state treasury to the credit of the 66017
small business assistance fund created in section 3706.19 of the 66018
Revised Code. The remainder of the moneys received by the division 66019
pursuant to that division and moneys received by the agency 66020
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 66021
section shall be deposited in the state treasury to the credit of 66022
the clean air fund created in section 3704.035 of the Revised 66023
Code. 66024

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 66025
or (c) of this section, a person issued a water discharge permit 66026
or renewal of a water discharge permit pursuant to Chapter 6111. 66027
of the Revised Code shall pay a fee based on each point source to 66028
which the issuance is applicable in accordance with the following 66029
schedule: 66030

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	66032
1,001 to 5000	100	66033
5,001 to 50,000	200	66034
50,001 to 100,000	300	66035
100,001 to 300,000	525	66036
over 300,000	750	66037

(b) Notwithstanding the fee schedule specified in division 66038
(L)(1)(a) of this section, the fee for a water discharge permit 66039
that is applicable to coal mining operations regulated under 66040

Chapter 1513. of the Revised Code shall be two hundred fifty 66041
dollars per mine. 66042

(c) Notwithstanding the fee schedule specified in division 66043
(L)(1)(a) of this section, the fee for a water discharge permit 66044
for a public discharger identified by I in the third character of 66045
the permittee's NPDES permit number shall not exceed seven hundred 66046
fifty dollars. 66047

(2) A person applying for a plan approval for a wastewater 66048
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 66049
of the Revised Code shall pay a fee of one hundred dollars plus 66050
sixty-five one-hundredths of one per cent of the estimated project 66051
cost through June 30, ~~2012~~ 2014, and one hundred dollars plus 66052
two-tenths of one per cent of the estimated project cost on and 66053
after July 1, ~~2012~~ 2014, except that the total fee shall not 66054
exceed fifteen thousand dollars through June 30, ~~2012~~ 2014, and 66055
five thousand dollars on and after July 1, ~~2012~~ 2014. The fee 66056
shall be paid at the time the application is submitted. 66057

(3) A person issued a modification of a water discharge 66058
permit shall pay a fee equal to one-half the fee that otherwise 66059
would be charged for a water discharge permit, except that the fee 66060
for the modification shall not exceed four hundred dollars. 66061

(4) A person who has entered into an agreement with the 66062
director under section 6111.14 of the Revised Code shall pay an 66063
administrative service fee for each plan submitted under that 66064
section for approval that shall not exceed the minimum amount 66065
necessary to pay administrative costs directly attributable to 66066
processing plan approvals. The director annually shall calculate 66067
the fee and shall notify all persons who have entered into 66068
agreements under that section, or who have applied for agreements, 66069
of the amount of the fee. 66070

(5)(a)(i) Not later than January 30, ~~2010~~ 2012, and January 66071

30, ~~2011~~ 2013, a person holding an NPDES discharge permit issued 66072
pursuant to Chapter 6111. of the Revised Code with an average 66073
daily discharge flow of five thousand gallons or more shall pay a 66074
nonrefundable annual discharge fee. Any person who fails to pay 66075
the fee at that time shall pay an additional amount that equals 66076
ten per cent of the required annual discharge fee. 66077

(ii) The billing year for the annual discharge fee 66078
established in division (L)(5)(a)(i) of this section shall consist 66079
of a twelve-month period beginning on the first day of January of 66080
the year preceding the date when the annual discharge fee is due. 66081
In the case of an existing source that permanently ceases to 66082
discharge during a billing year, the director shall reduce the 66083
annual discharge fee, including the surcharge applicable to 66084
certain industrial facilities pursuant to division (L)(5)(c) of 66085
this section, by one-twelfth for each full month during the 66086
billing year that the source was not discharging, but only if the 66087
person holding the NPDES discharge permit for the source notifies 66088
the director in writing, not later than the first day of October 66089
of the billing year, of the circumstances causing the cessation of 66090
discharge. 66091

(iii) The annual discharge fee established in division 66092
(L)(5)(a)(i) of this section, except for the surcharge applicable 66093
to certain industrial facilities pursuant to division (L)(5)(c) of 66094
this section, shall be based upon the average daily discharge flow 66095
in gallons per day calculated using first day of May through 66096
thirty-first day of October flow data for the period two years 66097
prior to the date on which the fee is due. In the case of NPDES 66098
discharge permits for new sources, the fee shall be calculated 66099
using the average daily design flow of the facility until actual 66100
average daily discharge flow values are available for the time 66101
period specified in division (L)(5)(a)(iii) of this section. The 66102
annual discharge fee may be prorated for a new source as described 66103

in division (L)(5)(a)(ii) of this section. 66104

(b) An NPDES permit holder that is a public discharger shall 66105
pay the fee specified in the following schedule: 66106

Average daily	Fee due by	
discharge flow	January 30,	
	2010 <u>2012</u> , and	
	January 30, 2011	
	<u>2013</u>	
5,000 to 49,999	\$ 200	66111
50,000 to 100,000	500	66112
100,001 to 250,000	1,050	66113
250,001 to 1,000,000	2,600	66114
1,000,001 to 5,000,000	5,200	66115
5,000,001 to 10,000,000	10,350	66116
10,000,001 to 20,000,000	15,550	66117
20,000,001 to 50,000,000	25,900	66118
50,000,001 to 100,000,000	41,400	66119
100,000,001 or more	62,100	66120

Public dischargers owning or operating two or more publicly 66121
owned treatment works serving the same political subdivision, as 66122
"treatment works" is defined in section 6111.01 of the Revised 66123
Code, and that serve exclusively political subdivisions having a 66124
population of fewer than one hundred thousand shall pay an annual 66125
discharge fee under division (L)(5)(b) of this section that is 66126
based on the combined average daily discharge flow of the 66127
treatment works. 66128

(c) An NPDES permit holder that is an industrial discharger, 66129
other than a coal mining operator identified by P in the third 66130
character of the permittee's NPDES permit number, shall pay the 66131
fee specified in the following schedule: 66132

Average daily	Fee due by	
discharge flow	January 30,	

	2010 <u>2012</u> , and	66135
	January 30, 2011	66136
	<u>2013</u>	
5,000 to 49,999	\$ 250	66137
50,000 to 250,000	1,200	66138
250,001 to 1,000,000	2,950	66139
1,000,001 to 5,000,000	5,850	66140
5,000,001 to 10,000,000	8,800	66141
10,000,001 to 20,000,000	11,700	66142
20,000,001 to 100,000,000	14,050	66143
100,000,001 to 250,000,000	16,400	66144
250,000,001 or more	18,700	66145

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2010~~ 2012, and not later than January 30, ~~2011~~ 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2010~~ 2012, and not later than January 30, ~~2011~~ 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge

elimination system general or individual permit for municipal 66166
storm water discharge shall pay a nonrefundable storm water 66167
discharge fee of one hundred dollars per square mile of area 66168
permitted. The fee shall not exceed ten thousand dollars and shall 66169
be payable on or before January 30, 2004, and the thirtieth day of 66170
January of each year thereafter. Any person who fails to pay the 66171
fee on the date specified in division (L)(6) of this section shall 66172
pay an additional amount per year equal to ten per cent of the 66173
annual fee that is unpaid. 66174

(7) The director shall transmit all moneys collected under 66175
division (L) of this section to the treasurer of state for deposit 66176
into the state treasury to the credit of the surface water 66177
protection fund created in section 6111.038 of the Revised Code. 66178

(8) As used in division (L) of this section: 66179

(a) "NPDES" means the federally approved national pollutant 66180
discharge elimination system program for issuing, modifying, 66181
revoking, reissuing, terminating, monitoring, and enforcing 66182
permits and imposing and enforcing pretreatment requirements under 66183
Chapter 6111. of the Revised Code and rules adopted under it. 66184

(b) "Public discharger" means any holder of an NPDES permit 66185
identified by P in the second character of the NPDES permit number 66186
assigned by the director. 66187

(c) "Industrial discharger" means any holder of an NPDES 66188
permit identified by I in the second character of the NPDES permit 66189
number assigned by the director. 66190

(d) "Major discharger" means any holder of an NPDES permit 66191
classified as major by the regional administrator of the United 66192
States environmental protection agency in conjunction with the 66193
director. 66194

(M) Through June 30, ~~2012~~ 2014, a person applying for a 66195
license or license renewal to operate a public water system under 66196

section 6109.21 of the Revised Code shall pay the appropriate fee 66197
established under this division at the time of application to the 66198
director. Any person who fails to pay the fee at that time shall 66199
pay an additional amount that equals ten per cent of the required 66200
fee. The director shall transmit all moneys collected under this 66201
division to the treasurer of state for deposit into the drinking 66202
water protection fund created in section 6109.30 of the Revised 66203
Code. 66204

Except as provided in division (M)(4) of this section, fees 66205
required under this division shall be calculated and paid in 66206
accordance with the following schedule: 66207

(1) For the initial license required under division (A)(1) of 66208
section 6109.21 of the Revised Code for any public water system 66209
that is a community water system as defined in section 6109.01 of 66210
the Revised Code, and for each license renewal required for such a 66211
system prior to January 31, ~~2012~~ 2014, the fee is: 66212

Number of service connections	Fee amount	
Not more than 49	\$ 112	66214
50 to 99	176	66215
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	66217
2,500 to 4,999	1.48	66218
5,000 to 7,499	1.42	66219
7,500 to 9,999	1.34	66220
10,000 to 14,999	1.16	66221
15,000 to 24,999	1.10	66222
25,000 to 49,999	1.04	66223
50,000 to 99,999	.92	66224
100,000 to 149,999	.86	66225
150,000 to 199,999	.80	66226
200,000 or more	.76	66227

A public water system may determine how it will pay the total 66228

amount of the fee calculated under division (M)(1) of this 66229
section, including the assessment of additional user fees that may 66230
be assessed on a volumetric basis. 66231

As used in division (M)(1) of this section, "service 66232
connection" means the number of active or inactive pipes, 66233
goosenecks, pigtails, and any other fittings connecting a water 66234
main to any building outlet. 66235

(2) For the initial license required under division (A)(2) of 66236
section 6109.21 of the Revised Code for any public water system 66237
that is not a community water system and serves a nontransient 66238
population, and for each license renewal required for such a 66239
system prior to January 31, ~~2012~~ 2014, the fee is: 66240

Population served	Fee amount	
Fewer than 150	\$ 112	66242
150 to 299	176	66243
300 to 749	384	66244
750 to 1,499	628	66245
1,500 to 2,999	1,268	66246
3,000 to 7,499	2,816	66247
7,500 to 14,999	5,510	66248
15,000 to 22,499	9,048	66249
22,500 to 29,999	12,430	66250
30,000 or more	16,820	66251

As used in division (M)(2) of this section, "population 66252
served" means the total number of individuals ~~receiving water from~~ 66253
having access to the water supply during a twenty-four-hour period 66254
for at least sixty days during any calendar year. In the absence 66255
of a specific population count, that number shall be calculated at 66256
the rate of three individuals per service connection. 66257

(3) For the initial license required under division (A)(3) of 66258
section 6109.21 of the Revised Code for any public water system 66259
that is not a community water system and serves a transient 66260

population, and for each license renewal required for such a		66261
system prior to January 31, 2012 <u>2014</u> , the fee is:		66262
Number of wells <u>or sources, other</u>	Fee amount	66263
<u>than surface water, supplying system</u>		
1	\$112	66264
2	112	66265
3	176	66266
4	278	66267
5	568	66268
System designated as using a		66269
surface water source	792	66270
As used in division (M)(3) of this section, "number of wells		66271
<u>or sources, other than surface water, supplying system</u> " means		66272
those wells <u>or sources</u> that are physically connected to the		66273
plumbing system serving the public water system.		66274
(4) A public water system designated as using a surface water		66275
source shall pay a fee of seven hundred ninety-two dollars or the		66276
amount calculated under division (M)(1) or (2) of this section,		66277
whichever is greater.		66278
(N)(1) A person applying for a plan approval for a public		66279
water supply system under section 6109.07 of the Revised Code		66280
shall pay a fee of one hundred fifty dollars plus thirty-five		66281
hundredths of one per cent of the estimated project cost, except		66282
that the total fee shall not exceed twenty thousand dollars		66283
through June 30, 2012 <u>2014</u> , and fifteen thousand dollars on and		66284
after July 1, 2012 <u>2014</u> . The fee shall be paid at the time the		66285
application is submitted.		66286
(2) A person who has entered into an agreement with the		66287
director under division (A)(2) of section 6109.07 of the Revised		66288
Code shall pay an administrative service fee for each plan		66289
submitted under that section for approval that shall not exceed		66290
the minimum amount necessary to pay administrative costs directly		66291

attributable to processing plan approvals. The director annually 66292
shall calculate the fee and shall notify all persons that have 66293
entered into agreements under that division, or who have applied 66294
for agreements, of the amount of the fee. 66295

(3) Through June 30, ~~2012~~ 2014, the following fee, on a per 66296
survey basis, shall be charged any person for services rendered by 66297
the state in the evaluation of laboratories and laboratory 66298
personnel for compliance with accepted analytical techniques and 66299
procedures established pursuant to Chapter 6109. of the Revised 66300
Code for determining the qualitative characteristics of water: 66301

microbiological		66302
MMO-MUG	\$2,000	66303
MF	2,100	66304
MMO-MUG and MF	2,550	66305
organic chemical	5,400	66306
trace metals	5,400	66307
standard chemistry	2,800	66308
limited chemistry	1,550	66309

On and after July 1, ~~2012~~ 2014, the following fee, on a per 66310
survey basis, shall be charged any such person: 66311

microbiological	\$ 1,650	66312
organic chemicals	3,500	66313
trace metals	3,500	66314
standard chemistry	1,800	66315
limited chemistry	1,000	66316

The fee for those services shall be paid at the time the request 66317
for the survey is made. Through June 30, ~~2012~~ 2014, an individual 66318
laboratory shall not be assessed a fee under this division more 66319
than once in any three-year period unless the person requests the 66320
addition of analytical methods or analysts, in which case the 66321
person shall pay eighteen hundred dollars for each additional 66322
survey requested. 66323

As used in division (N)(3) of this section: 66324

(a) "MF" means microfiltration. 66325

(b) "MMO" means minimal medium ONPG. 66326

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 66327

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 66328

The director shall transmit all moneys collected under this 66329
division to the treasurer of state for deposit into the drinking 66330
water protection fund created in section 6109.30 of the Revised 66331
Code. 66332

(O) Any person applying to the director for examination for 66333
certification as an operator of a water supply system or 66334
wastewater system under Chapter 6109. or 6111. of the Revised 66335
Code, at the time the application is submitted, shall pay an 66336
application fee of forty-five dollars through November 30, ~~2012~~ 66337
2014, and twenty-five dollars on and after December 1, ~~2012~~ 2014. 66338
Upon approval from the director that the applicant is eligible to 66339
take the examination therefor, the applicant shall pay a fee in 66340
accordance with the following schedule through November 30, ~~2012~~ 66341
2014: 66342

Class A operator	\$35	66343
Class I operator	60	66344
Class II operator	75	66345
Class III operator	85	66346
Class IV operator	100	66347

On and after December 1, ~~2012~~ 2014, the applicant shall pay a 66348
fee in accordance with the following schedule: 66349

Class A operator	\$25	66350
Class I operator	\$45	66351
Class II operator	55	66352
Class III operator	65	66353

Class IV operator 75 66354

A person shall pay a biennial certification renewal fee for 66355
each applicable class of certification in accordance with the 66356
following schedule: 66357

Class A operator \$25 66358
Class I operator 35 66359
Class II operator 45 66360
Class III operator 55 66361
Class IV operator 65 66362

If a certification renewal fee is received by the director 66363
more than thirty days, but not more than one year after the 66364
expiration date of the certification, the person shall pay a 66365
certification renewal fee in accordance with the following 66366
schedule: 66367

Class A operator \$45 66368
Class I operator 55 66369
Class II operator 65 66370
Class III operator 75 66371
Class IV operator 85 66372

A person who requests a replacement certificate shall pay a 66373
fee of twenty-five dollars at the time the request is made. 66374

The director shall transmit all moneys collected under this 66375
division to the treasurer of state for deposit into the drinking 66376
water protection fund created in section 6109.30 of the Revised 66377
Code. 66378

(P) Any person submitting an application for an industrial 66379
water pollution control certificate under section 6111.31 of the 66380
Revised Code, as that section existed before its repeal by H.B. 95 66381
of the 125th general assembly, shall pay a nonrefundable fee of 66382
five hundred dollars at the time the application is submitted. The 66383
director shall transmit all moneys collected under this division 66384
to the treasurer of state for deposit into the surface water 66385

protection fund created in section 6111.038 of the Revised Code. A 66386
person paying a certificate fee under this division shall not pay 66387
an application fee under division (S)(1) of this section. On and 66388
after June 26, 2003, persons shall file such applications and pay 66389
the fee as required under sections 5709.20 to 5709.27 of the 66390
Revised Code, and proceeds from the fee shall be credited as 66391
provided in section 5709.212 of the Revised Code. 66392

(Q) Except as otherwise provided in division (R) of this 66393
section, a person issued a permit by the director for a new solid 66394
waste disposal facility other than an incineration or composting 66395
facility, a new infectious waste treatment facility other than an 66396
incineration facility, or a modification of such an existing 66397
facility that includes an increase in the total disposal or 66398
treatment capacity of the facility pursuant to Chapter 3734. of 66399
the Revised Code shall pay a fee of ten dollars per thousand cubic 66400
yards of disposal or treatment capacity, or one thousand dollars, 66401
whichever is greater, except that the total fee for any such 66402
permit shall not exceed eighty thousand dollars. A person issued a 66403
modification of a permit for a solid waste disposal facility or an 66404
infectious waste treatment facility that does not involve an 66405
increase in the total disposal or treatment capacity of the 66406
facility shall pay a fee of one thousand dollars. A person issued 66407
a permit to install a new, or modify an existing, solid waste 66408
transfer facility under that chapter shall pay a fee of two 66409
thousand five hundred dollars. A person issued a permit to install 66410
a new or to modify an existing solid waste incineration or 66411
composting facility, or an existing infectious waste treatment 66412
facility using incineration as its principal method of treatment, 66413
under that chapter shall pay a fee of one thousand dollars. The 66414
increases in the permit fees under this division resulting from 66415
the amendments made by Amended Substitute House Bill 592 of the 66416
117th general assembly do not apply to any person who submitted an 66417
application for a permit to install a new, or modify an existing, 66418

solid waste disposal facility under that chapter prior to 66419
September 1, 1987; any such person shall pay the permit fee 66420
established in this division as it existed prior to June 24, 1988. 66421
In addition to the applicable permit fee under this division, a 66422
person issued a permit to install or modify a solid waste facility 66423
or an infectious waste treatment facility under that chapter who 66424
fails to pay the permit fee to the director in compliance with 66425
division (V) of this section shall pay an additional ten per cent 66426
of the amount of the fee for each week that the permit fee is 66427
late. 66428

Permit and late payment fees paid to the director under this 66429
division shall be credited to the general revenue fund. 66430

(R)(1) A person issued a registration certificate for a scrap 66431
tire collection facility under section 3734.75 of the Revised Code 66432
shall pay a fee of two hundred dollars, except that if the 66433
facility is owned or operated by a motor vehicle salvage dealer 66434
licensed under Chapter 4738. of the Revised Code, the person shall 66435
pay a fee of twenty-five dollars. 66436

(2) A person issued a registration certificate for a new 66437
scrap tire storage facility under section 3734.76 of the Revised 66438
Code shall pay a fee of three hundred dollars, except that if the 66439
facility is owned or operated by a motor vehicle salvage dealer 66440
licensed under Chapter 4738. of the Revised Code, the person shall 66441
pay a fee of twenty-five dollars. 66442

(3) A person issued a permit for a scrap tire storage 66443
facility under section 3734.76 of the Revised Code shall pay a fee 66444
of one thousand dollars, except that if the facility is owned or 66445
operated by a motor vehicle salvage dealer licensed under Chapter 66446
4738. of the Revised Code, the person shall pay a fee of fifty 66447
dollars. 66448

(4) A person issued a permit for a scrap tire monocell or 66449

monofill facility under section 3734.77 of the Revised Code shall 66450
pay a fee of ten dollars per thousand cubic yards of disposal 66451
capacity or one thousand dollars, whichever is greater, except 66452
that the total fee for any such permit shall not exceed eighty 66453
thousand dollars. 66454

(5) A person issued a registration certificate for a scrap 66455
tire recovery facility under section 3734.78 of the Revised Code 66456
shall pay a fee of one hundred dollars. 66457

(6) A person issued a permit for a scrap tire recovery 66458
facility under section 3734.78 of the Revised Code shall pay a fee 66459
of one thousand dollars. 66460

(7) In addition to the applicable registration certificate or 66461
permit fee under divisions (R)(1) to (6) of this section, a person 66462
issued a registration certificate or permit for any such scrap 66463
tire facility who fails to pay the registration certificate or 66464
permit fee to the director in compliance with division (V) of this 66465
section shall pay an additional ten per cent of the amount of the 66466
fee for each week that the fee is late. 66467

(8) The registration certificate, permit, and late payment 66468
fees paid to the director under divisions (R)(1) to (7) of this 66469
section shall be credited to the scrap tire management fund 66470
created in section 3734.82 of the Revised Code. 66471

(S)(1) Except as provided by divisions (L), (M), (N), (O), 66472
(P), and (S)(2) of this section, division (A)(2) of section 66473
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 66474
and rules adopted under division (T)(1) of this section, any 66475
person applying for a registration certificate under section 66476
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 66477
variance, or plan approval under Chapter 3734. of the Revised Code 66478
shall pay a nonrefundable fee of fifteen dollars at the time the 66479
application is submitted. 66480

Except as otherwise provided, any person applying for a 66481
permit, variance, or plan approval under Chapter 6109. or 6111. of 66482
the Revised Code shall pay a nonrefundable fee of one hundred 66483
dollars at the time the application is submitted through June 30, 66484
~~2012~~ 2014, and a nonrefundable fee of fifteen dollars at the time 66485
the application is submitted on and after July 1, ~~2012~~ 2014. 66486
~~Through~~ Except as provided in division (S)(3) of this section, 66487
through June 30, ~~2012~~ 2014, any person applying for a national 66488
pollutant discharge elimination system permit under Chapter 6111. 66489
of the Revised Code shall pay a nonrefundable fee of two hundred 66490
dollars at the time of application for the permit. On and after 66491
July 1, ~~2012~~ 2014, such a person shall pay a nonrefundable fee of 66492
fifteen dollars at the time of application. 66493

In addition to the application fee established under division 66494
(S)(1) of this section, any person applying for a national 66495
pollutant discharge elimination system general storm water 66496
construction permit shall pay a nonrefundable fee of twenty 66497
dollars per acre for each acre that is permitted above five acres 66498
at the time the application is submitted. However, the per acreage 66499
fee shall not exceed three hundred dollars. In addition, any 66500
person applying for a national pollutant discharge elimination 66501
system general storm water industrial permit shall pay a 66502
nonrefundable fee of one hundred fifty dollars at the time the 66503
application is submitted. 66504

The director shall transmit all moneys collected under 66505
division (S)(1) of this section pursuant to Chapter 6109. of the 66506
Revised Code to the treasurer of state for deposit into the 66507
drinking water protection fund created in section 6109.30 of the 66508
Revised Code. 66509

The director shall transmit all moneys collected under 66510
division (S)(1) of this section pursuant to Chapter 6111. of the 66511
Revised Code and under division (S)(3) of this section to the 66512

treasurer of state for deposit into the surface water protection 66513
fund created in section 6111.038 of the Revised Code. 66514

If a registration certificate is issued under section 66515
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 66516
the application fee paid shall be deducted from the amount of the 66517
registration certificate fee due under division (R)(1), (2), or 66518
(5) of this section, as applicable. 66519

If a person submits an electronic application for a 66520
registration certificate, permit, variance, or plan approval for 66521
which an application fee is established under division (S)(1) of 66522
this section, the person shall pay the applicable application fee 66523
as expeditiously as possible after the submission of the 66524
electronic application. An application for a registration 66525
certificate, permit, variance, or plan approval for which an 66526
application fee is established under division (S)(1) of this 66527
section shall not be reviewed or processed until the applicable 66528
application fee, and any other fees established under this 66529
division, are paid. 66530

(2) Division (S)(1) of this section does not apply to an 66531
application for a registration certificate for a scrap tire 66532
collection or storage facility submitted under section 3734.75 or 66533
3734.76 of the Revised Code, as applicable, if the owner or 66534
operator of the facility or proposed facility is a motor vehicle 66535
salvage dealer licensed under Chapter 4738. of the Revised Code. 66536

(3) A person applying for coverage under a national pollutant 66537
discharge elimination system general discharge permit for 66538
household sewage treatment systems shall pay the following fees: 66539

(a) A nonrefundable fee of two hundred dollars at the time of 66540
application for initial permit coverage; 66541

(b) A nonrefundable fee of one hundred dollars at the time of 66542
application for a renewal of permit coverage. 66543

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary 66575
to carry out this section. 66576

(U) When the director reasonably demonstrates that the direct 66577
cost to the state associated with the issuance of a permit to 66578
install, license, variance, plan approval, or certification 66579
exceeds the fee for the issuance or review specified by this 66580
section, the director may condition the issuance or review on the 66581
payment by the person receiving the issuance or review of, in 66582
addition to the fee specified by this section, the amount, or any 66583
portion thereof, in excess of the fee specified under this 66584
section. The director shall not so condition issuances for which 66585
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 66586
section. 66587

(V) Except as provided in divisions (L), (M), and (P) of this 66588
section or unless otherwise prescribed by a rule of the director 66589
adopted pursuant to Chapter 119. of the Revised Code, all fees 66590
required by this section are payable within thirty days after the 66591
issuance of an invoice for the fee by the director or the 66592
effective date of the issuance of the license, permit, variance, 66593
plan approval, or certification. If payment is late, the person 66594
responsible for payment of the fee shall pay an additional ten per 66595
cent of the amount due for each month that it is late. 66596

(W) As used in this section, "fuel-burning equipment," 66597
"fuel-burning equipment input capacity," "incinerator," 66598
"incinerator input capacity," "process," "process weight rate," 66599
"storage tank," "gasoline dispensing facility," "dry cleaning 66600
facility," "design flow discharge," and "new source treatment 66601
works" have the meanings ascribed to those terms by applicable 66602
rules or standards adopted by the director under Chapter 3704. or 66603
6111. of the Revised Code. 66604

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 66605
and (J) of this section, and in any other provision of this 66606

section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code: 66607
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(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code. 66609
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(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least: 66612
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(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement; 66615
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(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal; 66618
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(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry; 66622
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(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions; 66625
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(e) Emission and ambient monitoring; 66628

(f) Modeling, analyses, or demonstrations; 66629

(g) Preparing inventories and tracking emissions; 66630

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the 66631
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Revised Code. 66637

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 66638
of this section, each sewage sludge facility shall pay a 66639
nonrefundable annual sludge fee equal to three dollars and fifty 66640
cents per dry ton of sewage sludge, including the dry tons of 66641
sewage sludge in materials derived from sewage sludge, that the 66642
sewage sludge facility treats or disposes of in this state. The 66643
annual volume of sewage sludge treated or disposed of by a sewage 66644
sludge facility shall be calculated using the first day of January 66645
through the thirty-first day of December of the calendar year 66646
preceding the date on which payment of the fee is due. 66647

(2)(a) Except as provided in division (Y)(2)(d) of this 66648
section, each sewage sludge facility shall pay a minimum annual 66649
sewage sludge fee of one hundred dollars. 66650

(b) The annual sludge fee required to be paid by a sewage 66651
sludge facility that treats or disposes of exceptional quality 66652
sludge in this state shall be thirty-five per cent less per dry 66653
ton of exceptional quality sludge than the fee assessed under 66654
division (Y)(1) of this section, subject to the following 66655
exceptions: 66656

(i) Except as provided in division (Y)(2)(d) of this section, 66657
a sewage sludge facility that treats or disposes of exceptional 66658
quality sludge shall pay a minimum annual sewage sludge fee of one 66659
hundred dollars. 66660

(ii) A sewage sludge facility that treats or disposes of 66661
exceptional quality sludge shall not be required to pay the annual 66662
sludge fee for treatment or disposal in this state of exceptional 66663
quality sludge generated outside of this state and contained in 66664
bags or other containers not greater than one hundred pounds in 66665
capacity. 66666

A thirty-five per cent reduction for exceptional quality 66667

sludge applies to the maximum annual fees established under 66668
division (Y)(3) of this section. 66669

(c) A sewage sludge facility that transfers sewage sludge to 66670
another sewage sludge facility in this state for further treatment 66671
prior to disposal in this state shall not be required to pay the 66672
annual sludge fee for the tons of sewage sludge that have been 66673
transferred. In such a case, the sewage sludge facility that 66674
disposes of the sewage sludge shall pay the annual sludge fee. 66675
However, the facility transferring the sewage sludge shall pay the 66676
one-hundred-dollar minimum fee required under division (Y)(2)(a) 66677
of this section. 66678

In the case of a sewage sludge facility that treats sewage 66679
sludge in this state and transfers it out of this state to another 66680
entity for disposal, the sewage sludge facility in this state 66681
shall be required to pay the annual sludge fee for the tons of 66682
sewage sludge that have been transferred. 66683

(d) A sewage sludge facility that generates sewage sludge 66684
resulting from an average daily discharge flow of less than five 66685
thousand gallons per day is not subject to the fees assessed under 66686
division (Y) of this section. 66687

(3) No sewage sludge facility required to pay the annual 66688
sludge fee shall be required to pay more than the maximum annual 66689
fee for each disposal method that the sewage sludge facility uses. 66690
The maximum annual fee does not include the additional amount that 66691
may be charged under division (Y)(5) of this section for late 66692
payment of the annual sludge fee. The maximum annual fee for the 66693
following methods of disposal of sewage sludge is as follows: 66694

(a) Incineration: five thousand dollars; 66695

(b) Preexisting land reclamation project or disposal in a 66696
landfill: five thousand dollars; 66697

(c) Land application, land reclamation, surface disposal, or 66698

any other disposal method not specified in division (Y)(3)(a) or 66699
(b) of this section: twenty thousand dollars. 66700

(4)(a) In the case of an entity that generates sewage sludge 66701
or a sewage sludge facility that treats sewage sludge and 66702
transfers the sewage sludge to an incineration facility for 66703
disposal, the incineration facility, and not the entity generating 66704
the sewage sludge or the sewage sludge facility treating the 66705
sewage sludge, shall pay the annual sludge fee for the tons of 66706
sewage sludge that are transferred. However, the entity or 66707
facility generating or treating the sewage sludge shall pay the 66708
one-hundred-dollar minimum fee required under division (Y)(2)(a) 66709
of this section. 66710

(b) In the case of an entity that generates sewage sludge and 66711
transfers the sewage sludge to a landfill for disposal or to a 66712
sewage sludge facility for land reclamation or surface disposal, 66713
the entity generating the sewage sludge, and not the landfill or 66714
sewage sludge facility, shall pay the annual sludge fee for the 66715
tons of sewage sludge that are transferred. 66716

(5) Not later than the first day of April of the calendar 66717
year following March 17, 2000, and each first day of April 66718
thereafter, the director shall issue invoices to persons who are 66719
required to pay the annual sludge fee. The invoice shall identify 66720
the nature and amount of the annual sludge fee assessed and state 66721
the first day of May as the deadline for receipt by the director 66722
of objections regarding the amount of the fee and the first day of 66723
July as the deadline for payment of the fee. 66724

Not later than the first day of May following receipt of an 66725
invoice, a person required to pay the annual sludge fee may submit 66726
objections to the director concerning the accuracy of information 66727
regarding the number of dry tons of sewage sludge used to 66728
calculate the amount of the annual sludge fee or regarding whether 66729
the sewage sludge qualifies for the exceptional quality sludge 66730

discount established in division (Y)(2)(b) of this section. The 66731
director may consider the objections and adjust the amount of the 66732
fee to ensure that it is accurate. 66733

If the director does not adjust the amount of the annual 66734
sludge fee in response to a person's objections, the person may 66735
appeal the director's determination in accordance with Chapter 66736
119. of the Revised Code. 66737

Not later than the first day of June, the director shall 66738
notify the objecting person regarding whether the director has 66739
found the objections to be valid and the reasons for the finding. 66740
If the director finds the objections to be valid and adjusts the 66741
amount of the annual sludge fee accordingly, the director shall 66742
issue with the notification a new invoice to the person 66743
identifying the amount of the annual sludge fee assessed and 66744
stating the first day of July as the deadline for payment. 66745

Not later than the first day of July, any person who is 66746
required to do so shall pay the annual sludge fee. Any person who 66747
is required to pay the fee, but who fails to do so on or before 66748
that date shall pay an additional amount that equals ten per cent 66749
of the required annual sludge fee. 66750

(6) The director shall transmit all moneys collected under 66751
division (Y) of this section to the treasurer of state for deposit 66752
into the surface water protection fund created in section 6111.038 66753
of the Revised Code. The moneys shall be used to defray the costs 66754
of administering and enforcing provisions in Chapter 6111. of the 66755
Revised Code and rules adopted under it that govern the use, 66756
storage, treatment, or disposal of sewage sludge. 66757

(7) Beginning in fiscal year 2001, and every two years 66758
thereafter, the director shall review the total amount of moneys 66759
generated by the annual sludge fees to determine if that amount 66760
exceeded six hundred thousand dollars in either of the two 66761

preceding fiscal years. If the total amount of moneys in the fund 66762
exceeded six hundred thousand dollars in either fiscal year, the 66763
director, after review of the fee structure and consultation with 66764
affected persons, shall issue an order reducing the amount of the 66765
fees levied under division (Y) of this section so that the 66766
estimated amount of moneys resulting from the fees will not exceed 66767
six hundred thousand dollars in any fiscal year. 66768

If, upon review of the fees under division (Y)(7) of this 66769
section and after the fees have been reduced, the director 66770
determines that the total amount of moneys collected and 66771
accumulated is less than six hundred thousand dollars, the 66772
director, after review of the fee structure and consultation with 66773
affected persons, may issue an order increasing the amount of the 66774
fees levied under division (Y) of this section so that the 66775
estimated amount of moneys resulting from the fees will be 66776
approximately six hundred thousand dollars. Fees shall never be 66777
increased to an amount exceeding the amount specified in division 66778
(Y)(7) of this section. 66779

Notwithstanding section 119.06 of the Revised Code, the 66780
director may issue an order under division (Y)(7) of this section 66781
without the necessity to hold an adjudicatory hearing in 66782
connection with the order. The issuance of an order under this 66783
division is not an act or action for purposes of section 3745.04 66784
of the Revised Code. 66785

(8) As used in division (Y) of this section: 66786

(a) "Sewage sludge facility" means an entity that performs 66787
treatment on or is responsible for the disposal of sewage sludge. 66788

(b) "Sewage sludge" means a solid, semi-solid, or liquid 66789
residue generated during the treatment of domestic sewage in a 66790
treatment works as defined in section 6111.01 of the Revised Code. 66791
"Sewage sludge" includes, but is not limited to, scum or solids 66792

removed in primary, secondary, or advanced wastewater treatment 66793
processes. "Sewage sludge" does not include ash generated during 66794
the firing of sewage sludge in a sewage sludge incinerator, grit 66795
and screenings generated during preliminary treatment of domestic 66796
sewage in a treatment works, animal manure, residue generated 66797
during treatment of animal manure, or domestic septage. 66798

(c) "Exceptional quality sludge" means sewage sludge that 66799
meets all of the following qualifications: 66800

(i) Satisfies the class A pathogen standards in 40 C.F.R. 66801
503.32(a); 66802

(ii) Satisfies one of the vector attraction reduction 66803
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 66804

(iii) Does not exceed the ceiling concentration limitations 66805
for metals listed in table one of 40 C.F.R. 503.13; 66806

(iv) Does not exceed the concentration limitations for metals 66807
listed in table three of 40 C.F.R. 503.13. 66808

(d) "Treatment" means the preparation of sewage sludge for 66809
final use or disposal and includes, but is not limited to, 66810
thickening, stabilization, and dewatering of sewage sludge. 66811

(e) "Disposal" means the final use of sewage sludge, 66812
including, but not limited to, land application, land reclamation, 66813
surface disposal, or disposal in a landfill or an incinerator. 66814

(f) "Land application" means the spraying or spreading of 66815
sewage sludge onto the land surface, the injection of sewage 66816
sludge below the land surface, or the incorporation of sewage 66817
sludge into the soil for the purposes of conditioning the soil or 66818
fertilizing crops or vegetation grown in the soil. 66819

(g) "Land reclamation" means the returning of disturbed land 66820
to productive use. 66821

(h) "Surface disposal" means the placement of sludge on an 66822

area of land for disposal, including, but not limited to, 66823
monofills, surface impoundments, lagoons, waste piles, or 66824
dedicated disposal sites. 66825

(i) "Incinerator" means an entity that disposes of sewage 66826
sludge through the combustion of organic matter and inorganic 66827
matter in sewage sludge by high temperatures in an enclosed 66828
device. 66829

(j) "Incineration facility" includes all incinerators owned 66830
or operated by the same entity and located on a contiguous tract 66831
of land. Areas of land are considered to be contiguous even if 66832
they are separated by a public road or highway. 66833

(k) "Annual sludge fee" means the fee assessed under division 66834
(Y)(1) of this section. 66835

(l) "Landfill" means a sanitary landfill facility, as defined 66836
in rules adopted under section 3734.02 of the Revised Code, that 66837
is licensed under section 3734.05 of the Revised Code. 66838

(m) "Preexisting land reclamation project" means a 66839
property-specific land reclamation project that has been in 66840
continuous operation for not less than five years pursuant to 66841
approval of the activity by the director and includes the 66842
implementation of a community outreach program concerning the 66843
activity. 66844

Sec. 3746.02. (A) Nothing in this chapter applies to any of 66845
the following: 66846

(1) Property for which a voluntary action under this chapter 66847
is precluded by federal law or regulations adopted under federal 66848
law, including, without limitation, any of the following federal 66849
laws or regulations adopted thereunder: 66850

(a) The "Federal Water Pollution Control Act Amendments of 66851
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; 66852

(b) The "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; 66853
66854

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; 66855
66856

(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; 66857
66858
66859

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended. 66860
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(2) Those portions of property where closure of a hazardous waste facility or solid waste facility is required under Chapter 3734. of the Revised Code or rules adopted under it; 66862
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(3) ~~Property or~~ Except for a class C release as defined in section 3737.87 of the Revised Code, properties regardless of ownership that are subject to remediation rules adopted under the authority of the division of fire marshal in the department of commerce, including remediation rules adopted under sections 3737.88, 3737.882, and 3737.889 of the Revised Code; 66865
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(4) Property that is subject to Chapter 1509. of the Revised Code; 66871
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(5) Any other property if the director of environmental protection has issued a letter notifying the owner or operator of the property that ~~he~~ the director will issue an enforcement order under Chapter 3704., 3734., or 6111. of the Revised Code, a release or threatened release of a hazardous substance or petroleum from or at the property poses a substantial threat to public health or safety or the environment, and the person subject to the order does not present sufficient evidence to the director that ~~he~~ the person has entered into the voluntary action program under this chapter and is proceeding expeditiously to address that threat. For the purposes of this division, the evidence 66873
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constituting sufficient evidence of entry into the voluntary 66884
action program under this chapter shall be defined by the director 66885
by rules adopted under section 3746.04 of the Revised Code. Until 66886
such time as the director has adopted those rules, the director, 66887
at a minimum, shall consider the existence of a contract with a 66888
certified professional to appropriately respond to the threat 66889
named in the director's letter informing the person of ~~his~~ the 66890
director's intent to issue an enforcement order and the 66891
availability of financial resources to complete the contract to be 66892
sufficient evidence of entry into the program. 66893

(B) The application of any provision of division (A) of this 66894
section to a portion of property does not preclude participation 66895
in the voluntary action program under this chapter in connection 66896
with other portions of the property where those provisions do not 66897
apply. 66898

(C) As used in this section, "property" means any parcel of 66899
real property, or portion thereof, and any improvements thereto. 66900

Sec. 3750.081. (A) Notwithstanding any provision in this 66901
chapter to the contrary, an owner or operator of a facility that 66902
is regulated under Chapter 1509. of the Revised Code who has filed 66903
a log in accordance with section 1509.10 of the Revised Code and a 66904
production statement in accordance with section 1509.11 of the 66905
Revised Code shall be deemed to have satisfied all of the 66906
inventory, notification, listing, and other submission and filing 66907
requirements established under this chapter, except for the 66908
release reporting requirements established under section 3750.06 66909
of the Revised Code. 66910

(B) The emergency response commission and every local 66911
emergency planning committee and fire department in this state 66912
shall establish a means by which to access, view, and retrieve 66913
information, through the use of the internet or a computer disk, 66914

from the electronic database maintained by the division of ~~mineral~~ 66915
oil and gas resources management in the department of natural 66916
resources in accordance with section 1509.23 of the Revised Code. 66917
With respect to facilities regulated under Chapter 1509. of the 66918
Revised Code, the database shall be the means of providing and 66919
receiving the information described in division (A) of this 66920
section. 66921

Sec. 3769.07. Except as otherwise provided in this section, 66922
no permit shall be issued under sections 3769.01 to 3769.14 of the 66923
Revised Code, authorizing the conduct of a live racing program for 66924
thoroughbred horses and quarter horses at any place, track, or 66925
enclosure except between the hours of twelve noon and seven p.m., 66926
for running horse-racing meetings, except that on special events 66927
days running horse-racing meetings may begin at nine a.m. by 66928
application to the state racing commission and except that the 66929
seven p.m. time may be extended to eight p.m. on a Sunday or 66930
holiday by application to the commission, and no permit shall be 66931
issued under those sections authorizing the conduct of a live 66932
racing program for harness horses at any place, track, or 66933
enclosure except between the hours of twelve noon and twelve 66934
midnight for light harness horse-racing meetings. The seven p.m. 66935
and eight p.m. closing times described in this section shall upon 66936
application to the commission be extended to ~~nine~~ eleven p.m. for 66937
any running horse-racing meeting conducted between the fifteenth 66938
day of May and the fifteenth day of September at a track that is 66939
located more than twenty-five miles from a track located in this 66940
state where a light harness horse-racing meeting, other than a 66941
light harness horse-racing meeting at a county fair or independent 66942
fair, is being conducted and that is located less than twenty-five 66943
miles from a track located outside this state. A permit issued for 66944
horse racing at a county fair shall authorize live horse racing to 66945
begin at nine a.m. 66946

No permit shall be granted for the holding or conducting of a horse-racing meeting after the tenth day of December in any calendar year, except for racing at winterized tracks. "Winterized track" means a track with enclosed club house or grandstand, all-weather racing track, heated facilities for jockeys or drivers, backstretch facilities that are properly prepared for winter racing, and adequate snow removal equipment available.

No permit shall be issued for more than an aggregate of fifty-six racing days in any one calendar year, except that an additional five days of racing may be approved by the commission upon application by a permit holder and except that an additional thirty days of racing may be granted for racing at any time after the fifteenth day of October and prior to the fifteenth day of March to a permit holder who has a winterized facility, but no more than thirty such additional days may be issued at any one track or enclosure. No more than an aggregate of fifty-six racing days shall be issued in any one calendar year for any one race track, place, or enclosure, except for the additional five days of racing for each permit holder which may be approved by the commission pursuant to this section, except as provided in sections 3769.071 and 3769.13 of the Revised Code, except for racing days granted as a result of a winterized facility, and except that the commission may issue a second permit for a maximum of fifty-six racing days for any one track, place, or enclosure, if the commission determines that the issuance of such second permit is not against the public interest. No such second permit shall be issued:

(A) For the operation of racing in any county with a population of less than seven hundred thousand or for the operation of racing in any county which has more than one race track at which a racing meet has been authorized, except as provided in this division and in sections 3769.071 and 3769.13 of

the Revised Code, in the same year by the commission. A second 66979
permit issued pursuant to this division may be issued at either or 66980
both race tracks in a county that has only two race tracks if a 66981
racing meet has been authorized at both race tracks in the same 66982
year by the commission and one race track has been authorized to 66983
conduct thoroughbred racing meets and the other race track has 66984
been authorized to conduct harness racing meets. When such second 66985
permit is issued pursuant to this division for racing at the one 66986
race track, racing shall not be conducted at that race track on 66987
the same day that racing is conducted at the other race track in 66988
the county except by mutual agreement of the two race tracks. 66989

(B) To any corporation having one or more shareholders owning 66990
an interest in any other permit issued by the commission for the 66991
operation of racing, in the same year, at any other race track, 66992
place, or enclosure in this state; 66993

(C) To any person, association, or trust which owns, or which 66994
has any members owning, an interest in any other permit issued by 66995
the commission for the operation of racing, in the same year, at 66996
any other race track, place, or enclosure in this state. 66997

No permit shall be issued so as to permit live racing 66998
programs on the same hour at more than one track in one county or 66999
on tracks in operation in 1975 within fifty miles of each other, 67000
nor shall any other form of pari-mutuel wagering other than horse 67001
racing be permitted within seventy-five miles of a track where 67002
horse racing is being conducted, except that this provision shall 67003
not apply to a horse-racing meeting held at the state fair or at a 67004
fair conducted by a county agricultural society or at a fair 67005
conducted by an independent agricultural society. Distribution of 67006
days shall not apply to fairs or horse shows not required to 67007
secure a permit under such section. Notwithstanding any other 67008
provision of this chapter, a person, association, trust, or 67009
corporation may own or operate two separate facilities in this 67010

state that are conducting horse-racing meetings. 67011

A permit, granted under sections 3769.01 to 3769.14 of the 67012
Revised Code, shall be conspicuously displayed during the 67013
horse-racing meeting in the principal office at such race track 67014
and at all reasonable times shall be exhibited to any authorized 67015
person requesting to see the same. 67016

Sec. 3769.08. (A) Any person holding a permit to conduct a 67017
horse-racing meeting may provide a place in the race meeting 67018
grounds or enclosure at which the permit holder may conduct and 67019
supervise the pari-mutuel system of wagering by patrons of legal 67020
age on the live racing programs and simulcast racing programs 67021
conducted by the permit holder. 67022

The pari-mutuel method of wagering upon the live racing 67023
programs and simulcast racing programs held at or conducted within 67024
such race track, and at the time of such horse-racing meeting, or 67025
at other times authorized by the state racing commission, shall 67026
not be unlawful. No other place, except that provided and 67027
designated by the permit holder and except as provided in section 67028
3769.26 of the Revised Code, nor any other method or system of 67029
betting or wagering, except the pari-mutuel system, shall be used 67030
or permitted by the permit holder; nor, except as provided in 67031
section 3769.089 or 3769.26 of the Revised Code, shall the 67032
pari-mutuel system of wagering be conducted by the permit holder 67033
on any races except the races at the race track, grounds, or 67034
enclosure for which the person holds a permit. Each permit holder 67035
may retain as a commission an amount not to exceed eighteen per 67036
cent of the total of all moneys wagered. 67037

The pari-mutuel wagering authorized by this section is 67038
subject to sections 3769.25 to 3769.28 of the Revised Code. 67039

(B) At the close of each racing day, each permit holder 67040
authorized to conduct thoroughbred racing, out of the amount 67041

retained on that day by the permit holder, shall pay by check, 67042
draft, or money order to the tax commissioner, as a tax, a sum 67043
equal to the following percentages of the total of all moneys 67044
wagered on live racing programs on that day and shall separately 67045
compute and pay by check, draft, or money order to the tax 67046
commissioner, as a tax, a sum equal to the following percentages 67047
of the total of all money wagered on simulcast racing programs on 67048
that day: 67049

(1) One per cent of the first two hundred thousand dollars 67050
wagered, or any part of that amount; 67051

(2) Two per cent of the next one hundred thousand dollars 67052
wagered, or any part of that amount; 67053

(3) Three per cent of the next one hundred thousand dollars 67054
wagered, or any part of that amount; 67055

(4) Four per cent of all sums over four hundred thousand 67056
dollars wagered. 67057

Except as otherwise provided in section 3769.089 of the 67058
Revised Code, each permit holder authorized to conduct 67059
thoroughbred racing shall use for purse money a sum equal to fifty 67060
per cent of the pari-mutuel revenues retained by the permit holder 67061
as a commission after payment of the state tax. This fifty per 67062
cent payment shall be in addition to the purse distribution from 67063
breakage specified in this section. 67064

Subject to division (M) of this section, from the moneys paid 67065
to the tax commissioner by thoroughbred racing permit holders, 67066
one-half of one per cent of the total of all moneys so wagered on 67067
a racing day shall be paid into the Ohio fairs fund created by 67068
section 3769.082 of the Revised Code, one and one-eighth per cent 67069
of the total of all moneys so wagered on a racing day shall be 67070
paid into the Ohio thoroughbred race fund created by section 67071
3769.083 of the Revised Code, and one-quarter of one per cent of 67072

the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. The required payment to the state racing commission operating fund does not apply to county and independent fairs and agricultural societies. The remaining moneys may be retained by the permit holder, except as provided in this section with respect to the odd cents redistribution. Amounts paid into the PASSPORT nursing home franchise permit fee fund pursuant to this section and section 3769.26 of the Revised Code shall be used solely for the support of the PASSPORT program as determined in appropriations made by the general assembly. If the PASSPORT program is abolished, the amount that would have been paid to the PASSPORT nursing home franchise permit fee fund under this chapter shall be paid to the general revenue fund of the state. As used in this chapter, "PASSPORT program" means the PASSPORT program created under section 173.40 of the Revised Code.

The total amount paid to the Ohio thoroughbred race fund under this section and division (A) of section 3769.087 of the Revised Code shall not exceed by more than six per cent the total amount paid to this fund under this section and that section during the immediately preceding calendar year.

Each year, the total amount calculated for payment into the Ohio fairs fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code shall be an amount calculated using the percentages specified in this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code.

A permit holder may contract with a thoroughbred horsemen's organization for the organization to act as a representative of all thoroughbred owners and trainers participating in a horse-racing meeting conducted by the permit holder. A

"thoroughbred horsemen's organization" is any corporation or 67105
association that represents, through membership or otherwise, more 67106
than one-half of the aggregate of all thoroughbred owners and 67107
trainers who were licensed and actively participated in racing 67108
within this state during the preceding calendar year. Except as 67109
otherwise provided in this paragraph, any moneys received by a 67110
thoroughbred horsemen's organization shall be used exclusively for 67111
the benefit of thoroughbred owners and trainers racing in this 67112
state through the administrative purposes of the organization, 67113
benevolent activities on behalf of the horsemen, promotion of the 67114
horsemen's rights and interests, and promotion of equine research. 67115
A thoroughbred horsemen's organization may expend not more than an 67116
aggregate of five per cent of its annual gross receipts, or a 67117
larger amount as approved by the organization, for dues, 67118
assessments, and other payments to all other local, national, or 67119
international organizations having as their primary purposes the 67120
promotion of thoroughbred horse racing, thoroughbred horsemen's 67121
rights, and equine research. 67122

(C) Except as otherwise provided in division (B) of this 67123
section, at the close of each racing day, each permit holder 67124
authorized to conduct harness or quarter horse racing, out of the 67125
amount retained that day by the permit holder, shall pay by check, 67126
draft, or money order to the tax commissioner, as a tax, a sum 67127
equal to the following percentages of the total of all moneys 67128
wagered on live racing programs and shall separately compute and 67129
pay by check, draft, or money order to the tax commissioner, as a 67130
tax, a sum equal to the following percentages of the total of all 67131
money wagered on simulcast racing programs on that day: 67132

(1) One per cent of the first two hundred thousand dollars 67133
wagered, or any part of that amount; 67134

(2) Two per cent of the next one hundred thousand dollars 67135
wagered, or any part of that amount; 67136

(3) Three per cent of the next one hundred thousand dollars 67137
wagered, or any part of that amount; 67138

(4) Four per cent of all sums over four hundred thousand 67139
dollars wagered. 67140

Except as otherwise provided in division (B) and subject to 67141
division (M) of this section, from the moneys paid to the tax 67142
commissioner by permit holders authorized to conduct harness or 67143
quarter horse racing, one-half of one per cent of all moneys 67144
wagered on that racing day shall be paid into the Ohio fairs fund; 67145
from the moneys paid to the tax commissioner by permit holders 67146
authorized to conduct harness racing, five-eighths of one per cent 67147
of all moneys wagered on that racing day shall be paid into the 67148
Ohio standardbred development fund; and from the moneys paid to 67149
the tax commissioner by permit holders authorized to conduct 67150
quarter horse racing, five-eighths of one per cent of all moneys 67151
wagered on that racing day shall be paid into the Ohio quarter 67152
horse development fund. 67153

(D) In addition, subject to division (M) of this section, 67154
beginning on January 1, 1996, from the money paid to the tax 67155
commissioner as a tax under this section and division (A) of 67156
section 3769.087 of the Revised Code by harness horse permit 67157
holders, one-half of one per cent of the amount wagered on a 67158
racing day shall be paid into the Ohio standardbred development 67159
fund. Beginning January 1, 1998, the payment to the Ohio 67160
standardbred development fund required under this division does 67161
not apply to county agricultural societies or independent 67162
agricultural societies. 67163

The total amount paid to the Ohio standardbred development 67164
fund under this division, division (C) of this section, and 67165
division (A) of section 3769.087 of the Revised Code and the total 67166
amount paid to the Ohio quarter horse development fund under this 67167
division and division (A) of that section shall not exceed by more 67168

than six per cent the total amount paid into the fund under this 67169
division, division (C) of this section, and division (A) of 67170
section 3769.087 of the Revised Code in the immediately preceding 67171
calendar year. 67172

(E) Subject to division (M) of this section, from the money 67173
paid as a tax under this chapter by harness and quarter horse 67174
permit holders, one-quarter of one per cent of the total of all 67175
moneys wagered on a racing day by each permit holder shall be paid 67176
into the state racing commission operating fund created by section 67177
3769.03 of the Revised Code. This division does not apply to 67178
county and independent fairs and agricultural societies. 67179

(F) Except as otherwise provided in section 3769.089 of the 67180
Revised Code, each permit holder authorized to conduct harness 67181
racing shall pay to the harness horsemen's purse pool a sum equal 67182
to fifty per cent of the pari-mutuel revenues retained by the 67183
permit holder as a commission after payment of the state tax. This 67184
fifty per cent payment is to be in addition to the purse 67185
distribution from breakage specified in this section. 67186

(G) In addition, each permit holder authorized to conduct 67187
harness racing shall be allowed to retain the odd cents of all 67188
redistribution to be made on all mutual contributions exceeding a 67189
sum equal to the next lowest multiple of ten. 67190

Forty per cent of that portion of that total sum of such odd 67191
cents shall be used by the permit holder for purse money for Ohio 67192
sired, bred, and owned colts, for purse money for Ohio bred 67193
horses, and for increased purse money for horse races. Upon the 67194
formation of the corporation described in section 3769.21 of the 67195
Revised Code to establish a harness horsemen's health and 67196
retirement fund, twenty-five per cent of that portion of that 67197
total sum of odd cents shall be paid at the close of each racing 67198
day by the permit holder to that corporation to establish and fund 67199
the health and retirement fund. Until that corporation is formed, 67200

that twenty-five per cent shall be paid at the close of each 67201
racing day by the permit holder to the tax commissioner or the tax 67202
commissioner's agent in the county seat of the county in which the 67203
permit holder operates race meetings. The remaining thirty-five 67204
per cent of that portion of that total sum of odd cents shall be 67205
retained by the permit holder. 67206

(H) In addition, each permit holder authorized to conduct 67207
thoroughbred racing shall be allowed to retain the odd cents of 67208
all redistribution to be made on all mutuel contributions 67209
exceeding a sum equal to the next lowest multiple of ten. Twenty 67210
per cent of that portion of that total sum of such odd cents shall 67211
be used by the permit holder for increased purse money for horse 67212
races. Upon the formation of the corporation described in section 67213
3769.21 of the Revised Code to establish a thoroughbred horsemen's 67214
health and retirement fund, forty-five per cent of that portion of 67215
that total sum of odd cents shall be paid at the close of each 67216
racing day by the permit holder to that corporation to establish 67217
and fund the health and retirement fund. Until that corporation is 67218
formed, that forty-five per cent shall be paid by the permit 67219
holder to the tax commissioner or the tax commissioner's agent in 67220
the county seat of the county in which the permit holder operates 67221
race meetings, at the close of each racing day. The remaining 67222
thirty-five per cent of that portion of that total sum of odd 67223
cents shall be retained by the permit holder. 67224

(I) In addition, each permit holder authorized to conduct 67225
quarter horse racing shall be allowed to retain the odd cents of 67226
all redistribution to be made on all mutuel contributions 67227
exceeding a sum equal to the next lowest multiple of ten, subject 67228
to a tax of twenty-five per cent on that portion of the total sum 67229
of such odd cents that is in excess of two thousand dollars during 67230
a calendar year, which tax shall be paid at the close of each 67231
racing day by the permit holder to the tax commissioner or the tax 67232

commissioner's agent in the county seat of the county within which 67233
the permit holder operates race meetings. Forty per cent of that 67234
portion of that total sum of such odd cents shall be used by the 67235
permit holder for increased purse money for horse races. The 67236
remaining thirty-five per cent of that portion of that total sum 67237
of odd cents shall be retained by the permit holder. 67238

(J)(1) To encourage the improvement of racing facilities for 67239
the benefit of the public, breeders, and horse owners, and to 67240
increase the revenue to the state from the increase in pari-mutuel 67241
wagering resulting from those improvements, the taxes paid by a 67242
permit holder to the state as provided for in this chapter shall 67243
be reduced by three-fourths of one per cent of the total amount 67244
wagered for those permit holders who make capital improvements to 67245
existing race tracks or construct new race tracks. The percentage 67246
of the reduction that may be taken each racing day shall equal 67247
seventy-five per cent of the taxes levied under divisions (B) and 67248
(C) of this section and section 3769.087 of the Revised Code, and 67249
division (F)(2) of section 3769.26 of the Revised Code, as 67250
applicable, divided by the calculated amount each fund should 67251
receive under divisions (B) and (C) of this section and section 67252
3769.087 of the Revised Code, and division (F)(2) of section 67253
3769.26 of the Revised Code and the reduction provided for in this 67254
division. If the resulting percentage is less than one, that 67255
percentage shall be multiplied by the amount of the reduction 67256
provided for in this division. Otherwise, the permit holder shall 67257
receive the full reduction provided for in this division. The 67258
amount of the allowable reduction not received shall be carried 67259
forward and applied against future tax liability. After any 67260
reductions expire, any reduction carried forward shall be treated 67261
as a reduction as provided for in this division. 67262

If more than one permit holder is authorized to conduct 67263
racing at the facility that is being built or improved, the cost 67264

of the new race track or capital improvement shall be allocated 67265
between or among all the permit holders in the ratio that the 67266
permit holders' number of racing days bears to the total number of 67267
racing days conducted at the facility. 67268

A reduction for a new race track or a capital improvement 67269
shall start from the day racing is first conducted following the 67270
date actual construction of the new race track or each capital 67271
improvement is completed and the construction cost has been 67272
approved by the racing commission, unless otherwise provided in 67273
this section. A reduction for a new race track or a capital 67274
improvement shall continue for a period of twenty-five years for 67275
new race tracks and for fifteen years for capital improvements if 67276
the construction of the capital improvement or new race track 67277
commenced prior to March 29, 1988, and for a period of ten years 67278
for new race tracks or capital improvements if the construction of 67279
the capital improvement or new race track commenced on or after 67280
March 29, 1988, but before ~~the effective date of this amendment~~ 67281
June 6, 2001, or until the total tax reduction reaches seventy per 67282
cent of the approved cost of the new race track or capital 67283
improvement, as allocated to each permit holder, whichever occurs 67284
first. A reduction for a new race track or a capital improvement 67285
approved after ~~the effective date of this amendment~~ June 6, 2001, 67286
shall continue until the total tax reduction reaches one hundred 67287
per cent of the approved cost of the new race track or capital 67288
improvement, as allocated to each permit holder. 67289

A reduction granted for a new race track or a capital 67290
improvement, the application for which was approved by the racing 67291
commission after March 29, 1988, but before ~~the effective date of~~ 67292
~~this amendment~~ June 6, 2001, shall not commence nor shall the 67293
ten-year period begin to run until all prior tax reductions with 67294
respect to the same race track have ended. The total tax reduction 67295
because of capital improvements shall not during any one year 67296

exceed for all permit holders using any one track three-fourths of 67297
one per cent of the total amount wagered, regardless of the number 67298
of capital improvements made. Several capital improvements to a 67299
race track may be consolidated in an application if the racing 67300
commission approved the application prior to March 29, 1988. No 67301
permit holder may receive a tax reduction for a capital 67302
improvement approved by the racing commission on or after March 67303
29, 1988, at a race track until all tax reductions have ended for 67304
all prior capital improvements approved by the racing commission 67305
under this section or section 3769.20 of the Revised Code at that 67306
race track. If there are two or more permit holders operating 67307
meetings at the same track, they may consolidate their 67308
applications. The racing commission shall notify the tax 67309
commissioner when the reduction of tax begins and when it ends. 67310

Each fiscal year the racing commission shall submit a report 67311
to the tax commissioner, the office of budget and management, and 67312
the legislative service commission. The report shall identify each 67313
capital improvement project undertaken under this division and in 67314
progress at each race track, indicate the total cost of each 67315
project, state the tax reduction that resulted from each project 67316
during the immediately preceding fiscal year, estimate the tax 67317
reduction that will result from each project during the current 67318
fiscal year, state the total tax reduction that resulted from all 67319
such projects at all race tracks during the immediately preceding 67320
fiscal year, and estimate the total tax reduction that will result 67321
from all such projects at all race tracks during the current 67322
fiscal year. 67323

(2) In order to qualify for the reduction in tax, a permit 67324
holder shall apply to the racing commission in such form as the 67325
commission may require and shall provide full details of the new 67326
race track or capital improvement, including a schedule for its 67327
construction and completion, and set forth the costs and expenses 67328

incurred in connection with it. The racing commission shall not 67329
approve an application unless the permit holder shows that a 67330
contract for the new race track or capital improvement has been 67331
let under an unrestricted competitive bidding procedure, unless 67332
the contract is exempted by the controlling board because of its 67333
unusual nature. In determining whether to approve an application, 67334
the racing commission shall consider whether the new race track or 67335
capital improvement will promote the safety, convenience, and 67336
comfort of the racing public and horse owners and generally tend 67337
towards the improvement of racing in this state. 67338

(3) If a new race track or capital improvement is approved by 67339
the racing commission and construction has started, the tax 67340
reduction may be authorized by the commission upon presentation of 67341
copies of paid bills in excess of one hundred thousand dollars or 67342
ten per cent of the approved cost, whichever is greater. After the 67343
initial authorization, the permit holder shall present copies of 67344
paid bills. If the permit holder is in substantial compliance with 67345
the schedule for construction and completion of the new race track 67346
or capital improvement, the racing commission may authorize the 67347
continuation of the tax reduction upon the presentation of the 67348
additional paid bills. The total amount of the tax reduction 67349
authorized shall not exceed the percentage of the approved cost of 67350
the new race track or capital improvement specified in division 67351
(J)(1) of this section. The racing commission may terminate any 67352
tax reduction immediately if a permit holder fails to complete the 67353
new race track or capital improvement, or to substantially comply 67354
with the schedule for construction and completion of the new race 67355
track or capital improvement. If a permit holder fails to complete 67356
a new race track or capital improvement, the racing commission 67357
shall order the permit holder to repay to the state the total 67358
amount of tax reduced. The normal tax paid by the permit holder 67359
shall be increased by three-fourths of one per cent of the total 67360
amount wagered until the total amount of the additional tax 67361

collected equals the total amount of tax reduced. 67362

(4) As used in this section: 67363

(a) "Capital improvement" means an addition, replacement, or 67364
remodeling of a structural unit of a race track facility costing 67365
at least one hundred thousand dollars, including, but not limited 67366
to, the construction of barns used exclusively for the race track 67367
facility, backstretch facilities for horsemen, paddock facilities, 67368
new pari-mutuel and totalizator equipment and appurtenances to 67369
that equipment purchased by the track, new access roads, new 67370
parking areas, the complete reconstruction, reshaping, and 67371
leveling of the racing surface and appurtenances, the installation 67372
of permanent new heating or air conditioning, roof replacement or 67373
restoration, installations of a permanent nature forming a part of 67374
the track structure, and construction of buildings that are 67375
located on a permit holder's premises. "Capital improvement" does 67376
not include the cost of replacement of equipment that is not 67377
permanently installed, ordinary repairs, painting, and maintenance 67378
required to keep a race track facility in ordinary operating 67379
condition. 67380

(b) "New race track" includes the reconstruction of a race 67381
track damaged by fire or other cause that has been declared by the 67382
racing commission, as a result of the damage, to be an inadequate 67383
facility for the safe operation of horse racing. 67384

(c) "Approved cost" includes all debt service and interest 67385
costs that are associated with a capital improvement or new race 67386
track and that the racing commission approves for a tax reduction 67387
under division (J) of this section. 67388

(5) The racing commission shall not approve an application 67389
for a tax reduction under this section if it has reasonable cause 67390
to believe that the actions or negligence of the permit holder 67391
substantially contributed to the damage suffered by the track due 67392

to fire or other cause. The racing commission shall obtain any 67393
data or information available from a fire marshal, law enforcement 67394
official, or insurance company concerning any fire or other damage 67395
suffered by a track, prior to approving an application for a tax 67396
reduction. 67397

(6) The approved cost to which a tax reduction applies shall 67398
be determined by generally accepted accounting principles and 67399
verified by an audit of the permit holder's records upon 67400
completion of the project by the racing commission, or by an 67401
independent certified public accountant selected by the permit 67402
holder and approved by the commission. 67403

(K) No other license or excise tax or fee, except as provided 67404
in sections 3769.01 to 3769.14 of the Revised Code, shall be 67405
assessed or collected from such licensee by any county, township, 67406
district, municipal corporation, or other body having power to 67407
assess or collect a tax or fee. That portion of the tax paid under 67408
this section by permit holders for racing conducted at and during 67409
the course of an agricultural exposition or fair, and that portion 67410
of the tax that would have been paid by eligible permit holders 67411
into the ~~PASSPORT~~ nursing home franchise permit fee fund as a 67412
result of racing conducted at and during the course of an 67413
agricultural exposition or fair, shall be deposited into the state 67414
treasury to the credit of the horse racing tax fund, which is 67415
hereby created for the use of the agricultural societies of the 67416
several counties in which the taxes originate. The state racing 67417
commission shall determine eligible permit holders for purposes of 67418
the preceding sentence, taking into account the breed of horse, 67419
the racing dates, the geographic proximity to the fair, and the 67420
best interests of Ohio racing. On the first day of any month on 67421
which there is money in the fund, the tax commissioner shall 67422
provide for payment to the treasurer of each agricultural society 67423
the amount of the taxes collected under this section upon racing 67424

conducted at and during the course of any exposition or fair 67425
conducted by the society. 67426

(L) From the tax paid under this section by harness track 67427
permit holders, the tax commissioner shall pay into the Ohio 67428
thoroughbred race fund a sum equal to a percentage of the amount 67429
wagered upon which the tax is paid. The percentage shall be 67430
determined by the tax commissioner and shall be rounded to the 67431
nearest one-hundredth. The percentage shall be such that, when 67432
multiplied by the amount wagered upon which tax was paid by the 67433
harness track permit holders in the most recent year for which 67434
final figures are available, it results in a sum that 67435
substantially equals the same amount of tax paid by the tax 67436
commissioner during that year into the Ohio fairs fund from taxes 67437
paid by thoroughbred permit holders. This division does not apply 67438
to county and independent fairs and agricultural societies. 67439

(M) Twenty-five per cent of the taxes levied on thoroughbred 67440
racing permit holders, harness racing permit holders, and quarter 67441
horse racing permit holders under this section, division (A) of 67442
section 3769.087 of the Revised Code, and division (F)(2) of 67443
section 3769.26 of the Revised Code shall be paid into the 67444
~~PASSPORT~~ nursing home franchise permit fee fund. The tax 67445
commissioner shall pay any money remaining, after the payment into 67446
the ~~PASSPORT~~ nursing home franchise permit fee fund and the 67447
reductions provided for in division (J) of this section and in 67448
section 3769.20 of the Revised Code, into the Ohio fairs fund, 67449
Ohio thoroughbred race fund, Ohio standardbred development fund, 67450
Ohio quarter horse fund, and state racing commission operating 67451
fund as prescribed in this section and division (A) of section 67452
3769.087 of the Revised Code. The tax commissioner shall 67453
thereafter use and apply the balance of the money paid as a tax by 67454
any permit holder to cover any shortage in the accounts of such 67455
funds resulting from an insufficient payment as a tax by any other 67456

permit holder. The moneys received by the tax commissioner shall 67457
be deposited weekly and paid by the tax commissioner into the 67458
funds to cover the total aggregate amount due from all permit 67459
holders to the funds, as calculated under this section and 67460
division (A) of section 3769.087 of the Revised Code, as 67461
applicable. If, after the payment into the ~~PASSPORT~~ nursing home 67462
franchise permit fee fund, sufficient funds are not available from 67463
the tax deposited by the tax commissioner to pay the required 67464
amounts into the Ohio fairs fund, Ohio standardbred development 67465
fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and 67466
the state racing commission operating fund, the tax commissioner 67467
shall prorate on a proportional basis the amount paid to each of 67468
the funds. Any shortage to the funds as a result of a proration 67469
shall be applied against future deposits for the same calendar 67470
year when funds are available. After this application, the tax 67471
commissioner shall pay any remaining money paid as a tax by all 67472
permit holders into the ~~PASSPORT~~ nursing home franchise permit fee 67473
fund. This division does not apply to permit holders conducting 67474
racing at the course of an agricultural exposition or fair as 67475
described in division (K) of this section. 67476

Sec. 3769.20. (A) To encourage the renovation of existing 67477
racing facilities for the benefit of the public, breeders, and 67478
horse owners and to increase the revenue to the state from the 67479
increase in pari-mutuel wagering resulting from such improvement, 67480
the taxes paid by a permit holder to the state, in excess of the 67481
amount paid into the ~~PASSPORT~~ nursing home franchise permit fee 67482
fund, shall be reduced by one per cent of the total amount wagered 67483
for those permit holders who carry out a major capital improvement 67484
project. The percentage of the reduction that may be taken each 67485
racing day shall equal seventy-five per cent of the amount of the 67486
taxes levied under divisions (B) and (C) of section 3769.08, 67487
section 3769.087, and division (F)(2) of section 3769.26 of the 67488

Revised Code, as applicable, divided by the calculated amount each 67489
fund should receive under divisions (B) and (C) of section 67490
3769.08, section 3769.087, and division (F)(2) of section 3769.26 67491
of the Revised Code and the reduction provided for in this 67492
section. If the resulting percentage is less than one, that 67493
percentage shall be multiplied by the amount of the reduction 67494
provided for in this section. Otherwise, the permit holder shall 67495
receive the full reduction provided for in this section. The 67496
amount of the allowable reduction not received shall be carried 67497
forward and added to any other reduction balance and applied 67498
against future tax liability. After any reductions expire, any 67499
reduction carried forward shall be treated as a reduction as 67500
provided for in this section. If the amount of allowable reduction 67501
exceeds the amount of taxes derived from a permit holder, the 67502
amount of the allowable reduction not used may be carried forward 67503
and applied against future tax liability. 67504

If more than one permit holder is authorized to conduct 67505
racing at the facility that is being improved, the cost of the 67506
major capital improvement project shall be allocated between or 67507
among all the permit holders in the ratio that each permit 67508
holder's number of racing days bears to the total number of racing 67509
days conducted at the facility. 67510

A reduction for a major capital improvement project shall 67511
start from the day racing is first conducted following the date on 67512
which the major capital improvement project is completed and the 67513
construction cost has been approved by the state racing 67514
commission, except as otherwise provided in division (E) of this 67515
section, and shall continue until the total tax reduction equals 67516
the cost of the major capital improvement project plus debt 67517
service applicable to the project. In no event, however, shall any 67518
tax reduction, excluding any reduction balances, be permitted 67519
under this section after December 31, ~~2014~~ 2017. The total tax 67520

reduction because of the major capital improvement project shall 67521
not during any one year exceed for all permit holders using any 67522
one track one per cent of the total amount wagered. The racing 67523
commission shall notify the tax commissioner when the reduction of 67524
tax begins and when it ends. 67525

(B) Each fiscal year, the racing commission shall submit a 67526
report to the tax commissioner, the office of budget and 67527
management, and the legislative service commission. The report 67528
shall identify each capital improvement project undertaken under 67529
this section and in progress at each race track, indicate the 67530
total cost of each project, state the tax reduction that resulted 67531
from each project during the immediately preceding fiscal year, 67532
estimate the tax reduction that will result from each project 67533
during the current fiscal year, state the total tax reduction that 67534
resulted from all such projects at all race tracks during the 67535
immediately preceding fiscal year, and estimate the total tax 67536
reduction that will result from all such projects at all race 67537
tracks during the current fiscal year. 67538

(C) The tax reduction granted pursuant to this section shall 67539
be in addition to any tax reductions for capital improvements and 67540
new race tracks provided for in section 3769.08 of the Revised 67541
Code and approved by the racing commission. 67542

(D) In order to qualify for the reduction in tax, a permit 67543
holder shall apply to the racing commission in such form as the 67544
commission may require and shall provide full details of the major 67545
capital improvement project, including plans and specifications, a 67546
schedule for the project's construction and completion, and a 67547
breakdown of proposed costs. In addition, the permit holder shall 67548
have commenced construction of the major capital improvement 67549
project or shall have had the application for the project approved 67550
by the racing commission prior to March 29, 1988. The racing 67551
commission shall not approve an application unless the permit 67552

holder shows that a contract for the major capital improvement 67553
project has been let under an unrestricted competitive bidding 67554
procedure, unless the contract is exempted by the controlling 67555
board because of its unusual nature. In determining whether to 67556
approve an application, the racing commission shall consider 67557
whether the major capital improvement project will promote the 67558
safety, convenience, and comfort of the racing public and horse 67559
owners and generally tend toward the improvement of racing in this 67560
state. 67561

(E) If the major capital improvement project is approved by 67562
the racing commission and construction has started, the tax 67563
reduction may be authorized by the commission upon presentation of 67564
copies of paid bills in excess of five hundred thousand dollars. 67565
After the initial authorization, the permit holder shall present 67566
copies of paid bills in the amount of not less than five hundred 67567
thousand dollars. If the permit holder is in substantial 67568
compliance with the schedule for construction and completion of 67569
the major capital improvement project, the racing commission may 67570
authorize the continuance of the tax reduction upon the 67571
presentation of the additional paid bills in increments of five 67572
hundred thousand dollars. The racing commission may terminate the 67573
tax reduction if a permit holder fails to complete the major 67574
capital improvement project or fails to comply substantially with 67575
the schedule for construction and completion of the major capital 67576
improvement project. If the time for completion of the major 67577
capital improvement project is delayed by acts of God, strikes, or 67578
the unavailability of labor or materials, the time for completion 67579
as set forth in the schedule shall be extended by the period of 67580
the delay. If a permit holder fails to complete the major capital 67581
improvement project, the racing commission shall order the permit 67582
holder to repay to the state the total amount of tax reduced, 67583
unless the permit holder has spent at least six million dollars on 67584
the project. The normal tax paid by the permit holder under 67585

section 3769.08 of the Revised Code shall be increased by one per 67586
cent of the total amount wagered until the total amount of the 67587
additional tax collected equals the total amount of tax reduced. 67588
Any action taken by the racing commission pursuant to this section 67589
in terminating the tax adjustment or requiring repayment of the 67590
amount of tax reduced shall be subject to Chapter 119. of the 67591
Revised Code. 67592

(F) As used in this section, "major capital improvement 67593
project" means the renovation, reconstruction, or remodeling, 67594
costing at least six million dollars, of a race track facility, 67595
including, but not limited to, the construction of barns used 67596
exclusively for that race track facility, backstretch facilities 67597
for horsemen, paddock facilities, pari-mutuel and totalizator 67598
equipment and appurtenances to that equipment purchased by the 67599
track, new access roads, new parking areas, the complete 67600
reconstruction, reshaping, and leveling of the racing surface and 67601
appurtenances, grandstand enclosure, installation of permanent new 67602
heating or air conditioning, roof replacement, and installations 67603
of a permanent nature forming a part of the track structure. 67604

(G) The cost and expenses to which the tax reduction granted 67605
under this section applies shall be determined by generally 67606
accepted accounting principles and be verified by an audit of the 67607
permit holder's records, upon completion of the major capital 67608
improvement project, either by the racing commission or by an 67609
independent certified public accountant selected by the permit 67610
holder and approved by the commission. 67611

(H) This section and section 3769.201 of the Revised Code 67612
govern any tax reduction granted to a permit holder for the cost 67613
to the permit holder of any cleanup, repair, or improvement 67614
required as a result of damage caused by the 1997 Ohio river flood 67615
to the place, track, or enclosure for which the permit is issued. 67616

Sec. 3769.26. (A)(1) Except as otherwise provided in division 67617
(B) of this section, each track in existence on September 27, 67618
1994, regardless of the number of permit holders authorized to 67619
conduct race meetings at the track, may establish, with the 67620
approval of the state racing commission and the appropriate local 67621
legislative authority, not more than two satellite facilities at 67622
which it may conduct pari-mutuel wagering on horse races conducted 67623
either inside or outside this state and simulcast by a simulcast 67624
host to the satellite facilities. 67625

(2) Prior to a track's establishing satellite facilities 67626
under this section, the permit holders at that track shall agree 67627
among themselves regarding their respective rights and obligations 67628
with respect to those satellite facilities. 67629

(3)(a) Any track that desires to establish a satellite 67630
facility shall provide written notification of its intent to the 67631
state racing commission and to the appropriate local legislative 67632
authority that is required to approve the satellite facility, 67633
together with detailed plans and specifications for the satellite 67634
facility. The commission shall deliver copies of this notification 67635
to all other tracks in this state, and the commission shall, 67636
within forty-five days after receiving the notification, hold a 67637
hearing on the track's intent to establish a satellite facility. 67638
At this hearing the commission shall consider the evidence 67639
presented and determine whether the request for establishment of a 67640
satellite facility shall be approved. 67641

The commission shall not approve a track's request to 67642
establish a satellite facility if the owner of the premises where 67643
the satellite facility is proposed to be located or if the 67644
proposed operator of the satellite facility has been convicted of 67645
or has pleaded guilty to a gambling offense that is a felony or 67646
any other felony under the laws of this state, any other state, or 67647

the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator of a satellite facility. As used in division (A)(3)(a) of this section, "gambling offense" has the same meaning as in section 2915.01 of the Revised Code and "operator" means the individual who is responsible for the day-to-day operations of a satellite facility. The commission shall conduct a background investigation on each person who is the owner of a premises where a satellite facility is proposed to be located or who is proposed to be the operator or an employee of a satellite facility. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the specific information the commission shall collect in conducting such a background investigation.

No track shall knowingly contract with a person as the owner of the premises where a satellite facility is located, or knowingly employ a person as the operator or an employee of a satellite facility, who has been convicted of or pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator or an employee of a satellite facility. The commission may impose a fine in an amount not to exceed ten thousand dollars on any track that violates any of these prohibitions.

(b) Each track that receives the notification described in division (A)(3)(a) of this section shall notify the commission and the track that desires to establish the satellite facility, within thirty days after receiving the notification from the commission, indicating whether or not it desires to participate in the joint ownership of the facility. Ownership shall be distributed equally among the tracks that choose to participate in the joint ownership of the facility unless the participating tracks agree to and

contract otherwise. Tracks that fail to respond to the commission 67680
and the track that desires to establish the satellite facility 67681
within this thirty-day period regarding the ownership of the 67682
particular satellite facility are not eligible to participate in 67683
its ownership. 67684

(B) If, within three years after September 27, 1994, a track 67685
in existence on September 27, 1994, does not establish both of the 67686
satellite facilities it is authorized to establish under division 67687
(A) of this section, another track, with the approval of the 67688
racing commission, may establish in accordance with this section a 67689
number of additional satellite facilities that does not exceed the 67690
number of satellite facilities that the first track did not 67691
establish. However, no more than fourteen satellite facilities may 67692
be established in this state. 67693

(C) Except as otherwise provided in this division, each 67694
permit holder in this state shall allow the races that it 67695
conducts, and the races conducted outside this state that it 67696
receives as a simulcast host, to be simulcast to all satellite 67697
facilities operating in this state and shall take all action 67698
necessary to supply its simulcast and wagering information to 67699
these satellite facilities. A permit holder at a track where the 67700
average daily amount wagered for all race meetings during calendar 67701
year 1990 did not exceed two hundred fifty thousand dollars may 67702
elect not to simulcast its races to the satellite facilities. If a 67703
permit holder at such a track chooses to simulcast its races to 67704
satellite facilities, it shall allow its races to be simulcast to 67705
all satellite facilities operating in this state. Except as 67706
otherwise provided in this division, each satellite facility shall 67707
receive simulcasts of and conduct pari-mutuel wagering on all live 67708
racing programs being conducted at any track in this state and on 67709
all agreed simulcast racing programs, as provided in division (D) 67710
of section 3769.089 of the Revised Code, conducted in other states 67711

that are received by simulcast in this state, without regard to 67712
the breed of horse competing in the race or the time of day of the 67713
race. 67714

No satellite facility may receive simulcasts of horse races 67715
during the same hours that a county fair or independent fair 67716
located within the same county as the satellite facility is 67717
conducting pari-mutuel wagering on horse races at that county or 67718
independent fair. 67719

Except as otherwise provided in this division, the commission 67720
shall not approve the establishment of a satellite facility within 67721
a radius of fifty miles of any track. The commission may approve 67722
the establishment of a satellite facility at a location within a 67723
radius of at least thirty-five but not more than fifty miles from 67724
one or more tracks if all of the holders of permits issued for 67725
those tracks consent in writing to the establishment of the 67726
satellite facility. The commission may approve the establishment 67727
of a satellite facility at a location within a radius of 67728
thirty-five miles of more than one race track if all holders of 67729
permits issued for those tracks consent in writing to the 67730
establishment of the satellite facility and, if the tracks are 67731
located completely within one county and the proposed satellite 67732
facility will be located within that county, if both the 67733
legislative authority of the municipal corporation in that county 67734
with the largest population, and the appropriate legislative 67735
authority that is required to approve the satellite facility under 67736
division (A)(1) of this section, approve the establishment of the 67737
new satellite facility. The commission may approve the 67738
establishment of a satellite facility at a location within a 67739
radius of less than twenty miles from an existing satellite 67740
facility if the owner of the existing satellite facility consents 67741
in writing to the establishment of the new satellite facility. 67742

A satellite facility shall not receive simulcasts of horse 67743

races conducted outside this state on any day when no simulcast
host is operating. 67744
67745

(D) Each simulcast host is responsible for paying all costs 67746
associated with the up-link for simulcasts. Each satellite 67747
facility is responsible for paying all costs associated with the 67748
reception of simulcasts and the operation of the satellite 67749
facility. 67750

(E) All money wagered at the simulcast host, and all money 67751
wagered at all satellite facilities on races simulcast from the 67752
simulcast host, shall be included in a common pari-mutuel pool at 67753
the simulcast host. Except as otherwise provided in division 67754
(F)(6) of this section, the payment shall be the same for all 67755
winning tickets whether a wager is placed at a simulcast host or a 67756
satellite facility. Wagers placed at a satellite facility shall 67757
conform in denomination, character, terms, conditions, and in all 67758
other respects to wagers placed at the simulcast host for the same 67759
race. 67760

(F)(1) As used in division (F) of this section, "effective 67761
rate" means the effective gross tax percentage applicable at the 67762
simulcast host, determined in accordance with sections 3769.08 and 67763
3769.087 of the Revised Code, after combining the money wagered at 67764
the simulcast host with the money wagered at satellite facilities 67765
on races simulcast from the host track. 67766

(2) For the purposes of calculating the amount of taxes to be 67767
paid and the amount of commissions to be retained by permit 67768
holders, fifty per cent of the amount wagered at satellite 67769
facilities on a live racing program simulcast from a simulcast 67770
host shall be allocated to the permit holder's live race wagering 67771
at that simulcast host that conducts the live racing program, and 67772
fifty per cent of the amount wagered at satellite facilities on 67773
simulcast racing programs conducted outside this state shall be 67774
allocated to, and apportioned equally among, the permit holders 67775

acting as simulcast hosts for the out-of-state simulcast racing 67776
programs. The remainder of the amount wagered at a satellite 67777
facility on races simulcast from a simulcast host shall be 67778
allocated to the satellite facility. In computing the tax due on 67779
the amount allocated to the satellite facility, if there is more 67780
than one simulcast host for out-of-state simulcast racing 67781
programs, the effective rate applied by the satellite facility 67782
shall be the tax rate applicable to the simulcast host that pays 67783
the highest effective rate under section 3769.08 of the Revised 67784
Code on such simulcast racing programs. 67785

(3) The portion of the amount wagered that is allocated to a 67786
simulcast host under division (F)(2) of this section shall be 67787
treated, for the purposes of calculating the amount of taxes to be 67788
paid and commissions to be retained, as having been wagered at the 67789
simulcast host on a live racing program or on a simulcast racing 67790
program. The permit holder at the simulcast host shall pay, by 67791
check, draft, or money order to the state tax commissioner, as a 67792
tax, the tax specified in sections 3769.08 and 3769.087 of the 67793
Revised Code, as applicable, except that the tax shall be 67794
calculated using the effective rate, and the permit holder may 67795
retain as a commission the percentage of the amount wagered as 67796
specified in those sections. From the tax collected, the tax 67797
commissioner shall make distributions to the respective funds, and 67798
in the proper amounts, as required by sections 3769.08 and 67799
3769.087 of the Revised Code, as applicable. 67800

(4) From the portion of the amount wagered that is allocated 67801
to a satellite facility under division (F)(2) of this section, the 67802
satellite facility may retain as a commission the amount specified 67803
in section 3769.08 or 3769.087 of the Revised Code, as applicable. 67804
The portion of the amount wagered that is allocated to a satellite 67805
facility shall be subject to tax at the effective rate as follows: 67806

(a) One per cent of such amount allocated to the satellite 67807

facility shall be paid as a tax each racing day to the tax 67808
commissioner for deposit into the PASSPORT nursing home franchise 67809
permit fee fund. 67810

(b) The remaining balance of the taxes calculated at the 67811
effective rate, after payment of the tax specified in division 67812
(F)(4)(a) of this section, shall be retained by the satellite 67813
facility to pay for those costs associated with the reception of 67814
the simulcasts. 67815

(5) From the commission retained by a satellite facility 67816
after the deduction of the tax paid at the effective rate under 67817
division (F)(4) of this section, the satellite facility shall 67818
retain an amount equal to two and three-eighths per cent of the 67819
amount wagered that day on simulcast racing programs and the 67820
balance shall be divided as follows: 67821

(a) One-half shall be paid to the owner of the satellite 67822
facility; 67823

(b) One-half shall be paid to the state racing commission for 67824
deposit into the Ohio combined simulcast horse racing purse fund. 67825

(6) In addition to the commission retained under this 67826
section, a satellite facility shall retain two and one-half per 67827
cent of the amount that would otherwise be paid on each winning 67828
wager unless the retention of this amount would either cause or 67829
add to a minus pool. As used in division (F)(6) of this section, 67830
"minus pool" means a wagering pool in which a winning wager is 67831
paid off at less than one hundred ten per cent of the amount of 67832
the wager. The amount retained shall be paid each racing day to 67833
the tax commissioner for deposit into the PASSPORT nursing home 67834
franchise permit fee fund. 67835

(7) At the close of each day, each satellite facility shall 67836
pay, by check, draft, or money order, or by wire transfer of 67837
funds, out of the money retained on that day to the collection and 67838

settlement agent the required fee to be paid by the simulcast host 67839
to the tracks, racing associations, or state regulatory agencies 67840
located outside this state for simulcasts into this state computed 67841
and based on one-half of the amount wagered at the satellite 67842
facility that day on interstate simulcast racing programs. 67843

(G) No license, fee, or excise tax, other than as specified 67844
in division (F)(6) of this section, shall be assessed upon or 67845
collected from a satellite facility, the owners of a satellite 67846
facility, or the holders of permits issued for a track that has 67847
established a satellite facility by any county, township, 67848
municipal corporation, district, or other body having the 67849
authority to assess or collect a tax or fee. 67850

(H) In no case shall that portion of the commissions 67851
designated for purses from satellite facilities be less than that 67852
portion of those commissions designated for purses at the 67853
simulcast host. 67854

(I) It is the intention of the general assembly in enacting 67855
this section not to adversely affect the amounts paid into the 67856
Ohio thoroughbred race fund created under section 3769.083 of the 67857
Revised Code. Therefore, each track that acts as a simulcast host 67858
under this section shall calculate, on a semi-annual basis during 67859
calendar years 1994, 1995, and 1996, its average daily 67860
contribution to the Ohio thoroughbred race fund created under 67861
section 3769.083 of the Revised Code on those days on which the 67862
track conducted live horse racing. If this average daily 67863
contribution to the fund is less than the average daily 67864
contribution from the same track to the fund during the same 67865
six-month period of calendar year 1992, there shall be contributed 67866
to the fund an amount equal to the average daily shortfall 67867
multiplied by the number of days of live racing conducted during 67868
the six-month period in calendar year 1994, 1995, or 1996, as 67869
applicable. The amount of such contribution shall be allocated 67870

among the simulcast host, the purse program at the simulcast host, 67871
and the satellite facilities for which the track served as the 67872
simulcast host, on a pro rata basis in proportion to the amounts 67873
contributed by them to the fund during such six-month period in 67874
calendar year 1994, 1995, or 1996, as applicable. 67875

Sec. 3770.03. (A) The state lottery commission shall 67876
promulgate rules under which a statewide lottery may be conducted, 67877
which includes, and since the original enactment of this section 67878
has included, the authority for the commission to operate video 67879
lottery terminal games. Any reference in this chapter to tickets 67880
shall not be construed to in any way limit the authority of the 67881
commission to operate video lottery terminal games. Nothing in 67882
this chapter shall restrict the authority of the commission to 67883
promulgate rules related to the operation of games utilizing video 67884
lottery terminals as described in section 3770.21 of the Revised 67885
Code. The rules shall be promulgated pursuant to Chapter 119. of 67886
the Revised Code, except that instant game rules shall be 67887
promulgated pursuant to section 111.15 of the Revised Code but are 67888
not subject to division (D) of that section. Subjects covered in 67889
these rules shall include, but need not be limited to, the 67890
following: 67891

(1) The type of lottery to be conducted; 67892

(2) The prices of tickets in the lottery; 67893

(3) The type of notices that shall appear on lottery tickets, 67894
including one that shall appear if the word "education" is used in 67895
any advertising for a statewide lottery, which must include 67896
information as to the percentage that lottery profits contribute 67897
to all education funding in the state; 67898

(4) The number, nature, and value of prize awards, the manner 67899
and frequency of prize drawings, and the manner in which prizes 67900
shall be awarded to holders of winning tickets. 67901

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery

sales agent, or other circumstances related to the public safety, 67934
convenience, or trust, require immediate action, the director may 67935
suspend a license without affording an opportunity for a prior 67936
hearing under section 119.07 of the Revised Code. 67937

(5) Special game rules to implement any agreements signed by 67938
the governor that the director enters into with other lottery 67939
jurisdictions under division (J) of section 3770.02 of the Revised 67940
Code to conduct statewide joint lottery games. The rules shall 67941
require that the entire net proceeds of those games that remain, 67942
after associated operating expenses, prize disbursements, lottery 67943
sales agent bonuses, commissions, and reimbursements, and any 67944
other expenses necessary to comply with the agreements or the 67945
rules are deducted from the gross proceeds of those games, be 67946
transferred to the lottery profits education fund under division 67947
(B) of section 3770.06 of the Revised Code. 67948

(6) Any other subjects the commission determines are 67949
necessary for the operation of video lottery terminal games, 67950
including the establishment of any fees, fines, or payment 67951
schedules. 67952

(C) Chapter 2915. of the Revised Code does not apply to, 67953
affect, or prohibit lotteries conducted pursuant to this chapter. 67954

(D) The commission may promulgate rules, in addition to those 67955
described in divisions (A) and (B) of this section, that establish 67956
standards governing the display of advertising and celebrity 67957
images on lottery tickets and on other items that are used in the 67958
conduct of, or to promote, the statewide lottery and statewide 67959
joint lottery games. Any revenue derived from the sale of 67960
advertising displayed on lottery tickets and on those other items 67961
shall be considered, for purposes of section 3770.06 of the 67962
Revised Code, to be related proceeds in connection with the 67963
statewide lottery or gross proceeds from statewide joint lottery 67964
games, as applicable. 67965

(E)(1) The commission shall meet with the director at least 67966
once each month and shall convene other meetings at the request of 67967
the chairperson or any five of the members. No action taken by the 67968
commission shall be binding unless at least five of the members 67969
present vote in favor of the action. A written record shall be 67970
made of the proceedings of each meeting and shall be transmitted 67971
forthwith to the governor, the president of the senate, the senate 67972
minority leader, the speaker of the house of representatives, and 67973
the house minority leader. 67974

(2) The director shall present to the commission a report 67975
each month, showing the total revenues, prize disbursements, and 67976
operating expenses of the state lottery for the preceding month. 67977
As soon as practicable after the end of each fiscal year, the 67978
commission shall prepare and transmit to the governor and the 67979
general assembly a report of lottery revenues, prize 67980
disbursements, and operating expenses for the preceding fiscal 67981
year and any recommendations for legislation considered necessary 67982
by the commission. 67983

Sec. 3770.031. The notice that the state lottery commission 67984
determines shall appear on lottery tickets under division (A)(3) 67985
of section 3770.03 of the Revised Code to provide information as 67986
to what percentage that lottery profits contribute to all 67987
education funding in the state also shall appear on any television 67988
advertising for the Ohio lottery and on the first page of the web 67989
site for the Ohio lottery. 67990

Sec. 3770.05. (A) As used in this section, "person" means any 67991
person, association, corporation, partnership, club, trust, 67992
estate, society, receiver, trustee, person acting in a fiduciary 67993
or representative capacity, instrumentality of the state or any of 67994
its political subdivisions, or any other combination of 67995
individuals meeting the requirements set forth in this section or 67996

established by rule or order of the state lottery commission. 67997

(B) The director of the state lottery commission may license 67998
any person as a lottery sales agent. No license shall be issued to 67999
any person or group of persons to engage in the sale of lottery 68000
tickets as the person's or group's sole occupation or business. 68001

Before issuing any license to a lottery sales agent, the 68002
director shall consider all of the following: 68003

(1) The financial responsibility and security of the 68004
applicant and the applicant's business or activity; 68005

(2) The accessibility of the applicant's place of business or 68006
activity to the public; 68007

(3) The sufficiency of existing licensed agents to serve the 68008
public interest; 68009

(4) The volume of expected sales by the applicant; 68010

(5) Any other factors pertaining to the public interest, 68011
convenience, or trust. 68012

(C) Except as otherwise provided in division (F) of this 68013
section, the director of the state lottery commission shall refuse 68014
to grant, or shall suspend or revoke, a license if the applicant 68015
or licensee: 68016

(1) Has been convicted of a felony or has been convicted of a 68017
crime involving moral turpitude; 68018

(2) Has been convicted of an offense that involves illegal 68019
gambling; 68020

(3) Has been found guilty of fraud or misrepresentation in 68021
any connection; 68022

(4) Has been found to have violated any rule or order of the 68023
commission; or 68024

(5) Has been convicted of illegal trafficking in supplemental 68025

nutrition assistance program benefits. 68026

(D) Except as otherwise provided in division (F) of this 68027
section, the director of the state lottery commission shall refuse 68028
to grant, or shall suspend or revoke, a license if the applicant 68029
or licensee is a corporation and any of the following applies: 68030

(1) Any of the corporation's directors, officers, or 68031
controlling shareholders has been found guilty of any of the 68032
activities specified in divisions (C)(1) to (5) of this section; 68033

(2) It appears to the director of the state lottery 68034
commission that, due to the experience, character, or general 68035
fitness of any director, officer, or controlling shareholder of 68036
the corporation, the granting of a license as a lottery sales 68037
agent would be inconsistent with the public interest, convenience, 68038
or trust; 68039

(3) The corporation is not the owner or lessee of the 68040
business at which it would conduct a lottery sales agency pursuant 68041
to the license applied for; 68042

(4) Any person, firm, association, or corporation other than 68043
the applicant or licensee shares or will share in the profits of 68044
the applicant or licensee, other than receiving dividends or 68045
distributions as a shareholder, or participates or will 68046
participate in the management of the affairs of the applicant or 68047
licensee. 68048

(E)(1) The director of the state lottery commission shall 68049
refuse to grant a license to an applicant for a lottery sales 68050
agent license and shall revoke a lottery sales agent license if 68051
the applicant or licensee is or has been convicted of a violation 68052
of division (A) or (C)(1) of section 2913.46 of the Revised Code. 68053

(2) The director shall refuse to grant a license to an 68054
applicant for a lottery sales agent license that is a corporation 68055
and shall revoke the lottery sales agent license of a corporation 68056

if the corporation is or has been convicted of a violation of 68057
division (A) or (C)(1) of section 2913.46 of the Revised Code. 68058

(F) The director of the state lottery commission shall 68059
request the bureau of criminal identification and investigation, 68060
the department of public safety, or any other state, local, or 68061
federal agency to supply the director with the criminal records of 68062
any applicant for a lottery sales agent license, and may 68063
periodically request the criminal records of any person to whom a 68064
lottery sales agent license has been issued. At or prior to the 68065
time of making such a request, the director shall require an 68066
applicant or licensee to obtain fingerprint impressions on 68067
fingerprint cards prescribed by the superintendent of the bureau 68068
of criminal identification and investigation at a qualified law 68069
enforcement agency, and the director shall cause those fingerprint 68070
cards to be forwarded to the bureau of criminal identification and 68071
investigation, to the federal bureau of investigation, or to both 68072
bureaus. The commission shall assume the cost of obtaining the 68073
fingerprint cards. 68074

The director shall pay to each agency supplying criminal 68075
records for each investigation a reasonable fee, as determined by 68076
the agency. 68077

The commission may adopt uniform rules specifying time 68078
periods after which the persons described in divisions (C)(1) to 68079
(5) and (D)(1) to (4) of this section may be issued a license and 68080
establishing requirements for those persons to seek a court order 68081
to have records sealed in accordance with law. 68082

(G)(1) Each applicant for a lottery sales agent license shall 68083
do both of the following: 68084

(a) Pay fees to the state lottery commission, ~~at the time the~~ 68085
~~application is submitted, a fee in an amount that the director of~~ 68086
~~the state lottery commission determines~~ if required by rule 68087

adopted by the director under Chapter 119. of the Revised Code and 68088
~~that~~ the controlling board approves the fees; 68089

(b) Prior to approval of the application, obtain a surety 68090
bond in an amount the director determines by rule adopted under 68091
Chapter 119. of the Revised Code or, ~~alternatively~~, with the 68092
director's approval, deposit ~~the same~~ an amount into a dedicated 68093
account for the benefit of the state lottery. The director also 68094
may approve the obtaining of a surety bond to cover part of the 68095
amount required, together with a dedicated account deposit to 68096
cover the remainder of the amount required. In addition, the 68097
director, with the approval of the commission, may establish a 68098
program or policy by rule adopted under Chapter 119. of the 68099
Revised Code that is an alternative to obtaining a surety bond or 68100
making a dedicated account deposit under this division. The 68101
alternative program or policy shall ensure that the financial 68102
interests of the state lottery are protected. If an alternative 68103
program or policy is established, an applicant or a lottery sales 68104
agent, with the director's approval, may participate in the 68105
program or proceed under the policy. 68106

A surety bond may be with any company that complies with the 68107
bonding and surety laws of this state and the requirements 68108
established by rules of the commission pursuant to this chapter. A 68109
dedicated account deposit shall be conducted in accordance with 68110
policies and procedures the director establishes. An alternative 68111
program or policy established by the director shall be conducted 68112
in accordance with the rules adopted by the director. 68113

A surety bond, dedicated account, or ~~both~~ alternative program 68114
or policy established under this section, or any combination 68115
thereof, as applicable, may be used to pay for the lottery sales 68116
agent's failure to make prompt and accurate payments for lottery 68117
ticket sales, for missing or stolen lottery tickets, ~~or~~ for damage 68118
to equipment or materials issued to the lottery sales agent, or to 68119

pay for expenses the commission incurs in connection with the 68120
lottery sales agent's license. 68121

(2) A lottery sales agent license is effective for one year. 68122

A licensed lottery sales agent, on or before the date 68123
established by the director, shall renew the agent's license and 68124
provide at that time evidence to the director that the surety 68125
bond, dedicated account deposit, or ~~both~~ alternative program or 68126
policy as established under this section, required under division 68127
(G)(1)(b) of this section, ~~has been renewed or~~ is active, or is 68128
being complied with, whichever applies. 68129

Before the commission renews a lottery sales agent license, 68130
the lottery sales agent shall submit a renewal fee to the 68131
commission ~~in an amount that the director determines, if one is~~ 68132
required by rule adopted by the director under Chapter 119. of the 68133
Revised Code and ~~that~~ the controlling board approves the renewal 68134
fee. The renewal fee shall not exceed the actual cost of 68135
administering the license renewal and processing changes reflected 68136
in the renewal application. The renewal of the license is 68137
effective for up to one year. 68138

(3) A lottery sales agent license shall be complete, 68139
accurate, and current at all times during the term of the license. 68140
Any changes to an original license application or a renewal 68141
application may subject the applicant or lottery sales agent, as 68142
applicable, to paying an administrative fee that shall be in an 68143
amount that the director determines by rule adopted under Chapter 68144
119. of the Revised Code, that the controlling board approves, and 68145
that shall not exceed the actual cost of administering and 68146
processing the changes to an application. 68147

(4) The relationship between the commission and a lottery 68148
sales agent is one of trust. A lottery sales agent collects funds 68149
on behalf of the commission through the sale of lottery tickets 68150

for which the agent receives a compensation. 68151

(H) Pending a final resolution of any question arising under 68152
this section, the director of the state lottery commission may 68153
issue a temporary lottery sales agent license, subject to the 68154
terms and conditions the director considers appropriate. 68155

(I) If a lottery sales agent's rental payments for the 68156
lottery sales agent's premises are determined, in whole or in 68157
part, by the amount of retail sales the lottery sales agent makes, 68158
and if the rental agreement does not expressly provide that the 68159
amount of those retail sales includes the amounts the lottery 68160
sales agent receives from lottery ticket sales, only the amounts 68161
the lottery sales agent receives as compensation from the state 68162
lottery commission for selling lottery tickets shall be considered 68163
to be amounts the lottery sales agent receives from the retail 68164
sales the lottery sales agent makes, for the purpose of computing 68165
the lottery sales agent's rental payments. 68166

Sec. 3772.062. (A) The executive director of the commission 68167
shall enter into an agreement with the department of alcohol and 68168
drug addiction services under which the department provides a 68169
program of gambling and addiction services on behalf of the 68170
commission. 68171

(B) The executive director of the commission, in conjunction 68172
with the department of alcohol and drug addiction services, shall 68173
establish, operate, and publicize an in-state, toll-free telephone 68174
number Ohio residents may call to obtain basic information about 68175
problem gambling, the gambling addiction services available to 68176
problem gamblers, and how a problem gambler may obtain help. The 68177
telephone number shall be staffed twenty-four hours per day, seven 68178
days a week, to respond to inquiries and provide that information. 68179
The costs of establishing, operating, and publicizing the 68180
telephone number shall be paid for with money in the problem 68181

casino gambling and addictions fund. 68182

Sec. 3781.06. (A)(1) Any building that may be used as a place 68183
of resort, assembly, education, entertainment, lodging, dwelling, 68184
trade, manufacture, repair, storage, traffic, or occupancy by the 68185
public, any residential building, and all other buildings or parts 68186
and appurtenances of those buildings erected within this state, 68187
shall be so constructed, erected, equipped, and maintained that 68188
they shall be safe and sanitary for their intended use and 68189
occupancy. 68190

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 68191
Revised Code shall be construed to limit the power of the ~~public~~ 68192
~~health council~~ manufactured homes commission to adopt rules ~~of~~ 68193
~~uniform application~~ governing manufactured home parks pursuant to 68194
section ~~3733.02~~ 4781.04 of the Revised Code. 68195

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 68196
Code do not apply to either of the following: 68197

(1) Buildings or structures that are incident to the use for 68198
agricultural purposes of the land on which the buildings or 68199
structures are located, provided those buildings or structures are 68200
not used in the business of retail trade. For purposes of this 68201
division, a building or structure is not considered used in the 68202
business of retail trade if fifty per cent or more of the gross 68203
income received from sales of products in the building or 68204
structure by the owner or operator is from sales of products 68205
produced or raised in a normal crop year on farms owned or 68206
operated by the seller. 68207

(2) Existing single-family, two-family, and three-family 68208
detached dwelling houses for which applications have been 68209
submitted to the director of job and family services pursuant to 68210
section 5104.03 of the Revised Code for the purposes of operating 68211
type A family day-care homes as defined in section 5104.01 of the 68212

Revised Code.	68213
(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code:	68214
(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry.	68215
(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.	68216
(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.	68217
(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.	68218
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(5) "Permanent foundation" means permanent masonry, concrete, 68244
or a footing or foundation approved by the manufactured homes 68245
commission pursuant to Chapter 4781. of the Revised Code, to which 68246
a manufactured or mobile home may be affixed. 68247

(6) "Permanently sited manufactured home" means a 68248
manufactured home that meets all of the following criteria: 68249

(a) The structure is affixed to a permanent foundation and is 68250
connected to appropriate facilities; 68251

(b) The structure, excluding any addition, has a width of at 68252
least twenty-two feet at one point, a length of at least 68253
twenty-two feet at one point, and a total living area, excluding 68254
garages, porches, or attachments, of at least nine hundred square 68255
feet; 68256

(c) The structure has a minimum 3:12 residential roof pitch, 68257
conventional residential siding, and a six-inch minimum eave 68258
overhang, including appropriate guttering; 68259

(d) The structure was manufactured after January 1, 1995; 68260

(e) The structure is not located in a manufactured home park 68261
as defined by section ~~3733.01~~ 4781.01 of the Revised Code. 68262

(7) "Safe," with respect to a building, means it is free from 68263
danger or hazard to the life, safety, health, or welfare of 68264
persons occupying or frequenting it, or of the public and from 68265
danger of settlement, movement, disintegration, or collapse, 68266
whether such danger arises from the methods or materials of its 68267
construction or from equipment installed therein, for the purpose 68268
of lighting, heating, the transmission or utilization of electric 68269
current, or from its location or otherwise. 68270

(8) "Sanitary," with respect to a building, means it is free 68271
from danger or hazard to the health of persons occupying or 68272
frequenting it or to that of the public, if such danger arises 68273

from the method or materials of its construction or from any 68274
equipment installed therein, for the purpose of lighting, heating, 68275
ventilating, or plumbing. 68276

(9) "Residential building" means a one-family, two-family, or 68277
three-family dwelling house, and any accessory structure 68278
incidental to that dwelling house. "Residential building" includes 68279
a one-family, two-family, or three-family dwelling house that is 68280
used as a model to promote the sale of a similar dwelling house. 68281
"Residential building" does not include an industrialized unit as 68282
defined by division (C)(3) of this section, a manufactured home as 68283
defined by division (C)(4) of this section, or a mobile home as 68284
defined by division (O) of section 4501.01 of the Revised Code. 68285

(10) "Nonresidential building" means any building that is not 68286
a residential building or a manufactured or mobile home. 68287

(11) "Accessory structure" means a structure that is attached 68288
to a residential building and serves the principal use of the 68289
residential building. "Accessory structure" includes, but is not 68290
limited to, a garage, porch, or screened-in patio. 68291

Sec. 3781.183. If the board of building standards adopts 68292
rules under sections 3781.06 to 3781.18 of the Revised Code 68293
concerning the requirements an adult group home seeking licensure 68294
as an adult care facility must meet under section ~~3722.02~~ 5119.71 68295
of the Revised Code, the board shall adopt the rules in 68296
consultation with the directors of mental health and of aging and 68297
any interested party designated by the directors of mental health 68298
and of aging. 68299

Sec. 3791.043. If the board of building standards adopts 68300
rules under section 3791.04 of the Revised Code concerning the 68301
requirements an adult group home seeking licensure as an adult 68302
care facility must meet under section ~~3722.02~~ 5119.71 of the 68303

Revised Code, the board shall adopt the rules in consultation with 68304
the directors of mental health and aging and any interested party 68305
designated by the directors of mental health and aging. 68306

Sec. 3793.04. The department of alcohol and drug addiction 68307
services shall develop, administer, and revise as necessary a 68308
comprehensive statewide alcohol and drug addiction services plan 68309
for the implementation of this chapter. The plan shall emphasize 68310
abstinence from the use of alcohol and drugs of abuse as the 68311
primary goal of alcohol and drug addiction services. The council 68312
on alcohol and drug addiction services shall advise the department 68313
in the development and implementation of the plan. 68314

The plan shall provide for the allocation and distribution of 68315
~~state and federal~~ funds appropriated to the department by the 68316
general assembly for ~~service~~ services furnished by alcohol and 68317
drug addiction programs under contract with boards of alcohol, 68318
drug addiction, and mental health services ~~and for distribution of~~ 68319
~~the funds to such boards~~. The plan department shall exclude from 68320
the allocation and distribution any funds that are transferred to 68321
the department of job and family services to pay the nonfederal 68322
share of alcohol and drug addiction services covered by the 68323
medicaid program. 68324

The plan shall specify the methodology that the department 68325
will use for determining how the funds will be allocated and 68326
distributed. A portion of the funds shall be allocated on the 68327
basis of the ratio of the population of each alcohol, drug 68328
addiction, and mental health service district to the total 68329
population of the state as determined from the most recent federal 68330
census or the most recent official estimate made by the United 68331
States census bureau. 68332

The plan shall ensure that alcohol and drug addiction 68333
services of a high quality are accessible to, and responsive to 68334

the needs of, all persons, especially those who are members of 68335
underserved groups, including, but not limited to, African 68336
Americans, Hispanics, native Americans, Asians, juvenile and adult 68337
offenders, women, and persons with special services needs due to 68338
age or disability. The plan shall include a program to promote and 68339
protect the rights of those who receive services. 68340

To aid in formulating the plan and in evaluating the 68341
effectiveness and results of alcohol and drug addiction services, 68342
the department, in consultation with the department of mental 68343
health, shall establish and maintain an information system or 68344
systems. The department of alcohol and drug addiction services 68345
shall specify the information that must be provided by boards of 68346
alcohol, drug addiction, and mental health services and by alcohol 68347
and drug addiction programs for inclusion in the system. The 68348
department shall not collect any personal information from the 68349
boards except as required or permitted by state or federal law for 68350
purposes related to payment, health care operations, program and 68351
service evaluation, reporting activities, research, system 68352
administration, and oversight. 68353

In consultation with boards, programs, and persons receiving 68354
services, the department shall establish guidelines for the use of 68355
~~state and federal~~ funds allocated and distributed under this 68356
section and for the boards' development of plans for services 68357
required by sections 340.033 and 3793.05 of the Revised Code. 68358

In any fiscal year, the department shall spend, or allocate 68359
to boards, for methadone maintenance programs or any similar 68360
programs not more than eight per cent of the total amount 68361
appropriated to the department for the fiscal year. 68362

Sec. 3793.06. (A) ~~The department of alcohol and drug~~ 68363
~~addiction services shall evaluate and certify all~~ Each alcohol and 68364
drug addiction ~~programs in the state. Each~~ program shall apply to 68365

the department of alcohol and drug addiction services for 68366
certification. No program shall be eligible to receive state or 68367
federal funds unless it has been certified by the department. 68368

(B) No person shall represent in any manner that a program is 68369
certified by the department if the program is not certified at the 68370
time the representation is made. 68371

(C) Pursuant to Chapter 119. of the Revised Code and in 68372
consultation with members or representatives of boards of alcohol, 68373
drug addiction, and mental health services, programs, individuals 68374
who receive alcohol and drug addiction services, and the 68375
department of mental health, the department shall adopt rules that 68376
establish all of the following: 68377

(1) Minimum standards for the operation of programs, 68378
including, but not limited to, the following: 68379

(a) Requirements regarding physical facilities of programs; 68380

(b) Requirements with regard to health, safety, adequacy, and 68381
cultural specificity and sensitivity; 68382

(c) Requirements regarding the rights of recipients of 68383
services and procedures to protect these rights. 68384

(2) Standards for evaluating programs; 68385

(3) Standards and procedures for granting full or conditional 68386
certification to a program; 68387

(4) Standards and procedures for revoking the certification 68388
of a program that does not continue to meet the minimum standards 68389
established pursuant to this section. 68390

(D) Rules adopted under division (C) of this section shall 68391
specify the limitations to be placed on a program that is granted 68392
conditional certification. 68393

(E) The department may visit and evaluate any program to 68394
determine whether it meets the minimum standards for certification 68395

~~established pursuant to division (C) of this section. In the case~~ 68396
~~of a program that has a contract with or proposes to contract with~~ 68397
~~a board of alcohol, drug addiction, and mental health services,~~ 68398
~~the department shall conduct the visit and evaluation in~~ 68399
~~cooperation with the board. ¶¶~~ 68400

(F)(1) Subject to division (F)(2) of this section, the 68401
department shall determine whether an applicant's program meets 68402
the minimum standards for certification. If the department 68403
determines that the program meets the minimum standards, it shall 68404
certify or recertify the program. 68405

~~(F)(2) If an applicant submits to the department evidence of~~ 68406
~~holding national accreditation from the joint commission, the~~ 68407
~~council on accreditation of rehabilitation facilities, or the~~ 68408
~~council on accreditation, the department shall accept that~~ 68409
~~accreditation as evidence of the applicant's program meeting the~~ 68410
~~minimum standards for certification of the program. The department~~ 68411
~~shall certify or recertify the program without any further~~ 68412
~~evaluation of the program.~~ 68413

(G) If the department determines that a program that has a 68414
contract with a board or proposes to contract with a board does 68415
not meet the minimum standards for certification, it shall 68416
identify the areas in which the program does not meet the 68417
standards, specify what action is necessary to meet the standards, 68418
and offer technical assistance to the board to enable it to assist 68419
the program in meeting the standards. The department shall give 68420
the program a reasonable time within which to demonstrate that the 68421
program meets the minimum standards or to bring the program into 68422
compliance with the standards. If the department concludes that 68423
the program continues to fail to meet minimum standards, it shall 68424
deny certification and may request that the board reallocate the 68425
funds that the board is allocating to that program to another 68426
program that is certified. If the board does not reallocate the 68427

funds within a reasonable time, the department may withhold from 68428
the board the funds that the board is allocating to the program 68429
and allocate the funds directly to a recovery program certified by 68430
the department. 68431

The department shall adopt rules pursuant to Chapter 119. of 68432
the Revised Code to implement this division. The rules shall 68433
specify the notice and hearing procedures to be followed prior to 68434
denial of certification or reallocation of funds. 68435

~~(G)~~(H) The department may withhold from a board all or part 68436
of the state and federal funds allocated for a program certified 68437
under this section in the event of failure of that program to 68438
comply with this chapter, Chapter 340. of the Revised Code, rules 68439
adopted by the department, or other provisions of state or federal 68440
law, including federal regulations. 68441

If the department proposes to withhold funds, it shall 68442
identify the areas of the program's noncompliance and the action 68443
necessary to achieve compliance and shall offer technical 68444
assistance to the board to enable it to assist the program to 68445
achieve compliance. The department shall allow a reasonable time 68446
within which the board or program shall demonstrate that the 68447
program is in compliance or the program shall bring itself into 68448
compliance. Before withholding funds, the department shall hold a 68449
hearing on the question of whether the program is in, or can be 68450
brought into, compliance. If, based on the hearing and other 68451
evidence, the department determines that compliance has not been, 68452
or cannot be, achieved, the department may withhold the funds and 68453
allocate all or part of the withheld funds to a certified program 68454
that is in compliance. That program shall use the funds to provide 68455
the services of the program that is not in compliance, until such 68456
time as it is in compliance. 68457

The department shall establish rules pursuant to Chapter 119. 68458
of the Revised Code to implement this division. 68459

~~(H)~~(I) The department shall maintain a current list of 68460
alcohol and drug addiction programs certified by the department 68461
under division (A) of this section and shall provide a copy of the 68462
current list to a judge of a court of common pleas who requests a 68463
copy for the use of the judge under division (H) of section 68464
2925.03 of the Revised Code. The list of certified alcohol and 68465
drug addiction programs shall identify each certified program by 68466
its name, its address, and the county in which it is located. 68467

Sec. 3793.061. No rule adopted under section 3793.06 of the 68468
Revised Code regarding documentation that alcohol and drug 68469
addiction programs must submit to the department of alcohol and 68470
drug addiction services or a board of alcohol, drug addiction, and 68471
mental health services shall be more stringent than a comparable 68472
documentation submission requirement that applies to alcohol and 68473
drug addiction programs and is established by a federal regulation 68474
promulgated by the United States department of health and human 68475
services. 68476

Sec. 3793.21. (A) As used in this section, "administrative 68477
function" means a function related to one or more of the 68478
following: 68479

- (1) Continuous quality improvement; 68480
- (2) Utilization review; 68481
- (3) Resource development; 68482
- (4) Fiscal administration; 68483
- (5) General administration; 68484
- (6) Any other function related to administration that is 68485
required by Chapter 340. of the Revised Code. 68486

(B) Each board of alcohol, drug addiction, and mental health 68487
services shall submit an annual report to the department of 68488

alcohol and drug addiction services specifying how the board used 68489
~~state and federal~~ the funds allocated and distributed to the 68490
board, ~~according to the methodology the department specifies~~ under 68491
section 3793.04 of the Revised Code, for administrative functions 68492
in the year preceding the report's submission. The director of 68493
alcohol and drug addiction shall establish the date by which the 68494
report must be submitted each year. 68495

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of 68496
the Revised Code do not apply to the following: 68497

(A) Policies offering coverage that is regulated under 68498
Chapters 3935. and 3937. of the Revised Code; 68499

(B) An employer's self-insurance plan and any of its 68500
administrators, as defined in section 3959.01 of the Revised Code, 68501
to the extent that federal law supersedes, preempts, prohibits, or 68502
otherwise precludes the application of any provisions of those 68503
sections to the plan and its administrators; 68504

(C) A third-party payer for coverage provided under the 68505
medicare advantage program operated under Title XVIII of the 68506
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 68507
amended; 68508

(D) A third-party payer for coverage provided under the 68509
medicaid program operated under Title XIX of the "Social Security 68510
Act," except that if a federal waiver applied for under section 68511
5111.178 of the Revised Code is granted or the director of job and 68512
family services determines that this provision can be implemented 68513
without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of 68514
the Revised Code apply to claims submitted electronically or 68515
non-electronically that are made with respect to coverage of 68516
medicaid recipients by health insuring corporations licensed under 68517
Chapter 1751. of the Revised Code, instead of the prompt payment 68518
requirements of 42 C.F.R. 447.46; 68519

(E) A third-party payer for coverage provided under the
tricare program offered by the United States department of
defense. 68520
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~~(F) A third party payer for coverage provided under the
children's buy in program established under sections 5101.5211 to
5101.5216 of the Revised Code.~~ 68523
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Sec. 3903.01. As used in sections 3903.01 to 3903.59 of the
Revised Code: 68526
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(A) "Admitted assets" means investment in assets which will
be admitted by the superintendent of insurance pursuant to the law
of this state. 68528
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(B) "Affiliate" has the same meaning as "affiliate of" or
"affiliated with," as defined in section 3901.32 of the Revised
Code. 68531
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(C) "Assets" means all property, real and personal, of every
nature and kind whatsoever or any interest therein. 68534
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~~(C)~~(D) "Ancillary state" means any state other than a
domiciliary state. 68536
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~~(D)~~(E) "Commodity contract" means any of the following: 68538

(1) A contract for the purchase or sale of a commodity for
future delivery on, or subject to the rules of, a board of trade
designated as a contract market by the commodity futures trading
commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq.,
as amended, or a board of trade outside the United States; 68539
68540
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(2) An agreement that is subject to regulation under section
19 of the "Commodity Exchange Act," 7 U.S.C. 23, as amended, and
that is commonly known to the commodities trade as a margin
account, margin contract, leverage account, or leverage contract; 68544
68545
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(3) An agreement or transaction that is subject to regulation 68548

under section 4c(b) of the "Commodity Exchange Act," 7 U.S.C. 68549
6c(b), as amended, and that is commonly known to the commodities 68550
trade as a commodity option; 68551

(4) Any combination of agreements or transactions described 68552
in division (E) of this section; 68553

(5) Any option to enter into an agreement or transaction 68554
described in division (E) of this section. 68555

(F) "Creditor" means a person having any claim, whether 68556
matured or unmatured, liquidated or unliquidated, secured or 68557
unsecured, absolute, fixed, or contingent. 68558

~~(E)~~(G) "Delinquency proceeding" means any proceeding 68559
commenced against an insurer for the purpose of liquidating, 68560
rehabilitating, reorganizing, or conserving the insurer, and any 68561
summary proceeding under section 3903.09 or 3903.10 of the Revised 68562
Code. "Formal delinquency proceeding" means any liquidation or 68563
rehabilitation proceeding. 68564

~~(F)~~(H) "Doing business" includes any of the following acts, 68565
whether effected by mail or otherwise: 68566

(1) The issuance or delivery of contracts of insurance to 68567
persons resident in this state; 68568

(2) The solicitation of applications for such contracts, or 68569
other negotiations preliminary to the execution of such contracts; 68570

(3) The collection of premiums, membership fees, assessments, 68571
or other consideration for such contracts; 68572

(4) The transaction of matters subsequent to execution of 68573
such contracts and arising out of them; 68574

(5) Operating under a license or certificate of authority, as 68575
an insurer, issued by the department of insurance. 68576

~~(G)~~(I) "Domiciliary state" means the state in which an 68577
insurer is incorporated or organized, or, in the case of an alien 68578

insurer, its state of entry. 68579

~~(H)~~(J) "Fair consideration" is given for property or 68580
obligation when either of the following apply: 68581

(1) When in exchange for such property or obligation, as a 68582
fair equivalent therefor, and in good faith, property is conveyed, 68583
services are rendered, an obligation is incurred, or an antecedent 68584
debt is satisfied; 68585

(2) When such property or obligation is received in good 68586
faith to secure a present advance or antecedent debt in an amount 68587
not disproportionately small as compared to the value of the 68588
property or obligation obtained. 68589

~~(I)~~(K) "Foreign country" means any other jurisdiction not in 68590
any state. 68591

~~(J)~~(L) "Forward contract" has the same meaning as in the 68592
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 68593
1821(e)(8)(D), as now and hereafter amended. 68594

(M) "Guaranty association" means the Ohio insurance guaranty 68595
association created by section 3955.06 of the Revised Code and any 68596
other similar entity hereafter created by the general assembly for 68597
the payment of claims of insolvent insurers. "Foreign guaranty 68598
association" means any similar entities now in existence in or 68599
hereafter created by the legislature of any other state. 68600

~~(K)~~(N) "Insolvency" or "insolvent" means: 68601

(1) For an insurer issuing only assessable fire insurance 68602
policies either of the following: 68603

(a) The inability to pay any obligation within thirty days 68604
after it becomes payable; 68605

(b) If an assessment is made within thirty days after such 68606
date, the inability to pay the obligation thirty days following 68607
the date specified in the first assessment notice issued after the 68608

date of loss. 68609

(2) For any other insurer, that it is unable to pay its 68610
obligations when they are due, or when its admitted assets do not 68611
exceed its liabilities plus the greater of either of the 68612
following: 68613

(a) Any capital and surplus required by law for its 68614
organization; 68615

(b) The total par or stated value of its authorized and 68616
issued capital stock. 68617

(3) As to any insurer licensed to do business in this state 68618
as of the effective date of sections 3903.01 to 3903.59 of the 68619
Revised Code that does not meet the standard established under 68620
division ~~(K)~~(N)(2) of this section, the term "insolvency" or 68621
"insolvent" means, for a period not to exceed three years from the 68622
effective date of sections 3903.01 to 3903.59 of the Revised Code, 68623
that it is unable to pay its obligations when they are due or that 68624
its admitted assets do not exceed its liabilities plus any 68625
required capital contribution ordered by the superintendent under 68626
provisions of Title XXXIX of the Revised Code. 68627

(4) For purposes of divisions ~~(K)~~(N)(2) to (4) of this 68628
section, "liabilities" includes, but is not limited to, reserves 68629
required by statute or by rules of the superintendent or specific 68630
requirements imposed by the superintendent upon a subject company 68631
at the time of admission or subsequent thereto. 68632

~~(L)~~(O) "Insurer" means any person who has done, purports to 68633
do, is doing, or is licensed to do an insurance business, and is 68634
or has been subject to the authority of, or to liquidation, 68635
rehabilitation, reorganization, supervision, or conservation by, 68636
any insurance commissioner, superintendent, or equivalent 68637
official. For purposes of sections 3903.01 to 3903.59 of the 68638
Revised Code, any other persons included under section 3903.03 of 68639

the Revised Code are deemed to be insurers. 68640

~~(M)~~(P) "Netting agreement" means: 68641

(1) A contract or agreement, including a master agreement, 68642
and any terms and conditions incorporated by reference in such a 68643
contract or agreement, that provides for the netting, liquidation, 68644
setoff, termination, acceleration, or close out under or in 68645
connection with a qualified financial contract, or any present or 68646
future payment or delivery obligations or entitlements under a 68647
qualified financial contract, including liquidation or close-out 68648
values relating to those obligations or entitlements; 68649

(2) A master agreement, together with all schedules, 68650
confirmations, definitions, and addenda to the agreement and 68651
transactions under the agreement, which shall be treated as one 68652
netting agreement, and any bridge agreement for one or more master 68653
agreements; 68654

(3) Any security agreement or arrangement, credit support 68655
document, or guarantee or reimbursement obligation related to any 68656
contract or agreement described in division (P) of this section. 68657

Any contract or agreement described in division (P) of this 68658
section relating to agreements or transactions that are not 68659
qualified financial contracts shall be deemed to be a netting 68660
agreement only with respect to those agreements or transactions 68661
that are qualified financial contracts. 68662

(O) "Preferred claim" means any claim with respect to which 68663
the terms of sections 3903.01 to 3903.59 of the Revised Code 68664
accord priority of payment from the assets of the insurer. 68665

~~(N)~~(R) "Qualified financial contract" means any commodity 68666
contract, forward contract, repurchase agreement, securities 68667
contract, swap agreement, and any similar agreement that the 68668
superintendent may determine by rule or order to be a qualified 68669
financial contract for purposes of this chapter. 68670

(S) "Reciprocal state" means any state other than this state 68671
in which in substance and effect division (A) of section 3903.18, 68672
and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the 68673
Revised Code are in force, in which provisions are in force 68674
requiring that the superintendent or equivalent official be the 68675
receiver, liquidator, rehabilitator, or conservator of a 68676
delinquent insurer, and in which some provision exists for the 68677
avoidance of fraudulent conveyances and preferential transfers. 68678

~~(O)~~(T) "Repurchase agreement" has the same meaning as in the 68679
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 68680
1821(e)(8)(D), as now and hereafter amended. 68681

(U) "Secured claim" means any claim secured by mortgage, 68682
trust deed, security agreement, pledge, deposit as security, 68683
escrow, or otherwise, but not including special deposit claims or 68684
claims against assets. The term also includes claims which have 68685
become liens upon specific assets by reason of judicial process. 68686

~~(P)~~(V) "Securities contract" has the same meaning as in the 68687
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 68688
1821(e)(8)(D), as now and hereafter amended. 68689

(W) "Special deposit claim" means any claim secured by a 68690
deposit made pursuant to statute for the security or benefit of a 68691
limited class or classes of persons, but not including any claim 68692
secured by assets. 68693

~~(Q)~~(X) "State" has the meaning set forth in division (G) of 68694
section 1.59 of the Revised Code. 68695

~~(R)~~(Y) "Superintendent" or "superintendent of insurance" 68696
means the superintendent of insurance of this state, or, when the 68697
context requires, the superintendent or commissioner of insurance, 68698
or equivalent official, of another state. 68699

~~(S)~~(Z) "Swap agreement" has the same meaning as in the 68700
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 68701

1821(e)(8)(D), as now and hereafter amended. 68702

(AA) "Transfer" includes the sale and every other and 68703
different mode, direct or indirect, of disposing of or of parting 68704
with property or with an interest in property, or with the 68705
possession of property or of fixing a lien upon property or upon 68706
an interest in property, absolutely or conditionally, voluntarily, 68707
or by or without judicial proceedings. The retention of a security 68708
title to property delivered to a debtor shall be deemed a transfer 68709
suffered by the debtor. 68710

Sec. 3903.301. (A) Notwithstanding any other provision under 68711
sections 3903.01 to 3903.59 of the Revised Code, no person shall 68712
be stayed or prohibited from exercising any of the following 68713
rights: 68714

(1) A contractual right to cause the termination, 68715
liquidation, acceleration, or close out of obligations under, or 68716
in connection with, a netting agreement or qualified financial 68717
contract with an insurer because of either of the following: 68718

(a) The insolvency, financial condition, or default of the 68719
insurer at any time; 68720

(b) The commencement of a formal delinquency proceeding under 68721
sections 3903.01 to 3903.59 of the Revised Code. 68722

(2) Any right under a pledge, security, collateral, 68723
reimbursement, or guarantee agreement or arrangement or any 68724
similar security arrangement or credit enhancement relating to a 68725
netting agreement or qualified financial contract; 68726

(3) Subject to section 3903.30 of the Revised Code, any right 68727
to set off or net out any termination value, payment amount, or 68728
other transfer obligation arising under or in connection with a 68729
qualified financial contract in which the counterparty or its 68730
guarantor is organized under the laws of the United States, a 68731

state, or a foreign jurisdiction that the securities valuation 68732
office of the national association of insurance commissioners 68733
approves as eligible for netting. 68734

(B) If a counterparty to a netting agreement or qualified 68735
financial contract with an insurer that is subject to a proceeding 68736
under sections 3903.01 to 3903.59 of the Revised Code terminates, 68737
liquidates, accelerates, or closes out the agreement or contract, 68738
damages shall be measured as of the date or dates of the 68739
termination, liquidation, acceleration, or close out. The amount 68740
of a claim for damages shall be actual direct compensatory 68741
damages. 68742

(C) Upon termination of a netting agreement or qualified 68743
financial contract, any net or settlement amount that a 68744
nondefaulting party owes to an insurer against which an 68745
application or petition has been filed under sections 3903.01 to 68746
3903.59 of the Revised Code shall be transferred to, or on the 68747
order of, the receiver for the insurer. 68748

This division applies regardless of whether the insurer is 68749
the defaulting party and applies notwithstanding any walkaway 68750
clause in the netting agreement or qualified financial contract. 68751

For purposes of this division, a limited two-way payment or 68752
first method provision in a netting agreement or qualified 68753
financial contract with a defaulting insurer shall be deemed to be 68754
a full two-way payment or second method provision as against the 68755
defaulting insurer. 68756

Any property or amount transferred under this division shall 68757
be a general asset of the insurer except to the extent it is 68758
subject to a secondary lien or encumbrance, or to rights of 68759
netting or setoff. 68760

(D) In transferring a netting agreement or qualified 68761
financial contract of an insurer that is subject to a proceeding 68762

under sections 3903.01 to 3903.59 of the Revised Code, the 68763
receiver shall do either of the following: 68764

(1) Transfer to one party, other than an insurer subject to a 68765
proceeding under sections 3903.01 to 3903.59 of the Revised Code, 68766
all netting agreements and qualified financial contracts between a 68767
counterparty, or any affiliate of the counterparty, and the 68768
insurer that is the subject of the proceeding. The transfer shall 68769
include all rights and obligations of each party under each 68770
netting agreement and qualified financial contract, and all 68771
property, including any guarantees or other credit enhancement, 68772
securing any claims of the parties under each agreement or 68773
contract. 68774

(2) Transfer none of the netting agreements or qualified 68775
financial contracts, including the rights, obligations, and 68776
property associated with those agreements and contracts as 68777
described in division (D)(1) of this section, with respect to the 68778
counterparty and any affiliate of the counterparty. 68779

(E) If a receiver transfers a netting agreement or qualified 68780
financial contract, the receiver shall use its best efforts to 68781
notify any person who is a party to the transferred agreement or 68782
contract of the transfer by noon, of the receiver's local time, on 68783
the business day following the transfer. 68784

(F)(1) Notwithstanding any other provision of sections 68785
3903.01 to 3903.59 of the Revised Code and except as otherwise 68786
provided in division (F)(2) of this section, a receiver shall not 68787
avoid a transfer of money or other property that is made before 68788
the commencement of a formal delinquency proceeding under sections 68789
3903.01 to 3903.59 of the Revised Code and that arises under or in 68790
connection with either of the following: 68791

(a) A netting agreement or qualified financial contract; 68792

(b) Any pledge, security, collateral, or guarantee agreement 68793

or other similar security arrangement or credit support document 68794
relating to a netting agreement or qualified financial contract. 68795

(2) A receiver may avoid a transfer under sections 3903.26 to 68796
3903.28 of the Revised Code if the transfer was made with actual 68797
intent to hinder, delay, or defraud the insurer, a receiver 68798
appointed for the insurer, or existing or future creditors. 68799

(G)(1) In exercising any right of disaffirmance or 68800
repudiation with respect to a netting agreement or qualified 68801
financial contract to which an insurer is a party, the receiver 68802
for the insurer shall do either of the following: 68803

(a) Disaffirm or repudiate all netting agreements and 68804
qualified financial contracts between the insurer and a 68805
counterparty or any affiliate of the counterparty; 68806

(b) Disaffirm or repudiate none of those netting agreements 68807
or qualified financial contracts with respect to the counterparty 68808
or any affiliate of the counterparty. 68809

(2) Notwithstanding any other provision of sections 3903.01 68810
to 3903.59 of the Revised Code, if a counterparty's claim against 68811
the estate of the insurer arising from the receiver's 68812
disaffirmance or repudiation of a netting agreement or qualified 68813
financial contract has not been previously affirmed in the 68814
liquidation or immediately preceding conservation or 68815
rehabilitation case, that claim shall be considered as if it had 68816
arisen before the filing date of the petition for liquidation. If 68817
a conservation or rehabilitation proceeding is converted to a 68818
liquidation proceeding, that claim shall be considered as if it 68819
had arisen before the filing date of the petition for conservation 68820
or rehabilitation. The amount of the claim shall be the actual 68821
direct compensatory damages determined as of the date of the 68822
disaffirmance or repudiation. 68823

(H) All rights of a counterparty under sections 3903.01 to 68824

3903.59 of the Revised Code shall apply to netting agreements and 68825
qualified financial contracts entered into on behalf of the 68826
general account or separate accounts if the assets of each 68827
separate account are available only to counterparties to netting 68828
agreements and qualified financial contracts entered into on 68829
behalf of that separate account. 68830

(I) This section shall not apply to the affiliates of an 68831
insurer that is the subject of a formal delinquency proceeding 68832
under sections 3903.01 to 3903.59 of the Revised Code. 68833

(J) As used in this section: 68834

(1) "Actual direct compensatory damages" includes normal and 68835
reasonable costs of cover or other reasonable measures of damages 68836
utilized in the derivatives, securities, or other market for the 68837
contract and agreement claims. "Actual direct compensatory 68838
damages" does not include punitive or exemplary damages, damages 68839
for lost profit or lost opportunity, or damages for pain and 68840
suffering. 68841

(2) "Business day" means any day, excluding Saturday, Sunday, 68842
and any day on which the New York stock exchange or the federal 68843
reserve bank of New York is closed. 68844

(3) "Contractual right" includes any of the following: 68845

(a) Any right set forth in a rule or bylaw of a derivatives 68846
clearing organization, as defined in the "Commodity Exchange Act," 68847
7 U.S.C. 1a(9)(A), as amended; a multilateral clearing 68848
organization; a national securities exchange; a national 68849
securities association; a securities clearing agency; a contract 68850
market designated under the "Commodity Exchange Act," 7 U.S.C. 1 68851
et seq., as amended; a derivatives transaction execution facility, 68852
including a swap execution facility, registered under the 68853
"Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a 68854
security-based swap execution facility registered under the 68855

"Securities Exchange Act of 1934," 15 U.S.C. 78a et seq., as 68856
amended; or a board of trade, as defined in the "Commodity 68857
Exchange Act," 7 U.S.C. 1a(2); 68858

(b) Any right set forth in a resolution of the governing 68859
board of any entity listed in division (J)(3)(a) of this section; 68860

(c) Any right, regardless of whether evidenced in writing, 68861
arising under statutory law, common law, or law merchant, or by 68862
reason of normal business practice. 68863

(4) "Receiver" means a receiver, conservator, rehabilitator, 68864
or liquidator, as applicable. 68865

(5) "Walkaway clause" means a provision under which a party 68866
to a netting agreement or qualified financial contract that, after 68867
calculation of a value of a party's position or an amount due to 68868
or from one of the parties in accordance with its terms upon 68869
termination, liquidation, or acceleration of the netting agreement 68870
or qualified financial contract is not obligated to pay or does 68871
not have a payment obligation extinguished under the agreement or 68872
contract, in whole or in part, solely because the party is a 68873
nondefaulting party. 68874

Sec. 3923.28. (A) Every policy of group sickness and accident 68875
insurance providing hospital, surgical, or medical expense 68876
coverage for other than specific diseases or accidents only, and 68877
delivered, issued for delivery, or renewed in this state on or 68878
after January 1, 1979, and that provides coverage for mental or 68879
emotional disorders, shall provide benefits for services on an 68880
outpatient basis for each eligible person under the policy who 68881
resides in this state for mental or emotional disorders, or for 68882
evaluations, that are at least equal to five hundred fifty dollars 68883
in any calendar year or twelve-month period. The services shall be 68884
legally performed by or under the clinical supervision of a 68885
physician authorized under Chapter 4731. of the Revised Code to 68886

practice medicine and surgery or osteopathic medicine and surgery; 68887
a psychologist licensed under Chapter 4732. of the Revised Code; a 68888
professional clinical counselor, professional counselor, or 68889
independent social worker licensed under Chapter 4757. of the 68890
Revised Code; or a clinical nurse specialist licensed under 68891
Chapter 4723. of the Revised Code whose nursing specialty is 68892
mental health, whether performed in an office, in a hospital, or 68893
in a community mental health facility so long as the hospital or 68894
community mental health facility is approved by the joint 68895
commission on accreditation of healthcare organizations, the 68896
council on accreditation for children and family services, or the 68897
rehabilitation accreditation commission, ~~or, until two years after~~ 68898
~~June 6, 2001, certified by the department of mental health as~~ 68899
~~being in compliance with standards established under division (H)~~ 68900
~~of section 5119.01 of the Revised Code.~~ 68901

(B) Outpatient benefits offered under division (A) of this 68902
section shall be subject to reasonable contract limitations and 68903
may be subject to reasonable deductibles and co-insurance costs. 68904
Persons entitled to such benefit under more than one service or 68905
insurance contract may be limited to a single 68906
five-hundred-fifty-dollar outpatient benefit for services under 68907
all contracts. 68908

(C) In order to qualify for participation under division (A) 68909
of this section, every facility specified in such division shall 68910
have in effect a plan for utilization review and a plan for peer 68911
review and every person specified in such division shall have in 68912
effect a plan for peer review. Such plans shall have the purpose 68913
of ensuring high quality patient care and effective and efficient 68914
utilization of available health facilities and services. 68915

(D) Nothing in this section shall be construed to require an 68916
insurer to pay benefits which are greater than usual, customary, 68917
and reasonable. 68918

(E)(1) Services performed under the clinical supervision of a health care professional identified in division (A) of this section, in order to be reimbursable under the coverage required in division (A) of this section, shall meet both of the following requirements:

(a) The services shall be performed in accordance with a treatment plan that describes the expected duration, frequency, and type of services to be performed;

(b) The plan shall be reviewed and approved by the health care professional every three months.

(2) Payment of benefits for services reimbursable under division (E)(1) of this section shall not be restricted to services described in the treatment plan or conditioned upon standards of clinical supervision that are more restrictive than standards of a health care professional described in division (A) of this section, which at least equal the requirements of division (E)(1) of this section.

(F) The benefits provided by this section for mental and emotional disorders shall not be reduced by the cost of benefits provided pursuant to section 3923.281 of the Revised Code for diagnostic and treatment services for biologically based mental illnesses. This section does not apply to benefits for diagnostic and treatment services for biologically based mental illnesses.

Sec. 3923.281. (A) As used in this section:

(1) "Biologically based mental illness" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American

psychiatric association. 68949

(2) "Policy of sickness and accident insurance" has the same 68950
meaning as in section 3923.01 of the Revised Code, but excludes 68951
any hospital indemnity, medicare supplement, long-term care, 68952
disability income, one-time-limited-duration policy of not longer 68953
than six months, supplemental benefit, or other policy that 68954
provides coverage for specific diseases or accidents only; any 68955
policy that provides coverage for workers' compensation claims 68956
compensable pursuant to Chapters 4121. and 4123. of the Revised 68957
Code; and any policy that provides coverage to beneficiaries 68958
enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 68959
(1935), 42 U.S.C.A. 301, as amended, known as the medical 68960
assistance program or medicaid, as provided by the Ohio department 68961
of job and family services under Chapter 5111. of the Revised 68962
Code; ~~and any policy that provides coverage to beneficiaries~~ 68963
~~enrolled in the children's buy in program established under~~ 68964
~~sections 5101.5211 to 5101.5216 of the Revised Code.~~ 68965

(B) Notwithstanding section 3901.71 of the Revised Code, and 68966
subject to division (E) of this section, every policy of sickness 68967
and accident insurance shall provide benefits for the diagnosis 68968
and treatment of biologically based mental illnesses on the same 68969
terms and conditions as, and shall provide benefits no less 68970
extensive than, those provided under the policy of sickness and 68971
accident insurance for the treatment and diagnosis of all other 68972
physical diseases and disorders, if both of the following apply: 68973

(1) The biologically based mental illness is clinically 68974
diagnosed by a physician authorized under Chapter 4731. of the 68975
Revised Code to practice medicine and surgery or osteopathic 68976
medicine and surgery; a psychologist licensed under Chapter 4732. 68977
of the Revised Code; a professional clinical counselor, 68978
professional counselor, or independent social worker licensed 68979
under Chapter 4757. of the Revised Code; or a clinical nurse 68980

specialist licensed under Chapter 4723. of the Revised Code whose 68981
nursing specialty is mental health. 68982

(2) The prescribed treatment is not experimental or 68983
investigational, having proven its clinical effectiveness in 68984
accordance with generally accepted medical standards. 68985

(C) Division (B) of this section applies to all coverages and 68986
terms and conditions of the policy of sickness and accident 68987
insurance, including, but not limited to, coverage of inpatient 68988
hospital services, outpatient services, and medication; maximum 68989
lifetime benefits; copayments; and individual and family 68990
deductibles. 68991

(D) Nothing in this section shall be construed as prohibiting 68992
a sickness and accident insurance company from taking any of the 68993
following actions: 68994

(1) Negotiating separately with mental health care providers 68995
with regard to reimbursement rates and the delivery of health care 68996
services; 68997

(2) Offering policies that provide benefits solely for the 68998
diagnosis and treatment of biologically based mental illnesses; 68999

(3) Managing the provision of benefits for the diagnosis or 69000
treatment of biologically based mental illnesses through the use 69001
of pre-admission screening, by requiring beneficiaries to obtain 69002
authorization prior to treatment, or through the use of any other 69003
mechanism designed to limit coverage to that treatment determined 69004
to be necessary; 69005

(4) Enforcing the terms and conditions of a policy of 69006
sickness and accident insurance. 69007

(E) An insurer that offers any policy of sickness and 69008
accident insurance is not required to provide benefits for the 69009
diagnosis and treatment of biologically based mental illnesses 69010

pursuant to division (B) of this section if all of the following 69011
apply: 69012

(1) The insurer submits documentation certified by an 69013
independent member of the American academy of actuaries to the 69014
superintendent of insurance showing that incurred claims for 69015
diagnostic and treatment services for biologically based mental 69016
illnesses for a period of at least six months independently caused 69017
the insurer's costs for claims and administrative expenses for the 69018
coverage of all other physical diseases and disorders to increase 69019
by more than one per cent per year. 69020

(2) The insurer submits a signed letter from an independent 69021
member of the American academy of actuaries to the superintendent 69022
of insurance opining that the increase described in division 69023
(E)(1) of this section could reasonably justify an increase of 69024
more than one per cent in the annual premiums or rates charged by 69025
the insurer for the coverage of all other physical diseases and 69026
disorders. 69027

(3) The superintendent of insurance makes the following 69028
determinations from the documentation and opinion submitted 69029
pursuant to divisions (E)(1) and (2) of this section: 69030

(a) Incurred claims for diagnostic and treatment services for 69031
biologically based mental illnesses for a period of at least six 69032
months independently caused the insurer's costs for claims and 69033
administrative expenses for the coverage of all other physical 69034
diseases and disorders to increase by more than one per cent per 69035
year. 69036

(b) The increase in costs reasonably justifies an increase of 69037
more than one per cent in the annual premiums or rates charged by 69038
the insurer for the coverage of all other physical diseases and 69039
disorders. 69040

Any determination made by the superintendent under this 69041

division is subject to Chapter 119. of the Revised Code. 69042

Sec. 3923.30. Every person, the state and any of its 69043
instrumentalities, any county, township, school district, or other 69044
political subdivisions and any of its instrumentalities, and any 69045
municipal corporation and any of its instrumentalities, which 69046
provides payment for health care benefits for any of its employees 69047
resident in this state, which benefits are not provided by 69048
contract with an insurer qualified to provide sickness and 69049
accident insurance, or a health insuring corporation, shall 69050
include the following benefits in its plan of health care benefits 69051
commencing on or after January 1, 1979: 69052

(A) If such plan of health care benefits provides payment for 69053
the treatment of mental or nervous disorders, then such plan shall 69054
provide benefits for services on an outpatient basis for each 69055
eligible employee and dependent for mental or emotional disorders, 69056
or for evaluations, that are at least equal to the following: 69057

(1) Payments not less than five hundred fifty dollars in a 69058
twelve-month period, for services legally performed by or under 69059
the clinical supervision of a physician authorized under Chapter 69060
4731. of the Revised Code to practice medicine and surgery or 69061
osteopathic medicine and surgery; a psychologist licensed under 69062
Chapter 4732. of the Revised Code; a professional clinical 69063
counselor, professional counselor, or independent social worker 69064
licensed under Chapter 4757. of the Revised Code; or a clinical 69065
nurse specialist licensed under Chapter 4723. of the Revised Code 69066
whose nursing specialty is mental health, whether performed in an 69067
office, in a hospital, or in a community mental health facility so 69068
long as the hospital or community mental health facility is 69069
approved by the joint commission on accreditation of healthcare 69070
organizations, the council on accreditation for children and 69071
family services, or the rehabilitation accreditation commission 69072

~~er, until two years after June 6, 2001, certified by the~~ 69073
~~department of mental health as being in compliance with standards~~ 69074
~~established under division (H) of section 5119.01 of the Revised~~ 69075
~~Code;~~ 69076

(2) Such benefit shall be subject to reasonable limitations, 69077
and may be subject to reasonable deductibles and co-insurance 69078
costs. 69079

(3) In order to qualify for participation under this 69080
division, every facility specified in this division shall have in 69081
effect a plan for utilization review and a plan for peer review 69082
and every person specified in this division shall have in effect a 69083
plan for peer review. Such plans shall have the purpose of 69084
ensuring high quality patient care and effective and efficient 69085
utilization of available health facilities and services. 69086

(4) Such payment for benefits shall not be greater than 69087
usual, customary, and reasonable. 69088

(5)(a) Services performed by or under the clinical 69089
supervision of a health care professional identified in division 69090
(A)(1) of this section, in order to be reimbursable under the 69091
coverage required in division (A) of this section, shall meet both 69092
of the following requirements: 69093

(i) The services shall be performed in accordance with a 69094
treatment plan that describes the expected duration, frequency, 69095
and type of services to be performed; 69096

(ii) The plan shall be reviewed and approved by the health 69097
care professional every three months. 69098

(b) Payment of benefits for services reimbursable under 69099
division (A)(5)(a) of the section shall not be restricted to 69100
services described in the treatment plan or conditioned upon 69101
standards of a licensed physician or licensed psychologist, which 69102
at least equal the requirements of division (A)(5)(a) of this 69103

section. 69104

(B) Payment for benefits for alcoholism treatment for 69105
outpatient, inpatient, and intermediate primary care for each 69106
eligible employee and dependent that are at least equal to the 69107
following: 69108

(1) Payments not less than five hundred fifty dollars in a 69109
twelve-month period for services legally performed by or under the 69110
clinical supervision of a health care professional identified in 69111
division (A)(1) of this section, whether performed in an office, 69112
or in a hospital or a community mental health facility or 69113
alcoholism treatment facility so long as the hospital, community 69114
mental health facility, or alcoholism treatment facility is 69115
approved by the joint commission on accreditation of hospitals or 69116
certified by the department of health; 69117

(2) The benefits provided under this division shall be 69118
subject to reasonable limitations and may be subject to reasonable 69119
deductibles and co-insurance costs. 69120

(3) A health care professional shall every three months 69121
certify a patient's need for continued services performed by such 69122
facilities. 69123

(4) In order to qualify for participation under this 69124
division, every facility specified in this division shall have in 69125
effect a plan for utilization review and a plan for peer review 69126
and every person specified in this division shall have in effect a 69127
plan for peer review. Such plans shall have the purpose of 69128
ensuring high quality patient care and efficient utilization of 69129
available health facilities and services. Such person or 69130
facilities shall also have in effect a program of rehabilitation 69131
or a program of rehabilitation and detoxification. 69132

(5) Nothing in this section shall be construed to require 69133
reimbursement for benefits which is greater than usual, customary, 69134

and reasonable. 69135

(C) The benefits provided by division (A) of this section for 69136
mental and emotional disorders shall not be reduced by the cost of 69137
benefits provided pursuant to section 3923.282 of the Revised Code 69138
for diagnostic and treatment services for biologically based 69139
mental illness. This section does not apply to benefits for 69140
diagnostic and treatment services for biologically based mental 69141
illnesses. 69142

Sec. 3924.10. (A) The board of directors of the Ohio health 69143
reinsurance program may make recommendations to the superintendent 69144
of insurance, and the superintendent may adopt or amend by rule 69145
adopted in accordance with Chapter 119. of the Revised Code, the 69146
OHC basic, standard, and carrier reimbursement plans which, when 69147
offered by a carrier, are eligible for reinsurance under the 69148
program. The superintendent shall establish the form and level of 69149
coverage to be made available by carriers in their OHC plans. The 69150
plans shall include benefit levels, deductibles, coinsurance 69151
factors, exclusions, and limitations for the plans. The forms and 69152
levels of coverage shall specify which components of health 69153
benefit plans offered by a carrier may be reinsured. The OHC plans 69154
are subject to division (C) of section 3924.02 of the Revised Code 69155
and to the provisions in Chapters 1751., 1753., 3923., and any 69156
other chapter of the Revised Code that require coverage or the 69157
offer of coverage of a health care service or benefit. 69158

(B) Prior to adopting any rule that makes changes to the OHC 69159
basic or standard plan, the superintendent shall conduct an 69160
actuarial analysis of the cost impact of the proposed rule. ~~The~~ 69161
~~superintendent may consider recommendations of the Ohio health~~ 69162
~~care coverage and quality council established under section~~ 69163
~~3923.90 of the Revised Code.~~ The plans may include cost 69164
containment features including any of the following: 69165

(1) Utilization review of health care services, including review of the medical necessity of hospital and physician services;	69166 69167 69168
(2) Case management benefit alternatives;	69169
(3) Selective contracting with hospitals, physicians, and other health care providers;	69170 69171
(4) Reasonable benefit differentials applicable to participating and nonparticipating providers;	69172 69173
(5) Employee assistance program options that provide preventive and early intervention mental health and substance abuse services;	69174 69175 69176
(6) Other provisions for the cost-effective management of the plans.	69177 69178
(C) OHC plans established for use by health insuring corporations shall be consistent with the basic method of operation of such corporations.	69179 69180 69181
(D) Each carrier shall certify to the superintendent of insurance, in the form and manner prescribed by the superintendent, that the OHC plans filed by the carrier are in substantial compliance with the provisions of the OHC plans designed or adopted under this section. Upon receipt by the superintendent of the certification, the carrier may use the certified plans.	69182 69183 69184 69185 69186 69187 69188
(E) Each carrier shall, on and after sixty days after the date that the program becomes operational and as a condition of transacting business in this state, renew coverage provided to any individual or group under its OHC plans.	69189 69190 69191 69192
(F) The OHC plans in effect as of June 1, 2009, shall remain in effect until those plans are amended or new plans are adopted in accordance with this section.	69193 69194 69195

Sec. 3963.01. As used in this chapter:	69196
(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.	69197 69198 69199 69200
(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.	69201 69202 69203 69204
(C) "Contracting entity" means any person that has a primary business purpose of contracting with participating providers for the delivery of health care services.	69205 69206 69207
(D) "Credentialing" means the process of assessing and validating the qualifications of a provider applying to be approved by a contracting entity to provide basic health care services, specialty health care services, or supplemental health care services to enrollees.	69208 69209 69210 69211 69212
(E) "Edit" means adjusting one or more procedure codes billed by a participating provider on a claim for payment or a practice that results in any of the following:	69213 69214 69215
(1) Payment for some, but not all of the procedure codes originally billed by a participating provider;	69216 69217
(2) Payment for a different procedure code than the procedure code originally billed by a participating provider;	69218 69219
(3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service date.	69220 69221 69222
(F) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic	69223 69224 69225

transaction standards issued by the United States department of 69226
health and human services pursuant to the "Health Insurance 69227
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 69228
U.S.C. 1320d, et seq., as those electronic standards are 69229
applicable to the parties and as those electronic standards are 69230
updated from time to time, and to electronically transmit those 69231
claims to the appropriate contracting entity, payer, or 69232
third-party administrator. 69233

(G) "Enrollee" means any person eligible for health care 69234
benefits under a health benefit plan, including an eligible 69235
recipient of medicaid under Chapter 5111. of the Revised Code, and 69236
includes all of the following terms: 69237

(1) "Enrollee" and "subscriber" as defined by section 1751.01 69238
of the Revised Code; 69239

(2) "Member" as defined by section 1739.01 of the Revised 69240
Code; 69241

(3) "Insured" and "plan member" pursuant to Chapter 3923. of 69242
the Revised Code; 69243

(4) "Beneficiary" as defined by section 3901.38 of the 69244
Revised Code. 69245

(H) "Health care contract" means a contract entered into, 69246
materially amended, or renewed between a contracting entity and a 69247
participating provider for the delivery of basic health care 69248
services, specialty health care services, or supplemental health 69249
care services to enrollees. 69250

(I) "Health care services" means basic health care services, 69251
specialty health care services, and supplemental health care 69252
services. 69253

(J) "Material amendment" means an amendment to a health care 69254
contract that decreases the participating provider's payment or 69255

compensation, changes the administrative procedures in a way that 69256
may reasonably be expected to significantly increase the 69257
provider's administrative expenses, or adds a new product. A 69258
material amendment does not include any of the following: 69259

(1) A decrease in payment or compensation resulting solely 69260
from a change in a published fee schedule upon which the payment 69261
or compensation is based and the date of applicability is clearly 69262
identified in the contract; 69263

(2) A decrease in payment or compensation that was 69264
anticipated under the terms of the contract, if the amount and 69265
date of applicability of the decrease is clearly identified in the 69266
contract; 69267

(3) An administrative change that may significantly increase 69268
the provider's administrative expense, the specific applicability 69269
of which is clearly identified in the contract; 69270

(4) Changes to an existing prior authorization, 69271
precertification, notification, or referral program that do not 69272
substantially increase the provider's administrative expense; 69273

(5) Changes to an edit program or to specific edits if the 69274
participating provider is provided notice of the changes pursuant 69275
to division (A)(1) of section 3963.04 of the Revised Code and the 69276
notice includes information sufficient for the provider to 69277
determine the effect of the change; 69278

(6) Changes to a health care contract described in division 69279
(B) of section 3963.04 of the Revised Code. 69280

(K) "Participating provider" means a provider that has a 69281
health care contract with a contracting entity and is entitled to 69282
reimbursement for health care services rendered to an enrollee 69283
under the health care contract. 69284

(L) "Payer" means any person that assumes the financial risk 69285

for the payment of claims under a health care contract or the 69286
reimbursement for health care services provided to enrollees by 69287
participating providers pursuant to a health care contract. 69288

(M) "Primary enrollee" means a person who is responsible for 69289
making payments for participation in a health care plan or an 69290
enrollee whose employment or other status is the basis of 69291
eligibility for enrollment in a health care plan. 69292

(N) "Procedure codes" includes the American medical 69293
association's current procedural terminology code, the American 69294
dental association's current dental terminology, and the centers 69295
for medicare and medicaid services health care common procedure 69296
coding system. 69297

(O) "Product" means one of the following types of categories 69298
of coverage for which a participating provider may be obligated to 69299
provide health care services pursuant to a health care contract: 69300

(1) A health maintenance organization or other product 69301
provided by a health insuring corporation; 69302

(2) A preferred provider organization; 69303

(3) Medicare; 69304

(4) ~~Medicaid or the children's buy-in program established~~ 69305
~~under section 5101.5211 to 5101.5216 of the Revised Code;~~ 69306

(5) Workers' compensation. 69307

(P) "Provider" means a physician, podiatrist, dentist, 69308
chiropractor, optometrist, psychologist, physician assistant, 69309
advanced practice nurse, occupational therapist, massage 69310
therapist, physical therapist, professional counselor, 69311
professional clinical counselor, hearing aid dealer, orthotist, 69312
prosthetist, home health agency, hospice care program, or 69313
hospital, or a provider organization or physician-hospital 69314
organization that is acting exclusively as an administrator on 69315

behalf of a provider to facilitate the provider's participation in health care contracts. "Provider" does not mean a pharmacist, pharmacy, nursing home, or a provider organization or physician-hospital organization that leases the provider organization's or physician-hospital organization's network to a third party or contracts directly with employers or health and welfare funds.

(Q) "Specialty health care services" has the same meaning as in section 1751.01 of the Revised Code, except that it does not include any services listed in division (B) of section 1751.01 of the Revised Code that are provided by a pharmacist or a nursing home.

(R) "Supplemental health care services" has the same meaning as in division (B) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

Sec. 3963.11. (A) No contracting entity shall do any of the following:

(1) Offer to a provider ~~other than a hospital~~ a health care contract that includes a most favored nation clause;

(2) Enter into a health care contract with a provider ~~other than a hospital~~ that includes a most favored nation clause;

(3) Amend or renew an existing health care contract previously entered into with a provider ~~other than a hospital~~ so that the contract as amended or renewed adds or continues to include a most favored nation clause.

~~(B) This section shall not go into effect until three years after the effective date of this section.~~

~~(C)~~(B) As used in this section:

(1) "Contracting entity," "health care contract," "health

care services," "participating provider," and "provider" have the 69346
same meanings as in section 3963.01 of the Revised Code. 69347

(2) "Most favored nation clause" means a provision in a 69348
health care contract that does any of the following: 69349

(a) Prohibits, or grants a contracting entity an option to 69350
prohibit, the participating provider from contracting with another 69351
contracting entity to provide health care services at a lower 69352
price than the payment specified in the contract; 69353

(b) Requires, or grants a contracting entity an option to 69354
require, the participating provider to accept a lower payment in 69355
the event the participating provider agrees to provide health care 69356
services to any other contracting entity at a lower price; 69357

(c) Requires, or grants a contracting entity an option to 69358
require, termination or renegotiation of the existing health care 69359
contract in the event the participating provider agrees to provide 69360
health care services to any other contracting entity at a lower 69361
price; 69362

(d) Requires the participating provider to disclose the 69363
participating provider's contractual reimbursement rates with 69364
other contracting entities. 69365

Sec. 4113.11. (A) As specified in division (B) of this 69366
section and except as provided in divisions (C) and ~~(F)~~(E) of this 69367
section, all employers that employ ten or more employees shall 69368
adopt and maintain a cafeteria plan that allows the employer's 69369
employees to pay for health insurance coverage by a salary 69370
reduction arrangement as permitted under section 125 of the 69371
Internal Revenue Code. 69372

(B) Employers shall comply with the requirements of division 69373
(A) of this section as follows: 69374

(1) For employers that employ more than five hundred 69375

employees, by not later than January 1, 2011, or six months after 69376
the superintendent of insurance adopts rules as required by 69377
division ~~(E)~~(D) of this section, whichever is later; 69378

(2) For employers that employ one hundred fifty to five 69379
hundred employees, by not later than July 1, 2011, or twelve 69380
months after the superintendent adopts rules as required by 69381
division ~~(E)~~(D) of this section, whichever is later; 69382

(3) For employers that employ ten to one hundred forty-nine 69383
employees, by not later than January 1, 2012, or eighteen months 69384
after the superintendent adopts rules as required by division 69385
~~(E)~~(D) of this section, whichever is later. 69386

(C) This section shall not apply to employers that, through 69387
other means than provided under this section, offer health 69388
insurance coverage, reimburse for health insurance coverage, or 69389
provide employees with opportunities to pay for health insurance 69390
with pre-tax dollars through other salary reduction arrangements. 69391

~~(D) The health care coverage and quality council created 69392
under section 3923.90 of the Revised Code shall make 69393
recommendations to the superintendent for both of the following: 69394~~

~~(1) Development of strategies to educate, assist, and conduct 69395
outreach to employers to simplify administrative processes with 69396
respect to creating and maintaining cafeteria plans, including, 69397
but not limited to, providing employers with model cafeteria plan 69398
documents and technical assistance on creating and maintaining 69399
cafeteria plans that conform with state and federal law; 69400~~

~~(2) Development of strategies to educate, assist, and conduct 69401
outreach to employees with respect to finding, selecting, and 69402
purchasing a health insurance plan to be paid for through their 69403
employer's cafeteria plan under this section. 69404~~

~~(E)~~(1) The superintendent shall adopt rules in accordance 69405
with Chapter 119. of the Revised Code to implement and enforce 69406

this section, ~~including the strategies recommended by the council~~ 69407
~~pursuant to division (D) of this section.~~ 69408

(2) Prior to adopting rules under this division, the 69409
superintendent shall consult any federal agency that has oversight 69410
of cafeteria plans and employee welfare benefit plans, including 69411
the internal revenue service and the United States department of 69412
labor, and receive written confirmation that the rules adopted 69413
will permit employers to establish cafeteria plans in accordance 69414
with federal law. The written confirmation shall include a 69415
determination that individual policies purchased pursuant to this 69416
section do not need to comply with the group market rules 69417
established by the "Health Insurance Portability and 69418
Accountability Act of 1996." 69419

~~(F)~~(E) The requirement provided in division (A) of this 69420
section does not apply if the superintendent does not receive 69421
written confirmation pursuant to division ~~(E)~~(D)(2) of this 69422
section that individual policies purchased pursuant to this 69423
section do not need to comply with the group market rules 69424
established by the "Health Insurance Portability and 69425
Accountability Act of 1996." 69426

~~(G)~~(F) Nothing in this section shall be construed as 69427
requiring an employer to establish a cafeteria plan in a manner 69428
that would violate federal law, including the "Employee Retirement 69429
Income Security Act of 1974," the "Consolidated Omnibus Budget 69430
Reconciliation Act of 1985," or the "Health Insurance Portability 69431
and Accountability Act of 1996." 69432

~~(H)~~(G) As used in this section: 69433

(1) "Cafeteria plan" has the same meaning as in section 125 69434
of the Internal Revenue Code. 69435

(2) "Employer" has the same meaning as in section 4113.51 of 69436
the Revised Code. 69437

(3) "Employee" means an individual employed for consideration 69438
who works twenty-five or more hours per week or who renders any 69439
other standard of service generally accepted by custom or 69440
specified by contract as full-time employment, except for a public 69441
employee employed by a township or municipal corporation. In that 69442
case, "employee" means an individual hired with the expectation 69443
that the employee will work more than one thousand five hundred 69444
hours in any year unless full-time employment is defined 69445
differently in an applicable collective bargaining agreement. 69446

Sec. 4113.61. (A)(1) If a subcontractor or material supplier 69447
submits an application or request for payment or an invoice for 69448
materials to a contractor in sufficient time to allow the 69449
contractor to include the application, request, or invoice in the 69450
contractor's own pay request submitted to an owner, the 69451
contractor, within ten calendar days after receipt of payment from 69452
the owner for improvements to property, shall pay to the: 69453

(a) Subcontractor, an amount that is equal to the percentage 69454
of completion of the subcontractor's contract allowed by the owner 69455
for the amount of labor or work performed; 69456

(b) Material supplier, an amount that is equal to all or that 69457
portion of the invoice for materials which represents the 69458
materials furnished by the material supplier. 69459

The contractor may reduce the amount paid by any retainage 69460
provision contained in the contract, invoice, or purchase order 69461
between the contractor and the subcontractor or material supplier, 69462
and may withhold amounts that may be necessary to resolve disputed 69463
liens or claims involving the work or labor performed or material 69464
furnished by the subcontractor or material supplier. 69465

If the contractor fails to comply with division (A)(1) of 69466
this section, the contractor shall pay the subcontractor or 69467
material supplier, in addition to the payment due, interest in the 69468

amount of eighteen per cent per annum of the payment due, 69469
beginning on the eleventh day following the receipt of payment 69470
from the owner and ending on the date of full payment of the 69471
payment due plus interest to the subcontractor or material 69472
supplier. 69473

(2) If a lower tier subcontractor or lower tier material 69474
supplier submits an application or request for payment or an 69475
invoice for materials to a subcontractor, material supplier, or 69476
other lower tier subcontractor or lower tier material supplier in 69477
sufficient time to allow the subcontractor, material supplier, or 69478
other lower tier subcontractor or lower tier material supplier to 69479
include the application, request, or invoice in the 69480
subcontractor's, material supplier's, or other lower tier 69481
subcontractor's or lower tier material supplier's own pay request 69482
submitted to a contractor, other subcontractor, material supplier, 69483
lower tier subcontractor, or lower tier material supplier, the 69484
subcontractor, material supplier, or other lower tier 69485
subcontractor or lower tier material supplier, within ten calendar 69486
days after receipt of payment from the contractor, other 69487
subcontractor, material supplier, lower tier subcontractor, or 69488
lower tier material supplier for improvements to property, shall 69489
pay to the: 69490

(a) Lower tier subcontractor, an amount that is equal to the 69491
percentage of completion of the lower tier subcontractor's 69492
contract allowed by the owner for the amount of labor or work 69493
performed; 69494

(b) Lower tier material supplier, an amount that is equal to 69495
all or that portion of the invoice for materials which represents 69496
the materials furnished by the lower tier material supplier. 69497

The subcontractor, material supplier, lower tier 69498
subcontractor, or lower tier material supplier may reduce the 69499
amount paid by any retainage provision contained in the contract, 69500

invoice, or purchase order between the subcontractor, material 69501
supplier, lower tier subcontractor, or lower tier material 69502
supplier and the lower tier subcontractor or lower tier material 69503
supplier, and may withhold amounts that may be necessary to 69504
resolve disputed liens or claims involving the work or labor 69505
performed or material furnished by the lower tier subcontractor or 69506
lower tier material supplier. 69507

If the subcontractor, material supplier, lower tier 69508
subcontractor, or lower tier material supplier fails to comply 69509
with division (A)(2) of this section, the subcontractor, material 69510
supplier, lower tier subcontractor, or lower tier material 69511
supplier shall pay the lower tier subcontractor or lower tier 69512
material supplier, in addition to the payment due, interest in the 69513
amount of eighteen per cent per annum of the payment due, 69514
beginning on the eleventh day following the receipt of payment 69515
from the contractor, other subcontractor, material supplier, lower 69516
tier subcontractor, or lower tier material supplier and ending on 69517
the date of full payment of the payment due plus interest to the 69518
lower tier subcontractor or lower tier material supplier. 69519

(3) If a contractor receives any final retainage from the 69520
owner for improvements to property, the contractor shall pay from 69521
that retainage each subcontractor and material supplier the 69522
subcontractor's or material supplier's proportion of the 69523
retainage, within ten calendar days after receipt of the retainage 69524
from the owner, or within the time period provided in a contract, 69525
invoice, or purchase order between the contractor and the 69526
subcontractor or material supplier, whichever time period is 69527
shorter, provided that the contractor has determined that the 69528
subcontractor's or material supplier's work, labor, and materials 69529
have been satisfactorily performed or furnished and that the owner 69530
has approved the subcontractor's or material supplier's work, 69531
labor, and materials. 69532

If the contractor fails to pay a subcontractor or material supplier within the appropriate time period, the contractor shall pay the subcontractor or material supplier, in addition to the retainage due, interest in the amount of eighteen per cent per annum of the retainage due, beginning on the eleventh day following the receipt of the retainage from the owner and ending on the date of full payment of the retainage due plus interest to the subcontractor or material supplier.

(4) If a subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier receives any final retainage from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier for improvements to property, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay from that retainage each lower tier subcontractor or lower tier the lower tier subcontractor's or lower tier material supplier's proportion of the retainage, within ten calendar days after receipt of payment from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier, or within the time period provided in a contract, invoice, or purchase order between the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier and the lower tier subcontractor or lower tier material supplier, whichever time period is shorter, provided that the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has determined that the lower tier subcontractor's or lower tier material supplier's work, labor, and materials have been satisfactorily performed or furnished and that the owner has approved the lower tier subcontractor's or lower tier material supplier's work, labor, and materials.

If the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier fails to pay the

lower tier subcontractor or lower tier material supplier within 69565
the appropriate time period, the subcontractor, material supplier, 69566
lower tier subcontractor, or lower tier material supplier shall 69567
pay the lower tier subcontractor or lower tier material supplier, 69568
in addition to the retainage due, interest in the amount of 69569
eighteen per cent per annum of the retainage due, beginning on the 69570
eleventh day following the receipt of the retainage from the 69571
contractor or other subcontractor, lower tier subcontractor, or 69572
lower tier material supplier and ending on the date of full 69573
payment of the retainage due plus interest to the lower tier 69574
subcontractor or lower tier material supplier. 69575

(5) A contractor, subcontractor, or lower tier subcontractor 69576
shall pay a laborer wages due within ten days of payment of any 69577
application or request for payment or the receipt of any retainage 69578
from an owner, contractor, subcontractor, or lower tier 69579
subcontractor. 69580

If the contractor, subcontractor, or lower tier subcontractor 69581
fails to pay the laborer wages due within the appropriate time 69582
period, the contractor, subcontractor, or lower tier subcontractor 69583
shall pay the laborer, in addition to the wages due, interest in 69584
the amount of eighteen per cent per annum of the wages due, 69585
beginning on the eleventh day following the receipt of payment 69586
from the owner, contractor, subcontractor, or lower tier 69587
subcontractor and ending on the date of full payment of the wages 69588
due plus interest to the laborer. 69589

(B)(1) If a contractor, subcontractor, material supplier, 69590
lower tier subcontractor, or lower tier material supplier has not 69591
made payment in compliance with division (A)(1), (2), (3), (4), or 69592
(5) of this section within thirty days after payment is due, a 69593
subcontractor, material supplier, lower tier subcontractor, lower 69594
tier material supplier, or laborer may file a civil action to 69595
recover the amount due plus the interest provided in those 69596

divisions. If the court finds in the civil action that a contractor, subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has not made payment in compliance with those divisions, the court shall award the interest specified in those divisions, in addition to the amount due. Except as provided in division (B)(3) of this section, the court shall award the prevailing party reasonable attorney fees and court costs.

(2) In making a determination to award attorney fees under division (B)(1) of this section, the court shall consider all relevant factors, including but not limited to the following:

(a) The presence or absence of good faith allegations or defenses asserted by the parties;

(b) The proportion of the amount of recovery as it relates to the amount demanded;

(c) The nature of the services rendered and the time expended in rendering the services.

(3) The court shall not award attorney fees under division (B)(1) of this section if the court determines, following a hearing on the payment of attorney fees, that the payment of attorney fees to the prevailing party would be inequitable.

(C) This section does not apply to any construction or improvement of any single-, two-, or three-family detached dwelling houses.

(D)(1) No provision of this section regarding entitlement to interest, attorney fees, or court costs may be waived by agreement and any such term in any contract or agreement is void and unenforceable as against public policy.

(2) This section shall not be construed as impairing or affecting, in any way, the terms and conditions of any contract,

invoice, purchase order, or any other agreement between a 69627
contractor and a subcontractor or a material supplier or between a 69628
subcontractor and another subcontractor, a material supplier, a 69629
lower tier subcontractor, or a lower tier material supplier, 69630
except that if such terms and conditions contain time periods 69631
which are longer than any of the time periods specified in 69632
divisions (A)(1), (2), (3), (4), and (5) of this section or 69633
interest at a percentage less than the interest stated in those 69634
divisions, then the provisions of this section shall prevail over 69635
such terms and conditions. 69636

(E) Notwithstanding the definition of lower tier material 69637
supplier in this section, a person is not a lower tier material 69638
supplier unless the materials supplied by the person are: 69639

(1) Furnished with the intent, as evidenced by the contract 69640
of sale, the delivery order, delivery to the site, or by other 69641
evidence that the materials are to be used on a particular 69642
structure or improvement; 69643

(2) Incorporated in the improvement or consumed as normal 69644
wastage in the course of the improvement; or 69645

(3) Specifically fabricated for incorporation in the 69646
improvement and not readily resalable in the ordinary course of 69647
the fabricator's business even if not actually incorporated in the 69648
improvement. 69649

(F) As used in this section: 69650

(1) "Contractor" means any person who undertakes to 69651
construct, alter, erect, improve, repair, demolish, remove, dig, 69652
or drill any part of a structure or improvement under a contract 69653
with an owner, ~~or~~ a "construction manager" or "construction 69654
manager at risk" as ~~that term is~~ those terms are defined in 69655
section 9.33 of the Revised Code, or a "design-build firm" as that 69656
term is defined in section 153.65 of the Revised Code. 69657

(2) "Laborer," "material supplier," "subcontractor," and "wages" have the same meanings as in section 1311.01 of the Revised Code.

(3) "Lower tier subcontractor" means a subcontractor who is not in privity of contract with a contractor but is in privity of contract with another subcontractor.

(4) "Lower tier material supplier" means a material supplier who is not in privity of contract with a contractor but is in privity of contract with another subcontractor or a material supplier.

(5) "Wages due" means the wages due to a laborer as of the date a contractor or subcontractor receives payment for any application or request for payment or retainage from any owner, contractor, or subcontractor.

(6) "Owner" includes the state, and a county, township, municipal corporation, school district, or other political subdivision of the state, and any public agency, authority, board, commission, instrumentality, or special district of or in the state or a county, township, municipal corporation, school district, or other political subdivision of the state, and any officer or agent thereof and relates to all the interests either legal or equitable, which a person may have in the real estate upon which improvements are made, including interests held by any person under contracts of purchase, whether in writing or otherwise.

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of

a public improvement or to construct the same by the direct 69688
employment of labor, or any institution supported in whole or in 69689
part by public funds and said sections apply to expenditures of 69690
such institutions made in whole or in part from public funds. 69691

(B) "Construction" means ~~either~~ any of the following: 69692

(1) ~~Any~~ Except as provided in division (B)(3) of this 69693
section, any new construction of ~~any~~ a public improvement, the 69694
total overall project cost of which is fairly estimated to be more 69695
than ~~fifty thousand~~ five million dollars adjusted biennially by 69696
the director of commerce pursuant to section 4115.034 of the 69697
Revised Code and performed by other than full-time employees who 69698
have completed their probationary periods in the classified 69699
service of a public authority; 69700

(2) ~~Any~~ Except as provided in division (B)(4) of this 69701
section, any reconstruction, enlargement, alteration, repair, 69702
remodeling, renovation, or painting of ~~any~~ a public improvement, 69703
the total overall project cost of which is fairly estimated to be 69704
more than ~~fifteen thousand~~ five million dollars adjusted 69705
biennially by the ~~administrator~~ director pursuant to section 69706
4115.034 of the Revised Code and performed by other than full-time 69707
employees who have completed their probationary period in the 69708
classified civil service of a public authority; 69709

(3) Any new construction of a public improvement that 69710
involves roads, streets, alleys, sewers, ditches, and other works 69711
connected to road or bridge construction, the total overall 69712
project cost of which is fairly estimated to be more than 69713
seventy-eight thousand two hundred fifty-eight dollars adjusted 69714
biennially by the director of commerce pursuant to section 69715
4115.034 of the Revised Code and performed by other than full-time 69716
employees who have completed their probationary periods in the 69717
classified service of a public authority; 69718

(4) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than twenty-three thousand four hundred forty-seven dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority.

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 1515.08 of the Revised Code that is constructed pursuant to a contract with a soil and water conservation district, as defined in section 1515.01 of the Revised Code, or performed as a result of a petition filed pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, wherein no less than seventy-five per cent of the project is located on private land and no less than seventy-five per cent of the cost of the improvement is paid for by private property owners pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised Code. "Public improvement" does not include an improvement that is neither constructed by a public authority nor constructed for the benefit of a public authority, even if the improvement uses or

<u>receives financing, grants, or in-kind support from a public</u>	69752
<u>authority.</u>	69753
(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.	69754 69755
(E) "Prevailing wages" means the sum of the following:	69756
(1) The basic hourly rate of pay;	69757
(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;	69758 69759 69760
(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:	69761 69762 69763 69764 69765 69766
(a) Medical or hospital care or insurance to provide such;	69767
(b) Pensions on retirement or death or insurance to provide such;	69768 69769
(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;	69770 69771 69772
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	69773 69774
(e) Life insurance;	69775
(f) Disability and sickness insurance;	69776
(g) Accident insurance;	69777
(h) Vacation and holiday pay;	69778
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and	69779 69780

mechanics affected; 69781

(j) Other bona fide fringe benefits. 69782

None of the benefits enumerated in division (E)(3) of this 69783
section may be considered in the determination of prevailing wages 69784
if federal, state, or local law requires contractors or 69785
subcontractors to provide any of such benefits. 69786

(F) "Interested party," with respect to a particular public 69787
improvement, means: 69788

(1) Any person who submits a bid for the purpose of securing 69789
the award of a contract for construction of the public 69790
improvement; 69791

(2) Any person acting as a subcontractor of a person 69792
mentioned in division (F)(1) of this section; 69793

(3) Any bona fide organization of labor which has as members 69794
or is authorized to represent employees of a person mentioned in 69795
division (F)(1) or (2) of this section and which exists, in whole 69796
or in part, for the purpose of negotiating with employers 69797
concerning the wages, hours, or terms and conditions of employment 69798
of employees; 69799

(4) Any association having as members any of the persons 69800
mentioned in division (F)(1) or (2) of this section. 69801

(G) Except as used in division (A) of this section, "officer" 69802
means an individual who has an ownership interest or holds an 69803
office of trust, command, or authority in a corporation, business 69804
trust, partnership, or association. 69805

Sec. 4115.033. No public authority shall subdivide a public 69806
improvement project into component parts or projects, the cost of 69807
which is fairly estimated to be less than the threshold levels set 69808
forth in ~~divisions~~ division (B)(1) ~~and (2)~~ of section 4115.03 of 69809
the Revised Code, unless the projects are conceptually separate 69810

and unrelated to each other, or encompass independent and 69811
unrelated needs of the public authority. 69812

Sec. 4115.034. On January 1, 1996, and the first day of 69813
January of every even-numbered year thereafter, the director of 69814
commerce shall adjust the threshold levels for which public 69815
improvement projects are subject to sections 4115.03 to 4115.16 of 69816
the Revised Code as set forth in ~~divisions~~ division (B)(1) and (2) 69817
of section 4115.03 of the Revised Code. The director shall adjust 69818
those amounts according to the average increase or decrease for 69819
each of the two years immediately preceding the adjustment as set 69820
forth in the United States department of commerce, bureau of the 69821
census implicit price deflator for construction, provided that no 69822
increase or decrease for any year shall exceed three per cent of 69823
the threshold level in existence at the time of the adjustment. 69824

Sec. 4115.04. (A)(1) Every public authority authorized to 69825
contract for or construct with its own forces a public 69826
improvement, before advertising for bids or undertaking such 69827
construction with its own forces, shall have the director of 69828
commerce determine the prevailing rates of wages of mechanics and 69829
laborers in accordance with section 4115.05 of the Revised Code 69830
for the class of work called for by the public improvement, in the 69831
locality where the work is to be performed. Except as provided in 69832
division (A)(2) of this section, that schedule of wages shall be 69833
attached to and made part of the specifications for the work, and 69834
shall be printed on the bidding blanks where the work is done by 69835
contract. A copy of the bidding blank shall be filed with the 69836
director before the contract is awarded. A minimum rate of wages 69837
for common laborers, on work coming under the jurisdiction of the 69838
department of transportation, shall be fixed in each county of the 69839
state by the department of transportation, in accordance with 69840
section 4115.05 of the Revised Code. 69841

(2) In the case of contracts that are administered by the department of natural resources, the director of natural resources or the director's designee shall include language in the contracts requiring wage rate determinations and updates to be obtained directly from the department of commerce through electronic or other means as appropriate. Contracts that include this requirement are exempt from the requirements established in division (A)(1) of this section that involve attaching the schedule of wages to the specifications for the work, making the schedule part of those specifications, and printing the schedule on the bidding blanks where the work is done by contract.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided that the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of

the Revised Code if none of the funds used in constructing the 69873
improvements are the proceeds of bonds or other obligations that 69874
are secured by the full faith and credit of the state, a county, a 69875
township, or a municipal corporation and none of the funds used in 69876
constructing the improvements, including funds used to repay any 69877
amounts borrowed to construct the improvements, are funds that 69878
have been appropriated for that purpose by the state, a board of 69879
county commissioners, a township, or a municipal corporation from 69880
funds generated by the levy of a tax, provided that a county 69881
hospital or municipal hospital may elect to apply sections 4115.03 69882
to 4115.16 of the Revised Code to a public improvement undertaken 69883
by, or under contract for, the hospital; 69884

(5) Any project described in divisions (D)(1)(a) to (D)(1)(e) 69885
of section 176.05 of the Revised Code; 69886

(6) Public improvements undertaken by, or under contract for, 69887
a state institution of higher education as defined in section 69888
3345.12 of the Revised Code; 69889

(7) Public improvements undertaken by, or under contract for, 69890
a port authority as defined in section 4582.01 or 4582.21 of the 69891
Revised Code. 69892

(C) Under no circumstances shall a public authority apply the 69893
prevailing wage requirements of this chapter to a public 69894
improvement that is exempt under division (B)(3) or (6) of this 69895
section. 69896

Sec. 4115.10. (A) No person, firm, corporation, or public 69897
authority that constructs a public improvement with its own 69898
forces, the total overall project cost of which is fairly 69899
estimated to be more than the amounts set forth in division (B)~~(1)~~ 69900
~~or (2)~~ of section 4115.03 of the Revised Code, adjusted biennially 69901
by the director of commerce pursuant to section 4115.034 of the 69902
Revised Code, shall violate the wage provisions of sections 69903

4115.03 to 4115.16 of the Revised Code, or suffer, permit, or 69904
require any employee to work for less than the rate of wages so 69905
fixed, or violate the provisions of section 4115.07 of the Revised 69906
Code. Any employee upon any public improvement, except an employee 69907
to whom or on behalf of whom restitution is made pursuant to 69908
division (C) of section 4115.13 of the Revised Code, who is paid 69909
less than the fixed rate of wages applicable thereto may recover 69910
from such person, firm, corporation, or public authority that 69911
constructs a public improvement with its own forces the difference 69912
between the fixed rate of wages and the amount paid to the 69913
employee and in addition thereto a sum equal to twenty-five per 69914
cent of that difference. The person, firm, corporation, or public 69915
authority who fails to pay the rate of wages so fixed also shall 69916
pay a penalty to the director of seventy-five per cent of the 69917
difference between the fixed rate of wages and the amount paid to 69918
the employees on the public improvement. The director shall 69919
deposit all moneys received from penalties paid to the director 69920
pursuant to this section into the ~~penalty enforcement~~ labor 69921
operating fund, ~~which is hereby created in the state treasury~~. The 69922
director shall use the fund for the enforcement of sections 69923
4115.03 to 4115.16 of the Revised Code. The employee may file suit 69924
for recovery within ninety days of the director's determination of 69925
a violation of sections 4115.03 to 4115.16 of the Revised Code or 69926
is barred from further action under this division. Where the 69927
employee prevails in a suit, the employer shall pay the costs and 69928
reasonable attorney's fees allowed by the court. 69929

(B) Any employee upon any public improvement who is paid less 69930
than the prevailing rate of wages applicable thereto may file a 69931
complaint in writing with the director upon a form furnished by 69932
the director. The complaint shall include documented evidence to 69933
demonstrate that the employee was paid less than the prevailing 69934
wage in violation of this chapter. Upon receipt of a properly 69935
completed written complaint of any employee paid less than the 69936

prevailing rate of wages applicable, the director shall take an 69937
assignment of a claim in trust for the assigning employee and 69938
bring any legal action necessary to collect the claim. The 69939
employer shall pay the costs and reasonable attorney's fees 69940
allowed by the court if the employer is found in violation of 69941
sections 4115.03 to 4115.16 of the Revised Code. 69942

(C) If after investigation pursuant to section 4115.13 of the 69943
Revised Code, the director determines there is a violation of 69944
sections 4115.03 to 4115.16 of the Revised Code and a period of 69945
sixty days has elapsed from the date of the determination, and if: 69946

(1) No employee has brought suit pursuant to division (A) of 69947
this section; 69948

(2) No employee has requested that the director take an 69949
assignment of a wage claim pursuant to division (B) of this 69950
section. 69951

The director shall bring any legal action necessary to 69952
collect any amounts owed to employees and the director. The 69953
director shall pay over to the affected employees the amounts 69954
collected to which the affected employees are entitled under 69955
division (A) of this section. In any action in which the director 69956
prevails, the employer shall pay the costs and reasonable 69957
attorney's fees allowed by the court. 69958

(D) Where persons are employed and their rate of wages has 69959
been determined as provided in section 4115.04 of the Revised 69960
Code, no person, either for self or any other person, shall 69961
request, demand, or receive, either before or after the person is 69962
engaged, that the person so engaged pay back, return, donate, 69963
contribute, or give any part or all of the person's wages, salary, 69964
or thing of value, to any person, upon the statement, 69965
representation, or understanding that failure to comply with such 69966
request or demand will prevent the procuring or retaining of 69967

employment, and no person shall, directly or indirectly, aid, 69968
request, or authorize any other person to violate this section. 69969
This division does not apply to any agent or representative of a 69970
duly constituted labor organization acting in the collection of 69971
dues or assessments of such organization. 69972

(E) The director shall enforce sections 4115.03 to 4115.16 of 69973
the Revised Code. 69974

(F) For the purpose of supplementing existing resources and 69975
to assist in enforcing division (E) of this section, the director 69976
may contract with a person registered as a public accountant under 69977
Chapter 4701. of the Revised Code to conduct an audit of a person, 69978
firm, corporation, or public authority. 69979

Sec. 4115.101. There is hereby created the prevailing wage 69980
custodial fund, which shall be in the custody of the treasurer of 69981
state but shall not be part of the state treasury. The director of 69982
commerce shall deposit to the fund all money paid by employers to 69983
the director that are held in trust for employees to whom 69984
prevailing wages are due and owing. The director shall make 69985
disbursements from the fund in accordance with this chapter to 69986
employees affected by violations of this chapter. If the director 69987
determines that any funds in the prevailing wage custodial fund 69988
are not returnable to employees as required under this section, 69989
then the director shall certify to the treasurer of state the 69990
amount of the funds that are not returnable. Upon the receipt of a 69991
certification from the director in accordance with this section, 69992
the treasurer of state shall transfer the certified amount of the 69993
funds from the prevailing wage custodial fund to the labor 69994
operating fund. 69995

Sec. 4115.16. (A) An interested party may file a complaint 69996
with the director of commerce alleging a violation of sections 69997

4115.03 to 4115.16 of the Revised Code. The director, upon receipt of a complaint, shall investigate pursuant to section 4115.13 of the Revised Code. If the director determines that no violation has occurred or that the violation was not intentional, the interested party may appeal the decision to the court of common pleas of the county where the violation is alleged to have occurred.

~~(B) If the director has not ruled on the merits of the complaint within sixty days after its filing, the interested party may file a complaint in the court of common pleas of the county in which the violation is alleged to have occurred. The complaint may make the contracting public authority a party to the action, but not the director. Contemporaneous with service of the complaint, the interested party shall deliver a copy of the complaint to the director. Upon receipt thereof, the director shall cease investigating or otherwise acting upon the complaint filed pursuant to division (A) of this section. The court in which the complaint is filed pursuant to this division shall hear and decide the case, and upon finding that a violation has occurred, shall make such orders as will prevent further violation and afford to injured persons the relief specified under sections 4115.03 to 4115.16 of the Revised Code. The court's finding that a violation has occurred shall have the same consequences as a like determination by the director. The court may order the director to take such action as will prevent further violation and afford to injured persons the remedies specified under sections 4115.03 to 4115.16 of the Revised Code. Upon receipt of any order of the court pursuant to this section, the director shall undertake enforcement action without further investigation or hearings.~~

~~(C) The director shall make available to the parties to any appeal or action pursuant to under this section all files, documents, affidavits, or other information in the director's possession that pertain to the matter. The rules generally~~

~~applicable to civil actions in the courts of this state shall 70030
govern all appeals or actions under this section. Any 70031
determination of a court under this section is subject to 70032
appellate review. 70033~~

~~(D) Where, pursuant to this section, a court finds a 70034
violation of sections 4115.03 to 4115.16 of the Revised Code, the 70035
court shall award attorney fees and court costs to the prevailing 70036
party. In the event the court finds that no violation has 70037
occurred, the court may award court costs and attorney fees to the 70038
prevailing party, other than to the director or the public 70039
authority, where the court finds the action brought was 70040
unreasonable or without foundation, even though not brought in 70041
subjective bad faith. 70042~~

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of the 70043
Revised Code: 70044

(A) "Public authority" means any officer, board, or 70045
commission of the state, or any political subdivision of the 70046
state, or any institution supported in whole or in part by public 70047
funds, authorized to enter into a contract for the construction of 70048
a public improvement or to construct a public improvement by the 70049
direct employment of labor. "Public authority" shall not mean any 70050
municipal corporation that has adopted a charter under sections 70051
three and seven of article XVIII of the Ohio ~~constitution~~ 70052
Constitution, unless the specific contract for a public 70053
improvement includes state funds appropriated for the purposes of 70054
that public improvement. 70055

(B) "Construction" means all of the following: 70056

(1) Any new construction of any public improvement performed 70057
by other than full-time employees who have completed their 70058
probationary periods in the classified service of a public 70059
authority; 70060

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority;

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(3) Construction on any project, facility, or project facility to which section ~~122.452~~, 122.80, ~~165.031~~, 166.02, ~~1551.13~~, or 1728.07, ~~or 3706.042~~ of the Revised Code applies;

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(4) Construction on any project as defined in section 122.39 of the Revised Code, any project as defined in section 165.01 of the Revised Code, any energy resource development facility as defined in section 1551.01 of the Revised Code, or any project as defined in section 3706.01 of the Revised Code.

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(C) "Public improvement" means all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and other structures or works constructed by a public authority or by any person who, pursuant to a contract with a public authority, constructs any structure or work for a public authority. When a public authority rents or leases a newly constructed structure within six months after completion of its construction, all work performed on that structure to suit it for occupancy by a public authority is a "public improvement."

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(D) "Interested party," with respect to a particular public improvement, means all of the following:

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(1) Any person who submits a bid for the purpose of securing the award of a contract for the public improvement;

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(2) Any person acting as a subcontractor of a person mentioned in division (D)(1) of this section;

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(3) Any association having as members any of the persons mentioned in division (D)(1) or (2) of this section;

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(4) Any employee of a person mentioned in division (D)(1), 70091
(2), or (3) of this section; 70092

(5) Any individual who is a resident of the jurisdiction of 70093
the public authority for whom products or services for a public 70094
improvement are being procured or for whom work on a public 70095
improvement is being performed. 70096

Sec. 4117.01. As used in this chapter: 70097

(A) "Person," in addition to those included in division (C) 70098
of section 1.59 of the Revised Code, includes employee 70099
organizations, public employees, and public employers. 70100

(B) "Public employer" means the state or any political 70101
subdivision of the state located entirely within the state, 70102
including, without limitation, any municipal corporation with a 70103
population of at least five thousand according to the most recent 70104
federal decennial census; county; township with a population of at 70105
least five thousand in the unincorporated area of the township 70106
according to the most recent federal decennial census; school 70107
district; ~~governing authority of a community school established~~ 70108
~~under Chapter 3314. of the Revised Code;~~ college preparatory 70109
boarding school established under Chapter 3328. of the Revised 70110
Code or its operator; state institution of higher learning; public 70111
or special district; state agency, authority, commission, or 70112
board; or other branch of public employment. "Public employer" 70113
does not include the nonprofit corporation formed under section 70114
187.01 of the Revised Code or the governing authority of a 70115
community school established under Chapter 3314. of the Revised 70116
Code. 70117

(C) "Public employee" means any person holding a position by 70118
appointment or employment in the service of a public employer, 70119
including any person working pursuant to a contract between a 70120
public employer and a private employer and over whom the national 70121

labor relations board has declined jurisdiction on the basis that	70122
the involved employees are employees of a public employer, except:	70123
(1) Persons holding elective office;	70124
(2) Employees of the general assembly and employees of any	70125
other legislative body of the public employer whose principal	70126
duties are directly related to the legislative functions of the	70127
body;	70128
(3) Employees on the staff of the governor or the chief	70129
executive of the public employer whose principal duties are	70130
directly related to the performance of the executive functions of	70131
the governor or the chief executive;	70132
(4) Persons who are members of the Ohio organized militia,	70133
while training or performing duty under section 5919.29 or 5923.12	70134
of the Revised Code;	70135
(5) Employees of the state employment relations board,	70136
including those employees of the state employment relations board	70137
utilized by the state personnel board of review in the exercise of	70138
the powers and the performance of the duties and functions of the	70139
state personnel board of review;	70140
(6) Confidential employees;	70141
(7) Management level employees;	70142
(8) Employees and officers of the courts, assistants to the	70143
attorney general, assistant prosecuting attorneys, and employees	70144
of the clerks of courts who perform a judicial function;	70145
(9) Employees of a public official who act in a fiduciary	70146
capacity, appointed pursuant to section 124.11 of the Revised	70147
Code;	70148
(10) Supervisors;	70149
(11) Students whose primary purpose is educational training,	70150
including graduate assistants or associates, residents, interns,	70151

or other students working as part-time public employees less than 70152
fifty per cent of the normal year in the employee's bargaining 70153
unit; 70154

(12) Employees of county boards of election; 70155

(13) Seasonal and casual employees as determined by the state 70156
employment relations board; 70157

(14) Part-time faculty members of an institution of higher 70158
education; 70159

(15) Participants in a work activity, developmental activity, 70160
or alternative work activity under sections 5107.40 to 5107.69 of 70161
the Revised Code who perform a service for a public employer that 70162
the public employer needs but is not performed by an employee of 70163
the public employer if the participant is not engaged in paid 70164
employment or subsidized employment pursuant to the activity; 70165

(16) Employees included in the career professional service of 70166
the department of transportation under section 5501.20 of the 70167
Revised Code; 70168

(17) Employees of community-based correctional facilities and 70169
district community-based correctional facilities created under 70170
sections 2301.51 to 2301.58 of the Revised Code ~~who are not~~ 70171
~~subject to a collective bargaining agreement on June 1, 2005.~~ 70172

(D) "Employee organization" means any labor or bona fide 70173
organization in which public employees participate and that exists 70174
for the purpose, in whole or in part, of dealing with public 70175
employers concerning grievances, labor disputes, wages, hours, 70176
terms, and other conditions of employment. 70177

(E) "Exclusive representative" means the employee 70178
organization certified or recognized as an exclusive 70179
representative under section 4117.05 of the Revised Code. 70180

(F) "Supervisor" means any individual who has authority, in 70181

the interest of the public employer, to hire, transfer, suspend, 70182
lay off, recall, promote, discharge, assign, reward, or discipline 70183
other public employees; to responsibly direct them; to adjust 70184
their grievances; or to effectively recommend such action, if the 70185
exercise of that authority is not of a merely routine or clerical 70186
nature, but requires the use of independent judgment, provided 70187
that: 70188

(1) Employees of school districts who are department 70189
chairpersons or consulting teachers shall not be deemed 70190
supervisors; 70191

(2) With respect to members of a police or fire department, 70192
no person shall be deemed a supervisor except the chief of the 70193
department or those individuals who, in the absence of the chief, 70194
are authorized to exercise the authority and perform the duties of 70195
the chief of the department. Where prior to June 1, 1982, a public 70196
employer pursuant to a judicial decision, rendered in litigation 70197
to which the public employer was a party, has declined to engage 70198
in collective bargaining with members of a police or fire 70199
department on the basis that those members are supervisors, those 70200
members of a police or fire department do not have the rights 70201
specified in this chapter for the purposes of future collective 70202
bargaining. The state employment relations board shall decide all 70203
disputes concerning the application of division (F)(2) of this 70204
section. 70205

(3) With respect to faculty members of a state institution of 70206
higher education, heads of departments or divisions are 70207
supervisors; however, no other faculty member or group of faculty 70208
members is a supervisor solely because the faculty member or group 70209
of faculty members participate in decisions with respect to 70210
courses, curriculum, personnel, or other matters of academic 70211
policy; 70212

(4) No teacher as defined in section 3319.09 of the Revised 70213

Code shall be designated as a supervisor or a management level 70214
employee unless the teacher is employed under a contract governed 70215
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 70216
is assigned to a position for which a license deemed to be for 70217
administrators under state board rules is required pursuant to 70218
section 3319.22 of the Revised Code. 70219

(G) "To bargain collectively" means to perform the mutual 70220
obligation of the public employer, by its representatives, and the 70221
representatives of its employees to negotiate in good faith at 70222
reasonable times and places with respect to wages, hours, terms, 70223
and other conditions of employment and the continuation, 70224
modification, or deletion of an existing provision of a collective 70225
bargaining agreement, with the intention of reaching an agreement, 70226
or to resolve questions arising under the agreement. "To bargain 70227
collectively" includes executing a written contract incorporating 70228
the terms of any agreement reached. The obligation to bargain 70229
collectively does not mean that either party is compelled to agree 70230
to a proposal nor does it require the making of a concession. 70231

(H) "Strike" means continuous concerted action in failing to 70232
report to duty; willful absence from one's position; or stoppage 70233
of work in whole from the full, faithful, and proper performance 70234
of the duties of employment, for the purpose of inducing, 70235
influencing, or coercing a change in wages, hours, terms, and 70236
other conditions of employment. "Strike" does not include a 70237
stoppage of work by employees in good faith because of dangerous 70238
or unhealthful working conditions at the place of employment that 70239
are abnormal to the place of employment. 70240

(I) "Unauthorized strike" includes, but is not limited to, 70241
concerted action during the term or extended term of a collective 70242
bargaining agreement or during the pendency of the settlement 70243
procedures set forth in section 4117.14 of the Revised Code in 70244
failing to report to duty; willful absence from one's position; 70245

stoppage of work; slowdown, or abstinence in whole or in part from 70246
the full, faithful, and proper performance of the duties of 70247
employment for the purpose of inducing, influencing, or coercing a 70248
change in wages, hours, terms, and other conditions of employment. 70249
"Unauthorized strike" includes any such action, absence, stoppage, 70250
slowdown, or abstinence when done partially or intermittently, 70251
whether during or after the expiration of the term or extended 70252
term of a collective bargaining agreement or during or after the 70253
pendency of the settlement procedures set forth in section 4117.14 70254
of the Revised Code. 70255

(J) "Professional employee" means any employee engaged in 70256
work that is predominantly intellectual, involving the consistent 70257
exercise of discretion and judgment in its performance and 70258
requiring knowledge of an advanced type in a field of science or 70259
learning customarily acquired by a prolonged course in an 70260
institution of higher learning or a hospital, as distinguished 70261
from a general academic education or from an apprenticeship; or an 70262
employee who has completed the courses of specialized intellectual 70263
instruction and is performing related work under the supervision 70264
of a professional person to become qualified as a professional 70265
employee. 70266

(K) "Confidential employee" means any employee who works in 70267
the personnel offices of a public employer and deals with 70268
information to be used by the public employer in collective 70269
bargaining; or any employee who works in a close continuing 70270
relationship with public officers or representatives directly 70271
participating in collective bargaining on behalf of the employer. 70272

(L) "Management level employee" means an individual who 70273
formulates policy on behalf of the public employer, who 70274
responsibly directs the implementation of policy, or who may 70275
reasonably be required on behalf of the public employer to assist 70276
in the preparation for the conduct of collective negotiations, 70277

administer collectively negotiated agreements, or have a major 70278
role in personnel administration. Assistant superintendents, 70279
principals, and assistant principals whose employment is governed 70280
by section 3319.02 of the Revised Code are management level 70281
employees. With respect to members of a faculty of a state 70282
institution of higher education, no person is a management level 70283
employee because of the person's involvement in the formulation or 70284
implementation of academic or institution policy. 70285

(M) "Wages" means hourly rates of pay, salaries, or other 70286
forms of compensation for services rendered. 70287

(N) "Member of a police department" means a person who is in 70288
the employ of a police department of a municipal corporation as a 70289
full-time regular police officer as the result of an appointment 70290
from a duly established civil service eligibility list or under 70291
section 737.15 or 737.16 of the Revised Code, a full-time deputy 70292
sheriff appointed under section 311.04 of the Revised Code, a 70293
township constable appointed under section 509.01 of the Revised 70294
Code, or a member of a township police district police department 70295
appointed under section 505.49 of the Revised Code. 70296

(O) "Members of the state highway patrol" means highway 70297
patrol troopers and radio operators appointed under section 70298
5503.01 of the Revised Code. 70299

(P) "Member of a fire department" means a person who is in 70300
the employ of a fire department of a municipal corporation or a 70301
township as a fire cadet, full-time regular firefighter, or 70302
promoted rank as the result of an appointment from a duly 70303
established civil service eligibility list or under section 70304
505.38, 709.012, or 737.22 of the Revised Code. 70305

(Q) "Day" means calendar day. 70306

Sec. 4117.03. (A) Public employees have the right to: 70307

(1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing;

(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(3) Representation by an employee organization;

(4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;

(5) Present grievances and have them adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment.

(B) Persons on active duty or acting in any capacity as members of the organized militia do not have collective bargaining rights. Employees of a community school established under Chapter 3314. of the Revised Code do not have collective bargaining rights. A community school established under Chapter 3314. of the Revised Code shall not bargain collectively with its employees, except as provided in section 3314.10 of the Revised Code.

(C) Except as provided in division (D) of this section, nothing in Chapter 4117. of the Revised Code prohibits public employers from electing to engage in collective bargaining, to meet and confer, to hold discussions, or to engage in any other form of collective negotiations with public employees who are not subject to Chapter 4117. of the Revised Code pursuant to division

(C) of section 4117.01 of the Revised Code. 70339

(D) A public employer shall not engage in collective 70340
bargaining or other forms of collective negotiations with the 70341
employees of county boards of elections referred to in division 70342
(C)(12) of section 4117.01 of the Revised Code. 70343

(E) Employees of public schools may bargain collectively for 70344
health care benefits; ~~however, all health care benefits shall~~ 70345
~~include best practices prescribed by the school employees health~~ 70346
~~care board, in accordance with section 9.901 of the Revised Code.~~ 70347

Sec. 4117.06. (A) The state employment relations board shall 70348
decide in each case the unit appropriate for the purposes of 70349
collective bargaining. The determination is final and conclusive 70350
and not appealable to the court. 70351

(B) The board shall determine the appropriateness of each 70352
bargaining unit and shall consider among other relevant factors: 70353
the desires of the employees; the community of interest; wages, 70354
hours, and other working conditions of the public employees; the 70355
effect of over-fragmentation; the efficiency of operations of the 70356
public employer; the administrative structure of the public 70357
employer; and the history of collective bargaining. 70358

(C) The board may determine a unit to be the appropriate unit 70359
in a particular case, even though some other unit might also be 70360
appropriate. 70361

(D) In addition, in determining the appropriate unit, the 70362
board shall not: 70363

(1) Decide that any unit is appropriate if the unit includes 70364
both professional and nonprofessional employees, unless a majority 70365
of the professional employees and a majority of the 70366
nonprofessional employees first vote for inclusion in the unit; 70367

(2) Include guards or correction officers at correctional or 70368

mental institutions, special police officers appointed in 70369
accordance with sections 5119.14 and 5123.13 of the Revised Code, 70370
psychiatric attendants employed at mental health forensic 70371
facilities, youth leaders employed at juvenile correction 70372
facilities, or any public employee employed as a guard to enforce 70373
against other employees rules to protect property of the employer 70374
or to protect the safety of persons on the employer's premises in 70375
a unit with other employees; 70376

(3) Include members of a police or fire department or members 70377
of the state highway patrol in a unit with other classifications 70378
of public employees of the department; 70379

(4) Designate as appropriate a bargaining unit that contains 70380
more than one institution of higher education; nor shall it within 70381
any such institution of higher education designate as appropriate 70382
a unit where such designation would be inconsistent with the 70383
accreditation standards or interpretations of such standards, 70384
governing such institution of higher education or any department, 70385
school, or college thereof. For the purposes of this division, any 70386
branch or regional campus of a public institution of higher 70387
education is part of that institution of higher education. 70388

(5) Designate as appropriate a bargaining unit that contains 70389
employees within the jurisdiction of more than one elected county 70390
office holder, unless the county-elected office holder and the 70391
board of county commissioners agree to such other designation; 70392

(6) With respect to members of a police department, designate 70393
as appropriate a unit that includes rank and file members of the 70394
department with members who are of the rank of sergeant or above; 70395

(7) Except as otherwise provided by division ~~(A)(3)~~ of 70396
~~section 3314.10 or division~~ (B) of section 3326.18 of the Revised 70397
Code, designate as appropriate a bargaining unit that contains 70398
employees from multiple ~~community schools established under~~ 70399

~~Chapter 3314. or multiple~~ science, technology, engineering, and 70400
mathematics schools established under Chapter 3326. of the Revised 70401
Code. For purposes of this division, more than one unit may be 70402
designated within a single ~~community school or~~ science, 70403
technology, engineering, and mathematics school. 70404

This section shall not be deemed to prohibit multiunit 70405
bargaining. 70406

Sec. 4123.27. Information contained in the annual statement 70407
provided for in section 4123.26 of the Revised Code, and such 70408
other information as may be furnished to the bureau of workers' 70409
compensation by employers in pursuance of that section, is for the 70410
exclusive use and information of the bureau in the discharge of 70411
its official duties, and shall not be open to the public nor be 70412
used in any court in any action or proceeding pending therein 70413
unless the bureau is a party to the action or proceeding; but the 70414
information contained in the statement may be tabulated and 70415
published by the bureau in statistical form for the use and 70416
information of other state departments and the public. No person 70417
in the employ of the bureau, except those who are authorized by 70418
the administrator of workers' compensation, shall divulge any 70419
information secured by the person while in the employ of the 70420
bureau in respect to the transactions, property, claim files, 70421
records, or papers of the bureau or in respect to the business or 70422
mechanical, chemical, or other industrial process of any company, 70423
firm, corporation, person, association, partnership, or public 70424
utility to any person other than the administrator or to the 70425
superior of such employee of the bureau. 70426

Notwithstanding the restrictions imposed by this section, the 70427
governor, select or standing committees of the general assembly, 70428
the auditor of state, the attorney general, or their designees, 70429
pursuant to the authority granted in this chapter and Chapter 70430

4121. of the Revised Code, may examine any records, claim files, 70431
or papers in possession of the industrial commission or the 70432
bureau. They also are bound by the privilege that attaches to 70433
these papers. 70434

The administrator shall report to the director of job and 70435
family services or to the county director of job and family 70436
services the name, address, and social security number or other 70437
identification number of any person receiving workers' 70438
compensation whose name or social security number or other 70439
identification number is the same as that of a person required by 70440
a court or child support enforcement agency to provide support 70441
payments to a recipient or participant of public assistance, as 70442
that term is defined in section 5101.181 of the Revised Code, and 70443
whose name is submitted to the administrator by the director under 70444
section 5101.36 of the Revised Code. The administrator also shall 70445
inform the director of the amount of workers' compensation paid to 70446
the person during such period as the director specifies. 70447

Within fourteen days after receiving from the director of job 70448
and family services a list of the names and social security 70449
numbers of recipients or participants of public assistance 70450
pursuant to section 5101.181 of the Revised Code, the 70451
administrator shall inform the auditor of state of the name, 70452
current or most recent address, and social security number of each 70453
person receiving workers' compensation pursuant to this chapter 70454
whose name and social security number are the same as that of a 70455
person whose name or social security number was submitted by the 70456
director. The administrator also shall inform the auditor of state 70457
of the amount of workers' compensation paid to the person during 70458
such period as the director specifies. 70459

The bureau and its employees, except for purposes of 70460
furnishing the auditor of state with information required by this 70461
section, shall preserve the confidentiality of recipients or 70462

participants of public assistance in compliance with ~~division (A)~~ 70463
~~of~~ section 5101.181 of the Revised Code. 70464

~~For the purposes of this section, "public assistance" means~~ 70465
~~medical assistance provided through the medical assistance program~~ 70466
~~established under section 5111.01 of the Revised Code, Ohio works~~ 70467
~~first provided under Chapter 5107. of the Revised Code,~~ 70468
~~prevention, retention, and contingency benefits and services~~ 70469
~~provided under Chapter 5108. of the Revised Code, or disability~~ 70470
~~financial assistance provided under Chapter 5115. of the Revised~~ 70471
~~Code.~~ 70472

Sec. 4131.03. (A) For the relief of persons who are entitled 70473
to receive benefits by virtue of the federal act, there is hereby 70474
established a coal-workers pneumoconiosis fund, which shall be 70475
separate from the funds established and administered pursuant to 70476
Chapter 4123. of the Revised Code. The fund shall consist of 70477
premiums and other payments thereto by subscribers who elect to 70478
subscribe to the fund to insure the payment of benefits required 70479
by the federal act. 70480

(B)(1) The coal-workers pneumoconiosis fund shall be in the 70481
custody of the treasurer of state. The bureau of workers' 70482
compensation shall make disbursements from the fund to those 70483
persons entitled to payment therefrom and in the amounts required 70484
pursuant to sections 4131.01 to 4131.06 of the Revised Code. All 70485
investment earnings of the fund shall be credited to the fund. 70486

(2) The Beginning July 1, 2011, and ending June 30, 2013, the 70487
director of natural resources annually may request the 70488
administrator of workers' compensation to transfer a portion of 70489
the investment earnings credited to the coal-workers 70490
pneumoconiosis fund as provided in this division. If the 70491
administrator receives a request from the director, the 70492
administrator of workers' compensation may, on the first day of 70493

July, or as soon as possible after that date, shall transfer a 70494
portion of from the investment earnings credited to the 70495
coal-workers pneumoconiosis fund an amount not to exceed three 70496
million dollars to the mine safety fund created in section 1561.24 70497
of the Revised Code for the purposes specified in that section and 70498
an amount not to exceed one million five hundred thousand dollars 70499
to the coal mining administration and reclamation reserve fund 70500
created in section 1513.181 of the Revised Code for the purposes 70501
specified in that section. The administrator, with the advice and 70502
consent of the bureau of workers' compensation board of directors, 70503
shall adopt rules governing the transfer in order to ensure the 70504
solvency of the coal-workers pneumoconiosis fund. For that 70505
purpose, the rules may establish tests based on measures of net 70506
assets, liabilities, expenses, interest, dividend income, or other 70507
factors that the administrator determines appropriate that may be 70508
applied prior to a transfer. 70509

(C) The administrator shall have the same powers to invest 70510
any of the surplus or reserve belonging to the coal-workers 70511
pneumoconiosis fund as are delegated to the administrator under 70512
section 4123.44 of the Revised Code with respect to the state 70513
insurance fund. 70514

(D) If the administrator determines that reinsurance of the 70515
risks of the coal-workers pneumoconiosis fund is necessary to 70516
assure solvency of the fund, the administrator may: 70517

(1) Enter into contracts for the purchase of reinsurance 70518
coverage of the risks of the fund with any company or agency 70519
authorized by law to issue contracts of reinsurance; 70520

(2) Pay the cost of reinsurance from the fund; 70521

(3) Include the costs of reinsurance as a liability and 70522
estimated liability of the fund. 70523

Sec. 4141.08. (A) There is hereby created an unemployment 70524
compensation advisory council appointed as follows: 70525

(1) Three members who on account of their vocation, 70526
employment, or affiliations can be classed as representative of 70527
employers and three members who on account of their vocation, 70528
employment, or affiliation can be classed as representatives of 70529
employees appointed by the governor with the advice and consent of 70530
the senate. All appointees shall be persons whose training and 70531
experience qualify them to deal with the difficult problems of 70532
unemployment compensation, particularly with respect to the legal, 70533
accounting, actuarial, economic, and social aspects of 70534
unemployment compensation; 70535

(2) The chairpersons of the standing committees of the senate 70536
and the house of representatives to which legislation pertaining 70537
to Chapter 4141. of the Revised Code is customarily referred; 70538

(3) Two members of the senate appointed by the president of 70539
the senate; and 70540

(4) Two members of the house of representatives appointed by 70541
the speaker of the house of representatives. 70542

The speaker and the president shall arrange that of the six 70543
legislative members appointed to the council, not more than three 70544
are members of the same political party. 70545

(B) Members appointed by the governor shall serve for a term 70546
of four years, each term ending on the same day as the date of 70547
their original appointment. Legislative members shall serve during 70548
the session of the general assembly to which they are elected and 70549
for as long as they are members of the general assembly. Vacancies 70550
shall be filled in the same manner as the original appointment but 70551
only for the unexpired part of a term. 70552

(C) Members of the council shall serve without salary but, 70553

notwithstanding section 101.26 of the Revised Code, shall be paid 70554
a meeting stipend of fifty dollars per day each and their actual 70555
and necessary expenses while engaged in the performance of their 70556
duties as members of the council which shall be paid from funds 70557
allocated to pay the expenses of the council pursuant to this 70558
section. 70559

(D) The council shall organize itself and select a 70560
chairperson or co-chairpersons and other officers and committees 70561
as it considers necessary. Seven members constitute a quorum and 70562
the council may act only upon the affirmative vote of seven 70563
members. The council shall meet at least once each calendar 70564
quarter but it may meet more often as the council considers 70565
necessary or at the request of the chairperson. 70566

(E) The council may employ professional and clerical 70567
assistance as it considers necessary and may request of the 70568
director of job and family services assistance as it considers 70569
necessary. The director shall furnish the council with office and 70570
meeting space as requested by the council. 70571

(F) The director shall pay the operating expenses of the 70572
council ~~as determined by the council~~ from moneys in the 70573
unemployment compensation special administrative fund established 70574
in section 4141.11 of the Revised Code. 70575

(G) The council shall have access to only the records of the 70576
department of job and family services that are necessary for the 70577
administration of this chapter and to the reasonable services of 70578
the employees of the department. It may request the director, or 70579
any of the employees appointed by the director, or any employer or 70580
employee subject to this chapter, to appear before it and to 70581
testify relative to the functioning of this chapter and to other 70582
relevant matters. The council may conduct research of its own, 70583
make and publish reports, and recommend to the director, the 70584
unemployment compensation review commission, the governor, or the 70585

general assembly needed changes in this chapter, or in the rules 70586
of the department as it considers necessary. 70587

Sec. 4141.11. There is hereby created in the state treasury 70588
the unemployment compensation special administrative fund. The 70589
fund shall consist of all interest collected on delinquent 70590
contributions pursuant to this chapter, all fines and forfeitures 70591
collected under this chapter, and all court costs and interest 70592
paid or collected in connection with the repayment of fraudulently 70593
obtained benefits pursuant to section 4141.35 of the Revised Code. 70594
All interest earned on the money in the fund shall be retained in 70595
the fund and shall not be credited or transferred to any other 70596
fund or account, except as provided in division (B) of this 70597
section. All moneys which are deposited or paid into this fund may 70598
be used by: 70599

(A) The director of job and family services ~~with the approval~~ 70600
~~of the unemployment compensation advisory council~~ whenever it 70601
appears that such use is necessary for: 70602

(1) The proper administration of this chapter and no federal 70603
funds are available for the specific purpose for which the 70604
expenditure is to be made, provided the moneys are not substituted 70605
for appropriations from federal funds, which in the absence of 70606
such moneys would be available; 70607

(2) The proper administration of this chapter for which 70608
purpose appropriations from federal funds have been requested and 70609
approved but not received, provided the fund would be reimbursed 70610
upon receipt of the federal appropriation; 70611

(3) To the extent possible, the repayment to the unemployment 70612
compensation administration fund of moneys found by the proper 70613
agency of the United States to have been lost or expended for 70614
purposes other than, or an amount in excess of, those found 70615
necessary by the proper agency of the United States for the 70616

administration of this chapter. 70617

(B) The director or the director's deputy whenever it appears 70618
that such use is necessary for the payment of refunds or 70619
adjustments of interest, fines, forfeitures, or court costs 70620
erroneously collected and paid into this fund pursuant to this 70621
chapter. 70622

(C) The director, to pay state disaster unemployment benefits 70623
pursuant to section 4141.292 of the Revised Code. ~~The director~~ 70624
~~need not have prior approval from the council to make these~~ 70625
~~payments.~~ 70626

(D) The director, to pay any costs attributable to the 70627
director that are associated with the sale of real property under 70628
section 4141.131 of the Revised Code. ~~The director need not have~~ 70629
~~prior approval from the council to make these payments.~~ 70630

Whenever the balance in the unemployment compensation special 70631
administrative fund is considered to be excessive by the ~~council~~ 70632
director, the director shall request the director of budget and 70633
management to transfer to the unemployment compensation fund the 70634
amount considered to be excessive. Any balance in the unemployment 70635
compensation special administrative fund shall not lapse at any 70636
time, but shall be continuously available to the director of ~~jobs~~ 70637
job and family services ~~or to the council~~ for expenditures 70638
consistent with this chapter. 70639

Sec. 4141.33. (A) "Seasonal employment" means employment of 70640
individuals hired primarily to perform services in an industry 70641
which because of climatic conditions or because of the seasonal 70642
nature of such industry it is customary to operate only during 70643
regularly recurring periods of forty weeks or less in any 70644
consecutive fifty-two weeks. "Seasonal employer" means an employer 70645
determined by the director of job and family services to be an 70646
employer whose operations and business, with the exception of 70647

certain administrative and maintenance operations, are 70648
substantially all in a seasonal industry. Any employer who claims 70649
to have seasonal employment in a seasonal industry may file with 70650
the director a written application for classification of such 70651
employment as seasonal. Whenever in any industry it is customary 70652
to operate because of climatic conditions or because of the 70653
seasonal nature of such industry only during regularly recurring 70654
periods of forty weeks or less duration, benefits shall be payable 70655
only during the longest seasonal periods which the best practice 70656
of such industry will reasonably permit. The director shall 70657
determine, after investigation, hearing, and due notice, whether 70658
the industry is seasonal and, if seasonal, establish seasonal 70659
periods for such seasonal employer. Until such determination by 70660
the director, no industry or employment shall be deemed seasonal. 70661

(B) When the director has determined such seasonal periods, 70662
the director shall also establish the proportionate number of 70663
weeks of employment and earnings required to qualify for seasonal 70664
benefit rights in place of the weeks of employment and earnings 70665
requirement stipulated in division (R) of section 4141.01 and 70666
section 4141.30 of the Revised Code, and the proportionate number 70667
of weeks for which seasonal benefits may be paid. An individual 70668
whose base period employment consists of only seasonal employment 70669
for a single seasonal employer and who meets the employment and 70670
earnings requirements determined by the director pursuant to this 70671
division will have benefit rights determined in accordance with 70672
this division. Benefit charges for such seasonal employment shall 70673
be computed and charged in accordance with division (D) of section 70674
4141.24 of the Revised Code. The director may adopt rules for 70675
implementation of this section. 70676

(C) An individual ~~whose base period employment consists of~~ 70677
~~either seasonal employment with two or more seasonal employers or~~ 70678
~~both seasonal employment and nonseasonal employment with employers~~ 70679

~~subject to this chapter, will have benefit rights determined in~~ 70680
~~accordance with division (R) of section 4141.01 and section~~ 70681
~~4141.30 of the Revised Code. Benefit charges for both seasonal and~~ 70682
~~nonseasonal employment shall be computed and charged in accordance~~ 70683
~~with division (D) of section 4141.24 of the Revised Code. The~~ 70684
~~total seasonal and nonseasonal benefits during a benefit year~~ 70685
~~cannot exceed twenty six times the weekly benefit amount who~~ 70686
~~performs services that substantially consist of services performed~~ 70687
~~in seasonal employment shall not be paid benefits for those~~ 70688
~~services for any week in the period between two successive~~ 70689
~~seasonal periods if the individual performed those services in the~~ 70690
~~first of the seasonal periods and there is reasonable assurance~~ 70691
~~that the individual will perform those services in the later of~~ 70692
~~the seasonal periods. The director shall adopt rules for the~~ 70693
~~implementation of this division.~~ 70694

(D) Benefits shall not be paid to any individual on the basis 70695
of any services, substantially all of which consist of 70696
participating in sports or athletic events or training or 70697
preparing to so participate, for any week which commences during 70698
the period between two successive sport seasons, or similar 70699
periods, if the individual performed services in the first of the 70700
seasons, or similar periods, and there is a reasonable assurance 70701
that the individual will perform services in the later of the 70702
seasons, or similar periods. 70703

~~(1)(E)~~ The term "reasonable assurance" as used in this 70704
~~division~~ section means a written, verbal, or implied agreement 70705
that the individual will perform services in the same or similar 70706
capacity during the ensuing sports season or seasonal period. 70707

~~(2)(F)~~ The director shall adopt rules concerning the 70708
eligibility for benefits of individuals under divisions (C) and 70709
(D) of this division section. 70710

Sec. 4301.12. The division of liquor control shall provide 70711
for the custody, safekeeping, and deposit of all moneys, checks, 70712
and drafts received by it or any of its employees or agents prior 70713
to paying them to the treasurer of state as provided by section 70714
113.08 of the Revised Code. 70715

A sum equal to three dollars and thirty-eight cents for each 70716
gallon of spirituous liquor sold by the division, JobsOhio, or a 70717
designee of JobsOhio during the period covered by the payment 70718
shall be paid into the state treasury to the credit of the general 70719
revenue fund. All moneys received from permit fees, except B-2a 70720
and S permit fees from B-2a and S permit holders who do not also 70721
hold A-2 permits, shall be paid to the credit of the undivided 70722
liquor permit fund established by section 4301.30 of the Revised 70723
Code. 70724

Except as otherwise provided by law, all moneys collected 70725
under Chapters 4301. and 4303. of the Revised Code shall be paid 70726
by the division into the state treasury to the credit of the 70727
liquor control fund, which is hereby created. In addition, revenue 70728
resulting from any contracts with the department of commerce 70729
pertaining to the responsibilities and operations described in 70730
this chapter may be credited to the fund. Amounts in the liquor 70731
control fund may be used to pay the operating expenses of the 70732
liquor control commission. 70733

Whenever, in the judgment of the director of budget and 70734
management, the amount in the liquor control fund is in excess of 70735
that needed to meet the maturing obligations of the division, as 70736
working capital for its further operations, to pay the operating 70737
expenses of the commission, and for the alcohol testing program 70738
under section 3701.143 of the Revised Code, the director shall 70739
transfer the excess to the credit of the general revenue fund. If 70740
the director determines that the amount in the liquor control fund 70741

is insufficient, the director may transfer money from the general 70742
revenue fund to the liquor control fund. 70743

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 70744
the Revised Code: 70745

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 70746
fluid ounces. 70747

(2) "Sale" or "sell" includes exchange, barter, gift, 70748
distribution, and, except with respect to A-4 permit holders, 70749
offer for sale. 70750

(B) For the purposes of providing revenues for the support of 70751
the state and encouraging the grape industries in the state, a tax 70752
is hereby levied on the sale or distribution of wine in Ohio, 70753
except for known sacramental purposes, at the rate of thirty cents 70754
per wine gallon for wine containing not less than four per cent of 70755
alcohol by volume and not more than fourteen per cent of alcohol 70756
by volume, ninety-eight cents per wine gallon for wine containing 70757
more than fourteen per cent but not more than twenty-one per cent 70758
of alcohol by volume, one dollar and eight cents per wine gallon 70759
for vermouth, and one dollar and forty-eight cents per wine gallon 70760
for sparkling and carbonated wine and champagne, the tax to be 70761
paid by the holders of A-2 and B-5 permits or by any other person 70762
selling or distributing wine upon which no tax has been paid. From 70763
the tax paid under this section on wine, vermouth, and sparkling 70764
and carbonated wine and champagne, the treasurer of state shall 70765
credit to the Ohio grape industries fund created under section 70766
924.54 of the Revised Code a sum equal to one cent per gallon for 70767
each gallon upon which the tax is paid. 70768

(C) For the purpose of providing revenues for the support of 70769
the state, there is hereby levied a tax on prepared and bottled 70770
highballs, cocktails, cordials, and other mixed beverages at the 70771
rate of one dollar and twenty cents per wine gallon to be paid by 70772

holders of A-4 permits or by any other person selling or 70773
distributing those products upon which no tax has been paid. Only 70774
one sale of the same article shall be used in computing the amount 70775
of tax due. The tax on mixed beverages to be paid by holders of 70776
A-4 permits under this section shall not attach until the 70777
ownership of the mixed beverage is transferred for valuable 70778
consideration to a wholesaler or retailer, and no payment of the 70779
tax shall be required prior to that time. 70780

(D) During the period of July 1, ~~2009~~ 2011, through June 30, 70781
~~2011~~ 2013, from the tax paid under this section on wine, vermouth, 70782
and sparkling and carbonated wine and champagne, the treasurer of 70783
state shall credit to the Ohio grape industries fund created under 70784
section 924.54 of the Revised Code a sum equal to two cents per 70785
gallon upon which the tax is paid. The amount credited under this 70786
division is in addition to the amount credited to the Ohio grape 70787
industries fund under division (B) of this section. 70788

(E) For the purpose of providing revenues for the support of 70789
the state, there is hereby levied a tax on cider at the rate of 70790
twenty-four cents per wine gallon to be paid by the holders of A-2 70791
and B-5 permits or by any other person selling or distributing 70792
cider upon which no tax has been paid. Only one sale of the same 70793
article shall be used in computing the amount of the tax due. 70794

Sec. 4301.62. (A) As used in this section: 70795

(1) "Chauffeured limousine" means a vehicle registered under 70796
section 4503.24 of the Revised Code. 70797

(2) "Street," "highway," and "motor vehicle" have the same 70798
meanings as in section 4511.01 of the Revised Code. 70799

(B) No person shall have in the person's possession an opened 70800
container of beer or intoxicating liquor in any of the following 70801
circumstances: 70802

(1) In a state liquor store;	70803
(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of liquor control;	70804 70805 70806
(3) In any other public place;	70807
(4) Except as provided in division (D) or (E) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;	70808 70809 70810 70811 70812
(5) Except as provided in division (D) or (E) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.	70813 70814 70815 70816
(C)(1) A person may have in the person's possession an opened container of any of the following:	70817 70818
(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;	70819 70820 70821 70822 70823 70824
(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;	70825 70826 70827
(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;	70828 70829 70830
(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control	70831 70832

commission. 70833

(2) A person may have in the person's possession on an F 70834
liquor permit premises an opened container of beer or intoxicating 70835
liquor that was not purchased from the holder of the F permit if 70836
the premises for which the F permit is issued is a music festival 70837
and the holder of the F permit grants permission for that 70838
possession on the premises during the period for which the F 70839
permit is issued. As used in this division, "music festival" means 70840
a series of outdoor live musical performances, extending for a 70841
period of at least three consecutive days and located on an area 70842
of land of at least forty acres. 70843

(3)(a) A person may have in the person's possession on a D-2 70844
liquor permit premises an opened or unopened container of wine 70845
that was not purchased from the holder of the D-2 permit if the 70846
premises for which the D-2 permit is issued is an outdoor 70847
performing arts center, the person is attending an orchestral 70848
performance, and the holder of the D-2 permit grants permission 70849
for the possession and consumption of wine in certain 70850
predesignated areas of the premises during the period for which 70851
the D-2 permit is issued. 70852

(b) As used in division (C)(3)(a) of this section: 70853

(i) "Orchestral performance" means a concert comprised of a 70854
group of not fewer than forty musicians playing various musical 70855
instruments. 70856

(ii) "Outdoor performing arts center" means an outdoor 70857
performing arts center that is located on not less than one 70858
hundred fifty acres of land and that is open for performances from 70859
the first day of April to the last day of October of each year. 70860

(4) A person may have in the person's possession an opened or 70861
unopened container of beer or intoxicating liquor at an outdoor 70862
location at which the person is attending an orchestral 70863

performance as defined in division (C)(3)(b)(i) of this section if 70864
the person with supervision and control over the performance 70865
grants permission for the possession and consumption of beer or 70866
intoxicating liquor in certain predesignated areas of that outdoor 70867
location. 70868

(5) A person may have in the person's possession on an F-9 70869
liquor permit premises an opened or unopened container of beer or 70870
intoxicating liquor that was not purchased from the holder of the 70871
F-9 permit if the person is attending an orchestral performance 70872
and the holder of the F-9 permit grants permission for the 70873
possession and consumption of beer or intoxicating liquor in 70874
certain predesignated areas of the premises during the period for 70875
which the F-9 permit is issued. 70876

As used in division (C)(5) of this section, "orchestral 70877
performance" has the same meaning as in division (C)(3)(b) of this 70878
section. 70879

(D) This section does not apply to a person who pays all or a 70880
portion of the fee imposed for the use of a chauffeured limousine 70881
pursuant to a prearranged contract, or the guest of the person, 70882
when all of the following apply: 70883

(1) The person or guest is a passenger in the limousine. 70884

(2) The person or guest is located in the limousine, but is 70885
not occupying a seat in the front compartment of the limousine 70886
where the operator of the limousine is located. 70887

(3) The limousine is located on any street, highway, or other 70888
public or private property open to the public for purposes of 70889
vehicular travel or parking. 70890

(E) An opened bottle of wine that was purchased from the 70891
holder of a permit that authorizes the sale of wine for 70892
consumption on the premises where sold is not an opened container 70893
for the purposes of this section if both of the following apply: 70894

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4301.80. (A) As used in this section, "community entertainment district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (1) Hotels;
- (2) Restaurants;
- (3) Retail sales establishments;
- (4) Enclosed shopping centers;
- (5) Museums;
- (6) Performing arts theaters;
- (7) Motion picture theaters;
- (8) Night clubs;
- (9) Convention facilities;
- (10) Sports facilities;

(11) Entertainment facilities or complexes;	70923
(12) Any combination of the establishments described in	70924
division (A)(1) to (11) of this section that provide similar	70925
services to the community.	70926
(B) Any owner of property located in a municipal corporation	70927
seeking to have that property, or that property and other	70928
surrounding property, designated as a community entertainment	70929
district shall file an application seeking this designation with	70930
the mayor of the municipal corporation in which that property is	70931
located. Any owner of property located in the unincorporated area	70932
of a township seeking to have that property, or that property and	70933
other surrounding property, designated as a community	70934
entertainment district shall file an application seeking this	70935
designation with the board of township trustees of the township in	70936
whose unincorporated area that property is located. An application	70937
to designate an area as a community entertainment district shall	70938
contain all of the following:	70939
(1) The applicant's name and address;	70940
(2) A map or survey of the proposed community entertainment	70941
district in sufficient detail to identify the boundaries of the	70942
district and the property owned by the applicant;	70943
(3) A general statement of the nature and types of	70944
establishments described in division (A) of this section that are	70945
or will be located within the proposed community improvement	70946
district and any other establishments located in the proposed	70947
community entertainment district that are not described in	70948
division (A) of this section;	70949
(4) If some or all of the establishments within the proposed	70950
community entertainment district have not yet been developed, the	70951
proposed time frame for completing the development of these	70952
establishments;	70953

(5) Evidence that the uses of land within the proposed community entertainment district are in accord with the municipal corporation's or township's master zoning plan or map;

(6) A certificate from a surveyor or engineer licensed under Chapter 4733. of the Revised Code indicating that the area encompassed by the proposed community entertainment district contains no less than twenty contiguous acres;

(7) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township.

(C) An application described in division (B) of this section relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application described in division (B) of this section relating to an area located in the unincorporated area of a township shall be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of section 149.43 of the Revised Code upon its receipt by the mayor or board of township trustees.

Within thirty days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the municipal corporation, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the clerk

of the municipal corporation and is available for inspection by 70986
the public during regular business hours. Within thirty days after 70987
it receives the application, the board of township trustees, by 70988
notice published once a week for two consecutive weeks in ~~at least~~ 70989
one newspaper of general circulation in the township or as 70990
provided in section 7.16 of the Revised Code, shall notify the 70991
public that the application is on file in the office of the 70992
township fiscal officer and is available for inspection by the 70993
public during regular business hours. The notice shall also 70994
indicate the date and time of any public hearing by the 70995
legislative authority or board of township trustees on the 70996
application. 70997

Within seventy-five days after the date the application is 70998
filed with the mayor of a municipal corporation, the legislative 70999
authority of the municipal corporation by ordinance or resolution 71000
shall approve or disapprove the application based on whether the 71001
proposed community entertainment district does or will 71002
substantially contribute to entertainment, retail, educational, 71003
sporting, social, cultural, or arts opportunities for the 71004
community. The community considered shall at a minimum include the 71005
municipal corporation in which the community is located. Any 71006
approval of an application shall be by an affirmative majority 71007
vote of the legislative authority. 71008

Within seventy-five days after the date the application is 71009
filed with a board of township trustees, the board by resolution 71010
shall approve or disapprove the application based on whether the 71011
proposed community entertainment district does or will 71012
substantially contribute to entertainment, retail, educational, 71013
sporting, social, cultural, or arts opportunities for the 71014
community. The community considered shall at a minimum include the 71015
township in which the community is located. Any approval of an 71016
application shall be by an affirmative majority vote of the board 71017

of township trustees. 71018

If the legislative authority or board of township trustees 71019
disapproves the application, the applicant may make changes in the 71020
application to secure its approval by the legislative authority or 71021
board of township trustees. Any area approved by the legislative 71022
authority or board of township trustees constitutes a community 71023
entertainment district, and a local option election may be 71024
conducted in the district, as a type of community facility, under 71025
section 4301.356 of the Revised Code. 71026

(D) All or part of an area designated as a community 71027
entertainment district may lose this designation as provided in 71028
this division. The legislative authority of a municipal 71029
corporation in which a community entertainment district is 71030
located, or the board of township trustees of the township in 71031
whose unincorporated area a community entertainment district is 71032
located, after giving notice of its proposed action by publication 71033
once a week for two consecutive weeks in ~~at least~~ one newspaper of 71034
general circulation in the municipal corporation or township or as 71035
provided in section 7.16 of the Revised Code, may determine by 71036
ordinance or resolution in the case of the legislative authority 71037
of a municipal corporation, or by resolution in the case of a 71038
board of township trustees of a township, that all or part of the 71039
area fails to meet the standards described in this section for 71040
designation of an area as a community entertainment district. If 71041
the legislative authority or board so determines, the area 71042
designated in the ordinance or resolution no longer constitutes a 71043
community entertainment district. 71044

Sec. 4301.81. (A) As used in this section: 71045

(1) "Revitalization district" means a bounded area that 71046
includes or will include a combination of entertainment, retail, 71047
educational, sporting, social, cultural, or arts establishments 71048

within close proximity to some or all of the following types of	71049
establishments within the district, or other types of	71050
establishments similar to these:	71051
(a) Hotels;	71052
(b) Restaurants;	71053
(c) Retail sales establishments;	71054
(d) Enclosed shopping centers;	71055
(e) Museums;	71056
(f) Performing arts theaters;	71057
(g) Motion picture theaters;	71058
(h) Night clubs;	71059
(i) Convention facilities;	71060
(j) Sports facilities;	71061
(k) Entertainment facilities or complexes;	71062
(1) Any combination of the establishments described in	71063
divisions (A)(1)(a) to (k) of this section that provide similar	71064
services to the community.	71065
(2) "Municipal corporation" means a municipal corporation	71066
with a population of less than one hundred thousand.	71067
(3) "Township" means a township with a population in its	71068
unincorporated area of less than one hundred thousand.	71069
(B) Any owner of property located in a municipal corporation	71070
seeking to have that property, or that property and other	71071
surrounding property, designated as a revitalization district	71072
shall file an application seeking this designation with the mayor	71073
of the municipal corporation in which that property is located.	71074
Any owner of property located in the unincorporated area of a	71075
township seeking to have that property, or that property and other	71076

surrounding property, designated as a revitalization district 71077
shall file an application seeking this designation with the board 71078
of township trustees of the township in whose unincorporated area 71079
that property is located. An application to designate an area as a 71080
revitalization district shall contain all of the following: 71081

(1) The applicant's name and address; 71082

(2) A map or survey of the proposed revitalization district 71083
in sufficient detail to identify the boundaries of the district 71084
and the property owned by the applicant; 71085

(3) A general statement of the nature and types of 71086
establishments described in division (A) of this section that are 71087
or will be located within the proposed revitalization district and 71088
any other establishments located in the proposed revitalization 71089
district that are not described in division (A) of this section; 71090

(4) If some or all of the establishments within the proposed 71091
revitalization district have not yet been developed, the proposed 71092
time frame for completing the development of these establishments; 71093

(5) Evidence that the uses of land within the proposed 71094
revitalization district are in accord with the municipal 71095
corporation's or township's master zoning plan or map; and 71096

(6) A handling and processing fee to accompany the 71097
application, payable to the applicable municipal corporation or 71098
township, in an amount determined by that municipal corporation or 71099
township. 71100

(C) An application relating to an area located in a municipal 71101
corporation shall be addressed and submitted to the mayor of the 71102
municipal corporation in which the area described in the 71103
application is located. The mayor, within thirty days after 71104
receiving the application, shall submit the application with the 71105
mayor's recommendation to the legislative authority of the 71106
municipal corporation. An application relating to an area located 71107

in the unincorporated area of a township shall be addressed and 71108
submitted to the board of township trustees of the township in 71109
whose unincorporated area the area described in the application is 71110
located. The application is a public record for purposes of 71111
section 149.43 of the Revised Code upon its receipt by the mayor 71112
or board of township trustees. 71113

Within thirty days after it receives the application and the 71114
mayor's recommendations relating to the application, the 71115
legislative authority of the municipal corporation, by notice 71116
published once a week for two consecutive weeks in ~~at least~~ one 71117
newspaper of general circulation in the municipal corporation or 71118
as provided in section 7.16 of the Revised Code, shall notify the 71119
public that the application is on file in the office of the clerk 71120
of the municipal corporation and is available for inspection by 71121
the public during regular business hours. Within thirty days after 71122
it receives the application, the board of township trustees, by 71123
notice published once a week for two consecutive weeks in ~~at least~~ 71124
one newspaper of general circulation in the township or as 71125
provided in section 7.16 of the Revised Code, shall notify the 71126
public that the application is on file in the office of the 71127
township fiscal officer and is available for inspection by the 71128
public during regular business hours. The notice shall also 71129
indicate the date and time of any public hearing by the municipal 71130
legislative authority or board of township trustees on the 71131
application. 71132

Within seventy-five days after the date the application is 71133
filed with the mayor of a municipal corporation, the legislative 71134
authority of the municipal corporation by ordinance or resolution 71135
shall approve or disapprove the application based on whether the 71136
proposed revitalization district does or will substantially 71137
contribute to entertainment, retail, educational, sporting, 71138
social, cultural, or arts opportunities for the community. The 71139

community considered shall at a minimum include the municipal 71140
corporation in which the community is located. Any approval of an 71141
application shall be by an affirmative majority vote of the 71142
legislative authority. Not more than one revitalization district 71143
shall be designated within the municipal corporation. 71144

Within seventy-five days after the date the application is 71145
filed with a board of township trustees, the board by resolution 71146
shall approve or disapprove the application based on whether the 71147
proposed revitalization district does or will substantially 71148
contribute to entertainment, retail, educational, sporting, 71149
social, cultural, or arts opportunities for the community. The 71150
community considered shall at a minimum include the township in 71151
which the community is located. Any approval of an application 71152
shall be by an affirmative majority vote of the board of township 71153
trustees. Not more than one revitalization district shall be 71154
designated within the unincorporated area of the township. 71155

If the municipal legislative authority or board of township 71156
trustees disapproves the application, the applicant may make 71157
changes in the application to secure its approval by the 71158
legislative authority or board of township trustees. Any area 71159
approved by the legislative authority or board of township 71160
trustees constitutes a revitalization district, and a local option 71161
election may be conducted in the district, as a type of community 71162
facility, under section 4301.356 of the Revised Code. 71163

(D) All or part of an area designated as a revitalization 71164
district may lose this designation as provided in this division. 71165
The legislative authority of a municipal corporation in which a 71166
revitalization district is located, or the board of township 71167
trustees of the township in whose unincorporated area a 71168
revitalization district is located, after giving notice of its 71169
proposed action by publication once a week for two consecutive 71170
weeks in ~~at least~~ one newspaper of general circulation in the 71171

municipal corporation or township or as provided in section 7.16 71172
of the Revised Code, may determine by ordinance or resolution in 71173
the case of the legislative authority of a municipal corporation, 71174
or by resolution in the case of a board of township trustees of a 71175
township, that all or part of the area fails to meet the standards 71176
described in this section for designation of an area as a 71177
revitalization district. If the legislative authority or board so 71178
determines, the area designated in the ordinance or resolution no 71179
longer constitutes a revitalization district. 71180

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to 71181
manufacture beer and sell beer products in bottles or containers 71182
for home use and to retail and wholesale permit holders under 71183
rules ~~promulgated~~ adopted by the division of liquor control. In 71184
addition, an A-1 permit holder may sell beer and beer products at 71185
retail, by individual drink in a glass or from a container, for 71186
consumption on the premises where sold. The fee for this permit is 71187
three thousand nine hundred six dollars for each plant during the 71188
year covered by the permit. 71189

Sec. 4303.209. (A)(1) The division of liquor control may 71190
issue an F-9 permit to a nonprofit corporation that operates a 71191
park on property leased from a municipal corporation or a 71192
nonprofit corporation that provides or manages entertainment 71193
programming pursuant to an agreement with a nonprofit corporation 71194
that operates a park on property leased from a municipal 71195
corporation to sell beer or intoxicating liquor by the individual 71196
drink at specific events conducted within the park property and 71197
appurtenant streets, but only if, and only at times at which, the 71198
sale of beer and intoxicating liquor on the premises is otherwise 71199
permitted by law. Additionally, an F-9 permit may be issued only 71200
if the park property is located in a county that has a population 71201
of between one million one hundred thousand and one million two 71202

hundred thousand on the effective date of this section. 71203

(2) The division may issue separate F-9 permits to a 71204
nonprofit corporation that operates a park on property leased from 71205
a municipal corporation and a nonprofit corporation that provides 71206
or manages entertainment programming pursuant to an agreement with 71207
a nonprofit corporation that operates a park on property leased 71208
from a municipal corporation to be effective during the same time 71209
period. However, the permit privileges may be exercised by only 71210
one of the holders of an F-9 permit at specific events. The other 71211
holder of an F-9 permit shall certify to the division that it will 71212
not exercise its permit privileges during that specific event. 71213

(3) The premises on which an F-9 permit will be used shall be 71214
clearly defined and sufficiently restricted to allow proper 71215
supervision of the permit's use by state and local law enforcement 71216
officers. Sales under an F-9 permit shall be confined to the same 71217
hours permitted to the holder of a D-3 permit. 71218

(4) The fee for an F-9 permit is one thousand seven hundred 71219
dollars. An F-9 permit is effective for a period not to exceed 71220
nine months as specified in the permit. An F-9 permit is not 71221
transferable or renewable. However, the holder of an F-9 permit 71222
may apply for a new F-9 permit at any time. The holder of an F-9 71223
permit shall make sales only at those specific events about which 71224
the permit holder has notified in advance the division of liquor 71225
control, the department of public safety, and the chief, sheriff, 71226
or other principal peace officer of the local law enforcement 71227
agencies having jurisdiction over the premises. 71228

(B)(1) An application for the issuance of an F-9 permit is 71229
subject to the notice and hearing requirements established in 71230
division (A) of section 4303.26 of the Revised Code. 71231

(2) The liquor control commission shall adopt rules under 71232
Chapter 119. of the Revised Code necessary to administer this 71233

section. 71234

(C) No F-9 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-9 permit and on any officer, agent, or employee of that permit holder. 71235
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Sec. 4313.01. As used in this chapter: 71239

(A) "Enterprise acquisition project" means, as applicable, all or any portion of the capital or other assets of the spirituous liquor distribution and merchandising operations of the division of liquor control, including, without limitation, inventory, real property rights, equipment, furnishings, the spirituous liquor distribution system including transportation, the monetary management system, warehouses, contract rights, rights to take assignment of contracts and related receipts and revenues, accounts receivable, the exclusive right to manage and control spirituous liquor distribution and merchandising and to sell spirituous liquor in the state subject to the control of the division of liquor control pursuant to the terms of the transfer agreement, and all necessary appurtenances thereto, or leasehold interests therein, and the assets and liabilities of the facilities establishment fund. 71240
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(B) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code and includes any subsidiary of that corporation unless otherwise specified or clearly implied from the context, together with any successor or assignee of that corporation or any such subsidiary if and to the extent permitted by the transfer agreement or Chapter 187. of the Revised Code. 71255
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(C) "Spirituous liquor profits" means all receipts representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, less the costs, expenses, and working capital provided for 71261
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therein, but excluding the sum required by the second paragraph of 71265
section 4301.12 of the Revised Code, as in effect on May 2, 1980, 71266
to be paid into the state treasury, provided that from and after 71267
the initial transfer of the enterprise acquisition project to 71268
JobsOhio and until the transfer back to the state under division 71269
(D) of section 4313.02 of the Revised Code, the reference in 71270
division (B)(4) of section 4301.10 of the Revised Code to all 71271
costs and expenses of the division and also an adequate working 71272
capital reserve for the division shall be to all costs and 71273
expenses of JobsOhio and providing an adequate working capital 71274
reserve for JobsOhio. 71275

(D) "Transfer" means an assignment and sale, conveyance, 71276
granting of a franchise, lease, or transfer of all or an interest. 71277

(E) "Transfer agreement" means the agreement entered into 71278
between the state and JobsOhio providing for the transfer of the 71279
enterprise acquisition project pursuant to section 4313.02 of the 71280
Revised Code and any amendments or supplements thereto. 71281

Sec. 4313.02. (A) The state may transfer to JobsOhio, and 71282
JobsOhio may accept the transfer of, all or a portion of the 71283
enterprise acquisition project for a transfer price payable by 71284
JobsOhio to the state. Any such transfer shall be treated as an 71285
absolute conveyance and true sale of the interest in the 71286
enterprise acquisition project purported to be conveyed for all 71287
purposes, and not as a pledge or other security interest. The 71288
characterization of any such transfer as a true sale and absolute 71289
conveyance shall not be negated or adversely affected by the 71290
acquisition or retention by the state of a residual interest in 71291
the enterprise acquisition project, the participation of any state 71292
officer or employee as a member or officer of, or provision of 71293
staff support to, JobsOhio, any responsibility an officer or 71294
employee of the state may have to collect amounts to be received 71295

by JobsOhio from the enterprise acquisition project, or the 71296
retention of the state of any legal title to or interest in any 71297
portion of the enterprise acquisition project for the purpose of 71298
these collection activities, or any characterization of JobsOhio 71299
or obligations of JobsOhio under accounting, taxation, or 71300
securities regulations, or any other reason whatsoever. An 71301
absolute conveyance and true sale or lease shall exist under this 71302
section regardless of whether JobsOhio has any recourse against 71303
the state or the treatment or characterization of the transfer as 71304
a financing for any purpose. Upon and following the transfer, the 71305
state shall not have any right, title, or interest in the 71306
enterprise acquisition project so transferred other than any 71307
residual interest that may be described in the transfer agreement 71308
pursuant to the following paragraph and division (D) of this 71309
section. Any determination of the fair market value of the 71310
enterprise acquisition project reflected in the transfer agreement 71311
shall be conclusive and binding on the state and JobsOhio. 71312

Any transfer of the enterprise acquisition project that is a 71313
lease or grant of a franchise shall be for a term not to exceed 71314
twenty-five years. Any transfer of the enterprise acquisition 71315
project that is an assignment and sale, conveyance, or other 71316
transfer shall contain a provision that the state shall have the 71317
option to have conveyed or transferred back to it, at no cost, the 71318
enterprise acquisition project, as it then exists, no later than 71319
twenty-five years after the original transfer authorized in the 71320
transfer agreement on such other terms as shall be provided in the 71321
transfer agreement. 71322

The exercise of the powers granted by this section will be 71323
for the benefit of the people of the state. As the services 71324
performed by JobsOhio will constitute the performance of essential 71325
government functions, all or any portion of the enterprise 71326
acquisition project transferred pursuant to the transfer agreement 71327

that would be exempt from real property taxes or assessments or 71328
real property taxes or assessments in the absence of such transfer 71329
shall, as it may from time to time exist thereafter, remain exempt 71330
from real property taxes or assessments levied by the state and 71331
its subdivisions to the same extent as if not transferred. The 71332
gross receipts and income of JobsOhio derived from the enterprise 71333
acquisition project shall be exempt from taxation levied by the 71334
state and its subdivisions, including, but not limited to, the 71335
taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 71336
5751. of the Revised Code. Any transfer from the state to JobsOhio 71337
of the enterprise acquisition project, or item included or to be 71338
included in the project, shall be exempt from the taxes levied 71339
pursuant to Chapters 5739. and 5741. of the Revised Code. 71340

(B) The proceeds of any transfer under division (A) of this 71341
section may be expended as provided in the transfer agreement for 71342
any one or more of the following purposes: 71343

(1) Funding, payment, or defeasance of outstanding bonds 71344
issued pursuant to Chapters 151. and 166. of the Revised Code and 71345
secured by pledged liquor profits as defined in section 151.40 of 71346
the Revised Code; 71347

(2) Deposit into the general revenue fund; 71348

(3) Deposit into the clean Ohio revitalization fund created 71349
pursuant to section 122.658 of the Revised Code, the innovation 71350
Ohio loan fund created pursuant to section 166.16 of the Revised 71351
Code, the research and development loan fund created pursuant to 71352
section 166.20 of the Revised Code, the logistics and distribution 71353
infrastructure fund created pursuant to section 166.26 of the 71354
Revised Code, the advanced energy research and development fund 71355
created pursuant to section 3706.27 of the Revised Code, and the 71356
advanced energy research and development taxable fund created 71357
pursuant to section 3706.27 of the Revised Code; 71358

(4) Conveyance to JobsOhio for the purposes for which it was 71359
created. 71360

(C)(1) The state may covenant, pledge, and agree in the 71361
transfer agreement, with and for the benefit of JobsOhio, that it 71362
shall maintain statutory authority for the enterprise acquisition 71363
project and the revenues of the enterprise acquisition project and 71364
not otherwise materially impair any obligations supported by a 71365
pledge of revenues of the enterprise acquisition project. The 71366
transfer agreement may provide or authorize the manner for 71367
determining material impairment of the security for any such 71368
outstanding obligations, including by assessing and evaluating the 71369
revenues of the enterprise acquisition project. 71370

(2) The governor, director of development, director of 71371
commerce, and director of budget and management may, without need 71372
for any other approval take any action and execute any documents, 71373
including any transfer agreements, necessary to effect the 71374
transfer and the acceptance of the transfer of the enterprise 71375
acquisition project. The director of budget and management, 71376
director of commerce, and director of development may also, 71377
without need for any other approval, retain or contract for the 71378
services of commercial appraisers, underwriters, investment 71379
bankers, and financial advisers, as are necessary in their 71380
judgment to effect the transfer agreement. Any transfer agreement 71381
may contain terms and conditions established by the state to carry 71382
out and effectuate the purposes of this section, including, 71383
without limitation, covenants binding the state in favor of 71384
JobsOhio. Any such transfer agreement shall be sufficient to 71385
effectuate the transfer without regard to any other laws governing 71386
other property sales or financial transactions by the state. The 71387
director of budget and management may create any funds or 71388
accounts, within or without the state treasury, as are needed for 71389
the transactions and activities authorized by this section. 71390

(3) The transfer agreement may authorize JobsOhio to sell, lease, release, or otherwise dispose of real and personal property or interests therein, or a combination thereof, acquired by JobsOhio under this section and no longer needed for the purposes of this chapter, the enterprise acquisition project, or JobsOhio, and to grant such easements and other interests and rights in, over, under, or across all or a portion of the enterprise acquisition project as will not interfere with its use of such property. Such sale, lease, release, disposition, or grant may be made without competitive bidding and in such manner and for such consideration as JobsOhio in its judgment deems appropriate. Subject to the provisions of the first sentence of this paragraph, ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section.

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(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to others, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or provision therefor, of all obligations supported by a pledge of spirituous liquor profits.

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(E) JobsOhio, the director of budget and management, the director of commerce, and the director of development may also,

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without need for any other approval, enter into a contract, which 71423
may be part of the transfer agreement, for the continuing 71424
operation by the division of liquor control of spirituous liquor 71425
distribution and merchandising subject to standards for 71426
performance provided in that contract that may relate to or 71427
support division (C)(1) of this section. The contract may 71428
establish other terms and conditions for the assignment of duties 71429
to, and the provision of advice, services, and other assistance 71430
by, the division of liquor control, including providing for the 71431
necessary staffing and payment by JobsOhio of appropriate 71432
compensation to the division for the performance of such duties 71433
and the provision of such advice, services, and other assistance. 71434
The provisions of, and activities under, any such contract are 71435
subject to the requirements of, and limitations established under, 71436
divisions (A)(1), (3), and (5) and (B)(4) of section 4301.10 and 71437
section 4301.17 of the Revised Code. 71438

(F) The transfer agreement shall require JobsOhio to pay for 71439
the operations of the division of liquor control with regard to 71440
the spirituous liquor merchandising operations of the division. 71441
The payments from JobsOhio shall be deposited into the state 71442
treasury to the credit of the liquor control fund created in 71443
section 4301.12 of the Revised Code. 71444

Sec. 4503.06. (A) The owner of each manufactured or mobile 71445
home that has acquired situs in this state shall pay either a real 71446
property tax pursuant to Title LVII of the Revised Code or a 71447
manufactured home tax pursuant to division (C) of this section. 71448

(B) The owner of a manufactured or mobile home shall pay real 71449
property taxes if either of the following applies: 71450

(1) The manufactured or mobile home acquired situs in the 71451
state or ownership in the home was transferred on or after January 71452
1, 2000, and all of the following apply: 71453

(a) The home is affixed to a permanent foundation as defined 71454
in division (C)(5) of section 3781.06 of the Revised Code. 71455

(b) The home is located on land that is owned by the owner of 71456
the home. 71457

(c) The certificate of title has been inactivated by the 71458
clerk of the court of common pleas that issued it, pursuant to 71459
division (H) of section 4505.11 of the Revised Code. 71460

(2) The manufactured or mobile home acquired situs in the 71461
state or ownership in the home was transferred before January 1, 71462
2000, and all of the following apply: 71463

(a) The home is affixed to a permanent foundation as defined 71464
in division (C)(5) of section 3781.06 of the Revised Code. 71465

(b) The home is located on land that is owned by the owner of 71466
the home. 71467

(c) The owner of the home has elected to have the home taxed 71468
as real property and, pursuant to section 4505.11 of the Revised 71469
Code, has surrendered the certificate of title to the auditor of 71470
the county containing the taxing district in which the home has 71471
its situs, together with proof that all taxes have been paid. 71472

(d) The county auditor has placed the home on the real 71473
property tax list and delivered the certificate of title to the 71474
clerk of the court of common pleas that issued it and the clerk 71475
has inactivated the certificate. 71476

(C)(1) Any mobile or manufactured home that is not taxed as 71477
real property as provided in division (B) of this section is 71478
subject to an annual manufactured home tax, payable by the owner, 71479
for locating the home in this state. The tax as levied in this 71480
section is for the purpose of supplementing the general revenue 71481
funds of the local subdivisions in which the home has its situs 71482
pursuant to this section. 71483

(2) The year for which the manufactured home tax is levied 71484
commences on the first day of January and ends on the following 71485
thirty-first day of December. The state shall have the first lien 71486
on any manufactured or mobile home on the list for the amount of 71487
taxes, penalties, and interest charged against the owner of the 71488
home under this section. The lien of the state for the tax for a 71489
year shall attach on the first day of January to a home that has 71490
acquired situs on that date. The lien for a home that has not 71491
acquired situs on the first day of January, but that acquires 71492
situs during the year, shall attach on the next first day of 71493
January. The lien shall continue until the tax, including any 71494
penalty or interest, is paid. 71495

(3)(a) The situs of a manufactured or mobile home located in 71496
this state on the first day of January is the local taxing 71497
district in which the home is located on that date. 71498

(b) The situs of a manufactured or mobile home not located in 71499
this state on the first day of January, but located in this state 71500
subsequent to that date, is the local taxing district in which the 71501
home is located thirty days after it is acquired or first enters 71502
this state. 71503

(4) The tax is collected by and paid to the county treasurer 71504
of the county containing the taxing district in which the home has 71505
its situs. 71506

(D) The manufactured home tax shall be computed and assessed 71507
by the county auditor of the county containing the taxing district 71508
in which the home has its situs as follows: 71509

(1) On a home that acquired situs in this state prior to 71510
January 1, 2000: 71511

(a) By multiplying the assessable value of the home by the 71512
tax rate of the taxing district in which the home has its situs, 71513
and deducting from the product thus obtained any reduction 71514

authorized under section 4503.065 of the Revised Code. The tax 71515
levied under this formula shall not be less than thirty-six 71516
dollars, unless the home qualifies for a reduction in assessable 71517
value under section 4503.065 of the Revised Code, in which case 71518
there shall be no minimum tax and the tax shall be the amount 71519
calculated under this division. 71520

(b) The assessable value of the home shall be forty per cent 71521
of the amount arrived at by the following computation: 71522

(i) If the cost to the owner, or market value at time of 71523
purchase, whichever is greater, of the home includes the 71524
furnishings and equipment, such cost or market value shall be 71525
multiplied according to the following schedule: 71526

For the first calendar year			71527
in which the			71528
home is owned by the			71529
current owner	x	80%	71530
2nd calendar year	x	75%	71531
3rd "	x	70%	71532
4th "	x	65%	71533
5th "	x	60%	71534
6th "	x	55%	71535
7th "	x	50%	71536
8th "	x	45%	71537
9th "	x	40%	71538
10th and each year thereafter	x	35%	71539

The first calendar year means any period between the first 71540
day of January and the thirty-first day of December of the first 71541
year. 71542

(ii) If the cost to the owner, or market value at the time of 71543
purchase, whichever is greater, of the home does not include the 71544
furnishings and equipment, such cost or market value shall be 71545
multiplied according to the following schedule: 71546

For the first calendar year			71547
in which the			71548
home is owned by the			71549
current owner	x	95%	71550
2nd calendar year	x	90%	71551
3rd "	x	85%	71552
4th "	x	80%	71553
5th "	x	75%	71554
6th "	x	70%	71555
7th "	x	65%	71556
8th "	x	60%	71557
9th "	x	55%	71558
10th and each year thereafter	x	50%	71559

The first calendar year means any period between the first 71560
day of January and the thirty-first day of December of the first 71561
year. 71562

(2) On a home in which ownership was transferred or that 71563
first acquired situs in this state on or after January 1, 2000: 71564

(a) By multiplying the assessable value of the home by the 71565
effective tax rate, as defined in section 323.08 of the Revised 71566
Code, for residential real property of the taxing district in 71567
which the home has its situs, and deducting from the product thus 71568
obtained the reductions required or authorized under section 71569
319.302, division (B) of section 323.152, or section 4503.065 of 71570
the Revised Code. 71571

(b) The assessable value of the home shall be thirty-five per 71572
cent of its true value as determined under division (L) of this 71573
section. 71574

(3) On or before the fifteenth day of January each year, the 71575
county auditor shall record the assessable value and the amount of 71576
tax on the manufactured or mobile home on the tax list and deliver 71577
a duplicate of the list to the county treasurer. In the case of an 71578

emergency as defined in section 323.17 of the Revised Code, the tax commissioner, by journal entry, may extend the times for delivery of the duplicate for an additional fifteen days upon receiving a written application from the county auditor regarding an extension for the delivery of the duplicate, or from the county treasurer regarding an extension of the time for the billing and collection of taxes. The application shall contain a statement describing the emergency that will cause the unavoidable delay and must be received by the tax commissioner on or before the last day of the month preceding the day delivery of the duplicate is otherwise required. When an extension is granted for delivery of the duplicate, the time period for payment of taxes shall be extended for a like period of time. When a delay in the closing of a tax collection period becomes unavoidable, the tax commissioner, upon application by the county auditor and county treasurer, may order the time for payment of taxes to be extended if the tax commissioner determines that penalties have accrued or would otherwise accrue for reasons beyond the control of the taxpayers of the county. The order shall prescribe the final extended date for payment of taxes for that collection period.

(4) After January 1, 1999, the owner of a manufactured or mobile home taxed pursuant to division (D)(1) of this section may elect to have the home taxed pursuant to division (D)(2) of this section by filing a written request with the county auditor of the taxing district in which the home is located on or before the first day of December of any year. Upon the filing of the request, the county auditor shall determine whether all taxes levied under division (D)(1) of this section have been paid, and if those taxes have been paid, the county auditor shall tax the manufactured or mobile home pursuant to division (D)(2) of this section commencing in the next tax year.

(5) A manufactured or mobile home that acquired situs in this

state prior to January 1, 2000, shall be taxed pursuant to 71611
division (D)(2) of this section if no manufactured home tax had 71612
been paid for the home and the home was not exempted from taxation 71613
pursuant to division (E) of this section for the year for which 71614
the taxes were not paid. 71615

(6)(a) Immediately upon receipt of any manufactured home tax 71616
duplicate from the county auditor, but not less than twenty days 71617
prior to the last date on which the first one-half taxes may be 71618
paid without penalty as prescribed in division (F) of this 71619
section, the county treasurer shall cause to be prepared and 71620
mailed or delivered to each person charged on that duplicate with 71621
taxes, or to an agent designated by such person, the tax bill 71622
prescribed by the tax commissioner under division (D)(7) of this 71623
section. When taxes are paid by installments, the county treasurer 71624
shall mail or deliver to each person charged on such duplicate or 71625
the agent designated by that person a second tax bill showing the 71626
amount due at the time of the second tax collection. The second 71627
half tax bill shall be mailed or delivered at least twenty days 71628
prior to the close of the second half tax collection period. A 71629
change in the mailing address of any tax bill shall be made in 71630
writing to the county treasurer. Failure to receive a bill 71631
required by this section does not excuse failure or delay to pay 71632
any taxes shown on the bill or, except as provided in division 71633
(B)(1) of section 5715.39 of the Revised Code, avoid any penalty, 71634
interest, or charge for such delay. 71635

(b) After delivery of the copy of the delinquent manufactured 71636
home tax list under division (H) of this section, the county 71637
treasurer may prepare and mail to each person in whose name a home 71638
is listed an additional tax bill showing the total amount of 71639
delinquent taxes charged against the home as shown on the list. 71640
The tax bill shall include a notice that the interest charge 71641
prescribed by division (G) of this section has begun to accrue. 71642

(7) Each tax bill prepared and mailed or delivered under 71643
division (D)(6) of this section shall be in the form and contain 71644
the information required by the tax commissioner. The commissioner 71645
may prescribe different forms for each county and may authorize 71646
the county auditor to make up tax bills and tax receipts to be 71647
used by the county treasurer. The tax bill shall not contain or be 71648
mailed or delivered with any information or material that is not 71649
required by this section or that is not authorized by section 71650
321.45 of the Revised Code or by the tax commissioner. In addition 71651
to the information required by the commissioner, each tax bill 71652
shall contain the following information: 71653

(a) The taxes levied and the taxes charged and payable 71654
against the manufactured or mobile home; 71655

(b) The following notice: "Notice: If the taxes are not paid 71656
within sixty days after the county auditor delivers the delinquent 71657
manufactured home tax list to the county treasurer, you and your 71658
home may be subject to collection proceedings for tax 71659
delinquency." Failure to provide such notice has no effect upon 71660
the validity of any tax judgment to which a home may be subjected. 71661

(c) In the case of manufactured or mobile homes taxed under 71662
division (D)(2) of this section, the following additional 71663
information: 71664

(i) The effective tax rate. The words "effective tax rate" 71665
shall appear in boldface type. 71666

(ii) The following notice: "Notice: If the taxes charged 71667
against this home have been reduced by the 2-1/2 per cent tax 71668
reduction for residences occupied by the owner but the home is not 71669
a residence occupied by the owner, the owner must notify the 71670
county auditor's office not later than March 31 of the year for 71671
which the taxes are due. Failure to do so may result in the owner 71672
being convicted of a fourth degree misdemeanor, which is 71673

punishable by imprisonment up to 30 days, a fine up to \$250, or 71674
both, and in the owner having to repay the amount by which the 71675
taxes were erroneously or illegally reduced, plus any interest 71676
that may apply. 71677

If the taxes charged against this home have not been reduced 71678
by the 2-1/2 per cent tax reduction and the home is a residence 71679
occupied by the owner, the home may qualify for the tax reduction. 71680
To obtain an application for the tax reduction or further 71681
information, the owner may contact the county auditor's office at 71682
..... (insert the address and telephone number of the county 71683
auditor's office)." 71684

(E)(1) A manufactured or mobile home is not subject to this 71685
section when any of the following applies: 71686

(a) It is taxable as personal property pursuant to section 71687
5709.01 of the Revised Code. Any manufactured or mobile home that 71688
is used as a residence shall be subject to this section and shall 71689
not be taxable as personal property pursuant to section 5709.01 of 71690
the Revised Code. 71691

(b) It bears a license plate issued by any state other than 71692
this state unless the home is in this state in excess of an 71693
accumulative period of thirty days in any calendar year. 71694

(c) The annual tax has been paid on the home in this state 71695
for the current year. 71696

(d) The tax commissioner has determined, pursuant to section 71697
5715.27 of the Revised Code, that the property is exempt from 71698
taxation, or would be exempt from taxation under Chapter 5709. of 71699
the Revised Code if it were classified as real property. 71700

(2) A travel trailer or park trailer, as these terms are 71701
defined in section 4501.01 of the Revised Code, is not subject to 71702
this section if it is unused or unoccupied and stored at the 71703
owner's normal place of residence or at a recognized storage 71704

facility. 71705

(3) A travel trailer or park trailer, as these terms are 71706
defined in section 4501.01 of the Revised Code, is subject to this 71707
section and shall be taxed as a manufactured or mobile home if it 71708
has a situs longer than thirty days in one location and is 71709
connected to existing utilities, unless either of the following 71710
applies: 71711

(a) The situs is in a state facility or a camping or park 71712
area as defined in division (C), (Q), (S), or (V) of section 71713
3729.01 of the Revised Code. 71714

(b) The situs is in a camping or park area that is a tract of 71715
land that has been limited to recreational use by deed or zoning 71716
restrictions and subdivided for sale of five or more individual 71717
lots for the express or implied purpose of occupancy by either 71718
self-contained recreational vehicles as defined in division (T) of 71719
section 3729.01 of the Revised Code or by dependent recreational 71720
vehicles as defined in division (D) of section 3729.01 of the 71721
Revised Code. 71722

(F) Except as provided in division (D)(3) of this section, 71723
the manufactured home tax is due and payable as follows: 71724

(1) When a manufactured or mobile home has a situs in this 71725
state, as provided in this section, on the first day of January, 71726
one-half of the amount of the tax is due and payable on or before 71727
the first day of March and the balance is due and payable on or 71728
before the thirty-first day of July. At the option of the owner of 71729
the home, the tax for the entire year may be paid in full on the 71730
first day of March. 71731

(2) When a manufactured or mobile home first acquires a situs 71732
in this state after the first day of January, no tax is due and 71733
payable for that year. 71734

(G)(1)(a) Except as otherwise provided in division (G)(1)(b) 71735

of this section, if one-half of the current taxes charged under 71736
this section against a manufactured or mobile home, together with 71737
the full amount of any delinquent taxes, are not paid on or before 71738
the first day of March in that year, or on or before the last day 71739
for such payment as extended pursuant to section 4503.063 of the 71740
Revised Code, a penalty of ten per cent shall be charged against 71741
the unpaid balance of such half of the current taxes. If the total 71742
amount of all such taxes is not paid on or before the thirty-first 71743
day of July, next thereafter, or on or before the last day for 71744
payment as extended pursuant to section 4503.063 of the Revised 71745
Code, a like penalty shall be charged on the balance of the total 71746
amount of the unpaid current taxes. 71747

(b) After a valid delinquent tax contract that includes 71748
unpaid current taxes from a first-half collection period described 71749
in division (F) of this section has been entered into under 71750
section 323.31 of the Revised Code, no ten per cent penalty shall 71751
be charged against such taxes after the second-half collection 71752
period while the delinquent tax contract remains in effect. On the 71753
day a delinquent tax contract becomes void, the ten per cent 71754
penalty shall be charged against such taxes and shall equal the 71755
amount of penalty that would have been charged against unpaid 71756
current taxes outstanding on the date on which the second-half 71757
penalty would have been charged thereon under division (G)(1)(a) 71758
of this section if the contract had not been in effect. 71759

(2)(a) On the first day of the month following the last day 71760
the second installment of taxes may be paid without penalty 71761
beginning in 2000, interest shall be charged against and computed 71762
on all delinquent taxes other than the current taxes that became 71763
delinquent taxes at the close of the last day such second 71764
installment could be paid without penalty. The charge shall be for 71765
interest that accrued during the period that began on the 71766
preceding first day of December and ended on the last day of the 71767

month that included the last date such second installment could be 71768
paid without penalty. The interest shall be computed at the rate 71769
per annum prescribed by section 5703.47 of the Revised Code and 71770
shall be entered as a separate item on the delinquent manufactured 71771
home tax list compiled under division (H) of this section. 71772

(b) On the first day of December beginning in 2000, the 71773
interest shall be charged against and computed on all delinquent 71774
taxes. The charge shall be for interest that accrued during the 71775
period that began on the first day of the month following the last 71776
date prescribed for the payment of the second installment of taxes 71777
in the current year and ended on the immediately preceding last 71778
day of November. The interest shall be computed at the rate per 71779
annum prescribed by section 5703.47 of the Revised Code and shall 71780
be entered as a separate item on the delinquent manufactured home 71781
tax list. 71782

(c) After a valid undertaking has been entered into for the 71783
payment of any delinquent taxes, no interest shall be charged 71784
against such delinquent taxes while the undertaking remains in 71785
effect in compliance with section 323.31 of the Revised Code. If a 71786
valid undertaking becomes void, interest shall be charged against 71787
the delinquent taxes for the periods that interest was not 71788
permitted to be charged while the undertaking was in effect. The 71789
interest shall be charged on the day the undertaking becomes void 71790
and shall equal the amount of interest that would have been 71791
charged against the unpaid delinquent taxes outstanding on the 71792
dates on which interest would have been charged thereon under 71793
divisions (G)(1) and (2) of this section had the undertaking not 71794
been in effect. 71795

(3) If the full amount of the taxes due at either of the 71796
times prescribed by division (F) of this section is paid within 71797
ten days after such time, the county treasurer shall waive the 71798
collection of and the county auditor shall remit one-half of the 71799

penalty provided for in this division for failure to make that 71800
payment by the prescribed time. 71801

(4) The treasurer shall compile and deliver to the county 71802
auditor a list of all tax payments the treasurer has received as 71803
provided in division (G)(3) of this section. The list shall 71804
include any information required by the auditor for the remission 71805
of the penalties waived by the treasurer. The taxes so collected 71806
shall be included in the settlement next succeeding the settlement 71807
then in process. 71808

(H)(1) ~~Beginning in 2000, the~~ The county auditor shall 71809
compile annually a "delinquent manufactured home tax list" 71810
consisting of homes the county treasurer's records indicate have 71811
taxes that were not paid within the time prescribed by divisions 71812
(D)(3) and (F) of this section, have taxes that remain unpaid from 71813
prior years, or have unpaid tax penalties or interest that have 71814
been assessed. 71815

(2) Within thirty days after the settlement under division 71816
(H)(2) of section 321.24 of the Revised Code ~~beginning in 2000,~~ 71817
the county auditor shall deliver a copy of the delinquent 71818
manufactured home tax list to the county treasurer. The auditor 71819
shall update and publish the delinquent manufactured home tax list 71820
annually in the same manner as delinquent real property tax lists 71821
are published. The county auditor ~~shall~~ may apportion the cost of 71822
publishing the list among taxing districts in proportion to the 71823
amount of delinquent manufactured home taxes so published that 71824
each taxing district is entitled to receive upon collection of 71825
those taxes, or the county auditor may charge the owner of a home 71826
on the list a flat fee established under section 319.54 of the 71827
Revised Code for the cost of publishing the list and, if the fee 71828
is not paid, may place the fee upon the delinquent manufactured 71829
home tax list as a lien on the listed home, to be collected as 71830
other manufactured home taxes. 71831

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for the county treasurer to allege in the treasurer's bill of particulars or petition that the taxes stand chargeable on the books of the county treasurer against such person, that they are due and unpaid, and that such person is indebted in the amount of taxes appearing to be due the county. The treasurer need not set forth any other matter relating thereto. If it is found on the trial of the action that the person is indebted to the state, judgment shall be rendered in favor of the county treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any law for stay of execution or exemption of property from levy or sale on execution in the enforcement of the judgment.

Upon the filing of an entry of confirmation of sale or an order of forfeiture in a proceeding brought under this division, title to the manufactured or mobile home shall be in the purchaser. The clerk of courts shall issue a certificate of title to the purchaser upon presentation of proof of filing of the entry of confirmation or order and, in the case of a forfeiture, presentation of the county auditor's certificate of sale.

(I) The total amount of taxes collected shall be distributed 71864
in the following manner: four per cent shall be allowed as 71865
compensation to the county auditor for the county auditor's 71866
service in assessing the taxes; two per cent shall be allowed as 71867
compensation to the county treasurer for the services the county 71868
treasurer renders as a result of the tax levied by this section. 71869
Such amounts shall be paid into the county treasury, to the credit 71870
of the county general revenue fund, on the warrant of the county 71871
auditor. Fees to be paid to the credit of the real estate 71872
assessment fund shall be collected pursuant to division (C) of 71873
section 319.54 of the Revised Code and paid into the county 71874
treasury, on the warrant of the county auditor. The balance of the 71875
taxes collected shall be distributed among the taxing subdivisions 71876
of the county in which the taxes are collected and paid in the 71877
same ratio as those taxes were collected for the benefit of the 71878
taxing subdivision. The taxes levied and revenues collected under 71879
this section shall be in lieu of any general property tax and any 71880
tax levied with respect to the privilege of using or occupying a 71881
manufactured or mobile home in this state except as provided in 71882
sections 4503.04 and 5741.02 of the Revised Code. 71883

(J) An agreement to purchase or a bill of sale for a 71884
manufactured home shall show whether or not the furnishings and 71885
equipment are included in the purchase price. 71886

(K) If the county treasurer and the county prosecuting 71887
attorney agree that an item charged on the delinquent manufactured 71888
home tax list is uncollectible, they shall certify that 71889
determination and the reasons to the county board of revision. If 71890
the board determines the amount is uncollectible, it shall certify 71891
its determination to the county auditor, who shall strike the item 71892
from the list. 71893

(L)(1) The county auditor shall appraise at its true value 71894
any manufactured or mobile home in which ownership is transferred 71895

or which first acquires situs in this state on or after January 1, 71896
2000, and any manufactured or mobile home the owner of which has 71897
elected, under division (D)(4) of this section, to have the home 71898
taxed under division (D)(2) of this section. The true value shall 71899
include the value of the home, any additions, and any fixtures, 71900
but not any furnishings in the home. In determining the true value 71901
of a manufactured or mobile home, the auditor shall consider all 71902
facts and circumstances relating to the value of the home, 71903
including its age, its capacity to function as a residence, any 71904
obsolete characteristics, and other factors that may tend to prove 71905
its true value. 71906

(2)(a) If a manufactured or mobile home has been the subject 71907
of an arm's length sale between a willing seller and a willing 71908
buyer within a reasonable length of time prior to the 71909
determination of true value, the county auditor shall consider the 71910
sale price of the home to be the true value for taxation purposes. 71911

(b) The sale price in an arm's length transaction between a 71912
willing seller and a willing buyer shall not be considered the 71913
true value of the home if either of the following occurred after 71914
the sale: 71915

(i) The home has lost value due to a casualty. 71916

(ii) An addition or fixture has been added to the home. 71917

(3) The county auditor shall have each home viewed and 71918
appraised at least once in each six-year period in the same year 71919
in which real property in the county is appraised pursuant to 71920
Chapter 5713. of the Revised Code, and shall update the appraised 71921
values in the third calendar year following the appraisal. The 71922
person viewing or appraising a home may enter the home to 71923
determine by actual view any additions or fixtures that have been 71924
added since the last appraisal. In conducting the appraisals and 71925
establishing the true value, the auditor shall follow the 71926

procedures set forth for appraising real property in sections 71927
5713.01 and 5713.03 of the Revised Code. 71928

(4) The county auditor shall place the true value of each 71929
home on the manufactured home tax list upon completion of an 71930
appraisal. 71931

(5)(a) If the county auditor changes the true value of a 71932
home, the auditor shall notify the owner of the home in writing, 71933
delivered by mail or in person. The notice shall be given at least 71934
thirty days prior to the issuance of any tax bill that reflects 71935
the change. Failure to receive the notice does not invalidate any 71936
proceeding under this section. 71937

(b) Any owner of a home or any other person or party listed 71938
in division (A)(1) of section 5715.19 of the Revised Code may file 71939
a complaint against the true value of the home as appraised under 71940
this section. The complaint shall be filed with the county auditor 71941
on or before the thirty-first day of March of the current tax year 71942
or the date of closing of the collection for the first half of 71943
manufactured home taxes for the current tax year, whichever is 71944
later. The auditor shall present to the county board of revision 71945
all complaints filed with the auditor under this section. The 71946
board shall hear and investigate the complaint and may take action 71947
on it as provided under sections 5715.11 to 5715.19 of the Revised 71948
Code. 71949

(c) If the county board of revision determines, pursuant to a 71950
complaint against the valuation of a manufactured or mobile home 71951
filed under this section, that the amount of taxes, assessments, 71952
or other charges paid was in excess of the amount due based on the 71953
valuation as finally determined, then the overpayment shall be 71954
refunded in the manner prescribed in section 5715.22 of the 71955
Revised Code. 71956

(d) Payment of all or part of a tax under this section for 71957

any year for which a complaint is pending before the county board 71958
of revision does not abate the complaint or in any way affect the 71959
hearing and determination thereof. 71960

(M) If the county auditor determines that any tax or other 71961
charge or any part thereof has been erroneously charged as a 71962
result of a clerical error as defined in section 319.35 of the 71963
Revised Code, the county auditor shall call the attention of the 71964
county board of revision to the erroneous charges. If the board 71965
finds that the taxes or other charges have been erroneously 71966
charged or collected, it shall certify the finding to the auditor. 71967
Upon receipt of the certification, the auditor shall remove the 71968
erroneous charges on the manufactured home tax list or delinquent 71969
manufactured home tax list in the same manner as is prescribed in 71970
section 319.35 of the Revised Code for erroneous charges against 71971
real property, and refund any erroneous charges that have been 71972
collected, with interest, in the same manner as is prescribed in 71973
section 319.36 of the Revised Code for erroneous charges against 71974
real property. 71975

(N) As used in this section and section 4503.061 of the 71976
Revised Code: 71977

(1) "Manufactured home taxes" includes taxes, penalties, and 71978
interest charged under division (C) or (G) of this section and any 71979
penalties charged under division (G) or (H)(5) of section 4503.061 71980
of the Revised Code. 71981

(2) "Current taxes" means all manufactured home taxes charged 71982
against a manufactured or mobile home that have not appeared on 71983
the manufactured home tax list for any prior year. Current taxes 71984
become delinquent taxes if they remain unpaid after the last day 71985
prescribed for payment of the second installment of current taxes 71986
without penalty, whether or not they have been certified 71987
delinquent. 71988

(3) "Delinquent taxes" means:	71989
(a) Any manufactured home taxes that were charged against a manufactured or mobile home for a prior year, including any penalties or interest charged for a prior year <u>and the costs of publication under division (H)(2) of this section</u> , and that remain unpaid;	71990 71991 71992 71993 71994
(b) Any current manufactured home taxes charged against a manufactured or mobile home that remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent, including any penalties or interest <u>and the costs of publication under division (H)(2) of this section</u> .	71995 71996 71997 71998 71999 72000
Sec. 4503.061. (A) All manufactured and mobile homes shall be listed on either the real property tax list or the manufactured home tax list of the county in which the home has situs. Each owner shall follow the procedures in this section to identify the home to the county auditor of the county containing the taxing district in which the home has situs so that the auditor may place the home on the appropriate tax list.	72001 72002 72003 72004 72005 72006 72007
(B) When a manufactured or mobile home first acquires situs in this state and is subject to real property taxation pursuant to division (B)(1) or (2) of section 4503.06 of the Revised Code, the owner shall present to the auditor of the county containing the taxing district in which the home has its situs the certificate of title for the home, together with proof that all taxes due have been paid and proof that a relocation notice was obtained for the home if required under this section. Upon receiving the certificate of title and the required proofs, the auditor shall place the home on the real property tax list and proceed to treat the home as other properties on that list. After the auditor has placed the home on the tax list of real and public utility	72008 72009 72010 72011 72012 72013 72014 72015 72016 72017 72018 72019

property, the auditor shall deliver the certificate of title to 72020
the clerk of the court of common pleas that issued it pursuant to 72021
section 4505.11 of the Revised Code, and the clerk shall 72022
inactivate the certificate of title. 72023

(C)(1) When a manufactured or mobile home subject to a 72024
manufactured home tax is relocated to or first acquires situs in 72025
any county that has adopted a permanent manufactured home 72026
registration system, as provided in division (F) of this section, 72027
the owner, within thirty days after the home is relocated or first 72028
acquires situs under section 4503.06 of the Revised Code, shall 72029
register the home with the county auditor of the county containing 72030
the taxing district in which the home has its situs. For the first 72031
registration in each county of situs, the owner or vendee in 72032
possession shall present to the county auditor an Ohio certificate 72033
of title, certified copy of the certificate of title, or 72034
memorandum certificate of title as such are required by law, and 72035
proof, as required by the county auditor, that the home, if it has 72036
previously been occupied and is being relocated, has been 72037
previously registered, that all taxes due and required to be paid 72038
under division (H)(1) of this section before a relocation notice 72039
may be issued have been paid, and that a relocation notice was 72040
obtained for the home if required by division (H) of this section. 72041
If the owner or vendee does not possess the Ohio certificate of 72042
title, certified copy of the certificate of title, or memorandum 72043
certificate of title at the time the owner or vendee first 72044
registers the home in a county, the county auditor shall register 72045
the home without presentation of the document, but the owner or 72046
vendee shall present the certificate of title, certified copy of 72047
the certificate of title, or memorandum certificate of title to 72048
the county auditor within fourteen days after the owner or vendee 72049
obtains possession of the document. 72050

(2) When a manufactured or mobile home is registered for the 72051

first time in a county and when the total tax due has been paid as 72052
required by division (F) of section 4503.06 of the Revised Code or 72053
divisions (E) and (H) of this section, the county treasurer shall 72054
note by writing or by a stamp on the certificate of title, 72055
certified copy of certificate of title, or memorandum certificate 72056
of title that the home has been registered and that the taxes due, 72057
if any, have been paid for the preceding five years and for the 72058
current year. The treasurer shall then issue a certificate 72059
evidencing registration and a decal to be displayed on the street 72060
side of the home. The certificate is valid in any county in this 72061
state during the year for which it is issued. 72062

(3) For each year thereafter, the county treasurer shall 72063
issue a tax bill stating the amount of tax due under section 72064
4503.06 of the Revised Code, as provided in division (D)(6) of 72065
that section. When the total tax due has been paid as required by 72066
division (F) of that section, the county treasurer shall issue a 72067
certificate evidencing registration that shall be valid in any 72068
county in this state during the year for which the certificate is 72069
issued. 72070

(4) The permanent decal issued under this division is valid 72071
during the period of ownership, except that when a manufactured 72072
home is relocated in another county the owner shall apply for a 72073
new registration as required by this section and section 4503.06 72074
of the Revised Code. 72075

(D)(1) All owners of manufactured or mobile homes subject to 72076
the manufactured home tax being relocated to or having situs in a 72077
county that has not adopted a permanent registration system, as 72078
provided in division (F) of this section, shall register the home 72079
within thirty days after the home is relocated or first acquires 72080
situs under section 4503.06 of the Revised Code and thereafter 72081
shall annually register the home with the county auditor of the 72082
county containing the taxing district in which the home has its 72083

situs. 72084

(2) Upon the annual registration, the county treasurer shall 72085
issue a tax bill stating the amount of annual manufactured home 72086
tax due under section 4503.06 of the Revised Code, as provided in 72087
division (D)(6) of that section. When a manufactured or mobile 72088
home is registered and when the tax for the current one-half year 72089
has been paid as required by division (F) of that section, the 72090
county treasurer shall issue a certificate evidencing registration 72091
and a decal. The certificate and decal are valid in any county in 72092
this state during the year for which they are issued. The decal 72093
shall be displayed on the street side of the home. 72094

(3) For the first annual registration in each county of 72095
situs, the county auditor shall require the owner or vendee to 72096
present an Ohio certificate of title, certified copy of the 72097
certificate of title, or memorandum certificate of title as such 72098
are required by law, and proof, as required by the county auditor, 72099
that the manufactured or mobile home has been previously 72100
registered, if such registration was required, that all taxes due 72101
and required to be paid under division (H)(1) of this section 72102
before a relocation notice may be issued have been paid, and that 72103
a relocation notice was obtained for the home if required by 72104
division (H) of this section. If the owner or vendee does not 72105
possess the Ohio certificate of title, certified copy of the 72106
certificate of title, or memorandum certificate of title at the 72107
time the owner or vendee first registers the home in a county, the 72108
county auditor shall register the home without presentation of the 72109
document, but the owner or vendee shall present the certificate of 72110
title, certified copy of the certificate of title, or memorandum 72111
certificate of title to the county auditor within fourteen days 72112
after the owner or vendee obtains possession of the document. When 72113
the county treasurer receives the tax payment, the county 72114
treasurer shall note by writing or by a stamp on the certificate 72115

of title, certified copy of the certificate of title, or 72116
memorandum certificate of title that the home has been registered 72117
for the current year and that the manufactured home taxes due, if 72118
any, have been paid for the preceding five years and for the 72119
current year. 72120

(4) For subsequent annual registrations, the auditor may 72121
require the owner or vendee in possession to present an Ohio 72122
certificate of title, certified copy of the certificate of title, 72123
or memorandum certificate of title to the county treasurer upon 72124
payment of the manufactured home tax that is due. 72125

(E)(1) Upon the application to transfer ownership of a 72126
manufactured or mobile home for which manufactured home taxes are 72127
paid pursuant to division (C) of section 4503.06 of the Revised 72128
Code the clerk of the court of common pleas shall not issue any 72129
certificate of title that does not contain or have attached both 72130
of the following: 72131

(a) An endorsement of the county treasurer stating that the 72132
home has been registered for each year of ownership and that all 72133
manufactured home taxes imposed pursuant to section 4503.06 of the 72134
Revised Code have been paid or that no tax is due; 72135

(b) An endorsement of the county auditor that the 72136
manufactured home transfer tax imposed pursuant to section 322.06 72137
of the Revised Code and any fees imposed under division (G) of 72138
section 319.54 of the Revised Code have been paid. 72139

(2) If all the taxes have not been paid, the clerk shall 72140
notify the vendee to contact the county treasurer of the county 72141
containing the taxing district in which the home has its situs at 72142
the time of the proposed transfer. The county treasurer shall then 72143
collect all the taxes that are due for the year of the transfer 72144
and all previous years not exceeding a total of five years. The 72145
county treasurer shall distribute that part of the collection owed 72146

to the county treasurer of other counties if the home had its 72147
situs in another county during a particular year when the unpaid 72148
tax became due and payable. The burden to prove the situs of the 72149
home in the years that the taxes were not paid is on the 72150
transferor of the home. Upon payment of the taxes, the county 72151
auditor shall remove all remaining taxes from the manufactured 72152
home tax list and the delinquent manufactured home tax list, and 72153
the county treasurer shall release all liens for such taxes. The 72154
clerk of courts shall issue a certificate of title, free and clear 72155
of all liens for manufactured home taxes, to the transferee of the 72156
home. 72157

(3) Once the transfer is complete and the certificate of 72158
title has been issued, the transferee shall register the 72159
manufactured or mobile home pursuant to division (C) or (D) of 72160
this section with the county auditor of the county containing the 72161
taxing district in which the home remains after the transfer or, 72162
if the home is relocated to another county, with the county 72163
auditor of the county to which the home is relocated. The 72164
transferee need not pay the annual tax for the year of acquisition 72165
if the original owner has already paid the annual tax for that 72166
year. 72167

(F) The county auditor may adopt a permanent registration 72168
system and issue a permanent decal with the first registration as 72169
prescribed by the tax commissioner. 72170

(G) When any manufactured or mobile home required to be 72171
registered by this section is not registered, the county auditor 72172
shall impose a penalty of one hundred dollars upon the owner and 72173
deposit the amount to the credit of the county real estate 72174
assessment fund to be used to pay the costs of administering this 72175
section and section 4503.06 of the Revised Code. If unpaid, the 72176
penalty shall constitute a lien on the home and shall be added by 72177
the county auditor to the manufactured home tax list for 72178

collection. 72179

(H)(1) Except as otherwise provided in this division, before 72180
moving a manufactured or mobile home on public roads from one 72181
address within this state to another address within or outside 72182
this state, the owner of the home shall obtain a relocation 72183
notice, as provided by this section, from the auditor of the 72184
county in which the home is located if the home is currently 72185
subject to taxation pursuant to section 4503.06 of the Revised 72186
Code. The auditor shall charge five dollars for the notice, and 72187
deposit the amount to the credit of the county real estate 72188
assessment fund to be used to pay the costs of administering this 72189
section and section 4503.06 of the Revised Code. The auditor shall 72190
not issue a relocation notice unless all taxes owed on the home 72191
under section 4503.06 of the Revised Code that were first charged 72192
to the home during the period of ownership of the owner seeking 72193
the relocation notice have been paid. If the home is being moved 72194
by a new owner of the home or by a party taking repossession of 72195
the home, the auditor shall not issue a relocation notice unless 72196
all of the taxes due for the preceding five years and for the 72197
current year have been paid. A relocation notice issued by a 72198
county auditor is valid until the last day of December of the year 72199
in which it was issued. 72200

If the home is being moved by a sheriff, police officer, 72201
constable, bailiff, or manufactured home park operator, as defined 72202
in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of 72203
any of these persons, for purposes of removal from a manufactured 72204
home park and storage, sale, or destruction under section 1923.14 72205
of the Revised Code, the auditor shall issue a relocation notice 72206
without requiring payment of any taxes owed on the home under 72207
section 4503.06 of the Revised Code. 72208

(2) If a manufactured or mobile home is not yet subject to 72209
taxation under section 4503.06 of the Revised Code, the owner of 72210

the home shall obtain a relocation notice from the dealer of the 72211
home. Within thirty days after the manufactured or mobile home is 72212
purchased, the dealer of the home shall provide the auditor of the 72213
county in which the home is to be located written notice of the 72214
name of the purchaser of the home, the registration number or 72215
vehicle identification number of the home, and the address or 72216
location to which the home is to be moved. The county auditor 72217
shall provide to each manufactured and mobile home dealer, without 72218
charge, a supply of relocation notices to be distributed to 72219
purchasers pursuant to this section. 72220

(3) The notice shall be in the form of a one-foot square 72221
yellow sign with the words "manufactured home relocation notice" 72222
printed prominently on it. The name of the owner of the home, the 72223
home's registration number or vehicle identification number, the 72224
county and the address or location to which the home is being 72225
moved, and the county in which the notice is issued shall also be 72226
entered on the notice. 72227

(4) The relocation notice must be attached to the rear of the 72228
home when the home is being moved on a public road. Except as 72229
provided in divisions (H)(1) and (5) of this section, no person 72230
shall drive a motor vehicle moving a manufactured or mobile home 72231
on a public road from one address to another address within this 72232
state unless a relocation notice is attached to the rear of the 72233
home. 72234

(5) If the county auditor determines that a manufactured or 72235
mobile home has been moved without a relocation notice as required 72236
under this division, the auditor shall impose a penalty of one 72237
hundred dollars upon the owner of the home and upon the person who 72238
moved the home and deposit the amount to the credit of the county 72239
real estate assessment fund to pay the costs of administering this 72240
section and section 4503.06 of the Revised Code. If the home was 72241
relocated from one county in this state to another county in this 72242

state and the county auditor of the county to which the home was 72243
relocated imposes the penalty, that county auditor, upon 72244
collection of the penalty, shall cause an amount equal to the 72245
penalty to be transmitted from the county real estate assessment 72246
fund to the county auditor of the county from which the home was 72247
relocated, who shall deposit the amount to the credit of the 72248
county real estate assessment fund. If the penalty on the owner is 72249
unpaid, the penalty shall constitute a lien on the home and the 72250
auditor shall add the penalty to the manufactured home tax list 72251
for collection. If the county auditor determines that a dealer 72252
that has sold a manufactured or mobile home has failed to timely 72253
provide the information required under this division, the auditor 72254
shall impose a penalty upon the dealer in the amount of one 72255
hundred dollars. The penalty shall be credited to the county real 72256
estate assessment fund and used to pay the costs of administering 72257
this section and section 4503.06 of the Revised Code. 72258

(I) Whoever violates division (H)(4) of this section is 72259
guilty of a minor misdemeanor. 72260

Sec. 4503.062. (A) Every operator of a manufactured home 72261
court, or manufactured home park, as defined in section ~~3733.01~~ 72262
4781.01 of the Revised Code, or when there is no operator, every 72263
owner of property used for such purposes on which three or more 72264
manufactured or mobile homes are located, shall keep a register of 72265
all manufactured and mobile homes that make use of the court, 72266
park, or property. The register shall contain all of the 72267
following: 72268

- (1) The name of the owner and all inhabitants of each home; 72269
- (2) The ages of all inhabitants of each home; 72270
- (3) The permanent and temporary post office addresses of all 72271
inhabitants of each home; 72272

(4) The license number of each home;	72273
(5) The state issuing each such license;	72274
(6) The date of arrival and of departure of each home;	72275
(7) The make and model of each home, if known and if either of the following applies:	72276 72277
(a) The home enters the court, park, or property on or after January 1, 2003.	72278 72279
(b) Ownership of the home in the court or park, or on the property, is transferred on or after January 1, 2003.	72280 72281
(B) The register shall be open to inspection by the county auditor, the county treasurer, agents of the auditor or treasurer, and all law enforcement agencies at all times.	72282 72283 72284
(C) Any person who fails to comply with this section shall be fined not less than twenty-five nor more than one hundred dollars.	72285 72286
Sec. 4503.235. (A) If division (G) of section 4511.19 or division (B) (C) of section 4511.193 of the Revised Code requires a court, as part of the sentence of an offender who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code or as a sanction for an offender who is convicted of or pleaded guilty to a violation of a municipal OVI ordinance, to order the immobilization of a vehicle for a specified period of time, notwithstanding the requirement, the court in its discretion may determine not to order the immobilization of the vehicle if both of the following apply:	72287 72288 72289 72290 72291 72292 72293 72294 72295 72296
(1) Prior to the issuance of the order of immobilization, a family or household member of the offender files a motion with the court identifying the vehicle and requesting that the immobilization order not be issued on the ground that the family or household member is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle	72297 72298 72299 72300 72301 72302

would be an undue hardship to the family or household member. 72303

(2) The court determines that the family or household member 72304
who files the motion is completely dependent on the vehicle for 72305
the necessities of life and that the immobilization of the vehicle 72306
would be an undue hardship to the family or household member. 72307

(B) If a court pursuant to division (A) of this section 72308
determines not to order the immobilization of a vehicle that 72309
otherwise would be required pursuant to division (G) of section 72310
4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised 72311
Code, the court shall issue an order that waives the 72312
immobilization that otherwise would be required pursuant to either 72313
of those divisions. The immobilization waiver order shall be in 72314
effect for the period of time for which the immobilization of the 72315
vehicle otherwise would have been required under division (G) of 72316
section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the 72317
Revised Code if the immobilization waiver order had not been 72318
issued, subject to division (D) of this section. The 72319
immobilization waiver order shall specify the period of time for 72320
which it is in effect. The court shall provide a copy of an 72321
immobilization waiver order to the offender and to the family or 72322
household member of the offender who filed the motion requesting 72323
that the immobilization order not be issued and shall place a copy 72324
of the immobilization waiver order in the record in the case. The 72325
court shall impose an immobilization waiver fee in the amount of 72326
fifty dollars. The court shall determine whether the fee is to be 72327
paid by the offender or by the family or household member. The 72328
clerk of the court shall deposit all of the fees collected during 72329
a month on or before the twenty-third day of the following month 72330
into the county or municipal indigent drivers alcohol treatment 72331
fund under the control of that court, as created by the county or 72332
municipal corporation under division (F) of section 4511.191 of 72333
the Revised Code. 72334

(C) If a court pursuant to division (B) of this section 72335
issues an immobilization waiver order, the order shall identify 72336
the family or household member who requested the order and the 72337
vehicle to which the order applies, shall identify the family or 72338
household members who are permitted to operate the vehicle, and 72339
shall identify the offender and specify that the offender is not 72340
permitted to operate the vehicle. The immobilization waiver order 72341
shall require that the family or household member display on the 72342
vehicle to which the order applies restricted license plates that 72343
are issued under section 4503.231 of the Revised Code for the 72344
entire period for which the immobilization of the vehicle 72345
otherwise would have been required under division (G) of section 72346
4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code 72347
if the immobilization waiver order had not been issued. 72348

(D) A family or household member who is permitted to operate 72349
a vehicle under an immobilization waiver order issued under this 72350
section shall not permit the offender to operate the vehicle. If a 72351
family or household member who is permitted to operate a vehicle 72352
under an immobilization waiver order issued under this section 72353
permits the offender to operate the vehicle, both of the following 72354
apply: 72355

(1) The court that issued the immobilization waiver order 72356
shall terminate that order and shall issue an immobilization order 72357
in accordance with section 4503.233 of the Revised Code that 72358
applies to the vehicle, and the immobilization order shall be in 72359
effect for the remaining period of time for which the 72360
immobilization of the vehicle otherwise would have been required 72361
under division (G) of section 4511.19 or division ~~(B)~~(C) of 72362
section 4511.193 of the Revised Code if the immobilization waiver 72363
order had not been issued. 72364

(2) The conduct of the family or household member in 72365
permitting the offender to operate the vehicle is a violation of 72366

section 4511.203 of the Revised Code. 72367

(E) No offender shall operate a motor vehicle subject to an 72368
immobilization waiver order. Whoever violates this division is 72369
guilty of operating a motor vehicle in violation of an 72370
immobilization waiver, a misdemeanor of the first degree. 72371

(F) "Family or household member" has the same meaning as in 72372
section 2919.25 of the Revised Code, except that the person must 72373
be currently residing with the offender. 72374

Sec. 4503.70. The owner or lessee of any passenger car, 72375
noncommercial motor vehicle, recreational vehicle, or other 72376
vehicle of a class approved by the registrar of motor vehicles who 72377
is a member in good standing of the grand lodge of free and 72378
accepted masons of Ohio may apply to the registrar for the 72379
registration of the vehicle and issuance of freemason license 72380
plates. The application for freemason license plates may be 72381
combined with a request for a special reserved license plate under 72382
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 72383
the completed application, presentation by the applicant of 72384
satisfactory evidence showing that the applicant is a member in 72385
good standing of the grand lodge of free and accepted masons of 72386
Ohio, and compliance by the applicant with this section, the 72387
registrar shall issue to the applicant the appropriate vehicle 72388
registration and a set of freemason license plates with a 72389
validation sticker or a validation sticker alone when required by 72390
section 4503.191 of the Revised Code. 72391

In addition to the letters and numbers ordinarily inscribed 72392
thereon, freemason license plates shall be inscribed with 72393
identifying words and a symbol or logo designed by the grand lodge 72394
of free and accepted masons of Ohio and approved by the registrar. 72395
Freemason license plates shall bear county identification stickers 72396
that identify the county of registration by name or number. 72397

Freemason license plates and validation stickers shall be 72398
issued upon payment of the regular license fee required by section 72399
4503.04 of the Revised Code, payment of any local motor vehicle 72400
license tax levied under Chapter 4504. of the Revised Code, 72401
payment of an additional fee of ten dollars, and compliance with 72402
all other applicable laws relating to the registration of motor 72403
vehicles. If the application for freemason license plates is 72404
combined with a request for a special reserved license plate under 72405
section 4503.40 or 4503.42 of the Revised Code, the license plates 72406
and validation sticker shall be issued upon payment of the fees 72407
and taxes contained in this section and the additional fee 72408
prescribed under section 4503.40 or 4503.42 of the Revised Code. 72409
The additional fee of ten dollars shall be for the purpose of 72410
compensating the bureau of motor vehicles for additional services 72411
required in the issuing of freemason license plates, and shall be 72412
transmitted by the registrar to the treasurer of state for deposit 72413
into the state treasury to the credit of the state bureau of motor 72414
vehicles fund created by section 4501.25 of the Revised Code. 72415

Sec. 4503.93. (A) The owner or lessee of any passenger car, 72416
noncommercial motor vehicle, recreational vehicle, or other 72417
vehicle of a class approved by the registrar of motor vehicles may 72418
apply to the registrar for the registration of the vehicle and 72419
issuance of Ohio "volunteer" license plates. The application for 72420
Ohio "volunteer" license plates may be combined with a request for 72421
a special reserved license plate under section 4503.40 or 4503.42 72422
of the Revised Code. Upon receipt of the completed application and 72423
compliance with divisions (B) and (C) of this section, the 72424
registrar shall issue to the applicant the appropriate vehicle 72425
registration and a set of Ohio "volunteer" license plates with a 72426
validation sticker or a validation sticker alone when required by 72427
section 4503.191 of the Revised Code. 72428

In addition to the letters and numbers ordinarily inscribed 72429

on license plates, Ohio "volunteer" license plates shall be 72430
inscribed with words and markings designed by the Ohio ~~community~~ 72431
commission on service council and volunteerism created by section 72432
121.40 of the Revised Code and approved by the registrar. Ohio 72433
"volunteer" license plates shall bear county identification 72434
stickers that identify the county of registration by name or 72435
number. 72436

(B) Ohio "volunteer" license plates and a validation sticker, 72437
or a validation sticker alone, shall be issued upon receipt of a 72438
contribution as provided in division (C) of this section and upon 72439
payment of the regular license tax prescribed in section 4503.04 72440
of the Revised Code, any applicable motor vehicle tax levied under 72441
Chapter 4504. of the Revised Code, any applicable additional fee 72442
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 72443
bureau of motor vehicles fee of ten dollars, and compliance with 72444
all other applicable laws relating to the registration of motor 72445
vehicles. 72446

(C)(1) For each application for registration and registration 72447
renewal received under this section, the registrar shall collect a 72448
contribution of fifteen dollars. The registrar shall transmit this 72449
contribution to the treasurer of state for deposit in the Ohio 72450
~~community~~ commission on service council and volunteerism gifts and 72451
donations fund created by section 121.403 of the Revised Code. The 72452
~~council~~ commission shall use all such contributions for the 72453
purposes described in divisions (B)(2) and (3) of that section. 72454

(2) The registrar shall deposit the bureau of motor vehicles 72455
fee of ten dollars specified in division (B) of this section, 72456
which is for the purpose of compensating the bureau for the 72457
additional services required in issuing Ohio "volunteer" license 72458
plates, in the state bureau of motor vehicles fund created in 72459
section 4501.25 of the Revised Code. 72460

Sec. 4504.02. For the purpose of paying the costs of 72461
enforcing and administering the tax provided for in this section; 72462
and for planning, constructing, improving, maintaining, and 72463
repairing public roads, highways, and streets; maintaining and 72464
repairing bridges and viaducts; paying the county's portion of the 72465
costs and expenses of cooperating with the department of 72466
transportation in the planning, improvement, and construction of 72467
state highways; paying the county's portion of the compensation, 72468
damages, cost, and expenses of planning, constructing, 72469
reconstructing, improving, maintaining, and repairing roads; 72470
paying any costs apportioned to the county under section 4907.47 72471
of the Revised Code; paying debt service charges on notes or bonds 72472
of the county issued for such purposes; paying all or part of the 72473
costs and expenses of municipal corporations in planning, 72474
constructing, reconstructing, improving, maintaining, and 72475
repairing highways, roads, and streets designated as necessary or 72476
conducive to the orderly and efficient flow of traffic within and 72477
through the county pursuant to section 4504.03 of the Revised 72478
Code; purchasing, erecting, and maintaining street and traffic 72479
signs and markers; purchasing, erecting, and maintaining traffic 72480
lights and signals; and to supplement revenue already available 72481
for such purposes, any county by resolution adopted by its board 72482
of county commissioners may levy an annual license tax, in 72483
addition to the tax levied by sections 4503.02, 4503.07, and 72484
4503.18 of the Revised Code, upon the operation of motor vehicles 72485
on the public roads or highways. Such tax shall be at the rate of 72486
five dollars per motor vehicle on all motor vehicles the district 72487
of registration of which, as defined in section 4503.10 of the 72488
Revised Code, is located in the county levying the tax and shall 72489
be in addition to the taxes at the rates specified in sections 72490
4503.04 and 4503.16 of the Revised Code, subject to reductions in 72491
the manner provided in section 4503.11 of the Revised Code and the 72492

exemptions provided in sections 4503.16, 4503.17, 4503.171, 72493
4503.173, 4503.41, 4503.43, and 4503.46 of the Revised Code. 72494

Prior to the adoption of any resolution under this section, 72495
the board of county commissioners shall conduct two public 72496
hearings thereon, the second hearing to be not less than three nor 72497
more than ten days after the first. Notice of the date, time, and 72498
place of such hearings shall be given by publication in a 72499
newspaper of general circulation in the county or as provided in 72500
section 7.16 of the Revised Code, once a week on the same day of 72501
the week for two consecutive weeks, the second publication being 72502
not less than ten nor more than thirty days prior to the first 72503
hearing. 72504

No resolution under this section shall become effective 72505
sooner than thirty days following its adoption, and such 72506
resolution is subject to a referendum as provided in sections 72507
305.31 to 305.41 of the Revised Code, unless such resolution is 72508
adopted as an emergency measure necessary for the immediate 72509
preservation of the public peace, health, or safety, in which case 72510
it shall go into immediate effect. Such emergency measure must 72511
receive an affirmative vote of all of the members of the board of 72512
county commissioners, and shall state the reasons for such 72513
necessity. A resolution may direct the board of elections to 72514
submit the question of levying the tax to the electors of the 72515
county at the next primary or general election in the county 72516
occurring not less than seventy-five days after such resolution is 72517
certified to the board; no such resolution shall go into effect 72518
unless approved by a majority of those voting upon it. 72519

Sec. 4504.021. The question of repeal of a county permissive 72520
tax adopted as an emergency measure pursuant to section 4504.02, 72521
4504.15, or 4504.16 of the Revised Code may be initiated by filing 72522
with the board of elections of the county not less than ninety 72523

days before the general election in any year a petition requesting 72524
that an election be held on such question. Such petition shall be 72525
signed by qualified electors residing in the county equal in 72526
number to ten per cent of those voting for governor at the most 72527
recent gubernatorial election. 72528

After determination by it that such petition is valid, the 72529
board of elections shall submit the question to the electors of 72530
the county at the next general election. The election shall be 72531
conducted, canvassed, and certified in the same manner as regular 72532
elections for county offices in the county. Notice of the election 72533
shall be published in a newspaper of general circulation in the 72534
district, or as provided in section 7.16 of the Revised Code, once 72535
a week for two consecutive weeks prior to the election ~~and, if.~~ If 72536
the board of elections operates and maintains a web site, notice 72537
of the election also shall be posted on that web site for thirty 72538
days prior to the election. The notice shall state the purpose, 72539
time, and place of the election. The form of the ballot cast at 72540
such election shall be prescribed by the secretary of state. The 72541
question covered by such petition shall be submitted as a separate 72542
proposition, but it may be printed on the same ballot with any 72543
other proposition submitted at the same election other than the 72544
election of officers. If a majority of the qualified electors 72545
voting on the question of repeal approve the repeal, the result of 72546
the election shall be certified immediately after the canvass by 72547
the board of elections to the county commissioners, who shall 72548
thereupon, after the current year, cease to levy the tax. 72549

Sec. 4504.15. For the purpose of paying the costs of 72550
enforcing and administering the tax provided for in this section; 72551
for the various purposes stated in section 4504.02 of the Revised 72552
Code; and to supplement revenue already available for those 72553
purposes, any county may, by resolution adopted by its board of 72554
county commissioners, levy an annual license tax, that shall be in 72555

addition to the tax levied by sections 4503.02, 4503.07, and 72556
4503.18 of the Revised Code, upon the operation of motor vehicles 72557
upon the public roads and highways. The tax shall be at the rate 72558
of five dollars per motor vehicle on all motor vehicles the 72559
district of registration of which, as defined in section 4503.10 72560
of the Revised Code, is located in the county levying the tax but 72561
is not located within any municipal corporation levying the tax 72562
authorized by section 4504.17 of the Revised Code, and shall be in 72563
addition to the taxes at the rates specified in sections 4503.04 72564
and 4503.16 of the Revised Code, subject to reductions in the 72565
manner provided in section 4503.11 of the Revised Code and the 72566
exemptions provided in sections 4503.16, 4503.17, 4503.171, 72567
4503.41, and 4503.43 of the Revised Code. 72568

Prior to the adoption of any resolution under this section, 72569
the board of county commissioners shall conduct two public 72570
hearings thereon, the second hearing to be not less than three nor 72571
more than ten days after the first. Notice of the date, time, and 72572
place of such hearings shall be given by publication in a 72573
newspaper of general circulation in the county, or as provided in 72574
section 7.16 of the Revised Code, once a week for two consecutive 72575
weeks, ~~the.~~ The second publication ~~being~~ shall be not less than 72576
ten nor more than thirty days prior to the first hearing. 72577

No resolution under this section shall become effective 72578
sooner than thirty days following its adoption, and such 72579
resolution is subject to a referendum as provided in sections 72580
305.31 to 305.41 of the Revised Code, unless the resolution is 72581
adopted as an emergency measure necessary for the immediate 72582
preservation of the public peace, health, or safety, in which case 72583
it shall go into immediate effect. The emergency measure must 72584
receive an affirmative vote of all of the members of the board of 72585
county commissioners, and shall state the reasons for the 72586
necessity. A resolution may direct the board of elections to 72587

submit the question of levying the tax to the electors of the 72588
county at the next primary or general election occurring not less 72589
than ninety days after the resolution is certified to the board; 72590
no such resolution shall go into effect unless approved by a 72591
majority of those voting upon it. A county is not required to 72592
enact the tax authorized by section 4504.02 of the Revised Code in 72593
order to levy the tax authorized by this section, but no county 72594
may have in effect the tax authorized by this section if it 72595
repeals the tax authorized by section 4504.02 of the Revised Code 72596
after April 1, 1987. 72597

Sec. 4504.16. For the purpose of paying the costs of 72598
enforcing and administering the tax provided for in this section; 72599
for the various purposes stated in section 4504.02 of the Revised 72600
Code; and to supplement revenue already available for those 72601
purposes, any county that currently levies the tax authorized by 72602
section 4504.15 of the Revised Code may, by resolution adopted by 72603
its board of county commissioners, levy an annual license tax, 72604
that shall be in addition to the tax levied by that section and by 72605
sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon 72606
the operation of motor vehicles upon the public roads and 72607
highways. The tax shall be at the rate of five dollars per motor 72608
vehicle on all motor vehicles the district of registration of 72609
which, as defined in section 4503.10 of the Revised Code, is 72610
located in the county levying the tax but is not located within 72611
any municipal corporation levying the tax authorized by section 72612
4504.171 of the Revised Code, and shall be in addition to the 72613
taxes at the rates specified in sections 4503.04 and 4503.16 of 72614
the Revised Code, subject to reductions in the manner provided in 72615
section 4503.11 of the Revised Code and the exemptions provided in 72616
sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the 72617
Revised Code. 72618

Prior to the adoption of any resolution under this section, 72619

the board of county commissioners shall conduct two public 72620
hearings thereon, the second hearing to be not less than three nor 72621
more than ten days after the first. Notice of the date, time, and 72622
place of such hearings shall be given by publication in a 72623
newspaper of general circulation in the county, or as provided in 72624
section 7.16 of the Revised Code, once a week for two consecutive 72625
weeks, ~~the~~. The second publication being shall be not less than 72626
ten nor more than thirty days prior to the first hearing. 72627

No resolution under this section shall become effective 72628
sooner than thirty days following its adoption, and such 72629
resolution is subject to a referendum as provided in sections 72630
305.31 to 305.41 of the Revised Code, unless the resolution is 72631
adopted as an emergency measure necessary for the immediate 72632
preservation of the public peace, health, or safety, in which case 72633
it shall go into immediate effect. The emergency measure must 72634
receive an affirmative vote of all of the members of the board of 72635
county commissioners, and shall state the reasons for the 72636
necessity. A resolution may direct the board of elections to 72637
submit the question of levying the tax to the electors of the 72638
county at the next primary or general election occurring not less 72639
than ninety days after the resolution is certified to the board; 72640
no such resolution shall go into effect unless approved by a 72641
majority of those voting upon it. 72642

Nothing in this section or in section 4504.15 of the Revised 72643
Code shall be interpreted as preventing a county from levying the 72644
county motor vehicle license taxes authorized by such sections in 72645
a single resolution. 72646

Sec. 4504.18. For the purpose of paying the costs and 72647
expenses of enforcing and administering the tax provided for in 72648
this section; for the construction, reconstruction, improvement, 72649
maintenance, and repair of township roads, bridges, and culverts; 72650

for purchasing, erecting, and maintaining traffic signs, markers, 72651
lights, and signals; for purchasing road machinery and equipment, 72652
and planning, constructing, and maintaining suitable buildings to 72653
house such equipment; for paying any costs apportioned to the 72654
township under section 4907.47 of the Revised Code; and to 72655
supplement revenue already available for such purposes, the board 72656
of township trustees may levy an annual license tax, in addition 72657
to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the 72658
Revised Code, upon the operation of motor vehicles on the public 72659
roads and highways in the unincorporated territory of the 72660
township. The tax shall be at the rate of five dollars per motor 72661
vehicle on all motor vehicles the owners of which reside in the 72662
unincorporated area of the township and shall be in addition to 72663
the taxes at the rates specified in sections 4503.04 and 4503.16 72664
of the Revised Code, subject to reductions in the manner provided 72665
in section 4503.11 of the Revised Code and the exemptions provided 72666
in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of 72667
the Revised Code. 72668

Prior to the adoption of any resolution under this section, 72669
the board of township trustees shall conduct two public hearings 72670
thereon, the second hearing to be not less than three nor more 72671
than ten days after the first. Notice of the date, time, and place 72672
of such hearings shall be given by publication in a newspaper of 72673
general circulation in the township or as provided in section 7.16 72674
of the Revised Code, once a week on the same day of the week for 72675
two consecutive weeks, the second publication being not less than 72676
ten nor more than thirty days prior to the first hearing. 72677

No resolution under this section shall become effective 72678
sooner than thirty days following its adoption, and such 72679
resolution is subject to a referendum in the same manner, except 72680
as to the form of the petition, as provided in division (H) of 72681
section 519.12 of the Revised Code for a proposed amendment to a 72682

township zoning resolution. In addition, a petition under this 72683
section shall be governed by the rules specified in section 72684
3501.38 of the Revised Code. No resolution levying a tax under 72685
this section for which a referendum vote has been requested shall 72686
go into effect unless approved by a majority of those voting upon 72687
it. 72688

A township license tax levied under this section shall 72689
continue in effect until repealed. 72690

Sec. 4506.071. On receipt of a notice pursuant to section 72691
3123.54 of the Revised Code, the registrar of motor vehicles shall 72692
comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the 72693
Revised Code and any applicable rules adopted under section 72694
3123.63 of the Revised Code with respect to a commercial driver's 72695
license or commercial driver's temporary instruction permit issued 72696
pursuant to this chapter. 72697

Sec. 4507.111. On receipt of a notice pursuant to section 72698
3123.54 of the Revised Code, the registrar of motor vehicles shall 72699
comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the 72700
Revised Code and any applicable rules adopted under section 72701
3123.63 of the Revised Code with respect to any driver's or 72702
commercial license or permit, motorcycle operator's license or 72703
endorsement, or temporary instruction permit or commercial 72704
driver's temporary instruction permit issued by this state that is 72705
the subject of the notice. 72706

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) 72707
of this section, when the license of any person is suspended 72708
pursuant to any provision of the Revised Code other than division 72709
(G) of section 4511.19 of the Revised Code and other than section 72710
4510.07 of the Revised Code for a violation of a municipal OVI 72711
ordinance, the trial judge may impound the identification license 72712

plates of any motor vehicle registered in the name of the person. 72713

(B)(1) When the license of any person is suspended pursuant 72714
to division (G)(1)(a) of section 4511.19 of the Revised Code, or 72715
pursuant to section 4510.07 of the Revised Code for a municipal 72716
OVI offense when the suspension is equivalent in length to the 72717
suspension under division (G) of section 4511.19 of the Revised 72718
Code that is specified in this division, the trial judge of the 72719
court of record or the mayor of the mayor's court that suspended 72720
the license may impound the identification license plates of any 72721
motor vehicle registered in the name of the person. 72722

(2) When the license of any person is suspended pursuant to 72723
division (G)(1)(b) of section 4511.19 of the Revised Code, or 72724
pursuant to section 4510.07 of the Revised Code for a municipal 72725
OVI offense when the suspension is equivalent in length to the 72726
suspension under division (G) of section 4511.19 of the Revised 72727
Code that is specified in this division, the trial judge of the 72728
court of record that suspended the license shall order the 72729
impoundment of the identification license plates of the motor 72730
vehicle the offender was operating at the time of the offense and 72731
the immobilization of that vehicle in accordance with section 72732
4503.233 and division (G)(1)(b) of section 4511.19 or division 72733
~~(B)~~(C)(2)(a) of section 4511.193 of the Revised Code and may 72734
impound the identification license plates of any other motor 72735
vehicle registered in the name of the person whose license is 72736
suspended. 72737

(3) When the license of any person is suspended pursuant to 72738
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 72739
Code, or pursuant to section 4510.07 of the Revised Code for a 72740
municipal OVI offense when the suspension is equivalent in length 72741
to the suspension under division (G) of section 4511.19 of the 72742
Revised Code that is specified in this division, the trial judge 72743

of the court of record that suspended the license shall order the 72744
criminal forfeiture to the state of the motor vehicle the offender 72745
was operating at the time of the offense in accordance with 72746
section 4503.234 and division (G)(1)(c), (d), or (e) of section 72747
4511.19 or division ~~(B)~~(C)(2)(b) of section 4511.193 of the 72748
Revised Code and may impound the identification license plates of 72749
any other motor vehicle registered in the name of the person whose 72750
license is suspended. 72751

(C)(1) When a person is convicted of or pleads guilty to a 72752
violation of section 4510.14 of the Revised Code or a 72753
substantially equivalent municipal ordinance and division (B)(1) 72754
or (2) of section 4510.14 or division (C)(1) or (2) of section 72755
4510.161 of the Revised Code applies, the trial judge of the court 72756
of record or the mayor of the mayor's court that imposes sentence 72757
shall order the immobilization of the vehicle the person was 72758
operating at the time of the offense and the impoundment of its 72759
identification license plates in accordance with section 4503.233 72760
and division (B)(1) or (2) of section 4510.14 or division (C)(1) 72761
or (2) of section 4510.161 of the Revised Code and may impound the 72762
identification license plates of any other vehicle registered in 72763
the name of that person. 72764

(2) When a person is convicted of or pleads guilty to a 72765
violation of section 4510.14 of the Revised Code or a 72766
substantially equivalent municipal ordinance and division (B)(3) 72767
of section 4510.14 or division (C)(3) of section 4510.161 of the 72768
Revised Code applies, the trial judge of the court of record that 72769
imposes sentence shall order the criminal forfeiture to the state 72770
of the vehicle the person was operating at the time of the offense 72771
in accordance with section 4503.234 and division (B)(3) of section 72772
4510.14 or division (C)(3) of section 4510.161 of the Revised Code 72773
and may impound the identification license plates of any other 72774
vehicle registered in the name of that person. 72775

(D)~~(1)~~ When a person is convicted of or pleads guilty to a violation of division (A) of section 4510.16 of the Revised Code or a substantially equivalent municipal ordinance, division (B) of section 4510.16 or division (B) of section 4510.161 of the Revised Code applies in determining whether the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates or the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense is authorized or required. The trial judge of the court of record or the mayor of the mayor's court that imposes sentence may impound the identification license plates of any other vehicle registered in the name of that person.

(E)(1) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(1) or (2) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle that was involved in the commission of the offense and the impoundment of its identification license plates in accordance with division (C)(1) or (2) of section 4511.203 and section 4503.233 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(3) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the criminal forfeiture to the state of the vehicle that was involved in the commission of the offense in accordance with division (C)(3) of section 4511.203 and section 4503.234 of the Revised Code and may impound the identification license plates of any

other vehicle registered in the name of that person. 72808

(F) Except as provided in section 4503.233 or 4503.234 of the Revised Code, when the certificate of registration, the identification license plates, or both have been impounded, division (B) of section 4507.02 of the Revised Code is applicable.

(G) As used in this section, "municipal OVI offense" has the same meaning as in section 4511.181 of the Revised Code.

Sec. 4510.037. (A) When the registrar of motor vehicles determines that the total points charged against any person under section 4510.036 of the Revised Code exceed five, the registrar shall send a warning letter to the person at the person's last known address by regular mail. The warning letter shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and outline the suspension provisions of this section.

(B) When the registrar determines that the total points charged against any person under section 4510.036 of the Revised Code within any two-year period beginning on the date of the first conviction within the two-year period is equal to twelve or more, the registrar shall send a written notice to the person at the person's last known address by regular mail. The notice shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and state that, because the total number of points charged against the person within the applicable two-year period is equal to twelve or more, the registrar is imposing a class D suspension of the person's driver's or commercial driver's license or permit or nonresident operating privileges for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code. The notice also shall state that the suspension is effective on the twentieth day after the mailing of the notice, unless the person

files a petition appealing the determination and suspension in the 72839
municipal court, county court, or, if the person is under the age 72840
of eighteen, the juvenile division of the court of common pleas in 72841
whose jurisdiction the person resides or, if the person is not a 72842
resident of this state, in the Franklin county municipal court or 72843
juvenile division of the Franklin county court of common pleas. By 72844
filing the appeal of the determination and suspension, the person 72845
agrees to pay the cost of the proceedings in the appeal of the 72846
determination and suspension and alleges that the person can show 72847
cause why the person's driver's or commercial driver's license or 72848
permit or nonresident operating privileges should not be 72849
suspended. 72850

(C)(1) Any person against whom at least two but less than 72851
twelve points have been charged under section 4510.036 of the 72852
Revised Code may enroll in a course of remedial driving 72853
instruction that is approved by the director of public safety. 72854
Upon the person's completion of an approved course of remedial 72855
driving instruction, the person may apply to the registrar on a 72856
form prescribed by the registrar for a credit of two points on the 72857
person's driving record. Upon receipt of the application and proof 72858
of completion of the approved remedial driving course, the 72859
registrar shall approve the two-point credit. The registrar shall 72860
not approve any credits for a person who completes an approved 72861
course of remedial driving instruction pursuant to a judge's order 72862
under section 4510.02 of the Revised Code. 72863

(2) In any three-year period, the registrar shall approve 72864
only one two-point credit on a person's driving record under 72865
division (C)(1) of this section. The registrar shall approve not 72866
more than five two-point credits on a person's driving record 72867
under division (C)(1) of this section during that person's 72868
lifetime. 72869

(D) When a judge of a court of record suspends a person's 72870

driver's or commercial driver's license or permit or nonresident 72871
operating privilege and charges points against the person under 72872
section 4510.036 of the Revised Code for the offense that resulted 72873
in the suspension, the registrar shall credit that period of 72874
suspension against the time of any subsequent suspension imposed 72875
under this section for which those points were used to impose the 72876
subsequent suspension. When a United States district court that 72877
has jurisdiction within this state suspends a person's driver's or 72878
commercial driver's license or permit or nonresident operating 72879
privileges pursuant to the "Assimilative Crimes Act," 102 Stat. 72880
4381 (1988), 18 U.S.C.A. 13, as amended, the district court 72881
prepares an abstract pursuant to section 4510.031 of the Revised 72882
Code, and the district court charges points against the person 72883
under section 4510.036 of the Revised Code for the offense that 72884
resulted in the suspension, the registrar shall credit the period 72885
of suspension imposed by the district court against the time of 72886
any subsequent suspension imposed under this section for which the 72887
points were used to impose the subsequent suspension. 72888

(E) The registrar, upon the written request of a licensee who 72889
files a petition under division (B) of this section, shall furnish 72890
the licensee a certified copy of the registrar's record of the 72891
convictions and bond forfeitures of the person. This record shall 72892
include the name, address, and date of birth of the licensee; the 72893
name of the court in which each conviction or bail forfeiture took 72894
place; the nature of the offense that was the basis of the 72895
conviction or bond forfeiture; and any other information that the 72896
registrar considers necessary. If the record indicates that twelve 72897
points or more have been charged against the person within a 72898
two-year period, it is prima-facie evidence that the person is a 72899
repeat traffic offender, and the registrar shall suspend the 72900
person's driver's or commercial driver's license or permit or 72901
nonresident operating privilege pursuant to division (B) of this 72902
section. 72903

In hearing the petition and determining whether the person 72904
filing the petition has shown cause why the person's driver's or 72905
commercial driver's license or permit or nonresident operating 72906
privilege should not be suspended, the court shall decide the 72907
issue on the record certified by the registrar and any additional 72908
relevant, competent, and material evidence that either the 72909
registrar or the person whose license is sought to be suspended 72910
submits. 72911

(F) If a petition is filed under division (B) of this section 72912
in a county court, the prosecuting attorney of the county in which 72913
the case is pending shall represent the registrar in the 72914
proceedings, except that, if the petitioner resides in a municipal 72915
corporation within the jurisdiction of the county court, the city 72916
director of law, village solicitor, or other chief legal officer 72917
of the municipal corporation shall represent the registrar in the 72918
proceedings. If a petition is filed under division (B) of this 72919
section in a municipal court, the registrar shall be represented 72920
in the resulting proceedings as provided in section 1901.34 of the 72921
Revised Code. 72922

(G) If the court determines from the evidence submitted that 72923
a person who filed a petition under division (B) of this section 72924
has failed to show cause why the person's driver's or commercial 72925
driver's license or permit or nonresident operating privileges 72926
should not be suspended, the court shall assess against the person 72927
the cost of the proceedings in the appeal of the determination and 72928
suspension and shall impose the applicable suspension under this 72929
section or suspend all or a portion of the suspension and impose 72930
any conditions upon the person that the court considers proper or 72931
impose upon the person a community control sanction pursuant to 72932
section 2929.15 or 2929.25 of the Revised Code. If the court 72933
determines from the evidence submitted that a person who filed a 72934
petition under division (B) of this section has shown cause why 72935

the person's driver's or commercial driver's license or permit or 72936
nonresident operating privileges should not be suspended, the 72937
costs of the appeal proceeding shall be paid out of the county 72938
treasury of the county in which the proceedings were held. 72939

(H) Any person whose driver's or commercial driver's license 72940
or permit or nonresident operating privileges are suspended under 72941
this section is not entitled to apply for or receive a new 72942
driver's or commercial driver's license or permit or to request or 72943
be granted nonresident operating privileges during the effective 72944
period of the suspension. 72945

(I) Upon the termination of any suspension or other penalty 72946
imposed under this section involving the surrender of license or 72947
permit and upon the request of the person whose license or permit 72948
was suspended or surrendered, the registrar shall return the 72949
license or permit to the person upon determining that the person 72950
has complied with all provisions of section 4510.038 of the 72951
Revised Code or, if the registrar destroyed the license or permit 72952
pursuant to section 4510.52 of the Revised Code, shall reissue the 72953
person's license or permit. 72954

(J) Any person whose driver's or commercial driver's license 72955
or permit or nonresident operating privileges are suspended as a 72956
repeat traffic offender under this section and who, during the 72957
suspension, operates any motor vehicle upon any public roads and 72958
highways is guilty of a misdemeanor of the first degree, and the 72959
court shall sentence the offender to a minimum term of three days 72960
in jail. No court shall suspend the first three days of jail time 72961
imposed pursuant to this division. 72962

(K) The registrar, in accordance with specific statutory 72963
authority, may suspend the privilege of driving a motor vehicle on 72964
the public roads and highways of this state that is granted to 72965
nonresidents by section 4507.04 of the Revised Code. 72966

(L) Any (1) Except as provided in division (L)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person. ~~The~~ and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing. In accordance with division (C) of this section, upon receiving an application with a certificate or other proof of completion of a course approved under this division, the registrar shall approve the two-point reduction.

Sec. 4510.038. (A) Any person whose driver's or commercial driver's license or permit is suspended or who is granted limited driving privileges under section 4510.037, under division (H) of section 4511.19, or under section 4510.07 of the Revised Code for a violation of a municipal ordinance that is substantially equivalent to division (B) of section 4511.19 of the Revised Code is not eligible to retain the license, or to have the driving privileges reinstated, until each of the following has occurred:

(1) The person successfully completes a course of remedial driving instruction approved by the director of public safety. A minimum of twenty-five per cent of the number of hours of instruction included in the course shall be devoted to instruction on driver attitude.

The course also shall devote a number of hours to instruction in the area of alcohol and drugs and the operation of vehicles. The instruction shall include, but not be limited to, a review of the laws governing the operation of a vehicle while under the

influence of alcohol, drugs, or a combination of them, the dangers 72998
of operating a vehicle while under the influence of alcohol, 72999
drugs, or a combination of them, and other information relating to 73000
the operation of vehicles and the consumption of alcoholic 73001
beverages and use of drugs. The director, in consultation with the 73002
director of alcohol and drug addiction services, shall prescribe 73003
the content of the instruction. The number of hours devoted to the 73004
area of alcohol and drugs and the operation of vehicles shall 73005
comprise a minimum of twenty-five per cent of the number of hours 73006
of instruction included in the course. 73007

(2) The person is examined in the manner provided for in 73008
section 4507.20 of the Revised Code, and found by the registrar of 73009
motor vehicles to be qualified to operate a motor vehicle; 73010

(3) The person gives and maintains proof of financial 73011
responsibility, in accordance with section 4509.45 of the Revised 73012
Code. 73013

(B) ~~Any~~ (1) Except as provided in division (B)(2) of this 73014
section, any course of remedial driving instruction the director 73015
of public safety approves under this section shall require its 73016
students to attend at least fifty per cent of the course in 73017
person. ~~The~~ and the director shall not approve any course of 73018
remedial driving instruction that permits its students to take 73019
more than fifty per cent of the course in any other manner, 73020
including via video teleconferencing or the internet. 73021

(2) The director may approve a course of remedial instruction 73022
that permits students to take the entire course via video 73023
teleconferencing or the internet. 73024

Sec. 4511.191. (A)(1) As used in this section: 73025

(a) "Physical control" has the same meaning as in section 73026
4511.194 of the Revised Code. 73027

(b) "Alcohol monitoring device" means any device that 73028
provides for continuous alcohol monitoring, any ignition interlock 73029
device, any immobilizing or disabling device other than an 73030
ignition interlock device that is constantly available to monitor 73031
the concentration of alcohol in a person's system, or any other 73032
device that provides for the automatic testing and periodic 73033
reporting of alcohol consumption by a person and that a court 73034
orders a person to use as a sanction imposed as a result of the 73035
person's conviction of or plea of guilty to an offense. 73036

(2) Any person who operates a vehicle, streetcar, or 73037
trackless trolley upon a highway or any public or private property 73038
used by the public for vehicular travel or parking within this 73039
state or who is in physical control of a vehicle, streetcar, or 73040
trackless trolley shall be deemed to have given consent to a 73041
chemical test or tests of the person's whole blood, blood serum or 73042
plasma, breath, or urine to determine the alcohol, drug of abuse, 73043
controlled substance, metabolite of a controlled substance, or 73044
combination content of the person's whole blood, blood serum or 73045
plasma, breath, or urine if arrested for a violation of division 73046
(A) or (B) of section 4511.19 of the Revised Code, section 73047
4511.194 of the Revised Code or a substantially equivalent 73048
municipal ordinance, or a municipal OVI ordinance. 73049

(3) The chemical test or tests under division (A)(2) of this 73050
section shall be administered at the request of a law enforcement 73051
officer having reasonable grounds to believe the person was 73052
operating or in physical control of a vehicle, streetcar, or 73053
trackless trolley in violation of a division, section, or 73054
ordinance identified in division (A)(2) of this section. The law 73055
enforcement agency by which the officer is employed shall 73056
designate which of the tests shall be administered. 73057

(4) Any person who is dead or unconscious, or who otherwise 73058
is in a condition rendering the person incapable of refusal, shall 73059

be deemed to have consented as provided in division (A)(2) of this 73060
section, and the test or tests may be administered, subject to 73061
sections 313.12 to 313.16 of the Revised Code. 73062

(5)(a) If a law enforcement officer arrests a person for a 73063
violation of division (A) or (B) of section 4511.19 of the Revised 73064
Code, section 4511.194 of the Revised Code or a substantially 73065
equivalent municipal ordinance, or a municipal OVI ordinance and 73066
if the person if convicted would be required to be sentenced under 73067
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 73068
Code, the law enforcement officer shall request the person to 73069
submit, and the person shall submit, to a chemical test or tests 73070
of the person's whole blood, blood serum or plasma, breath, or 73071
urine for the purpose of determining the alcohol, drug of abuse, 73072
controlled substance, metabolite of a controlled substance, or 73073
combination content of the person's whole blood, blood serum or 73074
plasma, breath, or urine. A law enforcement officer who makes a 73075
request pursuant to this division that a person submit to a 73076
chemical test or tests is not required to advise the person of the 73077
consequences of submitting to, or refusing to submit to, the test 73078
or tests and is not required to give the person the form described 73079
in division (B) of section 4511.192 of the Revised Code, but the 73080
officer shall advise the person at the time of the arrest that if 73081
the person refuses to take a chemical test the officer may employ 73082
whatever reasonable means are necessary to ensure that the person 73083
submits to a chemical test of the person's whole blood or blood 73084
serum or plasma. The officer shall also advise the person at the 73085
time of the arrest that the person may have an independent 73086
chemical test taken at the person's own expense. Divisions (A)(3) 73087
and (4) of this section apply to the administration of a chemical 73088
test or tests pursuant to this division. 73089

(b) If a person refuses to submit to a chemical test upon a 73090
request made pursuant to division (A)(5)(a) of this section, the 73091

law enforcement officer who made the request may employ whatever 73092
reasonable means are necessary to ensure that the person submits 73093
to a chemical test of the person's whole blood or blood serum or 73094
plasma. A law enforcement officer who acts pursuant to this 73095
division to ensure that a person submits to a chemical test of the 73096
person's whole blood or blood serum or plasma is immune from 73097
criminal and civil liability based upon a claim for assault and 73098
battery or any other claim for the acts, unless the officer so 73099
acted with malicious purpose, in bad faith, or in a wanton or 73100
reckless manner. 73101

(B)(1) Upon receipt of the sworn report of a law enforcement 73102
officer who arrested a person for a violation of division (A) or 73103
(B) of section 4511.19 of the Revised Code, section 4511.194 of 73104
the Revised Code or a substantially equivalent municipal 73105
ordinance, or a municipal OVI ordinance that was completed and 73106
sent to the registrar and a court pursuant to section 4511.192 of 73107
the Revised Code in regard to a person who refused to take the 73108
designated chemical test, the registrar shall enter into the 73109
registrar's records the fact that the person's driver's or 73110
commercial driver's license or permit or nonresident operating 73111
privilege was suspended by the arresting officer under this 73112
division and that section and the period of the suspension, as 73113
determined under this section. The suspension shall be subject to 73114
appeal as provided in section 4511.197 of the Revised Code. The 73115
suspension shall be for whichever of the following periods 73116
applies: 73117

(a) Except when division (B)(1)(b), (c), or (d) of this 73118
section applies and specifies a different class or length of 73119
suspension, the suspension shall be a class C suspension for the 73120
period of time specified in division (B)(3) of section 4510.02 of 73121
the Revised Code. 73122

(b) If the arrested person, within six years of the date on 73123

which the person refused the request to consent to the chemical 73124
test, had refused one previous request to consent to a chemical 73125
test or had been convicted of or pleaded guilty to one violation 73126
of division (A) or (B) of section 4511.19 of the Revised Code or 73127
one other equivalent offense, the suspension shall be a class B 73128
suspension imposed for the period of time specified in division 73129
(B)(2) of section 4510.02 of the Revised Code. 73130

(c) If the arrested person, within six years of the date on 73131
which the person refused the request to consent to the chemical 73132
test, had refused two previous requests to consent to a chemical 73133
test, had been convicted of or pleaded guilty to two violations of 73134
division (A) or (B) of section 4511.19 of the Revised Code or 73135
other equivalent offenses, or had refused one previous request to 73136
consent to a chemical test and also had been convicted of or 73137
pleaded guilty to one violation of division (A) or (B) of section 73138
4511.19 of the Revised Code or other equivalent offenses, which 73139
violation or offense arose from an incident other than the 73140
incident that led to the refusal, the suspension shall be a class 73141
A suspension imposed for the period of time specified in division 73142
(B)(1) of section 4510.02 of the Revised Code. 73143

(d) If the arrested person, within six years of the date on 73144
which the person refused the request to consent to the chemical 73145
test, had refused three or more previous requests to consent to a 73146
chemical test, had been convicted of or pleaded guilty to three or 73147
more violations of division (A) or (B) of section 4511.19 of the 73148
Revised Code or other equivalent offenses, or had refused a number 73149
of previous requests to consent to a chemical test and also had 73150
been convicted of or pleaded guilty to a number of violations of 73151
division (A) or (B) of section 4511.19 of the Revised Code or 73152
other equivalent offenses that cumulatively total three or more 73153
such refusals, convictions, and guilty pleas, the suspension shall 73154
be for five years. 73155

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or

permit or nonresident operating privilege was suspended by the 73188
arresting officer under this division and section 4511.192 of the 73189
Revised Code and the period of the suspension, as determined under 73190
divisions (C)(1)(a) to (d) of this section. The suspension shall 73191
be subject to appeal as provided in section 4511.197 of the 73192
Revised Code. The suspension described in this division does not 73193
apply to, and shall not be imposed upon, a person arrested for a 73194
violation of section 4511.194 of the Revised Code or a 73195
substantially equivalent municipal ordinance who submits to a 73196
designated chemical test. The suspension shall be for whichever of 73197
the following periods applies: 73198

(a) Except when division (C)(1)(b), (c), or (d) of this 73199
section applies and specifies a different period, the suspension 73200
shall be a class E suspension imposed for the period of time 73201
specified in division (B)(5) of section 4510.02 of the Revised 73202
Code. 73203

(b) The suspension shall be a class C suspension for the 73204
period of time specified in division (B)(3) of section 4510.02 of 73205
the Revised Code if the person has been convicted of or pleaded 73206
guilty to, within six years of the date the test was conducted, 73207
one violation of division (A) or (B) of section 4511.19 of the 73208
Revised Code or one other equivalent offense. 73209

(c) If, within six years of the date the test was conducted, 73210
the person has been convicted of or pleaded guilty to two 73211
violations of a statute or ordinance described in division 73212
(C)(1)(b) of this section, the suspension shall be a class B 73213
suspension imposed for the period of time specified in division 73214
(B)(2) of section 4510.02 of the Revised Code. 73215

(d) If, within six years of the date the test was conducted, 73216
the person has been convicted of or pleaded guilty to more than 73217
two violations of a statute or ordinance described in division 73218
(C)(1)(b) of this section, the suspension shall be a class A 73219

suspension imposed for the period of time specified in division 73220
(B)(1) of section 4510.02 of the Revised Code. 73221

(2) The registrar shall terminate a suspension of the 73222
driver's or commercial driver's license or permit of a resident or 73223
of the operating privilege of a nonresident, or a denial of a 73224
driver's or commercial driver's license or permit, imposed 73225
pursuant to division (C)(1) of this section upon receipt of notice 73226
that the person has entered a plea of guilty to, or that the 73227
person has been convicted after entering a plea of no contest to, 73228
operating a vehicle in violation of section 4511.19 of the Revised 73229
Code or in violation of a municipal OVI ordinance, if the offense 73230
for which the conviction is had or the plea is entered arose from 73231
the same incident that led to the suspension or denial. 73232

The registrar shall credit against any judicial suspension of 73233
a person's driver's or commercial driver's license or permit or 73234
nonresident operating privilege imposed pursuant to section 73235
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 73236
Revised Code for a violation of a municipal OVI ordinance, any 73237
time during which the person serves a related suspension imposed 73238
pursuant to division (C)(1) of this section. 73239

(D)(1) A suspension of a person's driver's or commercial 73240
driver's license or permit or nonresident operating privilege 73241
under this section for the time described in division (B) or (C) 73242
of this section is effective immediately from the time at which 73243
the arresting officer serves the notice of suspension upon the 73244
arrested person. Any subsequent finding that the person is not 73245
guilty of the charge that resulted in the person being requested 73246
to take the chemical test or tests under division (A) of this 73247
section does not affect the suspension. 73248

(2) If a person is arrested for operating a vehicle, 73249
streetcar, or trackless trolley in violation of division (A) or 73250
(B) of section 4511.19 of the Revised Code or a municipal OVI 73251

ordinance, or for being in physical control of a vehicle, 73252
streetcar, or trackless trolley in violation of section 4511.194 73253
of the Revised Code or a substantially equivalent municipal 73254
ordinance, regardless of whether the person's driver's or 73255
commercial driver's license or permit or nonresident operating 73256
privilege is or is not suspended under division (B) or (C) of this 73257
section or Chapter 4510. of the Revised Code, the person's initial 73258
appearance on the charge resulting from the arrest shall be held 73259
within five days of the person's arrest or the issuance of the 73260
citation to the person, subject to any continuance granted by the 73261
court pursuant to section 4511.197 of the Revised Code regarding 73262
the issues specified in that division. 73263

(E) When it finally has been determined under the procedures 73264
of this section and sections 4511.192 to 4511.197 of the Revised 73265
Code that a nonresident's privilege to operate a vehicle within 73266
this state has been suspended, the registrar shall give 73267
information in writing of the action taken to the motor vehicle 73268
administrator of the state of the person's residence and of any 73269
state in which the person has a license. 73270

(F) At the end of a suspension period under this section, 73271
under section 4511.194, section 4511.196, or division (G) of 73272
section 4511.19 of the Revised Code, or under section 4510.07 of 73273
the Revised Code for a violation of a municipal OVI ordinance and 73274
upon the request of the person whose driver's or commercial 73275
driver's license or permit was suspended and who is not otherwise 73276
subject to suspension, cancellation, or disqualification, the 73277
registrar shall return the driver's or commercial driver's license 73278
or permit to the person upon the occurrence of all of the 73279
conditions specified in divisions (F)(1) and (2) of this section: 73280

(1) A showing that the person has proof of financial 73281
responsibility, a policy of liability insurance in effect that 73282
meets the minimum standards set forth in section 4509.51 of the 73283

Revised Code, or proof, to the satisfaction of the registrar, that 73284
the person is able to respond in damages in an amount at least 73285
equal to the minimum amounts specified in section 4509.51 of the 73286
Revised Code. 73287

(2) Subject to the limitation contained in division (F)(3) of 73288
this section, payment by the person to the registrar of motor 73289
vehicles or an eligible deputy registrar of a license 73290
reinstatement fee of four hundred seventy-five dollars, which fee 73291
shall be deposited in the state treasury and credited as follows: 73292

(a) One hundred twelve dollars and fifty cents shall be 73293
credited to the statewide treatment and prevention fund created by 73294
section 4301.30 of the Revised Code. ~~The Money credited to the~~ 73295
~~fund under this section shall be used to pay the costs of driver~~ 73296
~~treatment and intervention programs operated pursuant to sections~~ 73297
~~3793.02 and 3793.10 for purposes identified in the comprehensive~~ 73298
~~statewide alcohol and drug addiction services plan developed under~~ 73299
~~section 3793.04 of the Revised Code. The director of alcohol and~~ 73300
~~drug addiction services shall determine the share of the fund that~~ 73301
~~is to be allocated to alcohol and drug addiction programs~~ 73302
~~authorized by section 3793.02 of the Revised Code, and the share~~ 73303
~~of the fund that is to be allocated to drivers' intervention~~ 73304
~~programs authorized by section 3793.10 of the Revised Code.~~ 73305

(b) Seventy-five dollars shall be credited to the reparations 73306
fund created by section 2743.191 of the Revised Code. 73307

(c) Thirty-seven dollars and fifty cents shall be credited to 73308
the indigent drivers alcohol treatment fund, which is hereby 73309
established in the state treasury. Except as otherwise provided in 73310
division (F)(2)(c) of this section, moneys in the fund shall be 73311
distributed by the department of alcohol and drug addiction 73312
services to the county indigent drivers alcohol treatment funds, 73313
the county juvenile indigent drivers alcohol treatment funds, and 73314
the municipal indigent drivers alcohol treatment funds that are 73315

required to be established by counties and municipal corporations 73316
pursuant to division (H) of this section, and shall be used only 73317
to pay the cost of an alcohol and drug addiction treatment program 73318
attended by an offender or juvenile traffic offender who is 73319
ordered to attend an alcohol and drug addiction treatment program 73320
by a county, juvenile, or municipal court judge and who is 73321
determined by the county, juvenile, or municipal court judge not 73322
to have the means to pay for the person's attendance at the 73323
program or to pay the costs specified in division (H)(4) of this 73324
section in accordance with that division. In addition, a county, 73325
juvenile, or municipal court judge may use moneys in the county 73326
indigent drivers alcohol treatment fund, county juvenile indigent 73327
drivers alcohol treatment fund, or municipal indigent drivers 73328
alcohol treatment fund to pay for the cost of the continued use of 73329
an alcohol monitoring device as described in divisions (H)(3) and 73330
(4) of this section. Moneys in the fund that are not distributed 73331
to a county indigent drivers alcohol treatment fund, a county 73332
juvenile indigent drivers alcohol treatment fund, or a municipal 73333
indigent drivers alcohol treatment fund under division (H) of this 73334
section because the director of alcohol and drug addiction 73335
services does not have the information necessary to identify the 73336
county or municipal corporation where the offender or juvenile 73337
offender was arrested may be transferred by the director of budget 73338
and management to the statewide treatment and prevention fund 73339
created by section 4301.30 of the Revised Code, upon certification 73340
of the amount by the director of alcohol and drug addiction 73341
services. 73342

(d) Seventy-five dollars shall be credited to the Ohio 73343
rehabilitation services commission established by section 3304.12 73344
of the Revised Code, to the services for rehabilitation fund, 73345
which is hereby established. The fund shall be used to match 73346
available federal matching funds where appropriate, and for any 73347
other purpose or program of the commission to rehabilitate people 73348

with disabilities to help them become employed and independent. 73349

(e) Seventy-five dollars shall be deposited into the state 73350
treasury and credited to the drug abuse resistance education 73351
programs fund, which is hereby established, to be used by the 73352
attorney general for the purposes specified in division (F)(4) of 73353
this section. 73354

(f) Thirty dollars shall be credited to the state bureau of 73355
motor vehicles fund created by section 4501.25 of the Revised 73356
Code. 73357

(g) Twenty dollars shall be credited to the trauma and 73358
emergency medical services grants fund created by section 4513.263 73359
of the Revised Code. 73360

(h) Fifty dollars shall be credited to the indigent drivers 73361
interlock and alcohol monitoring fund, which is hereby established 73362
in the state treasury. ~~Monies~~ Moneys in the fund shall be 73363
distributed by the department of public safety to the county 73364
indigent drivers interlock and alcohol monitoring funds, the 73365
county juvenile indigent drivers interlock and alcohol monitoring 73366
funds, and the municipal indigent drivers interlock and alcohol 73367
monitoring funds that are required to be established by counties 73368
and municipal corporations pursuant to this section, and shall be 73369
used only to pay the cost of an immobilizing or disabling device, 73370
including a certified ignition interlock device, or an alcohol 73371
monitoring device used by an offender or juvenile offender who is 73372
ordered to use the device by a county, juvenile, or municipal 73373
court judge and who is determined by the county, juvenile, or 73374
municipal court judge not to have the means to pay for the 73375
person's use of the device. 73376

(3) If a person's driver's or commercial driver's license or 73377
permit is suspended under this section, under section 4511.196 or 73378
division (G) of section 4511.19 of the Revised Code, under section 73379

4510.07 of the Revised Code for a violation of a municipal OVI 73380
ordinance or under any combination of the suspensions described in 73381
division (F)(3) of this section, and if the suspensions arise from 73382
a single incident or a single set of facts and circumstances, the 73383
person is liable for payment of, and shall be required to pay to 73384
the registrar or an eligible deputy registrar, only one 73385
reinstatement fee of four hundred seventy-five dollars. The 73386
reinstatement fee shall be distributed by the bureau in accordance 73387
with division (F)(2) of this section. 73388

(4) The attorney general shall use amounts in the drug abuse 73389
resistance education programs fund to award grants to law 73390
enforcement agencies to establish and implement drug abuse 73391
resistance education programs in public schools. Grants awarded to 73392
a law enforcement agency under this section shall be used by the 73393
agency to pay for not more than fifty per cent of the amount of 73394
the salaries of law enforcement officers who conduct drug abuse 73395
resistance education programs in public schools. The attorney 73396
general shall not use more than six per cent of the amounts the 73397
attorney general's office receives under division (F)(2)(e) of 73398
this section to pay the costs it incurs in administering the grant 73399
program established by division (F)(2)(e) of this section and in 73400
providing training and materials relating to drug abuse resistance 73401
education programs. 73402

The attorney general shall report to the governor and the 73403
general assembly each fiscal year on the progress made in 73404
establishing and implementing drug abuse resistance education 73405
programs. These reports shall include an evaluation of the 73406
effectiveness of these programs. 73407

(5) In addition to the reinstatement fee under this section, 73408
if the person pays the reinstatement fee to a deputy registrar, 73409
the deputy registrar shall collect a service fee of ten dollars to 73410
compensate the deputy registrar for services performed under this 73411

section. The deputy registrar shall retain eight dollars of the 73412
service fee and shall transmit the reinstatement fee, plus two 73413
dollars of the service fee, to the registrar in the manner the 73414
registrar shall determine. 73415

(G) Suspension of a commercial driver's license under 73416
division (B) or (C) of this section shall be concurrent with any 73417
period of disqualification under section 3123.611 or 4506.16 of 73418
the Revised Code or any period of suspension under section 3123.58 73419
of the Revised Code. No person who is disqualified for life from 73420
holding a commercial driver's license under section 4506.16 of the 73421
Revised Code shall be issued a driver's license under Chapter 73422
4507. of the Revised Code during the period for which the 73423
commercial driver's license was suspended under division (B) or 73424
(C) of this section. No person whose commercial driver's license 73425
is suspended under division (B) or (C) of this section shall be 73426
issued a driver's license under Chapter 4507. of the Revised Code 73427
during the period of the suspension. 73428

(H)(1) Each county shall establish an indigent drivers 73429
alcohol treatment fund, each county shall establish a juvenile 73430
indigent drivers alcohol treatment fund, and each municipal 73431
corporation in which there is a municipal court shall establish an 73432
indigent drivers alcohol treatment fund. All revenue that the 73433
general assembly appropriates to the indigent drivers alcohol 73434
treatment fund for transfer to a county indigent drivers alcohol 73435
treatment fund, a county juvenile indigent drivers alcohol 73436
treatment fund, or a municipal indigent drivers alcohol treatment 73437
fund, all portions of fees that are paid under division (F) of 73438
this section and that are credited under that division to the 73439
indigent drivers alcohol treatment fund in the state treasury for 73440
a county indigent drivers alcohol treatment fund, a county 73441
juvenile indigent drivers alcohol treatment fund, or a municipal 73442
indigent drivers alcohol treatment fund, all portions of 73443

additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund

under the control of that court; 73476

(ii) If the fee is paid by a person who was charged in a 73477
juvenile court with the violation that resulted in the suspension 73478
or in the imposition of the court costs, the portion shall be 73479
deposited into the county juvenile indigent drivers alcohol 73480
treatment fund established in the county served by the court; 73481

(iii) If the fee is paid by a person who was charged in a 73482
municipal court with the violation that resulted in the suspension 73483
or in the imposition of the court costs, the portion shall be 73484
deposited into the municipal indigent drivers alcohol treatment 73485
fund under the control of that court. 73486

(b) Regarding a suspension imposed under section 4511.19 of 73487
the Revised Code or under section 4510.07 of the Revised Code for 73488
a violation of a municipal OVI ordinance, that portion of the fee 73489
shall be deposited as follows: 73490

(i) If the fee is paid by a person whose license or permit 73491
was suspended by a county court, the portion shall be deposited 73492
into the county indigent drivers alcohol treatment fund under the 73493
control of that court; 73494

(ii) If the fee is paid by a person whose license or permit 73495
was suspended by a municipal court, the portion shall be deposited 73496
into the municipal indigent drivers alcohol treatment fund under 73497
the control of that court. 73498

(3) Expenditures from a county indigent drivers alcohol 73499
treatment fund, a county juvenile indigent drivers alcohol 73500
treatment fund, or a municipal indigent drivers alcohol treatment 73501
fund shall be made only upon the order of a county, juvenile, or 73502
municipal court judge and only for payment of the cost of an 73503
assessment or the cost of the attendance at an alcohol and drug 73504
addiction treatment program of a person who is convicted of, or 73505
found to be a juvenile traffic offender by reason of, a violation 73506

of division (A) of section 4511.19 of the Revised Code or a 73507
substantially similar municipal ordinance, who is ordered by the 73508
court to attend the alcohol and drug addiction treatment program, 73509
and who is determined by the court to be unable to pay the cost of 73510
the assessment or the cost of attendance at the treatment program 73511
or for payment of the costs specified in division (H)(4) of this 73512
section in accordance with that division. The alcohol and drug 73513
addiction services board or the board of alcohol, drug addiction, 73514
and mental health services established pursuant to section 340.02 73515
or 340.021 of the Revised Code and serving the alcohol, drug 73516
addiction, and mental health service district in which the court 73517
is located shall administer the indigent drivers alcohol treatment 73518
program of the court. When a court orders an offender or juvenile 73519
traffic offender to obtain an assessment or attend an alcohol and 73520
drug addiction treatment program, the board shall determine which 73521
program is suitable to meet the needs of the offender or juvenile 73522
traffic offender, and when a suitable program is located and space 73523
is available at the program, the offender or juvenile traffic 73524
offender shall attend the program designated by the board. A 73525
reasonable amount not to exceed five per cent of the amounts 73526
credited to and deposited into the county indigent drivers alcohol 73527
treatment fund, the county juvenile indigent drivers alcohol 73528
treatment fund, or the municipal indigent drivers alcohol 73529
treatment fund serving every court whose program is administered 73530
by that board shall be paid to the board to cover the costs it 73531
incurs in administering those indigent drivers alcohol treatment 73532
programs. 73533

In addition, upon exhaustion of moneys in the indigent 73534
drivers interlock and alcohol monitoring fund for the use of an 73535
alcohol monitoring device, a county, juvenile, or municipal court 73536
judge may use moneys in the county indigent drivers alcohol 73537
treatment fund, county juvenile indigent drivers alcohol treatment 73538
fund, or municipal indigent drivers alcohol treatment fund in the 73539

following manners: 73540

(a) If the source of the moneys was an appropriation of the 73541
general assembly, a portion of a fee that was paid under division 73542
(F) of this section, a portion of a fine that was specified for 73543
deposit into the fund by section 4511.193 of the Revised Code, or 73544
a portion of a fine that was paid for a violation of section 73545
4511.19 of the Revised Code or of a provision contained in Chapter 73546
4510. of the Revised Code that was required to be deposited into 73547
the fund, to pay for the continued use of an alcohol monitoring 73548
device by an offender or juvenile traffic offender, in conjunction 73549
with a treatment program approved by the department of alcohol and 73550
drug addiction services, when such use is determined clinically 73551
necessary by the treatment program and when the court determines 73552
that the offender or juvenile traffic offender is unable to pay 73553
all or part of the daily monitoring or cost of the device; 73554

(b) If the source of the moneys was a portion of an 73555
additional court cost imposed under section 2949.094 of the 73556
Revised Code, to pay for the continued use of an alcohol 73557
monitoring device by an offender or juvenile traffic offender when 73558
the court determines that the offender or juvenile traffic 73559
offender is unable to pay all or part of the daily monitoring or 73560
cost of the device. The moneys may be used for a device as 73561
described in this division if the use of the device is in 73562
conjunction with a treatment program approved by the department of 73563
alcohol and drug addiction services, when the use of the device is 73564
determined clinically necessary by the treatment program, but the 73565
use of a device is not required to be in conjunction with a 73566
treatment program approved by the department in order for the 73567
moneys to be used for the device as described in this division. 73568

(4) If a county, juvenile, or municipal court determines, in 73569
consultation with the alcohol and drug addiction services board or 73570
the board of alcohol, drug addiction, and mental health services 73571

established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or delinquent child is unable to pay the costs specified in division

(H)(4) of this section, the court shall use the indigent client 73603
eligibility guidelines and the standards of indigency established 73604
by the state public defender to make the determination. 73605

(6) The court shall identify and refer any alcohol and drug 73606
addiction program that is not certified under section 3793.06 of 73607
the Revised Code and that is interested in receiving amounts from 73608
the surplus in the fund declared under division (H)(4) of this 73609
section to the department of alcohol and drug addiction services 73610
in order for the program to become a certified alcohol and drug 73611
addiction program. The department shall keep a record of applicant 73612
referrals received pursuant to this division and shall submit a 73613
report on the referrals each year to the general assembly. If a 73614
program interested in becoming certified makes an application to 73615
become certified pursuant to section 3793.06 of the Revised Code, 73616
the program is eligible to receive surplus funds as long as the 73617
application is pending with the department. The department of 73618
alcohol and drug addiction services must offer technical 73619
assistance to the applicant. If the interested program withdraws 73620
the certification application, the department must notify the 73621
court, and the court shall not provide the interested program with 73622
any further surplus funds. 73623

(7)(a) Each alcohol and drug addiction services board and 73624
board of alcohol, drug addiction, and mental health services 73625
established pursuant to section 340.02 or 340.021 of the Revised 73626
Code shall submit to the department of alcohol and drug addiction 73627
services an annual report for each indigent drivers alcohol 73628
treatment fund in that board's area. 73629

(b) The report, which shall be submitted not later than sixty 73630
days after the end of the state fiscal year, shall provide the 73631
total payment that was made from the fund, including the number of 73632
indigent consumers that received treatment services and the number 73633
of indigent consumers that received an alcohol monitoring device. 73634

The report shall identify the treatment program and expenditure 73635
for an alcohol monitoring device for which that payment was made. 73636
The report shall include the fiscal year balance of each indigent 73637
drivers alcohol treatment fund located in that board's area. In 73638
the event that a surplus is declared in the fund pursuant to 73639
division (H)(4) of this section, the report also shall provide the 73640
total payment that was made from the surplus moneys and identify 73641
the treatment program and expenditure for an alcohol monitoring 73642
device for which that payment was made. The department may require 73643
additional information necessary to complete the comprehensive 73644
statewide alcohol and drug addiction services plan as required by 73645
section 3793.04 of the Revised Code. 73646

(c) If a board is unable to obtain adequate information to 73647
develop the report to submit to the department for a particular 73648
indigent drivers alcohol treatment fund, the board shall submit a 73649
report detailing the effort made in obtaining the information. 73650

(I)(1) Each county shall establish an indigent drivers 73651
interlock and alcohol monitoring fund and a juvenile indigent 73652
drivers interlock and alcohol treatment fund, and each municipal 73653
corporation in which there is a municipal court shall establish an 73654
indigent drivers interlock and alcohol monitoring fund. All 73655
revenue that the general assembly appropriates to the indigent 73656
drivers interlock and alcohol monitoring fund for transfer to a 73657
county indigent drivers interlock and alcohol monitoring fund, a 73658
county juvenile indigent drivers interlock and alcohol monitoring 73659
fund, or a municipal indigent drivers interlock and alcohol 73660
monitoring fund, all portions of license reinstatement fees that 73661
are paid under division (F)(2) of this section and that are 73662
credited under that division to the indigent drivers interlock and 73663
alcohol monitoring fund in the state treasury, and all portions of 73664
fines that are paid under division (G) of section 4511.19 of the 73665
Revised Code and that are credited by division (G)(5)(e) of that 73666

section to the indigent drivers interlock and alcohol monitoring 73667
fund in the state treasury shall be deposited in the appropriate 73668
fund in accordance with division (I)(2) of this section. 73669

(2) That portion of the license reinstatement fee that is 73670
paid under division (F) of this section and that portion of the 73671
fine paid under division (G) of section 4511.19 of the Revised 73672
Code and that is credited under either division to the indigent 73673
drivers interlock and alcohol monitoring fund shall be deposited 73674
into a county indigent drivers interlock and alcohol monitoring 73675
fund, a county juvenile indigent drivers interlock and alcohol 73676
monitoring fund, or a municipal indigent drivers interlock and 73677
alcohol monitoring fund as follows: 73678

(a) If the fee or fine is paid by a person who was charged in 73679
a county court with the violation that resulted in the suspension 73680
or fine, the portion shall be deposited into the county indigent 73681
drivers interlock and alcohol monitoring fund under the control of 73682
that court. 73683

(b) If the fee or fine is paid by a person who was charged in 73684
a juvenile court with the violation that resulted in the 73685
suspension or fine, the portion shall be deposited into the county 73686
juvenile indigent drivers interlock and alcohol monitoring fund 73687
established in the county served by the court. 73688

(c) If the fee or fine is paid by a person who was charged in 73689
a municipal court with the violation that resulted in the 73690
suspension, the portion shall be deposited into the municipal 73691
indigent drivers interlock and alcohol monitoring fund under the 73692
control of that court. 73693

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed 73694
for a violation of a municipal OVI ordinance shall be deposited 73695
into the municipal or county indigent drivers alcohol treatment 73696
fund created pursuant to division (H) of section 4511.191 of the 73697

Revised Code in accordance with this section and section 733.40, 73698
divisions (A) ~~and~~, (B), ~~and~~ (C) of section 1901.024, division (F) 73699
of section 1901.31, or division (C) of section 1907.20 of the 73700
Revised Code. Regardless of whether the fine is imposed by a 73701
municipal court, a mayor's court, or a juvenile court, if the fine 73702
was imposed for a violation of an ordinance of a municipal 73703
corporation that is within the jurisdiction of a county-operated 73704
municipal court or a municipal court that is not a county-operated 73705
municipal court, the twenty-five dollars that is subject to this 73706
section shall be deposited into the indigent drivers alcohol 73707
treatment fund of the county in which that municipal corporation 73708
is located if the municipal court that has jurisdiction over that 73709
municipal corporation is a county-operated municipal court or of 73710
the municipal corporation in which is located the municipal court 73711
that has jurisdiction over that municipal corporation if that 73712
municipal court is not a county-operated municipal court. 73713
Regardless of whether the fine is imposed by a county court, a 73714
mayor's court, or a juvenile court, if the fine was imposed for a 73715
violation of an ordinance of a municipal corporation that is 73716
within the jurisdiction of a county court, the twenty-five dollars 73717
that is subject to this section shall be deposited into the 73718
indigent drivers alcohol treatment fund of the county in which is 73719
located the county court that has jurisdiction over that municipal 73720
corporation. The deposit shall be made in accordance with section 73721
733.40, divisions (A) ~~and~~, (B), ~~and~~ (C) of section 1901.024, 73722
division (F) of section 1901.31, or division (C) of section 73723
1907.20 of the Revised Code. 73724

(B) Any court cost imposed as a result of a violation of a 73725
municipal ordinance that is a moving violation and designated for 73726
an indigent drivers alcohol treatment fund established pursuant to 73727
division (H) of section 4511.191 of the Revised Code shall be 73728
deposited into the municipal or county indigent drivers alcohol 73729

treatment fund created pursuant to division (H) of section 73730
4511.191 of the Revised Code in accordance with this section and 73731
section 733.40, divisions (A), (B), and (C) of section 1901.024, 73732
division (F) of section 1901.31, or division (C) of section 73733
1907.20 of the Revised Code. Regardless of whether the court cost 73734
is imposed by a municipal court, a mayor's court, or a juvenile 73735
court, if the court cost was imposed for a violation of an 73736
ordinance of a municipal corporation that is within the 73737
jurisdiction of a county-operated municipal court or a municipal 73738
court that is not a county-operated municipal court, the court 73739
cost that is subject to this section shall be deposited into the 73740
indigent drivers alcohol treatment fund of the county in which 73741
that municipal corporation is located if the municipal court that 73742
has jurisdiction over that municipal corporation is a 73743
county-operated municipal court or of the municipal corporation in 73744
which is located the municipal court that has jurisdiction over 73745
that municipal corporation if that municipal court is not a 73746
county-operated municipal court. Regardless of whether the court 73747
cost is imposed by a county court, a mayor's court, or a juvenile 73748
court, if the court cost was imposed for a violation of an 73749
ordinance of a municipal corporation that is within the 73750
jurisdiction of a county court, the court cost that is subject to 73751
this section shall be deposited into the indigent drivers alcohol 73752
treatment fund of the county in which is located the county court 73753
that has jurisdiction over that municipal corporation. The deposit 73754
shall be made in accordance with section 733.40, divisions (A), 73755
(B), and (C) of section 1901.024, division (F) of section 1901.31, 73756
or division (C) of section 1907.20 of the Revised Code. 73757

(C)(1) The requirements and sanctions imposed by divisions 73758
~~(B)~~(C)(1) and (2) of this section are an adjunct to and derive 73759
from the state's exclusive authority over the registration and 73760
titling of motor vehicles and do not comprise a part of the 73761
criminal sentence to be imposed upon a person who violates a 73762

municipal OVI ordinance. 73763

(2) If a person is convicted of or pleads guilty to a 73764
violation of a municipal OVI ordinance, if the vehicle the 73765
offender was operating at the time of the offense is registered in 73766
the offender's name, and if, within six years of the current 73767
offense, the offender has been convicted of or pleaded guilty to 73768
one or more violations of division (A) or (B) of section 4511.19 73769
of the Revised Code or one or more other equivalent offenses, the 73770
court, in addition to and independent of any sentence that it 73771
imposes upon the offender for the offense, shall do whichever of 73772
the following is applicable: 73773

(a) Except as otherwise provided in division ~~(B)~~(C)(2)(b) of 73774
this section, if, within six years of the current offense, the 73775
offender has been convicted of or pleaded guilty to one violation 73776
described in division ~~(B)~~(C)(2) of this section, the court shall 73777
order the immobilization for ninety days of that vehicle and the 73778
impoundment for ninety days of the license plates of that vehicle. 73779
The order for the immobilization and impoundment shall be issued 73780
and enforced in accordance with section 4503.233 of the Revised 73781
Code. 73782

(b) If, within six years of the current offense, the offender 73783
has been convicted of or pleaded guilty to two or more violations 73784
described in division ~~(B)~~(C)(2) of this section, or if the 73785
offender previously has been convicted of or pleaded guilty to a 73786
violation of division (A) of section 4511.19 of the Revised Code 73787
under circumstances in which the violation was a felony and 73788
regardless of when the violation and the conviction or guilty plea 73789
occurred, the court shall order the criminal forfeiture to the 73790
state of that vehicle. The order of criminal forfeiture shall be 73791
issued and enforced in accordance with section 4503.234 of the 73792
Revised Code. 73793

(D) As used in this section, "county-operated municipal 73794

court" has the same meaning as in section 1901.03 of the Revised Code. 73795
73796

Sec. 4513.62. Unclaimed motor vehicles ordered into storage 73797
pursuant to division (A)(1) of section 4513.60 or section 4513.61 73798
of the Revised Code shall be disposed of at the order of the 73799
sheriff of the county or the chief of police of the municipal 73800
corporation, township, or township police district to a motor 73801
vehicle salvage dealer or scrap metal processing facility as 73802
defined in section 4737.05 of the Revised Code, or to any other 73803
facility owned by or under contract with the county, municipal 73804
corporation, or township, for the disposal of such motor vehicles, 73805
or shall be sold by the sheriff, chief of police, or licensed 73806
auctioneer at public auction, after giving notice thereof by 73807
advertisement, published once a week for two successive weeks in a 73808
newspaper of general circulation in the county or as provided in 73809
section 7.16 of the Revised Code. Any moneys accruing from the 73810
disposition of an unclaimed motor vehicle that are in excess of 73811
the expenses resulting from the removal and storage of the vehicle 73812
shall be credited to the general fund of the county, the municipal 73813
corporation, or the township, as the case may be. 73814

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the 73815
Revised Code: 73816

(A) "Persons" includes individuals, firms, partnerships, 73817
associations, joint stock companies, corporations, and any 73818
combinations of individuals. 73819

(B) "Motor vehicle" means motor vehicle as defined in section 73820
4501.01 of the Revised Code and also includes "all-purpose 73821
vehicle" and "off-highway motorcycle" as those terms are defined 73822
in section 4519.01 of the Revised Code. "Motor vehicle" does not 73823
include a snowmobile as defined in section 4519.01 of the Revised 73824

Code or manufactured and mobile homes. 73825

(C) "New motor vehicle" means a motor vehicle, the legal 73826
title to which has never been transferred by a manufacturer, 73827
remanufacturer, distributor, or dealer to an ultimate purchaser. 73828

(D) "Ultimate purchaser" means, with respect to any new motor 73829
vehicle, the first person, other than a dealer purchasing in the 73830
capacity of a dealer, who in good faith purchases such new motor 73831
vehicle for purposes other than resale. 73832

(E) "Business" includes any activities engaged in by any 73833
person for the object of gain, benefit, or advantage either direct 73834
or indirect. 73835

(F) "Engaging in business" means commencing, conducting, or 73836
continuing in business, or liquidating a business when the 73837
liquidator thereof holds self out to be conducting such business; 73838
making a casual sale or otherwise making transfers in the ordinary 73839
course of business when the transfers are made in connection with 73840
the disposition of all or substantially all of the transferor's 73841
assets is not engaging in business. 73842

(G) "Retail sale" or "sale at retail" means the act or 73843
attempted act of selling, bartering, exchanging, or otherwise 73844
disposing of a motor vehicle to an ultimate purchaser for use as a 73845
consumer. 73846

(H) "Retail installment contract" includes any contract in 73847
the form of a note, chattel mortgage, conditional sales contract, 73848
lease, agreement, or other instrument payable in one or more 73849
installments over a period of time and arising out of the retail 73850
sale of a motor vehicle. 73851

(I) "Farm machinery" means all machines and tools used in the 73852
production, harvesting, and care of farm products. 73853

(J) "Dealer" or "motor vehicle dealer" means any new motor 73854

vehicle dealer, any motor vehicle leasing dealer, and any used 73855
motor vehicle dealer. 73856

(K) "New motor vehicle dealer" means any person engaged in 73857
the business of selling at retail, displaying, offering for sale, 73858
or dealing in new motor vehicles pursuant to a contract or 73859
agreement entered into with the manufacturer, remanufacturer, or 73860
distributor of the motor vehicles. 73861

(L) "Used motor vehicle dealer" means any person engaged in 73862
the business of selling, displaying, offering for sale, or dealing 73863
in used motor vehicles, at retail or wholesale, but does not mean 73864
any new motor vehicle dealer selling, displaying, offering for 73865
sale, or dealing in used motor vehicles incidentally to engaging 73866
in the business of selling, displaying, offering for sale, or 73867
dealing in new motor vehicles, any person engaged in the business 73868
of dismantling, salvaging, or rebuilding motor vehicles by means 73869
of using used parts, or any public officer performing official 73870
duties. 73871

(M) "Motor vehicle leasing dealer" means any person engaged 73872
in the business of regularly making available, offering to make 73873
available, or arranging for another person to use a motor vehicle 73874
pursuant to a bailment, lease, sublease, or other contractual 73875
arrangement under which a charge is made for its use at a periodic 73876
rate for a term of thirty days or more, and title to the motor 73877
vehicle is in and remains in the motor vehicle leasing dealer who 73878
originally leases it, irrespective of whether or not the motor 73879
vehicle is the subject of a later sublease, and not in the user, 73880
but does not mean a manufacturer or its affiliate leasing to its 73881
employees or to dealers. 73882

(N) "Salesperson" means any person employed by a dealer ~~or~~ 73883
~~manufactured home broker~~ to sell, display, and offer for sale, or 73884
deal in motor vehicles for a commission, compensation, or other 73885
valuable consideration, but does not mean any public officer 73886

performing official duties. 73887

(O) "Casual sale" means any transfer of a motor vehicle by a 73888
person other than a new motor vehicle dealer, used motor vehicle 73889
dealer, motor vehicle salvage dealer, as defined in division (A) 73890
of section 4738.01 of the Revised Code, salesperson, motor vehicle 73891
auction owner, manufacturer, or distributor acting in the capacity 73892
of a dealer, salesperson, auction owner, manufacturer, or 73893
distributor, to a person who purchases the motor vehicle for use 73894
as a consumer. 73895

(P) "Motor vehicle show" means a display of current models of 73896
motor vehicles whereby the primary purpose is the exhibition of 73897
competitive makes and models in order to provide the general 73898
public the opportunity to review and inspect various makes and 73899
models of motor vehicles at a single location. 73900

(Q) "Motor vehicle auction owner" means any person who is 73901
engaged wholly or in part in the business of auctioning motor 73902
vehicles, but does not mean a construction equipment auctioneer or 73903
a construction equipment auction licensee. 73904

(R) "Manufacturer" means a person who manufactures, 73905
assembles, or imports motor vehicles, including motor homes, but 73906
does not mean a person who only assembles or installs a body, 73907
special equipment unit, finishing trim, or accessories on a motor 73908
vehicle chassis supplied by a manufacturer or distributor. 73909

(S) "Tent-type fold-out camping trailer" means any vehicle 73910
intended to be used, when stationary, as a temporary shelter with 73911
living and sleeping facilities, and that is subject to the 73912
following properties and limitations: 73913

(1) A minimum of twenty-five per cent of the fold-out portion 73914
of the top and sidewalls combined must be constructed of canvas, 73915
vinyl, or other fabric, and form an integral part of the shelter. 73916

(2) When folded, the unit must not exceed: 73917

(a) Fifteen feet in length, exclusive of bumper and tongue;	73918
(b) Sixty inches in height from the point of contact with the ground;	73919 73920
(c) Eight feet in width;	73921
(d) One ton gross weight at time of sale.	73922
(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.	73923 73924 73925 73926 73927 73928
(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.	73929 73930 73931 73932
(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.	73933 73934 73935 73936 73937
(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.	73938 73939 73940 73941
(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.	73942 73943 73944
(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.	73945 73946 73947

(Z) "Factory representative" means a representative employed 73948
by a manufacturer, remanufacturer, or by a factory branch 73949
primarily for the purpose of promoting the sale of its motor 73950
vehicles, parts, or accessories to dealers or for supervising or 73951
contacting its dealers or prospective dealers. 73952

(AA) "Administrative or executive management" means those 73953
individuals who are not subject to federal wage and hour laws. 73954

(BB) "Good faith" means honesty in the conduct or transaction 73955
concerned and the observance of reasonable commercial standards of 73956
fair dealing in the trade as is defined in section 1301.201 of the 73957
Revised Code, including, but not limited to, the duty to act in a 73958
fair and equitable manner so as to guarantee freedom from 73959
coercion, intimidation, or threats of coercion or intimidation; 73960
provided however, that recommendation, endorsement, exposition, 73961
persuasion, urging, or argument shall not be considered to 73962
constitute a lack of good faith. 73963

(CC) "Coerce" means to compel or attempt to compel by failing 73964
to act in good faith or by threat of economic harm, breach of 73965
contract, or other adverse consequences. Coerce does not mean to 73966
argue, urge, recommend, or persuade. 73967

(DD) "Relevant market area" means any area within a radius of 73968
ten miles from the site of a potential new dealership, except that 73969
for manufactured home or recreational vehicle dealerships the 73970
radius shall be twenty-five miles. The ten-mile radius shall be 73971
measured from the dealer's established place of business that is 73972
used exclusively for the purpose of selling, displaying, offering 73973
for sale, or dealing in motor vehicles. 73974

(EE) "Wholesale" or "at wholesale" means the act or attempted 73975
act of selling, bartering, exchanging, or otherwise disposing of a 73976
motor vehicle to a transferee for the purpose of resale and not 73977
for ultimate consumption by that transferee. 73978

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, a roof elevation, or a body extension on a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose

of carrying nine or fewer passengers, that a person modifies by 74010
cutting the original chassis, lengthening the wheelbase by forty 74011
inches or more, and reinforcing the chassis in such a way that all 74012
modifications comply with all applicable federal motor vehicle 74013
safety standards. No person shall qualify as or be deemed to be a 74014
remanufacturer who produces limousines unless the person has a 74015
written agreement with the manufacturer of the chassis the person 74016
utilizes to produce the limousines to complete properly the 74017
remanufacture of the chassis into limousines. 74018

(4) For the purposes of division (GG)(1) of this section, 74019
"hearse" means a motor vehicle, designed only for the purpose of 74020
transporting a single casket, that is equipped with a compartment 74021
designed specifically to carry a single casket that a person 74022
modifies by cutting the original chassis, lengthening the 74023
wheelbase by ten inches or more, and reinforcing the chassis in 74024
such a way that all modifications comply with all applicable 74025
federal motor vehicle safety standards. No person shall qualify as 74026
or be deemed to be a remanufacturer who produces hearses unless 74027
the person has a written agreement with the manufacturer of the 74028
chassis the person utilizes to produce the hearses to complete 74029
properly the remanufacture of the chassis into hearses. 74030

(5) For the purposes of division (GG)(1) of this section, 74031
"mobile self-contained facility vehicle" means a mobile classroom 74032
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, 74033
testing laboratory, and mobile display vehicle, each of which is 74034
designed for purposes other than for passenger transportation and 74035
other than the transportation or displacement of cargo, freight, 74036
materials, or merchandise. A vehicle is remanufactured into a 74037
mobile self-contained facility vehicle in part by the addition of 74038
insulation to the body shell, and installation of all of the 74039
following: a generator, electrical wiring, plumbing, holding 74040
tanks, doors, windows, cabinets, shelving, and heating, 74041

ventilating, and air conditioning systems. 74042

(6) For the purposes of division (GG)(1) of this section, 74043
"tow truck" means both of the following: 74044

(a) An incomplete cab and chassis that are purchased by a 74045
remanufacturer from a new motor vehicle dealer or distributor of 74046
the cab and chassis and on which the remanufacturer then installs 74047
in a permanent manner a wrecker body it purchases from a 74048
manufacturer or distributor of wrecker bodies, installs an 74049
emergency flashing light pylon and emergency lights upon the mast 74050
of the wrecker body or rooftop, and installs such other related 74051
accessories and equipment, including push bumpers, front grille 74052
guards with pads and other custom-ordered items such as painting, 74053
special lettering, and safety striping so as to create a complete 74054
motor vehicle capable of lifting and towing another motor vehicle. 74055

(b) An incomplete cab and chassis that are purchased by a 74056
remanufacturer from a new motor vehicle dealer or distributor of 74057
the cab and chassis and on which the remanufacturer then installs 74058
in a permanent manner a car carrier body it purchases from a 74059
manufacturer or distributor of car carrier bodies, installs an 74060
emergency flashing light pylon and emergency lights upon the 74061
rooftop, and installs such other related accessories and 74062
equipment, including push bumpers, front grille guards with pads 74063
and other custom-ordered items such as painting, special 74064
lettering, and safety striping. 74065

As used in division (GG)(6)(b) of this section, "car carrier 74066
body" means a mechanical or hydraulic apparatus capable of lifting 74067
and holding a motor vehicle on a flat level surface so that one or 74068
more motor vehicles can be transported, once the car carrier is 74069
permanently installed upon an incomplete cab and chassis. 74070

(HH) "Operating as a new motor vehicle dealership" means 74071
engaging in activities such as displaying, offering for sale, and 74072

selling new motor vehicles at retail, operating a service facility 74073
to perform repairs and maintenance on motor vehicles, offering for 74074
sale and selling motor vehicle parts at retail, and conducting all 74075
other acts that are usual and customary to the operation of a new 74076
motor vehicle dealership. For the purposes of this chapter only, 74077
possession of either a valid new motor vehicle dealer franchise 74078
agreement or a new motor vehicle dealers license, or both of these 74079
items, is not evidence that a person is operating as a new motor 74080
vehicle dealership. 74081

(II) "Outdoor power equipment" means garden and small utility 74082
tractors, walk-behind and riding mowers, chainsaws, and tillers. 74083

(JJ) "Remote service facility" means premises that are 74084
separate from a licensed new motor vehicle dealer's sales facility 74085
by not more than one mile and that are used by the dealer to 74086
perform repairs, warranty work, recall work, and maintenance on 74087
motor vehicles pursuant to a franchise agreement entered into with 74088
a manufacturer of motor vehicles. A remote service facility shall 74089
be deemed to be part of the franchise agreement and is subject to 74090
all the rights, duties, obligations, and requirements of Chapter 74091
4517. of the Revised Code that relate to the performance of motor 74092
vehicle repairs, warranty work, recall work, and maintenance work 74093
by new motor vehicle dealers. 74094

(KK) "Recreational vehicle" has the same meaning as in 74095
section 4501.01 of the Revised Code. 74096

(LL) "Construction equipment auctioneer" means a person who 74097
holds both a valid auctioneer's license issued under Chapter 4707. 74098
of the Revised Code and a valid construction equipment auction 74099
license issued under this chapter. 74100

(MM) "Large construction or transportation equipment" means 74101
vehicles having a gross vehicle weight rating of more than ten 74102
thousand pounds and includes road rollers, traction engines, power 74103

shovels, power cranes, commercial cars and trucks, or farm trucks, 74104
and other similar vehicles obtained primarily from the 74105
construction, mining, transportation or farming industries. 74106

Sec. 4517.04. Each person applying for a new motor vehicle 74107
dealer's license shall ~~annually~~ biennially make out and deliver to 74108
the registrar of motor vehicles, before the first day of April, 74109
and upon a blank to be furnished by the registrar for that 74110
purpose, a separate application for license for each county in 74111
which the business of selling new motor vehicles is to be 74112
conducted. The application shall be in the form prescribed by the 74113
registrar, shall be signed and sworn to by the applicant, and, in 74114
addition to any other information required by the registrar, shall 74115
include the following: 74116

(A) Name of applicant and location of principal place of 74117
business; 74118

(B) Name or style under which business is to be conducted 74119
and, if a corporation, the state of incorporation; 74120

(C) Name and address of each owner or partner and, if a 74121
corporation, the names of the officers and directors; 74122

(D) The county in which the business is to be conducted and 74123
the address of each place of business therein; 74124

(E) A statement of the previous history, record, and 74125
association of the applicant and of each owner, partner, officer, 74126
and director, that shall be sufficient to establish to the 74127
satisfaction of the registrar the reputation in business of the 74128
applicant; 74129

(F) A statement showing whether the applicant has previously 74130
applied for a motor vehicle dealer's license, motor vehicle 74131
leasing dealer's license, ~~manufactured home broker's license,~~ 74132
distributor's license, motor vehicle auction owner's license, or 74133

motor vehicle salesperson's license, and the result of the 74134
application, and whether the applicant has ever been the holder of 74135
any such license that was revoked or suspended; 74136

(G) If the applicant is a corporation or partnership, a 74137
statement showing whether any partner, employee, officer, or 74138
director has been refused a motor vehicle dealer's license, motor 74139
vehicle leasing dealer's license, ~~manufactured home broker's~~ 74140
~~license~~, distributor's license, motor vehicle auction owner's 74141
license, or motor vehicle salesperson's license, or has been the 74142
holder of any such license that was revoked or suspended; 74143

(H) A statement of the makes of new motor vehicles to be 74144
handled. 74145

The statement required by division (E) of this section shall 74146
indicate whether the applicant or, if applicable, any of the 74147
applicant's owners, partners, officers, or directors, 74148
individually, or as owner, partner, officer, or director of a 74149
business entity, has been convicted of, pleaded guilty, or pleaded 74150
no contest, in a criminal action, or had a judgment rendered 74151
against ~~him~~ the person in a civil action for, a violation of 74152
sections 4549.41 to 4549.46 of the Revised Code, of any 74153
substantively comparable provisions of the law of any other state, 74154
or of subchapter IV of the "Motor Vehicle Information and Cost 74155
Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 74156

A true copy of the contract, agreement, or understanding the 74157
applicant has entered into or is about to enter into with the 74158
manufacturer or distributor of the new motor vehicles the 74159
applicant will handle shall be filed with the application. If the 74160
contract, agreement, or understanding is not in writing, a written 74161
statement of all the terms thereof shall be filed. Each such copy 74162
or statement shall bear a certificate signed by each party to the 74163
contract, agreement, or understanding, to the effect that the copy 74164
or statement is true and complete and contains all of the 74165

agreements made or about to be made between the parties. 74166

The application also shall be accompanied by a photograph, as 74167
prescribed by the registrar, of each place of business operated, 74168
or to be operated, by the applicant. 74169

Sec. 4517.09. Each person applying for a salesperson's 74170
license shall ~~annually~~ biennially make out and deliver to the 74171
registrar of motor vehicles, before the first day of July and upon 74172
a blank to be furnished by the registrar for that purpose, an 74173
application for license. The application shall be in the form 74174
prescribed by the registrar, shall be signed and sworn to by the 74175
applicant, and, in addition to any other information required by 74176
the registrar, shall include the following: 74177

(A) Name and post-office address of the applicant; 74178

(B) Name and post-office address of the motor vehicle dealer 74179
~~or manufactured home broker~~ for whom the applicant intends to act 74180
as salesperson; 74181

(C) A statement of the applicant's previous history, record, 74182
and association, that shall be sufficient to establish to the 74183
satisfaction of the registrar the applicant's reputation in 74184
business; 74185

(D) A statement as to whether the applicant intends to engage 74186
in any occupation or business other than that of a motor vehicle 74187
salesperson; 74188

(E) A statement as to whether the applicant has ever had any 74189
previous application refused, and whether the applicant has 74190
previously had a license revoked or suspended; 74191

(F) A statement as to whether the applicant was an employee 74192
of or salesperson for a dealer ~~or manufactured home broker~~ whose 74193
license was suspended or revoked; 74194

(G) A statement of the motor vehicle dealer ~~or manufactured~~ 74195

~~home broker~~ named therein, designating the applicant as the 74196
dealer's ~~or broker's~~ salesperson. 74197

The statement required by division (C) of this section shall 74198
indicate whether the applicant individually, or as an owner, 74199
partner, officer, or director of a business entity, has been 74200
convicted of, or pleaded guilty to, in a criminal action, or had a 74201
judgment rendered against the applicant in a civil action for, a 74202
violation of sections 4549.41 to 4549.46 of the Revised Code, of 74203
any substantively comparable provisions of the law of any other 74204
state, or of subchapter IV of the "Motor Vehicle Information and 74205
Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 74206

Sec. 4517.10. At the time the registrar of motor vehicles 74207
grants the application of any person for a license as motor 74208
vehicle dealer, motor vehicle leasing dealer, ~~manufactured home~~ 74209
~~broker~~, distributor, motor vehicle auction owner, or motor vehicle 74210
salesperson, the registrar shall issue to the person a license. 74211
The registrar shall prescribe different forms for the licenses of 74212
motor vehicle dealers, motor vehicle leasing dealers, ~~manufactured~~ 74213
~~home brokers~~, distributors, motor vehicle auction owners, and 74214
motor vehicle salespersons, and all licenses shall include the 74215
name and post-office address of the person licensed. 74216

The fee for a dealer's license, and a motor vehicle leasing 74217
dealer's license, ~~and a manufactured home broker's license~~ shall 74218
be fifty dollars, and the fee for a salesperson's license shall be 74219
ten dollars. The fee for a motor vehicle auction owner's license 74220
shall be one hundred dollars for each location. The fee for a 74221
distributor's license shall be one hundred dollars for each 74222
distributorship. In all cases, the fee shall accompany the 74223
application for license. 74224

The registrar may require each applicant for a license issued 74225
under this chapter to pay an additional fee, which shall be used 74226

by the registrar to pay the costs of obtaining a record of any 74227
arrests and convictions of the applicant from the Ohio bureau of 74228
identification and investigation. The amount of the fee shall be 74229
equal to that paid by the registrar to obtain such record. 74230

If a dealer, or a motor vehicle leasing dealer, ~~or a~~ 74231
~~manufactured home broker,~~ has more than one place of business in 74232
the county, the dealer ~~or the broker~~ shall make application, in 74233
such form as the registrar prescribes, for a certified copy of the 74234
license issued to the dealer ~~or manufactured home broker~~ for each 74235
place of business operated. In the event of the loss, mutilation, 74236
or destruction of a license issued under sections 4517.01 to 74237
4517.65 of the Revised Code, any licensee may make application to 74238
the registrar, in such form as the registrar prescribes, for a 74239
duplicate copy thereof. The fee for a certified or duplicate copy 74240
of a dealer's, motor vehicle leasing dealer's, ~~manufactured home~~ 74241
~~broker's,~~ distributor's, or auction owner's license, is two 74242
dollars, and the fee for a duplicate copy of a salesperson's 74243
license is one dollar. All fees for such copies shall accompany 74244
the applications. 74245

Beginning on ~~the effective date of this amendment~~ September 74246
16, 2004, all dealers' licenses, motor vehicle leasing dealers' 74247
licenses, ~~manufactured home broker's licenses,~~ distributors' 74248
licenses, auction owners' licenses, and all salespersons' licenses 74249
issued or renewed shall expire biennially on a day within the 74250
two-year cycle that is prescribed by the registrar, unless sooner 74251
suspended or revoked. Before the first day after the day 74252
prescribed by the registrar in the year that the license expires, 74253
each licensed dealer, motor vehicle leasing dealer, ~~manufactured~~ 74254
~~home broker,~~ distributor, and auction owner and each licensed 74255
salesperson, in the year in which the license will expire, shall 74256
file an application, in such form as the registrar prescribes, for 74257
the renewal of such license. The fee provided in this section for 74258

the original license shall accompany the application. 74259

Any salesperson's license shall be suspended upon the 74260
termination, suspension, or revocation of the license of the motor 74261
vehicle dealer ~~or manufactured home broker~~ for whom the 74262
salesperson is acting, or upon the salesperson leaving the service 74263
of the motor vehicle dealer ~~or manufactured home broker~~; provided 74264
that upon the termination, suspension, or revocation of the 74265
license of the motor vehicle dealer ~~or manufactured home broker~~ 74266
for whom the salesperson is acting, or upon the salesperson 74267
leaving the service of a licensed motor vehicle dealer ~~or~~ 74268
~~manufactured home broker~~, the licensed salesperson, upon entering 74269
the service of any other licensed motor vehicle dealer ~~or~~ 74270
~~manufactured home broker~~, shall make application to the registrar, 74271
in such form as the registrar prescribes, to have the 74272
salesperson's license reinstated, transferred, and registered as a 74273
salesperson for the other dealer ~~or broker~~. If the information 74274
contained in the application is satisfactory to the registrar, the 74275
registrar shall have the salesperson's license reinstated, 74276
transferred, and registered as a salesperson for the other dealer 74277
~~or broker~~. The fee for the reinstatement and transfer of license 74278
shall be two dollars. No license issued to a dealer, motor vehicle 74279
leasing dealer, auction owner, ~~manufactured home broker~~, or 74280
salesperson, under sections 4517.01 to 4517.65 of the Revised Code 74281
shall be transferable to any other person. 74282

Each dealer, motor vehicle leasing dealer, ~~manufactured home~~ 74283
~~broker~~, distributor, and auction owner shall keep the license or a 74284
certified copy thereof and, in the case of a dealer ~~or broker~~, a 74285
current list of the dealer's ~~or the broker's~~ licensed 74286
salespersons, showing the names, addresses, and serial numbers of 74287
their licenses, posted in a conspicuous place in each place of 74288
business. Each salesperson shall carry the salesperson's license 74289
or a certified copy thereof and shall exhibit such license or copy 74290

upon demand to any inspector of the bureau of motor vehicles, 74291
state highway patrol trooper, police officer, or person with whom 74292
the salesperson seeks to transact business as a motor vehicle 74293
salesperson. 74294

The notice of refusal to grant a license shall disclose the 74295
reason for refusal. 74296

Sec. 4517.12. (A) The registrar of motor vehicles shall deny 74297
the application of any person for a license as a motor vehicle 74298
dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or 74299
motor vehicle auction owner and refuse to issue the license if the 74300
registrar finds that the applicant: 74301

(1) Has made any false statement of a material fact in the 74302
application; 74303

(2) Has not complied with sections 4517.01 to 4517.45 of the 74304
Revised Code; 74305

(3) Is of bad business repute or has habitually defaulted on 74306
financial obligations; 74307

(4) Is engaged or will engage in the business of selling at 74308
retail any new motor vehicles without having written authority 74309
from the manufacturer or distributor thereof to sell new motor 74310
vehicles and to perform repairs under the terms of the 74311
manufacturer's or distributor's new motor vehicle warranty, except 74312
as provided in division (C) of this section and except that a 74313
person who assembles or installs special equipment or accessories 74314
for handicapped persons, as defined in section 4503.44 of the 74315
Revised Code, upon a motor vehicle chassis supplied by a 74316
manufacturer or distributor shall not be denied a license pursuant 74317
to division (A)(4) of this section; 74318

(5) Has been guilty of a fraudulent act in connection with 74319
selling or otherwise dealing in, or leasing, motor vehicles, or in 74320

connection with brokering manufactured homes; 74321

(6) Has entered into or is about to enter into a contract or 74322
agreement with a manufacturer or distributor of motor vehicles 74323
that is contrary to sections 4517.01 to 4517.45 of the Revised 74324
Code; 74325

(7) Is insolvent; 74326

(8) Is of insufficient responsibility to ensure the prompt 74327
payment of any final judgments that might reasonably be entered 74328
against the applicant because of the transaction of business as a 74329
motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured~~ 74330
~~home broker~~, or motor vehicle auction owner during the period of 74331
the license applied for, or has failed to satisfy any such 74332
judgment; 74333

(9) Has no established place of business that, where 74334
applicable, is used or will be used for the purpose of selling, 74335
displaying, offering for sale, dealing in, or leasing motor 74336
vehicles at the location for which application is made; 74337

(10) Has, less than twelve months prior to making 74338
application, been denied a motor vehicle dealer's, motor vehicle 74339
leasing dealer's, ~~manufactured home broker's~~, or motor vehicle 74340
auction owner's license, or has any such license revoked. 74341

(B) If the applicant is a corporation or partnership, the 74342
registrar may refuse to issue a license if any officer, director, 74343
or partner of the applicant has been guilty of any act or omission 74344
that would be cause for refusing or revoking a license issued to 74345
such officer, director, or partner as an individual. The 74346
registrar's finding may be based upon facts contained in the 74347
application or upon any other information the registrar may have. 74348
Immediately upon denying an application for any of the reasons in 74349
this section, the registrar shall enter a final order together 74350
with the registrar's findings and certify the same to the motor 74351

vehicle dealers' and salespersons' licensing board. 74352

(C) Notwithstanding division (A)(4) of this section, the 74353
registrar shall not deny the application of any person and refuse 74354
to issue a license if the registrar finds that the applicant is 74355
engaged or will engage in the business of selling at retail any 74356
new motor vehicles and demonstrates all of the following in the 74357
form prescribed by the registrar: 74358

(1) That the applicant has posted a bond, surety, or 74359
certificate of deposit with the registrar in an amount not less 74360
than one hundred thousand dollars for the protection and benefit 74361
of the applicant's customers except that a new motor vehicle 74362
dealer who is not exclusively engaged in the business of selling 74363
remanufactured vehicles shall not be required to post the bond, 74364
surety, or certificate of deposit otherwise required by division 74365
(C)(1) of this section; 74366

~~(2) That, at the time of the sale of the vehicle, each 74367
customer of the applicant will be furnished with a binding 74368
agreement ensuring that the customer has the right to have the 74369
vehicle serviced or repaired by a new motor vehicle dealer who is 74370
licensed to sell and service vehicles of the same line make as the 74371
chassis of the remanufactured vehicle purchased by the customer 74372
and whose service or repair facility is located within either 74373
twenty miles of the applicant's location and place of business or 74374
twenty miles of the customer's residence or place of business. If 74375
there is no such new motor vehicle dealer located within twenty 74376
miles of the applicant's location and place of business or the 74377
customer's residence or place of business, the binding agreement 74378
furnished to the customer may be with the new motor vehicle dealer 74379
who is franchised to sell and service vehicles of the same 74380
line make as the chassis of the remanufactured vehicle purchased 74381
by the customer and whose service or repair facility is located 74382
nearest to the remanufacturer's location and place of business or 74383~~

~~the customer's residence or place of business.~~ 74384

~~(3)~~ That, at the time of the sale of the vehicle, each 74385
customer of the applicant will be furnished with a warranty issued 74386
by the remanufacturer for a term of at least one year; 74387

~~(4)~~(3) That the applicant provides and maintains at the 74388
applicant's location and place of business a permanent facility 74389
with all of the following: 74390

(a) A showroom with space, under roof, for the display of at 74391
least one new motor vehicle; 74392

(b) A service and parts facility for remanufactured vehicles; 74393

(c) Full-time service and parts personnel with the proper 74394
training and technical expertise to service the remanufactured 74395
vehicles sold by the applicant. 74396

Sec. 4517.13. The registrar of motor vehicles shall deny the 74397
application of any person for a license as a distributor and 74398
refuse to issue the license if the registrar finds that the 74399
applicant: 74400

(A) Has made any false statement of a material fact in the 74401
application; 74402

(B) Has not complied with sections 4517.01 to 4517.45 of the 74403
Revised Code; 74404

(C) Is of bad business repute or has habitually defaulted on 74405
financial obligations; 74406

(D) Is engaged or will engage in the business of distributing 74407
any new motor vehicle without having the authority of a contract 74408
with the manufacturer of the vehicle; 74409

(E) Has been guilty of a fraudulent act in connection with 74410
selling or otherwise dealing in motor vehicles; 74411

(F) Has entered into or is about to enter into a contract or 74412

agreement with a manufacturer of motor vehicles that is contrary 74413
to sections 4517.01 to 4517.45 of the Revised Code; 74414

(G) Is insolvent; 74415

(H) Is of insufficient responsibility to ensure the prompt 74416
payment of any financial judgment that might reasonably be entered 74417
against the applicant because of the transaction of business as a 74418
distributor during the period of the license applied for, or has 74419
failed to satisfy any such judgment; 74420

(I) Has no established place of business that, where 74421
applicable, is used or will be used exclusively for the purpose of 74422
distributing new motor vehicles at the location for which 74423
application is made; 74424

(J) Has, less than twelve months prior to making application, 74425
been denied a distributor's, motor vehicle dealer's, motor vehicle 74426
leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle 74427
auction owner's license, or had any such license revoked. 74428

If the applicant is a corporation or partnership, the 74429
registrar may refuse to issue a license if any officer, director, 74430
employee, or partner of the applicant has been guilty of any act 74431
or omission that would be cause for refusing or revoking a license 74432
issued to such officer, director, employee, or partner as an 74433
individual. The registrar's finding may be based upon facts 74434
contained in the application or upon any other information the 74435
registrar may have. Immediately upon denying an application for 74436
any of the reasons in this section, the registrar shall enter a 74437
final order together with the registrar's findings and certify the 74438
same to the motor vehicle dealers board. 74439

Sec. 4517.14. The registrar of motor vehicles shall deny the 74440
application of any person for a license as a salesperson and 74441
refuse to issue the license if the registrar finds that the 74442

applicant: 74443

(A) Has made any false statement of a material fact in the application; 74444
74445

(B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code; 74446
74447

(C) Is of bad business repute or has habitually defaulted on financial obligations; 74448
74449

(D) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles; 74450
74451

(E) Has not been designated to act as salesperson for a motor vehicle dealer ~~or manufactured home broker~~ licensed to do business in this state under section 4517.10 of the Revised Code, or intends to act as salesperson for more than one licensed motor vehicle dealer ~~or manufactured home broker~~ at the same time, except that a licensed salesperson may act as a salesperson at any licensed dealership owned or operated by the same ~~corporation~~ company, regardless of the county in which the dealership's facility is located; 74452
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(F) Holds a current motor vehicle dealer's ~~or manufactured home broker's~~ license issued under section 4517.10 of the Revised Code, and intends to act as salesperson for another licensed motor vehicle dealer ~~or manufactured home broker~~; 74461
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74464

(G) Has, less than twelve months prior to making application, been denied a salesperson's license or had a salesperson's license revoked. 74465
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The registrar may refuse to issue a salesperson's license to an applicant who was salesperson for, or in the employ of, a motor vehicle dealer ~~or manufactured home broker~~ at the time the dealer's ~~or broker's~~ license was revoked. The registrar's finding may be based upon any statement contained in the application or 74468
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upon any facts within the registrar's knowledge, and, immediately 74473
upon refusing to issue a salesperson's license, the registrar 74474
shall enter a final order and shall certify the final order 74475
together with his findings to the motor vehicle dealers board. 74476

Sec. 4517.23. (A) Any licensed motor vehicle dealer, motor 74477
vehicle leasing dealer, ~~manufactured home broker~~, or distributor 74478
shall notify the registrar of motor vehicles concerning any change 74479
in status as a dealer, motor vehicle leasing dealer, ~~manufactured~~ 74480
~~home broker~~, or distributor during the period for which the 74481
dealer, ~~broker~~, or distributor is licensed, if the change of 74482
status concerns any of the following: 74483

(1) Personnel of owners, partners, officers, or directors; 74484

(2) Location of office or principal place of business; 74485

(3) In the case of a motor vehicle dealer, any contract or 74486
agreement with any manufacturer or distributor; and in the case of 74487
a distributor, any contract or agreement with any manufacturer. 74488

(B) The notification required by division (A) of this section 74489
shall be made by filing with the registrar, within fifteen days 74490
after the change of status, a supplemental statement in a form 74491
prescribed by the registrar showing in what respect the status has 74492
been changed. If the change involves a change in any contract or 74493
agreement between any manufacturer or distributor, and dealer, or 74494
any manufacturer and distributor, the supplemental statement shall 74495
be accompanied by such copies of contracts, statements, and 74496
certificates as would have been required by sections 4517.01 to 74497
4517.45 of the Revised Code if the change had occurred prior to 74498
the licensee's application for license. 74499

The motor vehicle dealers board may adopt a rule exempting 74500
from the notification requirement of division (A)(1) of this 74501
section any dealer if stock in the dealer or its parent company is 74502

publicly traded and if there are public records with state or 74503
federal agencies that provide the information required by division 74504
(A)(1) of this section. 74505

(C) Whoever violates this section is guilty of a misdemeanor 74506
of the fourth degree. 74507

Sec. 4517.24. (A) No two motor vehicle dealers shall engage 74508
in business at the same location, unless they agree to be jointly, 74509
severally, and personally liable for any liability arising from 74510
their engaging in business at the same location. The agreement 74511
shall be filed with the motor vehicle dealers board, and shall 74512
also be made a part of the articles of incorporation of each such 74513
dealer filed with the secretary of state. Whenever the board has 74514
reason to believe that a dealer who has entered into such an 74515
agreement has revoked the agreement but continues to engage in 74516
business at the same location, the board shall revoke the dealer's 74517
license. 74518

~~(B) This section does not apply to two or more motor vehicle 74519
dealers engaged in the business of selling new or used 74520
manufactured or mobile homes in the same manufactured home park. 74521~~

~~(C) Whoever violates this section is guilty of a misdemeanor 74522
of the fourth degree. 74523~~

Sec. 4517.44. (A) No manufacturer or distributor of motor 74524
vehicles, dealer in motor vehicles, ~~or manufactured home broker,~~ 74525
nor any owner, proprietor, person in control, or keeper of any 74526
garage, stable, shop, or other place of business, shall fail to 74527
keep or cause to be kept any record required by law. 74528

(B) Whoever violates this section is guilty of a minor 74529
misdemeanor. 74530

Sec. 4582.31. (A) A port authority created in accordance with 74531

section 4582.22 of the Revised Code may:	74532
(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;	74533 74534
(2) Adopt an official seal;	74535
(3) Maintain a principal office within its jurisdiction, and maintain such branch offices as it may require;	74536 74537
(4) Acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease to or from, or lease with an option to purchase, convey other interests in real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose and operate any property in connection with transportation, recreational, governmental operations, or cultural activities;	74538 74539 74540 74541 74542 74543 74544
(5) Straighten, deepen, and improve any channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of a port authority;	74545 74546 74547
(6) Make available the use or services of any port authority facility to one or more persons, one or more governmental agencies, or any combination thereof;	74548 74549 74550
(7) Issue bonds or notes for the acquisition, construction, furnishing, or equipping of any port authority facility or other permanent improvement that a port authority is authorized to acquire, construct, furnish, or equip, in compliance with Chapter 133. of the Revised Code, except that such bonds or notes may only be issued pursuant to a vote of the electors residing within the area of jurisdiction of the port authority. The net indebtedness incurred by a port authority shall never exceed two per cent of the total value of all property within the territory comprising the port authority as listed and assessed for taxation.	74551 74552 74553 74554 74555 74556 74557 74558 74559 74560
(8) Issue port authority revenue bonds beyond the limit of	74561

bonded indebtedness provided by law, payable solely from revenues 74562
as provided in section 4582.48 of the Revised Code, for the 74563
purpose of providing funds to pay the costs of any port authority 74564
facility or facilities or parts thereof; 74565

(9) Apply to the proper authorities of the United States 74566
pursuant to appropriate law for the right to establish, operate, 74567
and maintain foreign trade zones and establish, operate, and 74568
maintain foreign trade zones and to acquire, exchange, sell, lease 74569
to or from, lease with an option to purchase, or operate 74570
facilities, land, or property therefor in accordance with the 74571
"Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 74572
81u; 74573

(10) Enjoy and possess the same rights, privileges, and 74574
powers granted municipal corporations under sections 721.04 to 74575
721.11 of the Revised Code; 74576

(11) Maintain such funds as it considers necessary; 74577

(12) Direct its agents or employees, when properly identified 74578
in writing, and after at least five days' written notice, to enter 74579
upon lands within the confines of its jurisdiction in order to 74580
make surveys and examinations preliminary to location and 74581
construction of works for the purposes of the port authority, 74582
without liability of the port authority or its agents or employees 74583
except for actual damage done; 74584

(13) Promote, advertise, and publicize the port authority and 74585
its facilities; provide information to shippers and other 74586
commercial interests; and appear before rate-making authorities to 74587
represent and promote the interests of the port authority; 74588

(14) Adopt rules, not in conflict with general law, it finds 74589
necessary or incidental to the performance of its duties and the 74590
execution of its powers under sections 4582.21 to 4582.54 of the 74591
Revised Code. Any such rule shall be posted at no less than five 74592

public places in the port authority, as determined by the board of 74593
directors, for a period of not fewer than fifteen days, and shall 74594
be available for public inspection at the principal office of the 74595
port authority during regular business hours. No person shall 74596
violate any lawful rule adopted and posted as provided in this 74597
division. 74598

(15) Do any of the following, in regard to any interests in 74599
any real or personal property, or any combination thereof, 74600
including, without limitation, machinery, equipment, plants, 74601
factories, offices, and other structures and facilities related 74602
to, useful for, or in furtherance of any authorized purpose, for 74603
such consideration and in such manner, consistent with Article 74604
VIII of the Ohio Constitution, as the board in its sole discretion 74605
may determine: 74606

(a) Loan moneys to any person or governmental entity for the 74607
acquisition, construction, furnishing, and equipping of the 74608
property; 74609

(b) Acquire, construct, maintain, repair, furnish, and equip 74610
the property; 74611

(c) Sell to, exchange with, lease, convey other interests in, 74612
or lease with an option to purchase the same or any lesser 74613
interest in the property to the same or any other person or 74614
governmental entity; 74615

(d) Guarantee the obligations of any person or governmental 74616
entity. 74617

A port authority may accept and hold as consideration for the 74618
conveyance of property or any interest therein such property or 74619
interests therein as the board in its discretion may determine, 74620
notwithstanding any restrictions that apply to the investment of 74621
funds by a port authority. 74622

(16) Sell, lease, or convey other interests in real and 74623

personal property, and grant easements or rights-of-way over 74624
property of the port authority. The board of directors shall 74625
specify the consideration and any terms for the sale, lease, or 74626
conveyance of other interests in real and personal property. Any 74627
determination made by the board under this division shall be 74628
conclusive. The sale, lease, or conveyance may be made without 74629
advertising and the receipt of bids. 74630

(17) Exercise the right of eminent domain to appropriate any 74631
land, rights, rights-of-way, franchises, easements, or other 74632
property, necessary or proper for any authorized purpose, pursuant 74633
to the procedure provided in sections 163.01 to 163.22 of the 74634
Revised Code, if funds equal to the appraised value of the 74635
property to be acquired as a result of such proceedings are 74636
available for that purpose. However, nothing contained in sections 74637
4582.201 to 4582.59 of the Revised Code shall authorize a port 74638
authority to take or disturb property or facilities belonging to 74639
any agency or political subdivision of this state, public utility, 74640
cable operator, or common carrier, which property or facilities 74641
are necessary and convenient in the operation of the agency or 74642
political subdivision, public utility, cable operator, or common 74643
carrier, unless provision is made for the restoration, relocation, 74644
or duplication of such property or facilities, or upon the 74645
election of the agency or political subdivision, public utility, 74646
cable operator, or common carrier, for the payment of 74647
compensation, if any, at the sole cost of the port authority, 74648
provided that: 74649

(a) If any restoration or duplication proposed to be made 74650
under this section involves a relocation of the property or 74651
facilities, the new facilities and location shall be of at least 74652
comparable utilitarian value and effectiveness and shall not 74653
impair the ability of the public utility, cable operator, or 74654
common carrier to compete in its original area of operation; 74655

(b) If any restoration or duplication made under this section 74656
involves a relocation of the property or facilities, the port 74657
authority shall acquire no interest or right in or to the 74658
appropriated property or facilities, except as provided in 74659
division (A)(15) of this section, until the relocated property or 74660
facilities are available for use and until marketable title 74661
thereto has been transferred to the public utility, cable 74662
operator, or common carrier. 74663

As used in division (A)(17) of this section, "cable operator" 74664
has the same meaning as in the "Cable Communications Policy Act of 74665
1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as 74666
amended by the "Telecommunications Act of 1996," Pub. L. No. 74667
104-104, 110 Stat. 56. 74668

(18)(a) Make and enter into all contracts and agreements and 74669
execute all instruments necessary or incidental to the performance 74670
of its duties and the execution of its powers under sections 74671
4582.21 to 4582.59 of the Revised Code. 74672

(b)(i) Except as provided in division (A)(18)(c) of this 74673
section, when the cost of a contract for the construction of any 74674
building, structure, or other improvement undertaken by a port 74675
authority involves an expenditure exceeding the higher of one 74676
hundred thousand dollars or the amount as adjusted under division 74677
(A)(18)(b)(ii) of this section, and the port authority is the 74678
contracting entity, the port authority shall make a written 74679
contract after notice calling for bids for the award of the 74680
contract has been given by publication twice, with at least seven 74681
days between publications, in a newspaper of general circulation 74682
in the area of the port authority or as provided in section 7.16 74683
of the Revised Code. Each such contract shall be let to the lowest 74684
responsive and responsible bidder in accordance with section 9.312 74685
of the Revised Code. Every contract shall be accompanied by or 74686
shall refer to plans and specifications for the work to be done, 74687

prepared for and approved by the port authority, signed by an 74688
authorized officer of the port authority and by the contractor, 74689
and shall be executed in triplicate. 74690

Each bid shall be awarded in accordance with sections 153.54, 74691
153.57, and 153.571 of the Revised Code. The port authority may 74692
reject any and all bids. 74693

(ii) On January 1, 2012, and the first day of January of 74694
every even-numbered year thereafter, the director of commerce 74695
shall adjust the threshold level for contracts subject to the 74696
bidding requirements contained in division (A)(18)(b)(i) of this 74697
section. The director shall adjust this amount according to the 74698
average increase for each of the two years immediately preceding 74699
the adjustment as set forth in the producer price index for 74700
material and supply inputs for new nonresidential construction as 74701
determined by the bureau of labor statistics of the United States 74702
department of labor or, if that index no longer is published, a 74703
generally available comparable index. If there is no resulting 74704
increase, the threshold shall remain the same until the next 74705
scheduled adjustment on the first day of January of the next 74706
even-numbered year. 74707

(c) The board of directors by rule may provide criteria for 74708
the negotiation and award without competitive bidding of any 74709
contract as to which the port authority is the contracting entity 74710
for the construction of any building or structure or other 74711
improvement under any of the following circumstances: 74712

(i) There exists a real and present emergency that threatens 74713
damage or injury to persons or property of the port authority or 74714
other persons, provided that a statement specifying the nature of 74715
the emergency that is the basis for the negotiation and award of a 74716
contract without competitive bidding shall be signed by the 74717
officer of the port authority that executes that contract at the 74718
time of the contract's execution and shall be attached to the 74719

contract. 74720

(ii) A commonly recognized industry or other standard or 74721
specification does not exist and cannot objectively be articulated 74722
for the improvement. 74723

(iii) The contract is for any energy conservation measure as 74724
defined in section 307.041 of the Revised Code. 74725

(iv) With respect to material to be incorporated into the 74726
improvement, only a single source or supplier exists for the 74727
material. 74728

(v) A single bid is received by the port authority after 74729
complying with the provisions of division (A)(18)(b) of this 74730
section. 74731

(d)(i) If a contract is to be negotiated and awarded without 74732
competitive bidding for the reason set forth in division 74733
(A)(18)(c)(ii) of this section, the port authority shall publish a 74734
notice calling for technical proposals ~~at least~~ twice, with at 74735
least seven days between publications, in a newspaper of general 74736
circulation in the area of the port authority or as provided in 74737
section 7.16 of the Revised Code. After receipt of the technical 74738
proposals, the port authority may negotiate with and award a 74739
contract for the improvement to the proposer making the proposal 74740
considered to be the most advantageous to the port authority. 74741

(ii) If a contract is to be negotiated and awarded without 74742
competitive bidding for the reason set forth in division 74743
(A)(18)(c)(iv) of this section, any construction activities 74744
related to the incorporation of the material into the improvement 74745
also may be provided without competitive bidding by the source or 74746
supplier of that material. 74747

(e)(i) Any purchase, exchange, sale, lease, lease with an 74748
option to purchase, conveyance of other interests in, or other 74749
contract with a person or governmental entity that pertains to the 74750

acquisition, construction, maintenance, repair, furnishing, 74751
equipping, or operation of any real or personal property, or any 74752
combination thereof, related to, useful for, or in furtherance of 74753
an activity contemplated by Section 13 or 16 of Article VIII, Ohio 74754
Constitution, shall be made in such manner and subject to such 74755
terms and conditions as may be determined by the board of 74756
directors in its discretion. 74757

(ii) Division (A)(18)(e)(i) of this section applies to all 74758
contracts that are subject to the division, notwithstanding any 74759
other provision of law that might otherwise apply, including, 74760
without limitation, any requirement of notice, any requirement of 74761
competitive bidding or selection, or any requirement for the 74762
provision of security. 74763

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not 74764
apply to either of the following: any contract secured by or to be 74765
paid from moneys raised by taxation or the proceeds of obligations 74766
secured by a pledge of moneys raised by taxation; or any contract 74767
secured exclusively by or to be paid exclusively from the general 74768
revenues of the port authority. For the purposes of this section, 74769
any revenues derived by the port authority under a lease or other 74770
agreement that, by its terms, contemplates the use of amounts 74771
payable under the agreement either to pay the costs of the 74772
improvement that is the subject of the contract or to secure 74773
obligations of the port authority issued to finance costs of such 74774
improvement, are excluded from general revenues. 74775

(19) Employ managers, superintendents, and other employees 74776
and retain or contract with consulting engineers, financial 74777
consultants, accounting experts, architects, attorneys, and any 74778
other consultants and independent contractors as are necessary in 74779
its judgment to carry out this chapter, and fix the compensation 74780
thereof. All expenses thereof shall be payable from any available 74781
funds of the port authority or from funds appropriated for that 74782

purpose by a political subdivision creating or participating in 74783
the creation of the port authority. 74784

(20) Receive and accept from any state or federal agency 74785
grants and loans for or in aid of the construction of any port 74786
authority facility or for research and development with respect to 74787
port authority facilities, and receive and accept aid or 74788
contributions from any source of money, property, labor, or other 74789
things of value, to be held, used, and applied only for the 74790
purposes for which the grants and contributions are made; 74791

(21) Engage in research and development with respect to port 74792
authority facilities; 74793

(22) Purchase fire and extended coverage and liability 74794
insurance for any port authority facility and for the principal 74795
office and branch offices of the port authority, insurance 74796
protecting the port authority and its officers and employees 74797
against liability for damage to property or injury to or death of 74798
persons arising from its operations, and any other insurance the 74799
port authority may agree to provide under any resolution 74800
authorizing its port authority revenue bonds or in any trust 74801
agreement securing the same; 74802

(23) Charge, alter, and collect rentals and other charges for 74803
the use or services of any port authority facility as provided in 74804
section 4582.43 of the Revised Code; 74805

(24) Provide coverage for its employees under Chapters 145., 74806
4123., and 4141. of the Revised Code; 74807

(25) Do all acts necessary or proper to carry out the powers 74808
expressly granted in sections 4582.21 to 4582.59 of the Revised 74809
Code. 74810

(B) Any instrument by which real property is acquired 74811
pursuant to this section shall identify the agency of the state 74812
that has the use and benefit of the real property as specified in 74813

section 5301.012 of the Revised Code. 74814

(C) Whoever violates division (A)(14) of this section is 74815
guilty of a minor misdemeanor. 74816

Sec. 4585.10. The officer holding a writ for the sale of a 74817
watercraft, its apparel, or furniture, before ~~he proceeds~~ 74818
proceeding to sell it, shall give public notice of the time and 74819
place of sale for at least ten days previous thereto or as 74820
provided in section 7.16 of the Revised Code, by advertisement in 74821
a newspaper ~~published~~ of general circulation in the county, and by 74822
advertisement posted in at least five public places in the county. 74823
Such sales shall be conducted, and the court shall have the same 74824
power over them as sales upon execution. 74825

Sec. 4705.021. (A) As used in this section: 74826

(1) "Disciplinary counsel" means the disciplinary counsel 74827
appointed by the board of commissioners on grievances and 74828
discipline of the supreme court under the Rules for the Government 74829
of the Bar of Ohio. 74830

(2) "Certified grievance committee" means a duly constituted 74831
and organized committee of the Ohio state bar association or of 74832
one or more local bar associations of the state that complies with 74833
the criteria set forth in rule V, section 3 of the Rules for the 74834
Government of the Bar of Ohio. 74835

(3) "Child support order" has the same meaning as in section 74836
3119.01 of the Revised Code. 74837

(B) If an individual who has been admitted to the bar by 74838
order of the supreme court in compliance with its published rules 74839
is determined pursuant to sections 3123.01 to 3123.07 of the 74840
Revised Code by a court or child support enforcement agency to be 74841
in default under a support order being administered or handled by 74842
a child support enforcement agency, that agency may send a notice 74843

listing the name and social security number or other 74844
identification number of the individual and a certified copy of 74845
the court or agency determination that the individual is in 74846
default to the secretary of the board of commissioners on 74847
grievances and discipline of the supreme court and to either the 74848
disciplinary counsel or the president, secretary, and chairperson 74849
of each certified grievance committee if both of the following are 74850
the case: 74851

(1) At least ninety days have elapsed since the final and 74852
enforceable determination of default; 74853

(2) In the preceding ninety days, the obligor has failed to 74854
pay at least fifty per cent of the arrearage through means other 74855
than those described in sections 3123.81 to 3123.85 of the Revised 74856
Code. 74857

Sec. 4709.13. (A) The barber board may refuse to issue or 74858
renew or may suspend or revoke or impose conditions upon any 74859
license issued pursuant to this chapter for any one or more of the 74860
following causes: 74861

~~(1) Conviction of a felony shown by a certified copy of the~~ 74862
~~record of the court of conviction;~~ 74863

~~(2) Advertising by means of knowingly false or deceptive~~ 74864
~~statements;~~ 74865

~~(3)~~(2) Habitual drunkenness or possession of or addiction to 74866
the use of any controlled drug prohibited by state or federal law; 74867

~~(4)~~(3) Immoral or unprofessional conduct; 74868

~~(5)~~(4) Continuing to be employed in a barber shop wherein 74869
rules of the board or department of health are violated; 74870

~~(6)~~(5) Employing any person who does not have a current Ohio 74871
license to perform the practice of barbering; 74872

~~(7)~~(6) Owning, managing, operating, or controlling any barber school or portion thereof, wherein the practice of barbering is carried on, whether in the same building or not, without displaying a sign at all entrances to the places where the barbering is carried on, indicating that the work therein is done by students exclusively;

~~(8)~~(7) Owning, managing, operating, or controlling any barber shop, unless it displays a recognizable sign or barber pole indicating that it is a barber shop, and the sign or pole is clearly visible at the main entrance to the shop;

~~(9)~~(8) Violating any sanitary rules approved by the department of health or the board;

~~(10)~~(9) Employing another person to perform or ~~himself~~ personally perform the practice of barbering in a licensed barber shop unless that person is licensed as a barber under this chapter;

~~(11)~~(10) Gross incompetence.

(B)(1) The barber board may refuse to renew or may suspend or revoke or impose conditions upon any license issued pursuant to this chapter for conviction of or plea of guilty to a felony committed after the person has been issued a license under this chapter, shown by a certified copy of the record of the court in which the person was convicted or pleaded guilty.

(2) A conviction or plea of guilty to a felony committed prior to being issued a license under this chapter shall not disqualify a person from being issued an initial license under this chapter.

(C) Prior to taking any action under division (A) or (B) of this section, the board shall provide the person with a statement of the charges against ~~him~~ the person and notice of the time and place of a hearing on the charges. The board shall conduct the

hearing according to Chapter 119. of the Revised Code. Any person 74904
dissatisfied with a decision of the board may appeal the board's 74905
decision to the court of common pleas in Franklin county. 74906

~~(C)~~(D) The board may adopt rules in accordance with Chapter 74907
119. of the Revised Code, specifying additional grounds upon which 74908
the board may take action under division (A) of this section. 74909

Sec. 4725.34. (A) The state board of optometry shall charge 74910
the following nonrefundable fees: 74911

(1) One hundred ~~ten~~ thirty dollars for application for a 74912
certificate of licensure; 74913

(2) ~~Twenty-five~~ Forty-five dollars for application for a 74914
therapeutic pharmaceutical agents certificate, except when the 74915
certificate is to be issued pursuant to division (A)(3) of section 74916
4725.13 of the Revised Code, in which case the fee shall be 74917
thirty-five dollars; 74918

(3) One hundred ~~ten~~ thirty dollars for renewal of a 74919
certificate of licensure; 74920

(4) ~~Twenty-five~~ Forty-five dollars for renewal of a topical 74921
ocular pharmaceutical agents certificate; 74922

(5) ~~Twenty-five~~ Forty-five dollars for renewal of a 74923
therapeutic pharmaceutical agents certificate; 74924

(6) ~~Seventy-five~~ One hundred twenty-five dollars for late 74925
completion or submission, or both, of continuing optometric 74926
education; 74927

(7) ~~Seventy-five~~ One hundred twenty-five dollars for late 74928
renewal of one or more certificates that have expired; 74929

(8) Seventy-five dollars for reinstatement of one or more 74930
certificates classified as delinquent under section 4725.16 of the 74931
Revised Code, multiplied by the number of years the one or more 74932

certificates have been classified as delinquent; 74933

(9) Seventy-five dollars for reinstatement of one or more 74934
certificates placed on inactive status under section 4725.17 of 74935
the Revised Code; 74936

(10) Seventy-five dollars for reinstatement under section 74937
4725.171 of the Revised Code of one or more expired certificates; 74938

(11) Additional fees to cover administrative costs incurred 74939
by the board, including fees for replacing licenses issued by the 74940
board and providing rosters of currently licensed optometrists. 74941
Such fees shall be established at a regular meeting of the board 74942
and shall comply with any applicable guidelines or policies set by 74943
the department of administrative services or the office of budget 74944
and management. 74945

(B) The board, subject to the approval of the controlling 74946
board, may establish fees in excess of the amounts specified in 74947
division (A) of this section if the fees do not exceed the amounts 74948
specified by more than fifty per cent. 74949

(C) All receipts of the board, from any source, shall be 74950
deposited in the state treasury to the credit of the occupational 74951
licensing and regulatory fund. 74952

Sec. 4725.48. (A) Any person who desires to engage in optical 74953
dispensing, except as provided in section 4725.47 of the Revised 74954
Code, shall file a properly completed written application for an 74955
examination with the Ohio optical dispensers board or with the 74956
testing service the board has contracted with pursuant to section 74957
4725.49 of the Revised Code. The application for examination shall 74958
be made on a form provided by the board or testing service and 74959
shall be accompanied by an examination fee the board shall 74960
establish by rule. Applicants must return the application to the 74961
board or testing service at least sixty days prior to the date the 74962

examination is scheduled to be administered. 74963

(B) Except as provided in section 4725.47 of the Revised 74964
Code, any person who desires to engage in optical dispensing shall 74965
file a properly completed written application for a license with 74966
the board with ~~the appropriate license~~ a licensure application fee 74967
~~as set forth under section 4725.50 of the Revised Code of fifty~~ 74968
dollars. 74969

No person shall be eligible to apply for a license under this 74970
division, unless the person is at least eighteen years of age, is 74971
of good moral character, is free of contagious or infectious 74972
disease, has received a passing score, as determined by the board, 74973
on the examination administered under division (A) of this 74974
section, is a graduate of an accredited high school of any state, 74975
or has received an equivalent education and has successfully 74976
completed either of the following: 74977

(1) Two years of supervised experience under a licensed 74978
dispensing optician, optometrist, or physician engaged in the 74979
practice of ophthalmology, up to one year of which may be 74980
continuous experience of not less than thirty hours a week in an 74981
optical laboratory; 74982

(2) A two-year college level program in optical dispensing 74983
that has been approved by the board and that includes, but is not 74984
limited to, courses of study in mathematics, science, English, 74985
anatomy and physiology of the eye, applied optics, ophthalmic 74986
optics, measurement and inspection of lenses, lens grinding and 74987
edging, ophthalmic lens design, keratometry, and the fitting and 74988
adjusting of spectacle lenses and frames and contact lenses, 74989
including methods of fitting contact lenses and post-fitting care. 74990

(C) Any person who desires to obtain a license to practice as 74991
an ocularist shall file a properly completed written application 74992
with the board accompanied by the appropriate fee and proof that 74993

the applicant has met the requirements for licensure. The board 74994
shall establish, by rule, the application fee and the minimum 74995
requirements for licensure, including education, examination, or 74996
experience standards recognized by the board as national standards 74997
for ocularists. The board shall issue a license to practice as an 74998
ocularist to an applicant who satisfies the requirements of this 74999
division and rules adopted pursuant to this division. 75000

Sec. 4725.50. (A) Except for a person who qualifies for 75001
licensure as an ocularist, each person who qualifies for licensure 75002
under sections 4725.40 to 4725.59 of the Revised Code shall 75003
receive from the Ohio optical dispensers board, under its seal, a 75004
certificate of licensure entitling ~~him~~ the person to practice as a 75005
licensed spectacle dispensing optician, licensed contact lens 75006
dispensing optician, or a licensed spectacle-contact lens 75007
dispensing optician. The appropriate certificate of licensure 75008
shall be issued by the board no later than sixty days after it has 75009
notified the applicant of ~~his~~ the applicant's approval for 75010
licensure. 75011

(B) ~~The licensure fee shall be fifty dollars for applications 75012
submitted in January through March; thirty seven dollars and fifty 75013
cents, in April through June; twenty five dollars, in July through 75014
September; and twelve dollars and fifty cents, in October through 75015
December.~~ 75016

~~(C)~~ Each licensed dispensing optician shall display ~~his~~ the 75017
licensed dispensing optician's certificate of licensure in a 75018
conspicuous place in ~~his~~ the licensed dispensing optician's office 75019
or place of business. If a licensed dispensing optician maintains 75020
more than one office or place of business, ~~he~~ the licensed 75021
dispensing optician shall display a duplicate copy of such 75022
certificate at each location. The board shall issue duplicate 75023
copies of the appropriate certificate of licensure for this 75024

purpose upon the filing of an application form therefor and the 75025
payment of a five-dollar fee for each duplicate copy. 75026

Sec. 4725.52. Any licensed dispensing optician may supervise 75027
a maximum of three apprentices who shall be permitted to engage in 75028
optical dispensing only under the supervision of the licensed 75029
dispensing optician. 75030

~~A person serving~~ To serve as an apprentice, a person shall 75031
register ~~annually~~ with the Ohio optical dispensers board either on 75032
a form provided by the board or in the form of a statement giving 75033
the name and address of the supervising licensed dispensing 75034
optician, the location at which the apprentice will be employed, 75035
and any other information required by the board. ~~Each registrant~~ 75036
For the duration of the apprenticeship, the apprentice shall 75037
register annually on the form provided by the board or in the form 75038
of a statement. 75039

Each apprentice shall pay a an initial registration fee of 75040
~~ten~~ twenty dollars. For each registration renewal thereafter, each 75041
apprentice shall pay a registration renewal fee of twenty dollars. 75042

A person who is gaining experience under the supervision of a 75043
licensed optometrist or ophthalmologist that would qualify ~~him~~ the 75044
person under division (B)(1) of section 4725.48 of the Revised 75045
Code to take the examination for optical dispensing is not 75046
required to register with the board. 75047

Sec. 4725.57. An applicant for licensure as a licensed 75048
dispensing optician who is licensed or registered in another state 75049
shall be accorded the full privileges of practice within this 75050
state, upon the payment of a ~~seventy-five~~ fifty-dollar fee and the 75051
submission of a certified copy of the license or certificate 75052
issued by such other state, without the necessity of examination, 75053
if the board determines that the applicant meets the ~~criteria~~ of 75054

~~division (A) of section 4725.48 of the Revised Code and further~~ 75055
~~determines that the educational background or experience of the~~ 75056
~~applicant satisfies the remaining requirements of division (B) of~~ 75057
section 4725.48 of the Revised Code. The board may require that 75058
the applicant have received a passing score, as determined by the 75059
board, on an examination that is substantially the same as the 75060
examination described in division (A) of section 4725.48 of the 75061
Revised Code. 75062

Sec. 4729.021. The state board of pharmacy may enter into 75063
contracts with private entities for the furtherance of its duties 75064
as set forth in this chapter. When entering into these contracts, 75065
the board shall give preference to entities that are Ohio-based 75066
companies. Any revenue received by the board from such contracts 75067
shall be placed in the occupational licensing and regulatory fund 75068
and may be used for any purpose determined by the board to be 75069
relevant to its duties, including the establishment and 75070
maintenance of a drug database pursuant to section 4729.75 of the 75071
Revised Code. 75072

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the 75073
Revised Code: 75074

(A)(1) "Clinical laboratory services" means either of the 75075
following: 75076

(a) Any examination of materials derived from the human body 75077
for the purpose of providing information for the diagnosis, 75078
prevention, or treatment of any disease or impairment or for the 75079
assessment of health; 75080

(b) Procedures to determine, measure, or otherwise describe 75081
the presence or absence of various substances or organisms in the 75082
body. 75083

(2) "Clinical laboratory services" does not include the mere 75084

collection or preparation of specimens.	75085
(B) "Designated health services" means any of the following:	75086
(1) Clinical laboratory services;	75087
(2) Home health care services;	75088
(3) Outpatient prescription drugs.	75089
(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:	75090 75091
(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;	75092 75093 75094
(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.	75095 75096 75097 75098
(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, <u>and</u> the medicaid program established under Chapter 5111. of the Revised Code, and the children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code.	75099 75100 75101 75102 75103 75104 75105 75106 75107 75108
(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that	75109 75110 75111 75112 75113 75114

contracts with a professional corporation or association of 75115
physicians to provide medical services exclusively to patients of 75116
the clinic in order to comply with section 1701.03 of the Revised 75117
Code and including a corporation, limited liability company, 75118
partnership, or professional association described in division (B) 75119
of section 4731.226 of the Revised Code formed for the purpose of 75120
providing a combination of the professional services of 75121
optometrists who are licensed, certificated, or otherwise legally 75122
authorized to practice optometry under Chapter 4725. of the 75123
Revised Code, chiropractors who are licensed, certificated, or 75124
otherwise legally authorized to practice chiropractic or 75125
acupuncture under Chapter 4734. of the Revised Code, psychologists 75126
who are licensed, certificated, or otherwise legally authorized to 75127
practice psychology under Chapter 4732. of the Revised Code, 75128
registered or licensed practical nurses who are licensed, 75129
certificated, or otherwise legally authorized to practice nursing 75130
under Chapter 4723. of the Revised Code, pharmacists who are 75131
licensed, certificated, or otherwise legally authorized to 75132
practice pharmacy under Chapter 4729. of the Revised Code, 75133
physical therapists who are licensed, certificated, or otherwise 75134
legally authorized to practice physical therapy under sections 75135
4755.40 to 4755.56 of the Revised Code, occupational therapists 75136
who are licensed, certificated, or otherwise legally authorized to 75137
practice occupational therapy under sections 4755.04 to 4755.13 of 75138
the Revised Code, mechanotherapists who are licensed, 75139
certificated, or otherwise legally authorized to practice 75140
mechanotherapy under section 4731.151 of the Revised Code, and 75141
doctors of medicine and surgery, osteopathic medicine and surgery, 75142
or podiatric medicine and surgery who are licensed, certificated, 75143
or otherwise legally authorized for their respective practices 75144
under this chapter, to which all of the following apply: 75145

(a) Each physician who is a member of the group practice 75146
provides substantially the full range of services that the 75147

physician routinely provides, including medical care, 75148
consultation, diagnosis, or treatment, through the joint use of 75149
shared office space, facilities, equipment, and personnel. 75150

(b) Substantially all of the services of the members of the 75151
group are provided through the group and are billed in the name of 75152
the group and amounts so received are treated as receipts of the 75153
group. 75154

(c) The overhead expenses of and the income from the practice 75155
are distributed in accordance with methods previously determined 75156
by members of the group. 75157

(d) The group practice meets any other requirements that the 75158
state medical board applies in rules adopted under section 4731.70 75159
of the Revised Code. 75160

(2) In the case of a faculty practice plan associated with a 75161
hospital with a medical residency training program in which 75162
physician members may provide a variety of specialty services and 75163
provide professional services both within and outside the group, 75164
as well as perform other tasks such as research, the criteria in 75165
division (E)(1) of this section apply only with respect to 75166
services rendered within the faculty practice plan. 75167

(F) "Home health care services" and "immediate family" have 75168
the same meanings as in the rules adopted under section 4731.70 of 75169
the Revised Code. 75170

(G) "Hospital" has the same meaning as in section 3727.01 of 75171
the Revised Code. 75172

(H) A "referral" includes both of the following: 75173

(1) A request by a holder of a certificate under this chapter 75174
for an item or service, including a request for a consultation 75175
with another physician and any test or procedure ordered by or to 75176
be performed by or under the supervision of the other physician; 75177

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medicaid program established under Chapter 5111. of the Revised Code ~~or the children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~, the auditor of state also shall report the amount to the department of job and family services.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4733.15. (A) Registration expires ~~annually~~ on the last day of December ~~following initial registration or renewal of registration 2011~~, and becomes invalid on that date unless renewed ~~pursuant to this section and the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.~~ For renewals after that date, registration expires biennially on the last day of December following initial registration or renewal of registration and becomes invalid on that date unless renewed.

Renewal may be effected ~~at any time prior to the date of~~ 75208
~~expiration for a period of one year~~ by the applicant's payment to 75209
the treasurer of state of a fee of ~~twenty~~ forty dollars for a 75210
renewal of registration as either a professional engineer or 75211
professional surveyor and, ~~for renewals for calendar year 2008 and~~ 75212
~~thereafter~~, demonstration of completion of the continuing 75213
professional development requirements of section 4733.151 of the 75214
Revised Code. When notified as required in this section, a 75215
registrant's failure to renew registration shall not deprive the 75216
registrant of the right of renewal within the following twelve 75217
months, but the fee to renew a registration within twelve months 75218
after expiration shall be increased fifty per cent, and the 75219
registrant shall certify completion of continuing professional 75220
development hours as required in section 4733.151 of the Revised 75221
Code. 75222

The state board of registration for professional engineers 75223
and surveyors may, upon request, waive the payment of renewal fees 75224
or the completion of continuing professional development 75225
requirements for a registrant during the period when the 75226
registrant is on active duty in connection with any branch of the 75227
armed forces of the United States. 75228

(B) Each certificate of authorization issued pursuant to 75229
section 4733.16 of the Revised Code shall authorize the holder to 75230
provide professional engineering or professional surveying 75231
services, through the registered professional engineer or 75232
professional surveyor designated as being in responsible charge of 75233
the professional engineering or professional surveying practice, 75234
from the date of issuance until the last day of June next 75235
succeeding the date upon which the certificate was issued, unless 75236
the certificate has been revoked or suspended for cause as 75237
provided in section 4733.20 of the Revised Code or has been 75238
suspended pursuant to section 3123.47 of the Revised Code. 75239

(C) If a registrant fails to renew registration as provided 75240
under division (A) of this section, renewal and reinstatement may 75241
be effected under rules the board adopts regarding requirements 75242
for reexamination or reapplication, and reinstatement penalty 75243
fees. The board may require a registrant who fails to renew 75244
registration to complete ~~those~~ the required hours of continuing 75245
professional development ~~required from the effective date of this~~ 75246
~~section,~~ as a condition of renewal and reinstatement if the 75247
registrant seeks renewal and reinstatement under this division ~~on~~ 75248
~~or after January 1, 2009.~~ 75249

Sec. 4733.151. (A) ~~Each~~ For registrations expiring on the 75250
last day of December 2011, each registrant for renewal ~~for~~ 75251
~~calendar year 2008 and thereafter~~ shall have completed, ~~within the~~ 75252
~~preceding in~~ calendar year 2011, at least fifteen hours of 75253
continuing professional development for professional engineers and 75254
surveyors. Thereafter, each registrant shall complete at least 75255
thirty hours of continuing professional development during the 75256
two-year period immediately preceding the biennial renewal 75257
expiration date. 75258

(B) The continuing professional development requirement may 75259
be satisfied by coursework or activities dealing with technical, 75260
ethical, or managerial topics relevant to the practice of 75261
engineering or surveying. A registrant may earn continuing 75262
professional development hours by completing or teaching 75263
university or college level coursework, attending seminars, 75264
workshops, or conferences, authoring relevant published papers, 75265
articles, or books, receiving patent awards, or actively 75266
participating in professional or technical societies serving the 75267
engineering or surveying professions. 75268

In the case of the board disputing the content of any credit 75269
hours or coursework, then the board shall presume as a matter of 75270

law that any credit hours submitted by a registrant, or any 75271
coursework or activity submitted for approval, complies with this 75272
section if submitted and if a statement signed by a current 75273
registrant not otherwise participating in the event, affirms that 75274
the material is relevant to the registrant's practice and will 75275
assist the registrant's development in the profession. 75276

Credit for university or college level coursework shall be 75277
based on the credit established by the university or college. One 75278
semester hour as established by the university or college shall be 75279
the equivalent of forty-five hours of continuing professional 75280
development, and one quarter hour as established by the university 75281
or college shall be the equivalent of thirty hours of continuing 75282
professional development. 75283

Credit for seminars, workshops, or conferences offering 75284
continuing education units shall be based on the units awarded by 75285
the organization presenting the seminar, workshop, or conference. 75286
A registrant may earn ten continuing professional development 75287
hours for each continuing education unit awarded. Each hour of 75288
attendance at a seminar, workshop, or conference for which no 75289
continuing education units are offered shall be the equivalent of 75290
one continuing professional development hour. 75291

A registrant may earn two continuing professional development 75292
hours for each year of service as an officer or active committee 75293
member of a professional or technical society or association that 75294
represents registrants or entities composed of registrants. A 75295
registrant may earn ten continuing professional development hours 75296
for authoring relevant published papers, articles, or books. A 75297
registrant may earn ten continuing professional development hours 75298
for each such published paper, article, or book. A registrant may 75299
earn ten continuing professional development hours for each patent 75300
award. 75301

(C) A person registered as both a professional engineer and 75302

professional surveyor shall complete at least ~~five~~ ten of the 75303
~~fifteen~~ thirty hours required under division (A) of this section 75304
in engineering-related coursework or activities and at least ~~five~~ 75305
ten of those ~~fifteen~~ thirty hours in surveying-related coursework 75306
or activities. 75307

(D) A registrant is exempt from the continuing professional 75308
development requirements of this section during the first calendar 75309
year of registration. 75310

(E) A registrant who completes more than ~~fifteen~~ thirty hours 75311
of approved coursework or activities in ~~any calendar year~~ a 75312
biennial renewal period may carry forward to the next ~~calendar~~ 75313
~~year~~ biennial renewal period a maximum of fifteen of the excess 75314
hours. 75315

(F) A registrant shall maintain records to demonstrate 75316
completion of the continuing professional development requirements 75317
specified in this section for a period of ~~three~~ four calendar 75318
years beyond the year in which certification of the completion of 75319
the requirements is obtained by the registrant. The records shall 75320
include all of the following: 75321

(1) A log specifying the type of coursework or activity, its 75322
location and duration along with the instructor's name, and the 75323
number of continuing professional development hours earned; 75324

(2) Certificates of completion or other evidence verifying 75325
attendance. 75326

(G) The records specified in division (F) of this section may 75327
be audited at any time by the state board of registration for 75328
professional engineers and surveyors. If the board discovers that 75329
a registrant has failed to complete coursework or activities, it 75330
shall notify the registrant of the deficiencies and allow the 75331
registrant six months from the date of the notice to rectify the 75332
deficiencies and to provide the board with evidence of 75333

satisfactory completion of the continuing professional development 75334
requirements. If the registrant fails to provide such evidence 75335
within that six-month period, the board may revoke or suspend the 75336
registration after offering an adjudication hearing in accordance 75337
with Chapter 119. of the Revised Code. 75338

Sec. 4736.12. (A) The state board of sanitarian registration 75339
shall charge the following fees: 75340

(1) To apply as a sanitarian-in-training, eighty dollars; 75341

(2) For sanitarians-in-training to apply for registration as 75342
sanitarians, eighty dollars. The applicant shall pay this fee only 75343
once regardless of the number of times the applicant takes an 75344
examination required under section 4736.08 of the Revised Code. 75345

(3) For persons other than sanitarians-in-training to apply 75346
for registration as sanitarians, including persons meeting the 75347
requirements of section 4736.16 of the Revised Code, one hundred 75348
sixty dollars. The applicant shall pay this fee only once 75349
regardless of the number of times the applicant takes an 75350
examination required under section 4736.08 of the Revised Code. 75351

(4) The renewal fee for registered sanitarians shall be 75352
~~seventy-four~~ eighty dollars. 75353

(5) The renewal fee for sanitarians-in-training shall be 75354
~~seventy-four~~ eighty dollars. 75355

(6) For late application for renewal, ~~twenty-seven~~ an
additional fifty dollars. 75356
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The board of sanitarian registration, with the approval of 75358
the controlling board, may establish fees in excess of the amounts 75359
provided in this section, provided that such fees do not exceed 75360
the amounts permitted by this section by more than fifty per cent. 75361

(B) The board of sanitarian registration shall charge 75362
separate fees for examinations as required by section 4736.08 of 75363

the Revised Code, provided that the fees are not in excess of the 75364
actual cost to the board of conducting the examinations. 75365

(C) The board of sanitarian registration may adopt rules 75366
establishing fees for all of the following: 75367

(1) Application for the registration of a training agency 75368
approved under rules adopted by the board pursuant to section 75369
4736.11 of the Revised Code and for the annual registration 75370
renewal of an approved training agency-*i* 75371

(2) Application for the review of continuing education hours 75372
submitted for the board's approval by approved training agencies 75373
or by registered sanitarians or sanitarians-in-training;*i* 75374

(3) Additional copies of pocket identification cards and wall 75375
certificates. 75376

Sec. 4743.05. Except as otherwise provided in sections 75377
4701.20, 4723.062, 4723.082, ~~and~~ 4729.65, 4781.121, and 4781.28 of 75378
the Revised Code, all money collected under Chapters 3773., 4701., 75379
4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 75380
4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 75381
4761., 4766., 4771., 4775., 4779., and 4781. of the Revised Code 75382
shall be paid into the state treasury to the credit of the 75383
occupational licensing and regulatory fund, which is hereby 75384
created for use in administering such chapters. 75385

At the end of each quarter, the director of budget and 75386
management shall transfer from the occupational licensing and 75387
regulatory fund to the nurse education assistance fund created in 75388
section 3333.28 of the Revised Code the amount certified to the 75389
director under division (B) of section 4723.08 of the Revised 75390
Code. 75391

At the end of each quarter, the director shall transfer from 75392
the occupational licensing and regulatory fund to the certified 75393

public accountant education assistance fund created in section 75394
4701.26 of the Revised Code the amount certified to the director 75395
under division (H)(2) of section 4701.10 of the Revised Code. 75396

Sec. 4757.31. (A) Subject to division (B) of this section, 75397
the counselor, social worker, and marriage and family therapist 75398
board shall establish, and may from time to time adjust, fees to 75399
be charged for the following: 75400

(1) Examination for licensure as a professional clinical 75401
counselor, professional counselor, marriage and family therapist, 75402
independent marriage and family therapist, social worker, or 75403
independent social worker; 75404

(2) Initial licenses of professional clinical counselors, 75405
professional counselors, marriage and family therapists, 75406
independent marriage and family therapists, social workers, and 75407
independent social workers, except that the board shall charge 75408
only one fee to a person who fulfills all requirements for more 75409
than one of the following initial licenses: an initial license as 75410
a social worker or independent social worker, an initial license 75411
as a professional counselor or professional clinical counselor, 75412
and an initial license as a marriage and family therapist or 75413
independent marriage and family therapist; 75414

(3) Initial certificates of registration of social work 75415
assistants; 75416

(4) Renewal and late renewal of licenses of professional 75417
clinical counselors, professional counselors, marriage and family 75418
therapists, independent marriage and family therapists, social 75419
workers, and independent social workers and renewal and late 75420
renewal of certificates of registration of social work assistants; 75421

(5) Verification, to another jurisdiction, of a license or 75422
registration issued by the board; 75423

(6) Continuing education programs offered by the board to licensees or registrants;	75424
	75425
<u>(7) Approval of continuing education programs;</u>	75426
<u>(8) Approval of continuing education providers to be authorized to offer continuing education programs without prior approval from the board for each program offered;</u>	75427
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<u>(9) Issuance of a replacement copy of any wall certificate issued by the board.</u>	75430
	75431
(B) The fees charged under division (A)(1) of this section shall be established in amounts sufficient to cover the direct expenses incurred in examining applicants for licensure. The fees charged under divisions (A)(2) to (6) <u>(9)</u> of this section shall be nonrefundable and shall be established in amounts sufficient to cover the necessary expenses in administering this chapter and rules adopted under it that are not covered by fees charged under division (A)(1) or (C) of this section. The renewal fee for a license or certificate of registration shall not be less than the initial fee for that license or certificate. The fees charged for licensure and registration and the renewal of licensure and registration may differ for the various types of licensure and registration, but shall not exceed one hundred twenty-five dollars each, unless the board determines that amounts in excess of one hundred twenty-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred twenty-five dollars are approved by the controlling board.	75432
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(C) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.	75450
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Sec. 4781.01. As used in this chapter:	75455
(A) "Industrialized unit" has the same meaning as in division	75456
(C)(3) of section 3781.06 of the Revised Code.	75457
(B) "Installation" means any of the following:	75458
(1) The temporary or permanent construction of stabilization,	75459
support, and anchoring systems for manufactured housing;	75460
(2) The placement and erection of a manufactured housing unit	75461
or components of a unit on a structural support system;	75462
(3) The supporting, blocking, leveling, securing, anchoring,	75463
underpinning, or adjusting of any section or component of a	75464
manufactured housing unit;	75465
(4) The joining or connecting of all sections or components	75466
of a manufactured housing unit.	75467
(C) "Manufactured home" has the same meaning as in division	75468
(C)(4) of section 3781.06 of the Revised Code.	75469
(D) "Manufactured home park" has the same meaning as in	75470
division (A) of section 3733.01 of the Revised Code <u>means any</u>	75471
<u>tract of land upon which three or more manufactured or mobile</u>	75472
<u>homes used for habitation are parked, either free of charge or for</u>	75473
<u>revenue purposes, and includes any roadway, building, structure,</u>	75474
<u>vehicle, or enclosure used or intended for use as a part of the</u>	75475
<u>facilities of the park. "Manufactured home park" does not include</u>	75476
<u>any of the following:</u>	75477
(1) <u>A tract of land used solely for the storage or display</u>	75478
<u>for sale of manufactured or mobile homes or solely as a temporary</u>	75479
<u>park-camp as defined in section 3729.01 of the Revised Code;</u>	75480
(2) <u>A tract of land that is subdivided and the individual</u>	75481
<u>lots are for sale or sold for the purpose of installation of</u>	75482
<u>manufactured or mobile homes used for habitation and the roadways</u>	75483

are dedicated to the local government authority; 75484

(3) A tract of land within an area that is subject to local zoning authority and subdivision requirements and is subdivided, and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes for habitation. 75485
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(E) "Manufactured housing" means manufactured homes and mobile homes. 75489
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(F) "Manufactured housing installer" means an individual who installs manufactured housing. 75491
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(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code. 75493
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(H) "Model standards" means the federal manufactured home installation standards established pursuant to 42 U.S.C. 5404. 75495
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(I) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code. 75497
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(J) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect. 75499
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(K) "Casual sale" means any transfer of a manufactured home or mobile home by a person other than a manufactured housing dealer, manufactured housing salesperson, or manufacturer to an ultimate consumer or a person who purchases the home for use as a residence. 75502
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(L) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business. 75507
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(M) "Manufactured home park operator" ~~has the same meaning as~~ 75514
~~"operator" in section 3733.01 of the Revised Code or "park~~ 75515
operator" means the person who has responsible charge of a 75516
manufactured home park and who is licensed under sections 4781.26 75517
to 4781.35 of the Revised Code. 75518

(N) "Manufactured housing broker" means any person acting as 75519
a selling agent on behalf of an owner of a manufactured home or 75520
mobile home that is subject to taxation under section 4503.06 of 75521
the Revised Code. 75522

(O) "Manufactured housing dealer" means any person engaged in 75523
the business of selling at retail, displaying, offering for sale, 75524
or dealing in manufactured homes or mobile homes. 75525

(P) "Manufacturer" means a person who manufactures, 75526
assembles, or imports manufactured homes or mobile homes. 75527

(Q) "Retail sale" or "sale at retail" means the act or 75528
attempted act of selling, bartering, exchanging, or otherwise 75529
disposing of a manufactured home or mobile home to an ultimate 75530
purchaser for use as a residence. 75531

(R) "Salesperson" means any individual employed by a 75532
manufactured housing dealer or manufactured housing broker to 75533
sell, display, and offer for sale, or deal in manufactured homes 75534
or mobile homes for a commission, compensation, or other valuable 75535
consideration, but does not mean any public officer performing 75536
official duties. 75537

(S) "Ultimate purchaser" means, with respect to any new 75538
manufactured home, the first person, other than a manufactured 75539
housing dealer purchasing in the capacity of a manufactured 75540
housing dealer, who purchases such new manufactured home for 75541
purposes other than resale. 75542

(T) "Tenant" means a person who is entitled under a rental 75543
agreement with a manufactured home park operator to occupy a 75544

manufactured home park lot and who does not own the home occupying the lot. 75545
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(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot. 75547
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(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners. 75551
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(W) "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident. 75554
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(X) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties. 75558
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(Y) "Security deposit" means any deposit of money or property to secure performance by the resident under a rental agreement. 75562
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(Z) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a manufactured home park, for which plan review is required under division (A) of section 4781.31 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable. 75564
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(AA) "Flood" or "flooding" means either of the following: 75574

<u>(1) A general and temporary condition of partial or complete</u>	75575
<u>inundation of normally dry land areas from any of the following:</u>	75576
<u>(a) The overflow of inland or tidal waters;</u>	75577
<u>(b) The unusual and rapid accumulation or runoff of surface</u>	75578
<u>waters from any source;</u>	75579
<u>(c) Mudslides that are proximately caused by flooding as</u>	75580
<u>defined in division (AA)(1)(b) of this section and that are akin</u>	75581
<u>to a river of liquid and flowing mud on the surface of normally</u>	75582
<u>dry land areas, as when earth is carried by a current of water and</u>	75583
<u>deposited along the path of the current.</u>	75584
<u>(2) The collapse or subsidence of land along the shore of a</u>	75585
<u>lake or other body of water as a result of erosion or undermining</u>	75586
<u>that is caused by waves or currents of water exceeding anticipated</u>	75587
<u>cyclical levels or that is suddenly caused by an unusually high</u>	75588
<u>water level in a natural body of water, and that is accompanied by</u>	75589
<u>a severe storm, by an unanticipated force of nature, such as a</u>	75590
<u>flash flood, by an abnormal tidal surge, or by some similarly</u>	75591
<u>unusual and unforeseeable event, that results in flooding as</u>	75592
<u>defined in division (AA)(1)(a) of this section.</u>	75593
<u>(BB) "Flood plain" means the area adjoining any river,</u>	75594
<u>stream, watercourse, or lake that has been or may be covered by</u>	75595
<u>flood water.</u>	75596
<u>(CC) "One-hundred-year flood" means a flood having a one per</u>	75597
<u>cent chance of being equaled or exceeded in any given year.</u>	75598
<u>(DD) "One-hundred-year flood plain" means that portion of a</u>	75599
<u>flood plain inundated by a one-hundred-year flood.</u>	75600
<u>(EE) "Person" has the same meaning as in section 1.59 of the</u>	75601
<u>Revised Code and also includes this state, any political</u>	75602
<u>subdivision of this state, and any other state or local body of</u>	75603
<u>this state.</u>	75604

(FF) "Substantial damage" means damage of any origin sustained by a manufactured or mobile home that is situated in a manufactured home park located in a flood plain when the cost of restoring the home to its condition before the damage occurred will equal or exceed fifty per cent of the market value of the home before the damage occurred.

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(GG) "Substantially alter" means a change in the layout or design of a manufactured home park, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities. In the case of manufactured home parks located within a one-hundred-year flood plain, "substantially alter" also includes changes in elevation resulting from the addition of fill, grading, or excavation that may affect flood plain management.

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(HH) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and regardless of whether the one or more parcels, lots, or sites are under common or different ownership.

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Sec. 4781.02. (A) There is hereby created the manufactured homes commission which consists of nine members, with three members appointed by the governor, three members appointed by the president of the senate, and three members appointed by the speaker of the house of representatives.

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(B)(1) Commission members shall be residents of this state, except for members appointed pursuant to divisions (B)(3)(b) and (B)(4)(a) of this section. Members shall be selected from a list of persons the Ohio manufactured homes association, or any successor entity, recommends, except for appointments made pursuant to division (B)(2) of this section.

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(2) The governor shall appoint the following members:

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(a) One member to represent the board of building standards, 75636
who may be a member of the board or a board employee not in the 75637
classified civil service, with an initial term ending December 31, 75638
2007; 75639

(b) One member ~~to represent the department of health, who may~~ 75640
~~be a department employee not in the classified civil service, with~~ 75641
~~an initial term ending December 31, 2005~~ who is registered as a 75642
sanitarian in accordance with Chapter 4736. of the Revised Code, 75643
has experience with the regulation of manufactured homes, and is 75644
an employee of a health district described in section 3709.01 of 75645
the Revised Code; 75646

(c) One member whose primary residence is a manufactured 75647
home, with an initial term ending December 31, 2006. 75648

(3) The president of the senate shall appoint the following 75649
members: 75650

(a) Two members who are manufactured housing installers who 75651
have been actively engaged in the installation of manufactured 75652
housing for the five years immediately prior to appointment, with 75653
the initial term of one installer ending December 31, 2007, and 75654
the initial term of the other installer ending December 31, 2005. 75655

(b) One member who manufactures manufactured homes in this 75656
state or who manufactures manufactured homes in another state and 75657
ships homes into this state, to represent manufactured home 75658
manufacturers, with an initial term ending December 31, 2006. 75659

(4) The speaker of the house of representatives shall appoint 75660
the following members: 75661

(a) One member who operates a manufactured or mobile home 75662
retail business in this state to represent manufactured housing 75663
dealers, with an initial term ending December 31, 2007; 75664

(b) One member who is a manufactured home park operator or is 75665

employed by an operator, with an initial term ending December 31, 2005;

(c) One member to represent the Ohio manufactured home association, or any successor entity, who may be the president or executive director of the association or the successor entity, with an initial term ending December 31, 2006.

(C)(1) After the initial term, each term of office is for four years ending on the thirty-first day of December. A member holds office from the date of appointment until the end of the term. No member may serve more than two consecutive four-year terms.

(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, which ever occurs first.

(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers.

(D)(1) The governor may remove any member from office for incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office.

(2) Vacancies shall be filled in the manner of the original appointment.

Sec. 4781.04. (A) The manufactured homes commission shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following:

(1) Establish uniform standards that govern the installation of manufactured housing. Not later than one hundred eighty days after the secretary of the United States department of housing and

urban development adopts model standards for the installation of 75696
manufactured housing or amends those standards, the commission 75697
shall amend its standards as necessary to be consistent with, and 75698
not less stringent than, the model standards for the design and 75699
installation of manufactured housing the secretary adopts or any 75700
manufacturers' standards that the secretary determines are equal 75701
to or not less stringent than the model standards. 75702

(2) Govern the inspection of the installation of manufactured 75703
housing. The rules shall specify that the commission, any building 75704
department or personnel of any department, ~~any licensor or~~ 75705
~~personnel of any licensor,~~ or any private third party, certified 75706
pursuant to section 4781.07 of the Revised Code shall conduct all 75707
inspections of the installation of manufactured housing located in 75708
manufactured home parks to determine compliance with the uniform 75709
installation standards the commission establishes pursuant to this 75710
section. 75711

~~As used in division (A)(2) of this section, "licensor" has~~ 75712
~~the same meaning as in section 3733.01 of the Revised Code.~~ 75713

(3) Govern the design, construction, installation, approval, 75714
and inspection of foundations and the base support systems for 75715
manufactured housing. The rules shall specify that the commission, 75716
any building department or personnel of any department, ~~any~~ 75717
~~licensor or personnel of any licensor,~~ or any private third party, 75718
certified pursuant to section 4781.07 of the Revised Code shall 75719
conduct all inspections of the installation, foundations, and base 75720
support systems of manufactured housing located in manufactured 75721
home parks to determine compliance with the uniform installation 75722
standards and foundation and base support system design the 75723
commission establishes pursuant to this section. 75724

~~As used in division (A)(3) of this section, "licensor" has~~ 75725
~~the same meaning as in section 3733.01 of the Revised Code.~~ 75726

(4) Govern the training, experience, and education requirements for manufactured housing installers, manufactured housing dealers, manufactured housing brokers, and manufactured housing salespersons;	75727 75728 75729 75730
(5) Establish a code of ethics for manufactured housing installers;	75731 75732
(6) Govern the issuance, revocation, and suspension of licenses to manufactured housing installers;	75733 75734
(7) Establish fees for the issuance and renewal of licenses, for conducting inspections to determine an applicant's compliance with this chapter and the rules adopted pursuant to it, and for the commission's expenses incurred in implementing this chapter;	75735 75736 75737 75738
(8) Establish conditions under which a licensee may enter into contracts to fulfill the licensee's responsibilities;	75739 75740
(9) Govern the investigation of complaints concerning any violation of this chapter or the rules adopted pursuant to it or complaints involving the conduct of any licensed manufactured housing installer or person installing manufactured housing without a license, licensed manufactured housing dealer, licensed manufactured housing broker, or manufactured housing salesperson;	75741 75742 75743 75744 75745 75746
(10) Establish a dispute resolution program for the timely resolution of warranty issues involving new manufactured homes, disputes regarding responsibility for the correction or repair of defects in manufactured housing, and the installation of manufactured housing. The rules shall provide for the timely resolution of disputes between manufacturers, manufactured housing dealers, and installers regarding the correction or repair of defects in manufactured housing that are reported by the purchaser of the home during the one-year period beginning on the date of installation of the home. The rules also shall provide that decisions made regarding the dispute under the program are not	75747 75748 75749 75750 75751 75752 75753 75754 75755 75756 75757

binding upon the purchaser of the home or the other parties 75758
involved in the dispute unless the purchaser so agrees in a 75759
written acknowledgement that the purchaser signs and delivers to 75760
the program within ten business days after the decision is issued. 75761

(11) Establish the requirements and procedures for the 75762
certification of building departments and building department 75763
personnel pursuant to section 4781.07 of the Revised Code; 75764

(12) Establish fees to be charged to building departments and 75765
building department personnel applying for certification and 75766
renewal of certification pursuant to section 4781.07 of the 75767
Revised Code; 75768

(13) Develop a policy regarding the maintenance of records 75769
for any inspection authorized or conducted pursuant to this 75770
chapter. Any record maintained under division (A)(13) of this 75771
section shall be a public record under section 149.43 of the 75772
Revised Code. 75773

(14) Carry out any other provision of this chapter. 75774

(B) The manufactured homes commission shall do all of the 75775
following: 75776

(1) Prepare and administer a licensure examination to 75777
determine an applicant's knowledge of manufactured housing 75778
installation and other aspects of installation the commission 75779
determines appropriate; 75780

(2) Select, provide, or procure appropriate examination 75781
questions and answers for the licensure examination and establish 75782
the criteria for successful completion of the examination; 75783

(3) Prepare and distribute any application form this chapter 75784
requires; 75785

(4) Receive applications for licenses and renewal of licenses 75786
and issue licenses to qualified applicants; 75787

(5) Establish procedures for processing, approving, and disapproving applications for licensure;	75788 75789
(6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application;	75790 75791 75792
(7) Review the design and plans for manufactured housing installations, foundations, and support systems;	75793 75794
(8) Inspect a sample of homes at a percentage the commission determines to evaluate the construction and installation of manufactured housing installations, foundations, and support systems to determine compliance with the standards the commission adopts;	75795 75796 75797 75798 75799
(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer, manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson;	75800 75801 75802 75803
(10) Determine appropriate disciplinary actions for violations of this chapter;	75804 75805
(11) Conduct audits and inquiries of manufactured housing installers, manufactured housing dealers, and manufactured housing brokers as appropriate for the enforcement of this chapter. The commission, or any person the commission employs for the purpose, may review and audit the business records of any manufactured housing installer, dealer, or broker during normal business hours.	75806 75807 75808 75809 75810 75811
(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity;	75812 75813 75814
(13) Perform any function or duty necessary to administer this chapter and the rules adopted pursuant to it.	75815 75816
<u>(C) Nothing in this section shall be construed to limit the</u>	75817

authority of a board of health to enforce section 3701.344 of the 75818
Revised Code or Chapters 3703., 3718., and 3781. of the Revised 75819
Code. 75820

Sec. 4781.07. (A) Pursuant to rules the manufactured homes 75821
commission adopts, the commission may certify municipal, township, 75822
and county building departments and the personnel of those 75823
departments, ~~licensors as defined in section 3733.01 of the~~ 75824
~~Revised Code and the personnel of those licensors,~~ or any private 75825
third party, to exercise the commission's enforcement authority, 75826
accept and approve plans and specifications for foundations, 75827
support systems and installations, and inspect manufactured 75828
housing foundations, support systems, and manufactured housing 75829
installations. Any certification is effective for three years. 75830

(B) Following an investigation and finding of facts that 75831
support its action, the commission may revoke or suspend 75832
certification. The commission may initiate an investigation on its 75833
own motion or the petition of a person affected by the enforcement 75834
or approval of plans. 75835

Sec. 4781.09. (A) The manufactured homes commission may deny, 75836
suspend, revoke, or refuse to renew the license of any 75837
manufactured home installer for any of the following reasons: 75838

(1) Failure to satisfy the requirements of section 4781.08 or 75839
4781.10 of the Revised Code; 75840

(2) Violation of this chapter or any rule adopted pursuant to 75841
it; 75842

(3) Making a material misstatement in an application for a 75843
license; 75844

(4) Installing manufactured housing without a license or 75845
without being under the supervision of a licensed manufactured 75846
housing installer; 75847

(5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter;	75848 75849 75850
(6) Conviction of a felony or a crime involving moral turpitude;	75851 75852
(7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;	75853 75854
(8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;	75855 75856
(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.	75857 75858
(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor.	75859 75860 75861
(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed pursuant to division (C) of this section may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code.	75862 75863 75864 75865 75866 75867
(2) Any licensee or applicant may appeal an order made pursuant to an adjudication hearing in the manner provided in section 119.12 of the Revised Code.	75868 75869 75870
(C) As an alternative to suspending, revoking, or refusing to renew a manufactured housing installer's license, the commission may impose a civil penalty of not less than one hundred dollars or more than five hundred dollars per violation of this chapter or any rule adopted pursuant to it. The commission shall deposit penalties in the occupational licensing and regulatory fund pursuant to section 4743.05 of the Revised Code.	75871 75872 75873 75874 75875 75876 75877

(D) A person whose license is suspended, revoked, or not renewed may apply for a new license two years after the date on which the license was suspended, revoked, or not renewed.

Sec. 4781.121. (A) The manufactured homes commission, pursuant to section 4781.04 of the Revised Code, may investigate any person who allegedly has committed a violation. If, after an investigation the commission determines that reasonable evidence exists that a person has committed a violation, within seven days after that determination, the commission shall send a written notice to that person in the same manner as prescribed in section 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

(B) The commission shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the commission, after the hearing, determines that a violation has occurred, the commission, upon an affirmative vote of five of its members, may impose a fine not exceeding one thousand dollars per violation per day. The commission's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

(C) If the person who allegedly committed a violation fails to appear for a hearing, the commission may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the commission for a hearing.

(D) If the commission assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the commission pursuant to section 131.02 of the Revised Code, the commission shall forward to the attorney general the name of the person and the amount of the

civil penalty for the purpose of collecting that civil penalty. In 75909
addition to the civil penalty assessed pursuant to this section, 75910
the person also shall pay any fee assessed by the attorney general 75911
for collection of the civil penalty. 75912

(E) The authority provided to the commission pursuant to this 75913
section, and any fine imposed under this section, shall be in 75914
addition to, and not in lieu of, all penalties and other remedies 75915
provided in this chapter. Any fines collected pursuant to this 75916
section shall be used solely to administer and enforce this 75917
chapter and rules adopted under it. Any fees collected pursuant to 75918
this section shall be transmitted to the treasurer of state and 75919
shall be credited to the manufactured homes commission regulatory 75920
fund created in section 4781.54 of the Revised Code; the fees 75921
shall be used only for the purpose of administering and enforcing 75922
sections 4781.26 to 4781.35 of the Revised Code and the rules 75923
adopted thereunder. 75924

(F) As used in this section, "violation" means a violation of 75925
section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant 75926
to section 4781.04, of the Revised Code. 75927

Sec. 4781.14. ~~(A) Except as provided in division (A)(3) of~~ 75928
~~section 3733.02 of the Revised Code, the state, through the~~ 75929
~~The~~ manufactured homes commission, has exclusive authority to regulate 75930
manufactured home installers, the installation of manufactured 75931
housing, and manufactured housing foundations and support systems 75932
in ~~the~~ this state. By enacting this chapter, it is the intent of 75933
the general assembly to preempt municipal corporations and other 75934
political subdivisions from regulating and licensing manufactured 75935
housing installers and regulating and inspecting the installation 75936
of manufactured housing and manufactured housing foundations and 75937
support systems. 75938

~~(B) Except as provided in division (A)(3) of section 3733.02~~ 75939

~~of the Revised Code, the~~ The manufactured homes commission has 75940
exclusive power to adopt rules of uniform application throughout 75941
the state governing installation of manufactured housing, the 75942
inspection of manufactured housing foundations and support 75943
systems, the inspection of the installation of manufactured 75944
housing, the training and licensing of manufactured housing 75945
installers, and the investigation of complaints concerning 75946
manufactured housing installers. 75947

(C) ~~Except as provided in division (A)(3) of section 3733.02~~ 75948
~~of the Revised Code, the~~ The rules the commission adopts pursuant 75949
to this chapter are the exclusive rules governing the installation 75950
of manufactured housing, the design, construction, and approval of 75951
foundations for manufactured housing, the licensure of 75952
manufactured home installers, and the fees charged for licensure 75953
of manufactured home installers. No political subdivision of the 75954
state or any department or agency of the state may establish any 75955
other standards governing the installation of manufactured 75956
housing, manufactured housing foundations and support systems, the 75957
licensure of manufactured housing installers, or fees charged for 75958
the licensure of manufactured housing installers. 75959

(D) Nothing in this section limits the authority of the 75960
attorney general to enforce Chapter 1345. of the Revised Code or 75961
to take any action permitted by the Revised Code against 75962
manufactured housing installers, retailers, or manufacturers. 75963

Sec. 4781.15. The remedies provided in ~~sections 4781.01 to~~ 75964
~~4781.14 of the Revised Code~~ this chapter are in addition to 75965
remedies otherwise available for the same conduct under state or 75966
local law. 75967

Sec. ~~3733.02~~ 4781.26. (A)(1) ~~The public health council~~ 75968
manufactured homes commission, subject to Chapter 119. of the 75969

Revised Code, shall adopt, and has the exclusive power to adopt, 75970
rules of uniform application throughout the state governing the 75971
review of plans, issuance of flood plain management permits, and 75972
issuance of licenses for manufactured home parks; the location, 75973
layout, density, construction, drainage, sanitation, safety, and 75974
operation of those parks; and notices of flood events concerning, 75975
and flood protection at, those parks. The rules pertaining to 75976
flood plain management shall be consistent with and not less 75977
stringent than the flood plain management criteria of the national 75978
flood insurance program adopted under the "National Flood 75979
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 75980
amended. The rules shall not apply to the construction, erection, 75981
or manufacture of any building to which section 3781.06 of the 75982
Revised Code is applicable. 75983

~~(2)~~(B) The rules pertaining to manufactured home parks 75984
constructed after June 30, 1971, shall specify that each home must 75985
be placed on its lot to provide not less than fifteen feet between 75986
the side of one home and the side of another home, ten feet 75987
between the end of one home and the side of another home, and five 75988
feet between the ends of two homes placed end to end. 75989

~~(3)~~(C) The manufactured homes commission shall determine 75990
compliance with the installation, blocking, tiedown, foundation, 75991
and base support system standards for manufactured housing located 75992
in manufactured home parks adopted by the commission pursuant to 75993
section 4781.04 of the Revised Code. All inspections of the 75994
installation, blocking, tiedown, foundation, and base support 75995
systems of manufactured housing in a manufactured home park that 75996
the ~~department of health or a licenser~~ commission conducts shall 75997
be conducted by a person ~~who has completed an installation~~ 75998
~~training course approved by~~ the manufactured homes commission 75999
certifies pursuant to ~~division (B)(12) of section 4781.04~~ 4781.07 76000
of the Revised Code. 76001

~~As used in division (A)(3) of this section, "manufactured housing" has the same meaning as in section 4781.01 of the Revised Code.~~ 76002
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~~(B) The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state establishing requirements and procedures in accordance with which the director of health may authorize licensors for the purposes of sections 3733.022 and 3733.025 of the Revised Code. The rules shall include at least provisions under which a licensor may enter into contracts for the purpose of fulfilling the licensor's responsibilities under either or both of those sections.~~ 76005
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(D) The manufactured homes commission may enter into contracts for the purpose of fulfilling the commission's annual inspection responsibilities for manufactured home parks under this chapter. Boards of health of city or general health districts shall have the right of first refusal for those contracts. 76014
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Sec. ~~3733.03~~ 4781.27. (A)(1) On or after the first day of December, but before the first day of January of the next year, every person who intends to operate a manufactured home park shall procure a license to operate the park for the next year from the ~~licensor~~ manufactured homes commission. If the applicable license fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code is not received by the ~~licensor~~ commission by the close of business on the last day of December, the applicant for the license shall pay a penalty equal to twenty-five per cent of the applicable license fee. The penalty shall accompany the license fee. If the last day of December is not a business day, the penalty attaches upon the close of business on the next business day. 76019
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(2) No manufactured home park shall be maintained or operated 76032

in this state without a license. 76033

(3) No person who has received a license, upon the sale or 76034
disposition of the manufactured home park, may have the license 76035
transferred to the new operator. A person shall obtain a separate 76036
license to operate each manufactured home park. 76037

(B) Before a license is initially issued and annually 76038
thereafter, or more often if necessary, the ~~licensor~~ commission 76039
shall cause each manufactured home park to be inspected ~~relative~~ 76040
~~to~~ for compliance with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 76041
of the Revised Code and the rules adopted under those sections. A 76042
record shall be made of each inspection on a form prescribed by 76043
the ~~director of health~~ commission. 76044

(C) Each person applying for an initial license to operate a 76045
manufactured home park shall provide acceptable proof to the 76046
~~director~~ commission that adequate fire protection will be provided 76047
and that applicable fire codes will be adhered to in the 76048
construction and operation of the park. 76049

Sec. ~~3733.04~~ 4781.28. The ~~licensor of a manufactured home~~ 76050
~~park~~ manufactured homes commission may charge a fee for an annual 76051
license to operate ~~such~~ a manufactured home park. The fee for a 76052
license shall be determined in accordance with section ~~3709.09~~ 76053
4781.26 of the Revised Code and shall include the cost of 76054
licensing and all inspections. 76055

~~The fee also shall include any additional amount determined~~ 76056
~~by rule of the public health council, which shall be collected and~~ 76057
~~transmitted by the board of health to the director of health~~ 76058
~~pursuant to section 3709.092 of the Revised Code and used only for~~ 76059
~~the purpose of administering and enforcing sections 3733.01 to~~ 76060
~~3733.08 of the Revised Code and the rules adopted under those~~ 76061
~~sections. The portion of any fee retained by the board of health~~ 76062
Any fees collected shall be paid into a special fund transmitted 76063

to the treasurer of state and shall be credited to the 76064
manufactured homes commission regulatory fund created in section 76065
4781.54 of the Revised Code and used only for the purpose of 76066
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 76067
4781.35 of the Revised Code and the rules adopted thereunder. 76068

Sec. ~~3733.05~~ 4781.29. ~~The licenser of the health district in~~ 76069
~~which a manufactured home park is or is to be located, in~~ 76070
~~accordance with Chapter 119. of the Revised Code,~~ manufactured 76071
homes commission may refuse to grant, may suspend, or may revoke 76072
any license granted to any person for failure to comply with 76073
sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or 76074
with any rule adopted ~~by the public health council~~ under section 76075
~~3733.02~~ 4781.26 of the Revised Code. 76076

Sec. ~~3733.06~~ 4781.30. (A) Upon a license being issued under 76077
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, 76078
any operator shall have the right to rent or use each lot for the 76079
parking or placement of a manufactured home or mobile home to be 76080
used for human habitation without interruption for any period 76081
coextensive with any license or consecutive licenses issued under 76082
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code. 76083

(B) No operator of a manufactured home park shall sell 76084
individual lots in a park for eight years following the issuance 76085
of the initial license for the park unless, at the time of sale, 76086
the park fulfills all platting and subdivision requirements 76087
established by the political subdivision in which the park is 76088
located, or the political subdivision has entered into an 76089
agreement with the operator regarding platting and subdivision 76090
requirements and the operator has fulfilled the terms of that 76091
agreement. 76092

Sec. ~~3733.021~~ 4781.31. (A) No person shall cause development 76093

to occur within any portion of a manufactured home park until the 76094
plans for the development have been submitted to and reviewed and 76095
approved by the ~~director of health~~ manufactured homes commission. 76096
This division does not require that plans be submitted to the 76097
~~director~~ commission for approval for the replacement of 76098
manufactured or mobile homes on previously approved lots in a 76099
manufactured home park when no development is to occur in 76100
connection with the replacement. Within thirty days after receipt 76101
of the plans, all supporting documents and materials required to 76102
complete the review, and the applicable plan review fee 76103
established under division (D) of this section, the ~~director~~ 76104
commission shall approve or disapprove the plans. 76105

(B) Any person aggrieved by the ~~director's~~ commission's 76106
disapproval of a set of plans under division (A) of this section 76107
may request a hearing on the matter within thirty days after 76108
receipt of the ~~director's~~ commission's notice of the disapproval. 76109
The hearing shall be held in accordance with Chapter 119. of the 76110
Revised Code. Thereafter, the disapproval may be appealed in the 76111
manner provided in section 119.12 of the Revised Code. 76112

(C) The ~~director~~ commission shall establish a system by which 76113
development occurring within a manufactured home park is inspected 76114
or verified in accordance with rules adopted under ~~division (A) of~~ 76115
section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the 76116
development complies with the plans approved under division (A) of 76117
this section. 76118

(D) The ~~public health council~~ commission shall establish fees 76119
for reviewing plans under division (A) of this section and 76120
conducting inspections under division (C) of this section. 76121

(E) The ~~director~~ commission shall charge the appropriate fees 76122
established under division (D) of this section for reviewing plans 76123
under division (A) of this section and conducting inspections 76124
under division (C) of this section. All such plan review and 76125

inspection fees received by the ~~director~~ commission shall be 76126
transmitted to the treasurer of state and shall be credited to the 76127
~~general operations~~ occupational licensing and regulatory fund 76128
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 76129
credited to the fund shall be used only for the purpose of 76130
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 76131
4781.35 of the Revised Code and rules adopted under those 76132
sections. 76133

(F) Plan approvals issued under this section do not 76134
constitute an exemption from the land use and building 76135
requirements of the political subdivision in which the 76136
manufactured home park is or is to be located. 76137

Sec. ~~3733.022~~ 4781.32. (A) No person shall cause development 76138
to occur or cause the replacement of a mobile or manufactured home 76139
within any portion of a manufactured home park that is located 76140
within a one-hundred-year flood plain unless the person first 76141
obtains a permit from the ~~director of health or a licensor~~ 76142
~~authorized by the director~~ manufactured homes commission. If the 76143
development for which a permit is required under this division is 76144
to occur on a lot where a mobile or manufactured home is or is to 76145
be located, the owner of the home and the operator of the 76146
manufactured home park shall jointly obtain the permit. Each of 76147
the persons to whom a permit is jointly issued is responsible for 76148
compliance with the provisions of the approved permit that are 76149
applicable to that person. 76150

The ~~director or a licensor~~ authorized by the director 76151
commission shall disapprove an application for a permit required 76152
under this division unless the ~~director or the licensor~~ commission 76153
finds that the proposed development or replacement of a mobile or 76154
manufactured home complies with the rules adopted under ~~division~~ 76155
~~(A)~~ of section ~~3733.02~~ 4781.26 of the Revised Code. No permit is 76156

required under this division for the construction, erection, or 76157
manufacture of any building to which section 3781.06 of the 76158
Revised Code applies. 76159

The ~~director or a licenser authorized by the director~~ 76160
commission may suspend or revoke a permit issued under this 76161
division for failure to comply with the rules adopted under 76162
~~division (A) of section 3733.02 4781.26~~ of the Revised Code 76163
pertaining to flood plain management or for failure to comply with 76164
the approved permit. 76165

Any person aggrieved by the disapproval, suspension, or 76166
revocation of a permit under this division by the ~~director or by a~~ 76167
~~licenser authorized by the director~~ commission may request a 76168
hearing on the matter within thirty days after receipt of the 76169
notice of the disapproval, suspension, or revocation. The hearing 76170
shall be held in accordance with Chapter 119. of the Revised Code. 76171
Thereafter, an appeal of the disapproval, suspension, or 76172
revocation may be taken in the manner provided in section 119.12 76173
of the Revised Code. 76174

(B) The ~~public health council~~ commission shall establish fees 76175
for the issuance of permits under division (A) of this section and 76176
for necessary inspections conducted to determine compliance with 76177
those permits. 76178

(C) The ~~director or a licenser authorized by the director~~ 76179
commission shall charge the appropriate fee established under 76180
division (B) of this section for the issuance of a permit under 76181
division (A) of this section or for conducting any necessary 76182
inspection to determine compliance with the permit. If the 76183
~~director~~ commission issues such a permit or conducts such an 76184
inspection, the fee for the permit or inspection shall be 76185
transmitted to the treasurer of state and shall be credited to the 76186
~~general operations~~ occupational licensing and regulatory fund 76187
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 76188

credited to the fund shall be used ~~by the director~~ only for the 76189
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 76190
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 76191
sections. ~~If the licensor is a board of health, the permit or~~ 76192
~~inspection fee shall be deposited to the credit of the special~~ 76193
~~fund of the health district created in section 3733.04 of the~~ 76194
~~Revised Code and shall be used only for the purpose set forth in~~ 76195
~~that section.~~ 76196

Sec. ~~3733.024~~ 4781.33. (A) When a flood event affects a 76197
manufactured home park, the operator of the manufactured home 76198
park, in accordance with rules adopted under ~~division (A) of~~ 76199
section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the 76200
~~licensor having jurisdiction of the occurrence of~~ manufactured 76201
homes commission and the board of health having jurisdiction where 76202
the flood event occurred within forty-eight hours after the end of 76203
the flood event. The commission, after receiving notification, 76204
shall immediately notify the board of health. 76205

~~No person shall fail to comply with this division.~~ 76206

(B) ~~The licensor having jurisdiction where a flood event~~ 76207
~~occurred that affected a manufactured home park shall notify the~~ 76208
~~director of health of the occurrence of the flood event within~~ 76209
~~twenty four hours after being notified of the flood event under~~ 76210
~~division (A) of this section. Within forty eight hours after~~ After 76211
~~being notified of such a flood event by a licensor, the director~~ 76212
board of health shall cause an inspection to be made of the 76213
manufactured home park named in the notice. The board of health 76214
shall issue a report of the inspection to the commission within 76215
ten days after the inspection is completed. 76216

Sec. ~~3733.025~~ 4781.34. (A) If a mobile or manufactured home 76217
that is located in a flood plain is substantially damaged, the 76218

owner of the home shall make all alterations, repairs, or changes 76219
to the home, and the operator of the manufactured home park shall 76220
make all alterations, repairs, or changes to the lot on which the 76221
home is located, that are necessary to ensure compliance with the 76222
flood plain management rules adopted under ~~division (A) of~~ section 76223
~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or 76224
changes may include, without limitation, removal of the home or 76225
other structures. 76226

No person shall fail to comply with this division. 76227

(B) No person shall cause to be performed any alteration, 76228
repair, or change required by division (A) of this section unless 76229
the person first obtains a permit from the ~~director of health or a~~ 76230
~~licensor authorized by the director~~ manufactured homes commission. 76231
~~The owner of the home and the operator of the manufactured home~~ 76232
~~park shall jointly obtain the permit required by this division.~~ 76233
~~Each of the persons to whom a permit is jointly issued is~~ 76234
~~responsible for compliance with the provisions of the approved~~ 76235
~~permit that are applicable to that person.~~ 76236

~~The director or a licensor authorized by the director~~ 76237
commission shall disapprove an application for a permit required 76238
under this division unless the ~~director or the licensor~~ commission 76239
finds that the proposed alteration, repair, or change complies 76240
with the rules adopted under ~~division (A) of~~ section ~~3733.02~~ 76241
4781.26 of the Revised Code. No permit is required under this 76242
division for the construction, erection, or manufacture of any 76243
building to which section 3781.06 of the Revised Code applies. 76244

~~The director or a licensor authorized by the director~~ 76245
commission may suspend or revoke a permit issued under this 76246
division for failure to comply with the rules adopted under 76247
~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code 76248
pertaining to flood plain management or for failure to comply with 76249
the approved permit for making alterations, repairs, or changes to 76250

the lot on which the manufactured home is located. 76251

Any person aggrieved by the disapproval, suspension, or 76252
revocation of a permit under this division by the ~~director or by a~~ 76253
~~licensor authorized by the director~~ commission may request a 76254
hearing on the matter within thirty days after receipt of the 76255
notice of the disapproval, suspension, or revocation. The hearing 76256
shall be held in accordance with Chapter 119. of the Revised Code. 76257
Thereafter, an appeal of the disapproval, suspension, or 76258
revocation may be taken in the manner provided in section 119.12 76259
of the Revised Code and for necessary inspections conducted to 76260
determine compliance with those permits. 76261

(C) The ~~public health council~~ commission shall establish fees 76262
for the issuance of permits under division (B) of this section and 76263
for necessary inspections conducted to determine compliance with 76264
those permits for making alterations, repairs, or changes to the 76265
lot on which the manufactured home is located. 76266

(D) The ~~director or a licensor authorized by the director~~ 76267
commission shall charge the appropriate fee established under 76268
division (C) of this section for the issuance of a permit under 76269
division (B) of this section or for conducting any necessary 76270
inspection to determine compliance with the permit. If the 76271
~~director~~ commission issues such a permit or conducts such an 76272
inspection, the fee for the permit or inspection shall be 76273
transmitted to the treasurer of state and shall be credited to the 76274
~~general operations~~ occupational licensing and regulatory fund 76275
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 76276
credited to the fund shall be used ~~by the director~~ only for the 76277
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 76278
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 76279
sections. ~~If the licensor is a board of health, the permit or~~ 76280
~~inspection fee shall be deposited to the credit of the special~~ 76281
~~fund of the health district created in section 3733.04 of the~~ 76282

~~Revised Code and shall be used only for the purpose set forth in
that section.~~ 76283
76284

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections 76285
~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the 76286
rules adopted thereunder. 76287

(B) The prosecuting attorney of the county, the city director 76288
of law, or the attorney general, upon complaint of the ~~licensor or~~ 76289
~~the director of health~~ manufactured homes commission, shall 76290
prosecute to termination or bring an action for injunction against 76291
any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 76292
of the Revised Code or the rules adopted thereunder. 76293

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 76294
of the Revised Code, a park operator shall not retaliate against a 76295
resident by increasing the resident's rent, decreasing services 76296
that are due to the resident, refusing to renew or threatening to 76297
refuse to renew the rental agreement with the resident, or 76298
bringing or threatening to bring an action for possession of the 76299
resident's premises because: 76300

(1) The resident has complained to an appropriate 76301
governmental agency of a violation of a building, housing, health, 76302
or safety code that is applicable to the premises, and the 76303
violation materially affects health and safety; 76304

(2) The resident has complained to the park operator of any 76305
violation of section ~~3733.10~~ 4781.38 of the Revised Code; 76306

(3) The resident joined with other residents for the purpose 76307
of negotiating or dealing collectively with the park operator on 76308
any of the terms and conditions of a rental agreement. 76309

(B) If a park operator acts in violation of division (A) of 76310
this section, the resident may: 76311

(1) Use the retaliatory action of the park operator as a defense to an action by the park operator to recover possession of the premises;

(2) Recover possession of the premises;

(3) Terminate the rental agreement.

In addition, the resident may recover from the park operator any actual damages together with reasonable attorneys fees.

(C) Nothing in division (A) of this section prohibits a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises.

Sec. ~~3733.091~~ 4781.37. (A) Notwithstanding section ~~3733.09~~ 4781.36 of the Revised Code, a park operator may bring an action under Chapter 1923. of the Revised Code for possession of the premises if any of the following applies:

(1) The resident is in default in the payment of rent.

(2) The violation of the applicable building, housing, health, or safety code that the resident complained of was primarily caused by any act or lack of reasonable care by the resident, by any other person in the resident's household, or by anyone on the premises with the consent of the resident.

(3) The resident is holding over the resident's term.

(4) The resident is in violation of rules of the ~~public health council~~ manufactured homes commission adopted pursuant to section ~~3733.02~~ 4781.26 of the Revised Code or rules of the manufactured home park adopted pursuant to the rules of the ~~public health council~~ manufactured homes commission.

(5) The resident has been absent from the manufactured home

park for a period of thirty consecutive days prior to the 76341
commencement of the action, and the resident's manufactured home, 76342
mobile home, or recreational vehicle parked in the manufactured 76343
home park has been left unoccupied for that thirty-day period, 76344
without notice to the park operator and without payment of rent 76345
due under the rental agreement. 76346

(B) The maintenance of an action by the park operator under 76347
this section does not prevent the resident from recovering damages 76348
for any violation by the park operator of the rental agreement or 76349
of section ~~3733.10~~ 4781.38 of the Revised Code. 76350

Sec. ~~3733.10~~ 4781.38. (A) A park operator who is a party to a 76351
rental agreement shall: 76352

(1) Comply with the requirements of all applicable building, 76353
housing, health, and safety codes which materially affect health 76354
and safety, and comply with rules of the ~~public health council~~ 76355
manufactured homes commission; 76356

(2) Make all repairs and do whatever is reasonably necessary 76357
to put and keep the premises in a fit and habitable condition; 76358

(3) Keep all common areas of the premises in a safe and 76359
sanitary condition; 76360

(4) Maintain in good and safe working order and condition all 76361
electrical and plumbing fixtures and appliances, and septic 76362
systems, sanitary and storm sewers, refuse receptacles, and well 76363
and water systems that are supplied or required to be supplied by 76364
~~him~~ the park operator; 76365

(5) Not abuse the right of access conferred by division (B) 76366
of section ~~3733.101~~ 4781.39 of the Revised Code; 76367

(6) Except in the case of emergency or if it is impracticable 76368
to do so, give the resident reasonable notice of ~~his~~ the park 76369
operator's intent to enter onto the residential premises and enter 76370

only at reasonable times. Twenty-four hours' notice shall be presumed to be a reasonable notice in the absence of evidence to the contrary.

(B) If the park operator violates any provision of this section, makes a lawful entry onto the residential premises in an unreasonable manner, or makes repeated demands for entry otherwise lawful which demands have the effect of harassing the resident, the resident may recover actual damages resulting from the violation, entry, or demands and injunctive relief to prevent the recurrence of the conduct, and if ~~he~~ the resident obtains a judgment, reasonable attorneys' fees, or terminate the rental agreement.

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a rental agreement shall:

(1) Keep that part of the premises that the resident occupies and uses safe and sanitary;

(2) Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;

(3) Comply with the requirements imposed on residents by all applicable state and local housing, health, and safety codes, rules of the ~~public health council~~ manufactured homes commission, and rules of the manufactured home park;

(4) Personally refrain, and forbid any other person who is on the premises with the resident's permission, from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the residential premises;

(5) Conduct self and require other persons on the premises with the resident's consent to conduct themselves in a manner that will not disturb the resident's neighbors' peaceful enjoyment of the manufactured home park.

(B) The resident shall not unreasonably withhold consent for the park operator to enter the home to inspect utility connections, or enter onto the premises in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels which are too large for the resident's mail facilities, or supply necessary or agreed services.

(C) If the resident violates any provision of this section, the park operator may recover any actual damages which result from the violation and reasonable attorneys' fees. This remedy is in addition to any right of the park operator to terminate the rental agreement, to maintain an action for the possession of the premises, or injunctive relief to compel access under division (B) of this section.

Sec. ~~3733.11~~ 4781.40. (A)(1) ~~The~~ A manufactured home park operator shall offer each home owner a written rental agreement for a manufactured home park lot for a term of one year or more that contains terms essentially the same as any alternative month-to-month rental agreement offered to current and prospective tenants and owners. The park operator shall offer the minimum one-year rental agreement to the owner prior to installation of the home in the manufactured home park or, if the home is in the manufactured home park, prior to the expiration of the owner's existing rental agreement.

(2) The park operator shall deliver the offer to the owner by certified mail, return receipt requested, or in person. If the park operator delivers the offer to the owner in person, the owner shall complete a return showing receipt of the offer. If the owner does not accept the offer, the park operator is discharged from any obligation to make any further such offers. If the owner accepts the offer, the park operator shall, at the expiration of

each successive rental agreement, offer the owner another rental agreement, for a term that is mutually agreed upon, and that contains terms essentially the same as the alternative month-to-month agreement. The park operator shall deliver subsequent rental offers by ordinary mail or personal delivery. If the park operator sells the manufactured home park to another manufactured home park operator, the purchaser is bound by the rental agreements entered into by the purchaser's predecessor.

(3) If the park operator sells the manufactured home park for a use other than as a manufactured home park, the park operator shall give each tenant and owner a written notification by certified mail, return receipt requested, or by handing it to the tenant or owner in person. If the park operator delivers the notification in person, the recipient shall complete a return showing receipt of the notification. This notification shall contain notice of the sale of the manufactured home park, and notice of the date by which the tenant or owner shall vacate. The date by which the tenant shall vacate shall be at least one hundred twenty days after receipt of the written notification, and the date by which the owner shall vacate shall be at least one hundred eighty days after receipt of the written notification.

(B) A park operator shall fully disclose in writing all fees, charges, assessments, including rental fees, and rules prior to a tenant or owner executing a rental agreement and assuming occupancy in the manufactured home park. No fees, charges, assessments, or rental fees so disclosed may be increased nor rules changed by a park operator without specifying the date of implementation of the changed fees, charges, assessments, rental fees, or rules, which date shall be not less than thirty days after written notice of the change and its effective date to all tenants or owners in the manufactured home park, and no fee, charge, assessment, or rental fee shall be increased during the

term of any tenant's or owner's rental agreement. Failure on the 76464
part of the park operator to fully disclose all fees, charges, or 76465
assessments shall prevent the park operator from collecting the 76466
undisclosed fees, charges, or assessments. If a tenant or owner 76467
refuses to pay any undisclosed fees, charges, or assessments, the 76468
refusal shall not be used by the park operator as a cause for 76469
eviction in any court. 76470

(C) A park operator shall promulgate rules governing the 76471
rental or occupancy of a lot in the manufactured home park. The 76472
rules shall not be unreasonable, arbitrary, or capricious. A copy 76473
of the rules and any amendments to them shall be delivered by the 76474
park operator to the tenant or owner prior to signing the rental 76475
agreement. A copy of the rules and any amendments to them shall be 76476
posted in a conspicuous place upon the manufactured home park 76477
grounds. 76478

(D) No park operator shall require an owner to purchase from 76479
the park operator any personal property. The park operator may 76480
determine by rule the style or quality of skirting, equipment for 76481
tying down homes, manufactured or mobile home accessories, or 76482
other equipment to be purchased by an owner from a vendor of the 76483
owner's choosing, provided that the equipment is readily available 76484
to the owner. Any such equipment shall be installed in accordance 76485
with the manufactured home park rules. 76486

(E) No park operator shall charge any owner who chooses to 76487
install an electric or gas appliance in a home an additional fee 76488
solely on the basis of the installation, unless the installation 76489
is performed by the park operator at the request of the owner, nor 76490
shall the park operator restrict the installation, service, or 76491
maintenance of the appliance, restrict the ingress or egress of 76492
repairpersons to the manufactured home park for the purpose of 76493
installation, service, or maintenance of the appliance, nor 76494
restrict the making of any interior improvement in a home, if the 76495

installation or improvement is in compliance with applicable 76496
building codes and other provisions of law and if adequate utility 76497
services are available for the installation or improvement. 76498

(F) No park operator shall require a tenant to lease or an 76499
owner to purchase a manufactured or mobile home from the park 76500
operator or any specific person as a condition of or prerequisite 76501
to entering into a rental agreement. 76502

(G) No park operator shall require an owner to use the 76503
services of the park operator or any other specific person for 76504
installation of the manufactured or mobile home on the residential 76505
premises or for the performance of any service. 76506

(H) No park operator shall: 76507

(1) Deny any owner the right to sell the owner's manufactured 76508
home within the manufactured home park if the owner gives the park 76509
operator ten days' notice of the intention to sell the home; 76510

(2) Require the owner to remove the home from the 76511
manufactured home park solely on the basis of the sale of the 76512
home; 76513

(3) Unreasonably refuse to enter into a rental agreement with 76514
a purchaser of a home located within the operator's manufactured 76515
home park; 76516

(4) Charge any tenant or owner any fee, charge, or 76517
assessment, including a rental fee, that is not set forth in the 76518
rental agreement or, if the rental agreement is oral, is not set 76519
forth in a written disclosure given to the tenant or owner prior 76520
to the tenant or owner entering into a rental agreement; 76521

(5) Charge any owner any fee, charge, or assessment because 76522
of the transfer of ownership of a home or because a home is moved 76523
out of or into the manufactured home park, except a charge for the 76524
actual costs and expenses that are incurred by the park operator 76525

in moving the home out of or into the manufactured home park, or 76526
in installing the home in the manufactured home park and that have 76527
not been reimbursed by another tenant or owner. 76528

(I) If the park operator violates any provision of divisions 76529
(A) to (H) of this section, the tenant or owner may recover actual 76530
damages resulting from the violation, and, if the tenant or owner 76531
obtains a judgment, reasonable attorneys' fees, or terminate the 76532
rental agreement. 76533

(J) No rental agreement shall require a tenant or owner to 76534
sell, lease, or sublet the tenant's or owner's interest in the 76535
rental agreement or the manufactured or mobile home that is or 76536
will be located on the lot that is the subject of the rental 76537
agreement to any specific person or through any specific person as 76538
the person's agent. 76539

(K) No park operator shall enter into a rental agreement with 76540
the owner of a manufactured or mobile home for the use of 76541
residential premises, if the rental agreement requires the owner 76542
of the home, as a condition to the owner's renting, occupying, or 76543
remaining on the residential premises, to pay the park operator or 76544
any other person specified in the rental agreement a fee or any 76545
sum of money based on the sale of the home, unless the owner of 76546
the home uses the park operator or other person as the owner's 76547
agent in the sale of the home. 76548

(L) A park operator and a tenant or owner may include in a 76549
rental agreement any terms and conditions, including any term 76550
relating to rent, the duration of an agreement, and any other 76551
provisions governing the rights and obligations of the parties 76552
that are not inconsistent with or prohibited by sections 3733.09 76553
to 3733.20 of the Revised Code or any other rule of law. 76554

(M) Notwithstanding any other provision of the Revised Code, 76555
the owner of a manufactured or mobile home ~~that was previously~~ 76556

~~titled by a dealer~~ may utilize the services of a manufactured home 76557
~~housing dealer or broker~~ licensed under ~~Chapter 4517. of the~~ 76558
~~Revised Code this chapter~~ or a person properly licensed under 76559
Chapter 4735. of the Revised Code to sell or lease the home. 76560

Sec. ~~3733.12~~ 4781.41. (A) If a park operator fails to fulfill 76561
any obligation imposed upon ~~him~~ the park operator by section 76562
~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or 76563
the conditions of the premises are such that the resident 76564
reasonably believes that a park operator has failed to fulfill any 76565
such obligations, or a governmental agency has found that the 76566
premises are not in compliance with building, housing, health, or 76567
safety codes which apply to any condition of the residential 76568
premises that could materially affect the health and safety of an 76569
occupant, the resident may give notice in writing to the park 76570
operator specifying the acts, omissions, or code violations that 76571
constitute noncompliance with such provisions. The notice shall be 76572
sent to the person or place where rent is normally paid. 76573

(B) If a park operator receives the notice described in 76575
division (A) of this section and after receipt of the notice fails 76576
to remedy the condition within a reasonable time, considering the 76577
severity of the condition and the time necessary to remedy such 76578
condition, or within thirty days, whichever is sooner, and if the 76579
resident is current in rent payments due under the rental 76580
agreement, the resident may do one of the following: 76581

(1) Deposit all rent that is due and thereafter becomes due 76582
the park operator with the clerk of court of the municipal or 76583
county court having jurisdiction in the territory in which the 76584
residential premises are located; 76585

(2) Apply to the court for an order directing the park 76586
operator to remedy the condition. As part thereof, the resident 76587

may deposit rent pursuant to division (B)(1) of this section, and 76588
may apply for an order reducing the periodic rent due the park 76589
operator until such time as the park operator does remedy the 76590
condition, and may apply for an order to use the rent deposited to 76591
remedy the condition. In any order issued pursuant to this 76592
division, the court may require the resident to deposit rent with 76593
the clerk of court as provided in division (B)(1) of this section. 76594

Sec. ~~3733.121~~ 4781.42. (A) Whenever a resident deposits rent 76595
with the clerk of a court as provided in section ~~3733.12~~ 4781.41 76596
of the Revised Code, the clerk shall give written notice of this 76597
fact to the park operator and to ~~his~~ the park operator's agent, if 76598
any. 76599

(B) The clerk shall place all rent deposited with ~~him~~ the 76600
clerk in a separate rent escrow account in the name of the clerk 76601
in a bank or building and loan association domiciled in this 76602
state. 76603

(C) The clerk shall keep in a separate docket an account of 76604
each deposit, with the name and address of the resident, and the 76605
name and address of the park operator and of ~~his~~ the park 76606
operator's agent, if any. 76607

(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of 76608
one per cent of the amount of the rent deposited, which shall be 76609
assessed as court costs. 76610

(E) All interest that has accrued on the rent deposited by 76611
the clerk of a county court under division (B) of this section 76612
shall be paid into the treasury of the political subdivision for 76613
which the clerk performs ~~his~~ the clerk's duties. All interest that 76614
has accrued on the rent deposited by the clerk of a municipal 76615
court under division (B) of this section shall be paid into the 76616
city treasury as defined in division (B) of section 1901.03 of the 76617
Revised Code. 76618

Sec. ~~3733.122~~ 4781.43. (A) A park operator who receives 76619
notice that rent due ~~him~~ the park operator has been deposited with 76620
a clerk of court pursuant to section ~~3733.12~~ 4781.41 of the 76621
Revised Code, may: 76622

(1) Apply to the clerk of court for release of the rent on 76623
the ground that the condition contained in the notice given 76624
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 76625
Code has been remedied. The clerk shall forthwith release the 76626
rent, less costs, to the park operator if the resident gives 76627
written notice to the clerk that the condition has been remedied. 76628

(2) Apply to the court for release of the rent on the grounds 76629
that the resident did not comply with the notice requirement of 76630
division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or 76631
that the resident was not current in rent payments due under the 76632
rental agreement at the time the resident initiated rent deposits 76633
with the clerk of courts under division (B)(1) of section ~~3733.12~~ 76634
4781.41 of the Revised Code; 76635

(3) Apply to the court for release of the rent on the grounds 76636
that there was no violation of any obligation imposed upon the 76637
park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by 76638
the rental agreement, or by any building, housing, health, or 76639
safety code, or that the condition contained in the notice given 76640
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 76641
Code has been remedied. 76642

(B) The resident shall be named as a party to any action 76643
filed by the park operator under this section, and shall have the 76644
right to file an answer and counterclaim, as in other civil cases. 76645
A trial shall be held within sixty days of the date of filing of 76646
the park operator's complaint, unless for good cause shown the 76647
court grants a continuance. 76648

(C) If the court finds that there was no violation of any 76649

obligation imposed upon the park operator by section ~~3733.10~~ 76650
~~4781.38~~ of the Revised Code or by the rental agreement, or by any 76651
building, housing, health, or safety code, or that the condition 76652
contained in the notice given pursuant to division (A) of section 76653
~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the 76654
resident did not comply with the notice requirement of division 76655
(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the 76656
resident was not current in rent payments at the time the resident 76657
initiated rent deposits with the clerk of court under division 76658
(B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court 76659
shall order the release to the park operator of rent on deposit 76660
with the clerk, less costs. 76661

(D) If the court finds that the condition contained in the 76662
notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 76663
of the Revised Code was the result of an act or omission of the 76664
resident, or that the resident intentionally acted in bad faith in 76665
proceeding under section ~~3733.12~~ 4781.41 of the Revised Code, the 76666
resident shall be liable for damages caused to the park operator, 76667
and for costs, together with reasonable attorneys' fees if the 76668
resident intentionally acted in bad faith. 76669

Sec. ~~3733.123~~ 4781.44. (A) If a park operator brings an 76670
action for the release of rent deposited with a clerk of court, 76671
the court may, during the pendency of the action, upon application 76672
of the park operator, release part of the rent on deposit for 76673
payment of the periodic interest on a mortgage on the premises, 76674
the periodic principal payments on a mortgage on the premises, the 76675
insurance premiums for the premises, real estate taxes on the 76676
premises, utility services, repairs, and other customary and usual 76677
costs of operating the premises. 76678

(B) In determining whether to release rent for the payments 76679
described in division (A) of this section, the court shall 76680

consider the amount of rent the park operator receives from other 76681
lots, the cost of operating these lots, and the costs which may be 76682
required to remedy the condition contained in the notice given 76683
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 76684
Code. 76685

Sec. ~~3733.13~~ 4781.45. If a resident commits a material 76686
violation of the rules of the manufactured home park, of the 76687
~~public health council~~ manufactured homes commission, or of 76688
applicable state and local health and safety codes, the park 76689
operator may deliver a written notification of the violation to 76690
the resident. The notification shall contain all of the following: 76691

(A) A description of the violation; 76692

(B) A statement that the rental agreement will terminate upon 76693
a date specified in the written notice not less than thirty days 76694
after receipt of the notice unless the resident remedies the 76695
violation; 76696

(C) A statement that the violation was material and that if a 76697
second material violation of any park or ~~public health council~~ 76698
commission rule, or any health and safety code, occurs within six 76699
months after the date of this notice, the rental agreement will 76700
terminate immediately; 76701

(D) A statement that a defense available to termination of 76702
the rental agreement for two material violations of park or ~~public~~ 76703
~~health council~~ commission rules, or of health and safety codes, is 76704
that the park rule is unreasonable, or that the park or ~~public~~ 76705
~~health council rule~~ commission, or health or safety code, is not 76706
being enforced against other manufactured home park residents, or 76707
that the two violations were not willful and not committed in bad 76708
faith. 76709

If the resident remedies the condition described in the 76710

notice, whether by repair, the payment of damages, or otherwise, 76711
the rental agreement shall not terminate. The park operator may 76712
terminate the rental agreement immediately if the resident commits 76713
a second material violation of the park or ~~public health council~~ 76714
commission rules, or of applicable state and local health and 76715
safety codes, subject to the defense that the park rule is 76716
unreasonable, that the park or ~~public health council~~ commission 76717
rule, or health or safety code, is not being enforced against 76718
other manufactured home park residents, or that the two violations 76719
were not willful and not committed in bad faith. 76720

Sec. ~~3733.14~~ 4781.46. In any action under sections ~~3733.09~~ 76721
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code, any party may 76722
recover damages for the breach of contract or the breach of any 76723
duty that is imposed by law. 76724

Sec. ~~3733.15~~ 4781.47. (A) No provision of sections ~~3733.09~~ 76725
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code may be modified or 76726
waived by any oral or written agreement except as provided in 76727
division (F) of this section. 76728

(B) No warrant of attorney to confess judgment shall be 76729
recognized in any rental agreement or in any other agreement 76730
between a park operator and resident for the recovery of rent or 76731
damages to the residential premises. 76732

(C) No agreement to pay the park operator's or resident's 76733
attorney fees shall be recognized in any rental agreement for 76734
residential premises or in any other agreement between a park 76735
operator and resident. 76736

(D) No agreement by a resident to the exculpation or 76737
limitation of any liability of the park operator arising under law 76738
or to indemnify the park operator for that liability or its 76739
related costs shall be recognized in any rental agreement or in 76740

any other agreement between a park operator and resident. 76741

(E) A rental agreement, or the assignment, conveyance, trust 76742
deed, or security instrument of the park operator's interest in 76743
the rental agreement may not permit the receipt of rent free of 76744
the obligation to comply with section ~~3733.10~~ 4781.38 of the 76745
Revised Code. 76746

(F) The park operator may agree to assume responsibility for 76747
fulfilling any duty or obligation imposed on a resident by section 76748
~~3733.101~~ 4781.39 of the Revised Code. 76749

Sec. ~~3733.16~~ 4781.48. (A) If the court as a matter of law 76750
finds a rental agreement, or any clause of it, to have been 76751
unconscionable at the time it was made, it may refuse to enforce 76752
the rental agreement or it may enforce the remainder of the rental 76753
agreement without the unconscionable clause, or it may so limit 76754
the application of any unconscionable clause as to avoid any 76755
unconscionable result. 76756

(B) When it is claimed or appears to the court that the 76757
rental agreement, or any clause of it, may be unconscionable, the 76758
parties shall be afforded a reasonable opportunity to present 76759
evidence as to its setting, purpose, and effect to aid the court 76760
in making the determination. 76761

Sec. ~~3733.17~~ 4781.49. (A) No park operator of residential 76762
premises shall initiate any act, including termination of 76763
utilities or services, exclusion from the premises, or threat of 76764
any unlawful act, against a resident, or a resident whose right to 76765
possession has terminated, for the purpose of recovering 76766
possession of residential premises, other than as provided in 76767
Chapters 1923., ~~3733.~~ 4781., and 5303. of the Revised Code. 76768

(B) No park operator of residential premises shall seize the 76769
furnishings or possessions of a resident, or of a resident whose 76770

right to possession was terminated, for the purpose of recovering 76771
rent payments, other than in accordance with an order issued by a 76772
court of competent jurisdiction. 76773

(C) A park operator who violates this section is liable in a 76774
civil action for all damages caused to a resident, or to a 76775
resident whose right to possession has terminated, together with 76776
reasonable attorneys' fees. 76777

Sec. ~~3733.18~~ 4781.50. (A) Any security deposit in excess of 76778
fifty dollars or one month's periodic rent, whichever is greater, 76779
shall bear interest on the excess at the rate of five per cent per 76780
annum if the resident remains in possession of the premises for 76781
six months or more, and shall be computed and paid annually by the 76782
park operator to the resident. 76783

(B) Upon termination of the rental agreement any property or 76784
money held by the park operator as a security deposit may be 76785
applied to the payment of past due rent and to the payment of the 76786
amount of damages that the park operator has suffered by reason of 76787
the resident's noncompliance with section ~~3733.101~~ 4781.39 of the 76788
Revised Code or the rental agreement. Any deduction from the 76789
security deposit shall be itemized and identified by the park 76790
operator in a written notice delivered to the resident together 76791
with the amount due, within thirty days after termination of the 76792
rental agreement and delivery of possession. The resident shall 76793
provide the park operator in writing with a forwarding address or 76794
new address to which the written notice and amount due from the 76795
park operator may be sent. If the resident fails to provide the 76796
park operator with the forwarding or new address as required, the 76797
resident shall not be entitled to damages or attorneys' fees under 76798
division (C) of this section. 76799

(C) If the park operator fails to comply with division (B) of 76800
this section, the resident may recover the property and money due 76801

~~him~~ the resident, together with damages in an amount equal to the 76802
amount wrongfully withheld, and reasonable attorneys' fees. 76803

Sec. ~~3733.19~~ 4781.51. (A) Every written rental agreement for 76804
residential premises shall contain the name and address of the 76805
owner of the residential premises and the name and address of the 76806
owner's agent, if any. If the owner or the owner's agent is a 76807
corporation, partnership, limited partnership, association, trust, 76808
or other entity, the address shall be the principal place of 76809
business in the county in which the residential premises are 76810
situated or if there is no place of business in such county then 76811
its principal place of business in this state, and shall include 76812
the name of the person in charge thereof. 76813

(B) If the rental agreement is oral, the park operator, at 76814
the commencement of the term of occupancy, shall deliver to the 76815
resident a written notice containing the information required in 76816
division (A) of this section. 76817

(C) If the park operator fails to provide the notice of the 76818
name and address of the owner and owner's agent, if any, as 76819
required under division (A) or (B) of this section, the notices to 76820
the park operator required under division (A) of sections ~~3733.12~~ 76821
4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the 76822
park operator and the operator's agent. 76823

(D) Every written rental agreement for residential premises 76824
shall contain the following notice in ten-point boldface type: 76825

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK 76826
OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO 76827
~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL 76828
AGREEMENTS IN MANUFACTURED HOME PARKS." 76829

If the rental agreement is oral, the park operator, at the 76830
commencement of the term of occupancy, shall deliver the notice to 76831

the resident in writing. 76832

Sec. ~~3733.20~~ 4781.52. No municipal corporation may adopt or 76833
continue in existence any ordinance and no township may adopt or 76834
continue in existence any resolution that is in conflict with 76835
sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, 76836
or that regulates those rights and obligations of parties to a 76837
rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to 76838
~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to 76839
~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, 76840
building, health, or safety codes of any municipal corporation or 76841
township. 76842

Sec. 4781.54. There is hereby created in the state treasury 76843
the manufactured homes commission regulatory fund. The fund shall 76844
consist of fees collected under section 4781.121 of the Revised 76845
Code and fees paid under section 4781.28 of the Revised Code and 76846
shall be used for the purposes described in those sections. 76847

Sec. 4781.99. (A) Whoever violates division (A) of section 76848
4781.16 of the Revised Code is guilty of a minor misdemeanor on a 76849
first offense and shall be subject to a mandatory fine of one 76850
hundred dollars. On a second offense, the person is guilty of a 76851
misdemeanor of the first degree and shall be subject to a 76852
mandatory fine of one thousand dollars. 76853

(B) Whoever violates section 4781.20 of the Revised Code is 76854
guilty of a minor misdemeanor. 76855

(C) Whoever violates any of the following is guilty of a 76856
misdemeanor of the fourth degree: 76857

(1) Division (B) or (C) of section 4781.16 of the Revised 76858
Code; 76859

(2) Section 4781.22 of the Revised Code; 76860

(3) Section 4781.23 of the Revised Code;	76861
(4) Division (A) of section 4781.24 of the Revised Code;	76862
(5) Section 4781.25 of the Revised Code;	76863
<u>(6) Division (A) of section 4781.35 of the Revised Code.</u>	76864
Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the Revised Code:	76865 76866
(A) "Contiguous property" includes, but is not limited to, a manufactured home park as defined in section 3733.01 <u>4781.01</u> of the Revised Code; a public or publicly subsidized housing project; an apartment complex; a condominium complex; a college or university; an office complex; a shopping center; a hotel; an industrial park; and a race track.	76867 76868 76869 76870 76871 76872
(B) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.	76873 76874
(C) "Gathering lines" and the "gathering of gas" have the same meaning as in the Natural Gas Pipeline Safety Act and the rules adopted by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act, including 49 C.F.R. part 192, as amended.	76875 76876 76877 76878 76879
(D) "Intrastate pipe-line transportation" has the same meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as amended, but excludes the gathering of gas exempted by the Natural Gas Pipeline Safety Act.	76880 76881 76882 76883
(E) "Master-meter system" means a pipe-line system that distributes gas within a contiguous property for which the system operator purchases gas for resale to consumers, including tenants. Such pipe-line system supplies consumers who purchase the gas directly through a meter, or by paying rent, or by other means. The term includes a master-meter system as defined in 49 C.F.R. 191.3, as amended. The term excludes a pipeline within a	76884 76885 76886 76887 76888 76889 76890

manufactured home, mobile home, or a building. 76891

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 et seq., as amended. 76892
76893
76894

(G) "Operator" means any of the following: 76895

(1) A gas company or natural gas company as defined in section 4905.03 of the Revised Code, except that division (A)(5) of that section does not authorize the public utilities commission to relieve any producer of gas, as a gas company or natural gas company, of compliance with sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code created under section 4905.91 of the Revised Code; 76896
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(2) A pipe-line company, as defined in section 4905.03 of the Revised Code, when engaged in the business of transporting gas by pipeline; 76903
76904
76905

(3) A public utility that is excepted from the definition of "public utility" under division (B) or (C) of section 4905.02 of the Revised Code, when engaged in supplying or transporting gas by pipeline within this state; 76906
76907
76908
76909

(4) Any person that owns, operates, manages, controls, or leases any of the following: 76910
76911

(a) Intrastate pipe-line transportation facilities within this state; 76912
76913

(b) Gas gathering lines within this state which are not exempted by the Natural Gas Pipeline Safety Act; 76914
76915

(c) A master-meter system within this state. 76916

"Operator" does not include an ultimate consumer who owns a service line, as defined in 49 C.F.R. 192.3, as amended, on the real property of that ultimate consumer. 76917
76918
76919

(H) "Operator of a master-meter system" means a person 76920

described under division ~~(F)~~(G)(4)(c) of this section. An operator 76921
of a master-meter system is not a public utility under section 76922
4905.02 or a gas or natural gas company under section 4905.03 of 76923
the Revised Code. 76924

(I) "Person" means: 76925

(1) In addition to those defined in division (C) of section 76926
1.59 of the Revised Code, a joint venture or a municipal 76927
corporation; 76928

(2) Any trustee, receiver, assignee, or personal 76929
representative of persons defined in division ~~(H)~~(I)(1) of this 76930
section. 76931

(J) "Safety audit" means the public utilities commission's 76932
audit of the premises, pipe-line facilities, and the records, 76933
maps, and other relevant documents of a master-meter system to 76934
determine the operator's compliance with sections 4905.90 to 76935
4905.96 of the Revised Code and the pipe-line safety code. 76936

(K) "Safety inspection" means any inspection, survey, or 76937
testing of a master-meter system which is authorized or required 76938
by sections 4905.90 to 4905.96 of the Revised Code and the 76939
pipe-line safety code. The term includes, but is not limited to, 76940
leak surveys, inspection of regulators and critical valves, and 76941
monitoring of cathodic protection systems, where applicable. 76942

(L) "Safety-related condition" means any safety-related 76943
condition defined in 49 C.F.R. 191.23, as amended. 76944

(M) "Total Mcfs of gas it supplied or delivered" means the 76945
sum of the following volumes of gas that an operator supplied or 76946
delivered, measured in units per one thousand cubic feet: 76947

(1) Residential sales; 76948

(2) Commercial and industrial sales; 76949

(3) Other sales to public authorities; 76950

- (4) Interdepartmental sales; 76951
- (5) Sales for resale; 76952
- (6) Transportation of gas. 76953

Sec. 4909.15. (A) The public utilities commission, when 76954
fixing and determining just and reasonable rates, fares, tolls, 76955
rentals, and charges, shall determine: 76956

(1) The valuation as of the date certain of the property of 76957
the public utility used and useful in rendering the public utility 76958
service for which rates are to be fixed and determined. The 76959
valuation so determined shall be the total value as set forth in 76960
division (J) of section 4909.05 of the Revised Code, and a 76961
reasonable allowance for materials and supplies and cash working 76962
capital, as determined by the commission. 76963

The commission, in its discretion, may include in the 76964
valuation a reasonable allowance for construction work in progress 76965
but, in no event, may such an allowance be made by the commission 76966
until it has determined that the particular construction project 76967
is at least seventy-five per cent complete. 76968

In determining the percentage completion of a particular 76969
construction project, the commission shall consider, among other 76970
relevant criteria, the per cent of time elapsed in construction; 76971
the per cent of construction funds, excluding allowance for funds 76972
used during construction, expended, or obligated to such 76973
construction funds budgeted where all such funds are adjusted to 76974
reflect current purchasing power; and any physical inspection 76975
performed by or on behalf of any party, including the commission's 76976
staff. 76977

A reasonable allowance for construction work in progress 76978
shall not exceed ten per cent of the total valuation as stated in 76979
this division, not including such allowance for construction work 76980

in progress. 76981

Where the commission permits an allowance for construction 76982
work in progress, the dollar value of the project or portion 76983
thereof included in the valuation as construction work in progress 76984
shall not be included in the valuation as plant in service until 76985
such time as the total revenue effect of the construction work in 76986
progress allowance is offset by the total revenue effect of the 76987
plant in service exclusion. Carrying charges calculated in a 76988
manner similar to allowance for funds used during construction 76989
shall accrue on that portion of the project in service but not 76990
reflected in rates as plant in service, and such accrued carrying 76991
charges shall be included in the valuation of the property at the 76992
conclusion of the offset period for purposes of division (J) of 76993
section 4909.05 of the Revised Code. 76994

From and after April 10, 1985, no allowance for construction 76995
work in progress as it relates to a particular construction 76996
project shall be reflected in rates for a period exceeding 76997
forty-eight consecutive months commencing on the date the initial 76998
rates reflecting such allowance become effective, except as 76999
otherwise provided in this division. 77000

The applicable maximum period in rates for an allowance for 77001
construction work in progress as it relates to a particular 77002
construction project shall be tolled if, and to the extent, a 77003
delay in the in-service date of the project is caused by the 77004
action or inaction of any federal, state, county, or municipal 77005
agency having jurisdiction, where such action or inaction relates 77006
to a change in a rule, standard, or approval of such agency, and 77007
where such action or inaction is not the result of the failure of 77008
the utility to reasonably endeavor to comply with any rule, 77009
standard, or approval prior to such change. 77010

In the event that such period expires before the project goes 77011
into service, the commission shall exclude, from the date of 77012

expiration, the allowance for the project as construction work in 77013
progress from rates, except that the commission may extend the 77014
expiration date up to twelve months for good cause shown. 77015

In the event that a utility has permanently canceled, 77016
abandoned, or terminated construction of a project for which it 77017
was previously permitted a construction work in progress 77018
allowance, the commission immediately shall exclude the allowance 77019
for the project from the valuation. 77020

In the event that a construction work in progress project 77021
previously included in the valuation is removed from the valuation 77022
pursuant to this division, any revenues collected by the utility 77023
from its customers after April 10, 1985, that resulted from such 77024
prior inclusion shall be offset against future revenues over the 77025
same period of time as the project was included in the valuation 77026
as construction work in progress. The total revenue effect of such 77027
offset shall not exceed the total revenues previously collected. 77028

In no event shall the total revenue effect of any offset or 77029
offsets provided under division (A)(1) of this section exceed the 77030
total revenue effect of any construction work in progress 77031
allowance. 77032

(2) A fair and reasonable rate of return to the utility on 77033
the valuation as determined in division (A)(1) of this section; 77034

(3) The dollar annual return to which the utility is entitled 77035
by applying the fair and reasonable rate of return as determined 77036
under division (A)(2) of this section to the valuation of the 77037
utility determined under division (A)(1) of this section; 77038

(4) The cost to the utility of rendering the public utility 77039
service for the test period less the total of any interest on cash 77040
or credit refunds paid, pursuant to section 4909.42 of the Revised 77041
Code, by the utility during the test period. 77042

(a) Federal, state, and local taxes imposed on or measured by 77043

net income may, in the discretion of the commission, be computed 77044
by the normalization method of accounting, provided the utility 77045
maintains accounting reserves that reflect differences between 77046
taxes actually payable and taxes on a normalized basis, provided 77047
that no determination as to the treatment in the rate-making 77048
process of such taxes shall be made that will result in loss of 77049
any tax depreciation or other tax benefit to which the utility 77050
would otherwise be entitled, and further provided that such tax 77051
benefit as redounds to the utility as a result of such a 77052
computation may not be retained by the company, used to fund any 77053
dividend or distribution, or utilized for any purpose other than 77054
the defrayal of the operating expenses of the utility and the 77055
defrayal of the expenses of the utility in connection with 77056
construction work. 77057

(b) The amount of any tax credits granted to an electric 77058
light company under section 5727.391 of the Revised Code for Ohio 77059
coal burned prior to January 1, 2000, shall not be retained by the 77060
company, used to fund any dividend or distribution, or utilized 77061
for any purposes other than the defrayal of the allowable 77062
operating expenses of the company and the defrayal of the 77063
allowable expenses of the company in connection with the 77064
installation, acquisition, construction, or use of a compliance 77065
facility. The amount of the tax credits granted to an electric 77066
light company under that section for Ohio coal burned prior to 77067
January 1, 2000, shall be returned to its customers within three 77068
years after initially claiming the credit through an offset to the 77069
company's rates or fuel component, as determined by the 77070
commission, as set forth in schedules filed by the company under 77071
section 4905.30 of the Revised Code. As used in division 77072
(A)(4)~~(e)~~(b) of this section, "compliance facility" has the same 77073
meaning as in section 5727.391 of the Revised Code. 77074

(B) The commission shall compute the gross annual revenues to 77075

which the utility is entitled by adding the dollar amount of 77076
return under division (A)(3) of this section to the cost of 77077
rendering the public utility service for the test period under 77078
division (A)(4) of this section. 77079

(C) The test period, unless otherwise ordered by the 77080
commission, shall be the twelve-month period beginning six months 77081
prior to the date the application is filed and ending six months 77082
subsequent to that date. In no event shall the test period end 77083
more than nine months subsequent to the date the application is 77084
filed. The revenues and expenses of the utility shall be 77085
determined during the test period. The date certain shall be not 77086
later than the date of filing. 77087

(D) ~~When the~~ (1) The commission shall fix and determine the 77088
just and reasonable rate, fare, charge, toll, rental, or service 77089
to be rendered, charged, demanded, exacted, or collected for the 77090
performance or rendition of a service that will provide a public 77091
utility the allowable gross annual revenues under division (B) of 77092
this section, and order such just and reasonable rate, fare, 77093
charge, toll, rental, or service to be substituted for the 77094
existing one, when either of the following apply: 77095

(a) The commission is of the opinion, after hearing and after 77096
making the determinations under divisions (A) and (B) of this 77097
section, that any of the following apply: 77098

(i) Any rate, fare, charge, toll, rental, schedule, 77099
classification, or service, or any joint rate, fare, charge, toll, 77100
rental, schedule, classification, or service rendered, charged, 77101
demanded, exacted, or proposed to be rendered, charged, demanded, 77102
or exacted, is, or will be, unjust, unreasonable, unjustly 77103
discriminatory, unjustly preferential, or in violation of law~~7~~ 77104
~~that the.~~ 77105

(ii) The service is, or will be, inadequate,~~or that the.~~ 77106

(iii) The maximum rates, charges, tolls, or rentals 77107
chargeable by any such public utility are insufficient to yield 77108
reasonable compensation for the service rendered, and are unjust 77109
and unreasonable, ~~the commission shall.~~ 77110

(b) A public utility's rate, fare, charge, toll, rental, or 77111
schedule, or joint rate, fare, charge, toll, rental, or schedule, 77112
charged, demanded, exacted, or proposed to be charged, demanded, 77113
or exacted, was, or will be, determined in part based on the 77114
utility's payments of assessments under section 4911.18 of the 77115
Revised Code that were based on an appropriation to the office of 77116
the consumers' counsel for fiscal year 2011 or a prior fiscal year 77117
and that exceeded the minimum assessment under that section. 77118

(2) The commission shall make the fixations and 77119
determinations under division (D)(1)(a) of this section: 77120

~~(1)~~(a) With due regard among other things to the value of all 77121
property of the public utility actually used and useful for the 77122
convenience of the public as determined under division (A)(1) of 77123
this section, excluding from such value the value of any franchise 77124
or right to own, operate, or enjoy the same in excess of the 77125
amount, exclusive of any tax or annual charge, actually paid to 77126
any political subdivision of the state or county, as the 77127
consideration for the grant of such franchise or right, and 77128
excluding any value added to such property by reason of a monopoly 77129
or merger, with due regard in determining the dollar annual return 77130
under division (A)(3) of this section to the necessity of making 77131
reservation out of the income for surplus, depreciation, and 77132
contingencies, and; 77133

~~(2)~~(b) With due regard to all such other matters as are 77134
proper, according to the facts in each case, 77135

~~(a)~~(i) Including a fair and reasonable rate of return 77136
determined by the commission with reference to a cost of debt 77137

equal to the actual embedded cost of debt of such public utility, 77138

~~(b)(ii) But not including the portion of any periodic rental 77139
or use payments representing that cost of property that is 77140
included in the valuation report under divisions (F) and (G) of 77141
section 4909.05 of the Revised Code, fix and determine the just 77142
and reasonable rate, fare, charge, toll, rental, or service to be 77143
rendered, charged, demanded, exacted, or collected for the 77144
performance or rendition of the service that will provide the 77145
public utility the allowable gross annual revenues under division 77146
(B) of this section, and order such just and reasonable rate, 77147
fare, charge, toll, rental, or service to be substituted for the 77148
existing one. After such determination. 77149~~

(3) The commission shall make the fixations and 77150
determinations under division (D)(1)(b) of this section 77151
exclusively with regard to the payments of assessments that are 77152
required to be calculated based on the appropriation to the office 77153
of the consumers' counsel for fiscal year 2012. The commission 77154
shall make all such fixations and determinations on or before 77155
December 31, 2011, unless the public utility has filed an 77156
application with the commission under section 4909.18 of the 77157
Revised Code and the application is pending on the effective date 77158
of this section. 77159

(4) After a determination and order made under division (D) 77160
of this section, no change in the rate, fare, toll, charge, 77161
rental, schedule, classification, or service shall be made, 77162
rendered, charged, demanded, exacted, or changed by such public 77163
utility without the order of the commission, and any other rate, 77164
fare, toll, charge, rental, classification, or service is 77165
prohibited. 77166

(E) Upon application of any person or any public utility, and 77167
after notice to the parties in interest and opportunity to be 77168
heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 77169

4921., and 4923. of the Revised Code for other hearings, has been 77170
given, the commission may rescind, alter, or amend an order fixing 77171
any rate, fare, toll, charge, rental, classification, or service, 77172
or any other order made by the commission. Certified copies of 77173
such orders shall be served and take effect as provided for 77174
original orders. 77175

Sec. 4911.02. (A) The consumers' counsel shall be appointed 77176
by the consumers' counsel governing board, and shall hold office 77177
at the pleasure of the board. 77178

(B)(1) The counsel may sue or be sued and has the powers and 77179
duties granted ~~him~~ the counsel under this chapter, and all 77180
necessary powers to carry out the purposes of this chapter. 77181

(2) Without limitation because of enumeration, the counsel: 77182

(a) Shall have all the rights and powers of any party in 77183
interest appearing before the public utilities commission 77184
regarding examination and cross-examination of witnesses, 77185
presentation of evidence, and other matters; 77186

(b) May take appropriate action with respect to residential 77187
consumer complaints concerning quality of service, service 77188
charges, and the operation of the public utilities commission; 77189

(c) May institute, intervene in, or otherwise participate in 77190
proceedings in both state and federal courts and administrative 77191
agencies on behalf of the residential consumers concerning review 77192
of decisions rendered by, or failure to act by, the public 77193
utilities commission; 77194

(d) May conduct long range studies concerning various topics 77195
relevant to the rates charged to ~~residential~~ residential consumers. 77196

(C) The counsel shall not advocate or otherwise promote any 77197
position contrary to development of competitive markets in this 77198
state, including any position contrary to natural gas retail 77199

auctions, merchant-function exit, or the policies of this state 77200
relating to competitive natural gas markets as set forth in 77201
Chapter 4929. of the Revised Code. 77202

Sec. 4911.021. The consumers' counsel shall not operate a 77203
telephone call center for consumer complaints. Any calls received 77204
by the consumers' counsel concerning consumer complaints shall be 77205
forwarded to the public utilities commission's call center. 77206

Sec. 4927.17. (A) Except as provided in sections 4927.07 and 77207
4927.12 of the Revised Code and, if applicable, under rules 77208
adopted by the public utilities commission for the pilot program 77209
for community-voicemail service created in S.B. 162 of the 128th 77210
general assembly, a telephone company shall provide at least 77211
fifteen days' advance notice to its affected customers of any 77212
material change in the rates, terms, and conditions of a service 77213
and any change in the company's operations that are not 77214
transparent to customers and may impact service. 77215

(B) A telephone company shall inform its customers of the 77216
commission's toll-free number and e-mail address on all bills and 77217
disconnection notices ~~and any residential customers of the office~~ 77218
~~of the consumers' counsel's toll free number and e mail address on~~ 77219
~~all residential bills and disconnection notices.~~ 77220

Sec. 4928.10. For the protection of consumers in this state, 77221
the public utilities commission shall adopt rules under division 77222
(A) of section 4928.06 of the Revised Code specifying the 77223
necessary minimum service requirements, on or after the starting 77224
date of competitive retail electric service, of an electric 77225
utility, electric services company, electric cooperative, or 77226
governmental aggregator subject to certification under section 77227
4928.08 of the Revised Code regarding the provision directly or 77228
through its billing and collection agent of competitive retail 77229

electric services for which it is subject to certification. Rules 77230
adopted under this section shall include a prohibition against 77231
unfair, deceptive, and unconscionable acts and practices in the 77232
marketing, solicitation, and sale of such a competitive retail 77233
electric service and in the administration of any contract for 77234
service, and also shall include additional consumer protections 77235
concerning all of the following: 77236

(A) Contract disclosure. The rules shall include requirements 77237
that an electric utility, electric services company, electric 77238
cooperative, or governmental aggregator subject to certification 77239
under section 4928.08 of the Revised Code do both of the 77240
following: 77241

(1) Provide consumers with adequate, accurate, and 77242
understandable pricing and terms and conditions of service, 77243
including any switching fees, and with a document containing the 77244
terms and conditions of pricing and service before the consumer 77245
enters into the contract for service; 77246

(2) Disclose the conditions under which a customer may 77247
rescind a contract without penalty. 77248

(B) Service termination. The rules shall include disclosure 77249
of the terms identifying how customers may switch or terminate 77250
service, including any required notice and any penalties. 77251

(C) Minimum content of customer bills. The rules shall 77252
include all of the following requirements, which shall be 77253
standardized: 77254

(1) Price disclosure and disclosures of total billing units 77255
for the billing period and historical annual usage; 77256

(2) To the maximum extent practicable, separate listing of 77257
each service component to enable a customer to recalculate its 77258
bill for accuracy; 77259

(3) Identification of the supplier of each service;	77260
(4) Statement of where and how payment may be made and provision of a toll-free or local customer assistance and complaint number for the electric utility, electric services company, electric cooperative, or governmental aggregator, as well as a consumer assistance telephone number or numbers for state agencies, such as the commission, the office of the consumers' counsel, and the attorney general's office, with the available hours noted;	77261 77262 77263 77264 77265 77266 77267 77268
(5) Other than for the first billing after the starting date of competitive retail electric service, highlighting and clear explanation on each customer bill, for two consecutive billing periods, of any changes in the rates, terms, and conditions of service.	77269 77270 77271 77272 77273
(D) Disconnection and service termination, including requirements with respect to master-metered buildings. The rules shall include policies and procedures that are consistent with sections 4933.121 and 4933.122 of the Revised Code and the commission's rules adopted under those sections, and that provide for all of the following:	77274 77275 77276 77277 77278 77279
(1) Coordination between suppliers for the purpose of maintaining service;	77280 77281
(2) The allocation of partial payments between suppliers when service components are jointly billed;	77282 77283
(3) A prohibition against blocking, or authorizing the blocking of, customer access to a noncompetitive retail electric service when a customer is delinquent in payments to the electric utility or electric services company for a competitive retail electric service;	77284 77285 77286 77287 77288
(4) A prohibition against switching, or authorizing the switching of, a customer's supplier of competitive retail electric	77289 77290

service without the prior consent of the customer in accordance 77291
with appropriate confirmation practices, which may include 77292
independent, third-party verification procedures. 77293

(5) A requirement of disclosure of the conditions under which 77294
a customer may rescind a decision to switch its supplier without 77295
penalty; 77296

(6) Specification of any required notice and any penalty for 77297
early termination of contract. 77298

(E) Minimum service quality, safety, and reliability. 77299
However, service quality, safety, and reliability requirements for 77300
electric generation service shall be determined primarily through 77301
market expectations and contractual relationships. 77302

(F) Generation resource mix and environmental characteristics 77303
of power supplies. The rules shall include requirements for 77304
determination of the approximate generation resource mix and 77305
environmental characteristics of the power supplies and disclosure 77306
to the customer prior to the customer entering into a contract to 77307
purchase and four times per year under the contract. The rules 77308
also shall require that the electric utility, electric services 77309
company, electric cooperative, or governmental aggregator provide, 77310
or cause its billing and collection agent to provide, a customer 77311
with standardized information comparing the projected, with the 77312
actual and verifiable, resource mix and environmental 77313
characteristics. This disclosure shall occur not less than 77314
annually or not less than once during the contract period if the 77315
contract period is less than one year, and prior to any renewal of 77316
a contract. 77317

(G) Customer information. The rules shall include 77318
requirements that the electric utility, electric services company, 77319
electric cooperative, or governmental aggregator make generic 77320
customer load pattern information available to other electric 77321

light companies on a comparable and nondiscriminatory basis, and 77322
make customer-specific information available to other electric 77323
light companies on a comparable and nondiscriminatory basis 77324
unless, as to customer-specific information, the customer objects. 77325
The rules shall ensure that each such utility, company, 77326
cooperative, or aggregator provide clear and frequent notice to 77327
its customers of the right to object and of applicable procedures. 77328
The rules shall establish the exact language that shall be used in 77329
all such notices. 77330

Sec. 4928.18. (A) Notwithstanding division (D)(2)~~(a)~~(b)(i) of 77331
section 4909.15 of the Revised Code, nothing in this chapter 77332
prevents the public utilities commission from exercising its 77333
authority under Title XLIX of the Revised Code to protect 77334
customers of retail electric service supplied by an electric 77335
utility from any adverse effect of the utility's provision of a 77336
product or service other than retail electric service. 77337

(B) The commission has jurisdiction under section 4905.26 of 77338
the Revised Code, upon complaint of any person or upon complaint 77339
or initiative of the commission on or after the starting date of 77340
competitive retail electric service, to determine whether an 77341
electric utility or its affiliate has violated any provision of 77342
section 4928.17 of the Revised Code or an order issued or rule 77343
adopted under that section. For this purpose, the commission may 77344
examine such books, accounts, or other records kept by an electric 77345
utility or its affiliate as may relate to the businesses for which 77346
corporate separation is required under section 4928.17 of the 77347
Revised Code, and may investigate such utility or affiliate 77348
operations as may relate to those businesses and investigate the 77349
interrelationship of those operations. Any such examination or 77350
investigation by the commission shall be governed by Chapter 4903. 77351
of the Revised Code. 77352

(C) In addition to any remedies otherwise provided by law, 77353
the commission, regarding a determination of a violation pursuant 77354
to division (B) of this section, may do any of the following: 77355

(1) Issue an order directing the utility or affiliate to 77356
comply; 77357

(2) Modify an order as the commission finds reasonable and 77358
appropriate and order the utility or affiliate to comply with the 77359
modified order; 77360

(3) Suspend or abrogate an order, in whole or in part; 77361

(4) Issue an order that the utility or affiliate pay 77362
restitution to any person injured by the violation or failure to 77363
comply; 77364

(D) In addition to any remedies otherwise provided by law, 77365
the commission, regarding a determination of a violation pursuant 77366
to division (B) of this section and commensurate with the severity 77367
of the violation, the source of the violation, any pattern of 77368
violations, or any monetary damages caused by the violation, may 77369
do either of the following: 77370

(1) Impose a forfeiture on the utility or affiliate of up to 77371
twenty-five thousand dollars per day per violation. The recovery 77372
and deposit of any such forfeiture shall be subject to sections 77373
4905.57 and 4905.59 of the Revised Code. 77374

(2) Regarding a violation by an electric utility relating to 77375
a corporate separation plan involving competitive retail electric 77376
service, suspend or abrogate all or part of an order, to the 77377
extent it is in effect, authorizing an opportunity for the utility 77378
to receive transition revenues under a transition plan approved by 77379
the commission under section 4928.33 of the Revised Code. 77380

Corporate separation under this section does not prohibit the 77381
common use of employee benefit plans, facilities, equipment, or 77382

employees, subject to proper accounting and the code of conduct 77383
ordered by the commission as provided in division (A)(1) of this 77384
section. 77385

(E) Section 4905.61 of the Revised Code applies in the case 77386
of any violation of section 4928.17 of the Revised Code or of any 77387
rule adopted or order issued under that section. 77388

Sec. 4928.20. (A) The legislative authority of a municipal 77389
corporation may adopt an ordinance, or the board of township 77390
trustees of a township or the board of county commissioners of a 77391
county may adopt a resolution, under which, on or after the 77392
starting date of competitive retail electric service, it may 77393
aggregate in accordance with this section the retail electrical 77394
loads located, respectively, within the municipal corporation, 77395
township, or unincorporated area of the county and, for that 77396
purpose, may enter into service agreements to facilitate for those 77397
loads the sale and purchase of electricity. The legislative 77398
authority or board also may exercise such authority jointly with 77399
any other such legislative authority or board. For customers that 77400
are not mercantile customers, an ordinance or resolution under 77401
this division shall specify whether the aggregation will occur 77402
only with the prior, affirmative consent of each person owning, 77403
occupying, controlling, or using an electric load center proposed 77404
to be aggregated or will occur automatically for all such persons 77405
pursuant to the opt-out requirements of division (D) of this 77406
section. The aggregation of mercantile customers shall occur only 77407
with the prior, affirmative consent of each such person owning, 77408
occupying, controlling, or using an electric load center proposed 77409
to be aggregated. Nothing in this division, however, authorizes 77410
the aggregation of the retail electric loads of an electric load 77411
center, as defined in section 4933.81 of the Revised Code, that is 77412
located in the certified territory of a nonprofit electric 77413
supplier under sections 4933.81 to 4933.90 of the Revised Code or 77414

an electric load center served by transmission or distribution 77415
facilities of a municipal electric utility. 77416

(B) If an ordinance or resolution adopted under division (A) 77417
of this section specifies that aggregation of customers that are 77418
not mercantile customers will occur automatically as described in 77419
that division, the ordinance or resolution shall direct the board 77420
of elections to submit the question of the authority to aggregate 77421
to the electors of the respective municipal corporation, township, 77422
or unincorporated area of a county at a special election on the 77423
day of the next primary or general election in the municipal 77424
corporation, township, or county. The legislative authority or 77425
board shall certify a copy of the ordinance or resolution to the 77426
board of elections not less than ninety days before the day of the 77427
special election. No ordinance or resolution adopted under 77428
division (A) of this section that provides for an election under 77429
this division shall take effect unless approved by a majority of 77430
the electors voting upon the ordinance or resolution at the 77431
election held pursuant to this division. 77432

(C) Upon the applicable requisite authority under divisions 77433
(A) and (B) of this section, the legislative authority or board 77434
shall develop a plan of operation and governance for the 77435
aggregation program so authorized. Before adopting a plan under 77436
this division, the legislative authority or board shall hold at 77437
least two public hearings on the plan. Before the first hearing, 77438
the legislative authority or board shall publish notice of the 77439
hearings once a week for two consecutive weeks in a newspaper of 77440
general circulation in the jurisdiction or as provided in section 77441
7.16 of the Revised Code. The notice shall summarize the plan and 77442
state the date, time, and location of each hearing. 77443

(D) No legislative authority or board, pursuant to an 77444
ordinance or resolution under divisions (A) and (B) of this 77445
section that provides for automatic aggregation of customers that 77446

are not mercantile customers as described in division (A) of this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the program every three years, without paying a switching fee. Any such person that opts out before the commencement of the aggregation program pursuant to the stated procedure shall default to the standard service offer provided under section 4928.14 or division (D) of section 4928.35 of the Revised Code until the person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in, respectively, the township or the unincorporated area of the county who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail electric service it provides and commission authority under this chapter.

(G) This section does not apply in the case of a municipal corporation that supplies such aggregated service to electric load centers to which its municipal electric utility also supplies a noncompetitive retail electric service through transmission or distribution facilities the utility singly or jointly owns or operates.

(H) A governmental aggregator shall not include in its aggregation the accounts of any of the following:

- (1) A customer that has opted out of the aggregation;
- (2) A customer in contract with a certified electric services company;
- (3) A customer that has a special contract with an electric distribution utility;
- (4) A customer that is not located within the governmental aggregator's governmental boundaries;
- (5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list

maintained under that section. 77509

(I) Customers that are part of a governmental aggregation 77510
under this section shall be responsible only for such portion of a 77511
surcharge under section 4928.144 of the Revised Code that is 77512
proportionate to the benefits, as determined by the commission, 77513
that electric load centers within the jurisdiction of the 77514
governmental aggregation as a group receive. The proportionate 77515
surcharge so established shall apply to each customer of the 77516
governmental aggregation while the customer is part of that 77517
aggregation. If a customer ceases being such a customer, the 77518
otherwise applicable surcharge shall apply. Nothing in this 77519
section shall result in less than full recovery by an electric 77520
distribution utility of any surcharge authorized under section 77521
4928.144 of the Revised Code. 77522

(J) On behalf of the customers that are part of a 77523
governmental aggregation under this section and by filing written 77524
notice with the public utilities commission, the legislative 77525
authority that formed or is forming that governmental aggregation 77526
may elect not to receive standby service within the meaning of 77527
division (B)(2)(d) of section 4928.143 of the Revised Code from an 77528
electric distribution utility in whose certified territory the 77529
governmental aggregation is located and that operates under an 77530
approved electric security plan under that section. Upon the 77531
filing of that notice, the electric distribution utility shall not 77532
charge any such customer to whom competitive retail electric 77533
generation service is provided by another supplier under the 77534
governmental aggregation for the standby service. Any such 77535
consumer that returns to the utility for competitive retail 77536
electric service shall pay the market price of power incurred by 77537
the utility to serve that consumer plus any amount attributable to 77538
the utility's cost of compliance with the alternative energy 77539
resource provisions of section 4928.64 of the Revised Code to 77540

serve the consumer. Such market price shall include, but not be 77541
limited to, capacity and energy charges; all charges associated 77542
with the provision of that power supply through the regional 77543
transmission organization, including, but not limited to, 77544
transmission, ancillary services, congestion, and settlement and 77545
administrative charges; and all other costs incurred by the 77546
utility that are associated with the procurement, provision, and 77547
administration of that power supply, as such costs may be approved 77548
by the commission. The period of time during which the market 77549
price and alternative energy resource amount shall be so assessed 77550
on the consumer shall be from the time the consumer so returns to 77551
the electric distribution utility until the expiration of the 77552
electric security plan. However, if that period of time is 77553
expected to be more than two years, the commission may reduce the 77554
time period to a period of not less than two years. 77555

(K) The commission shall adopt rules to encourage and promote 77556
large-scale governmental aggregation in this state. For that 77557
purpose, the commission shall conduct an immediate review of any 77558
rules it has adopted for the purpose of this section that are in 77559
effect on the effective date of the amendment of this section by 77560
S.B. 221 of the 127th general assembly, July 31, 2008. Further, 77561
within the context of an electric security plan under section 77562
4928.143 of the Revised Code, the commission shall consider the 77563
effect on large-scale governmental aggregation of any 77564
nonbypassable generation charges, however collected, that would be 77565
established under that plan, except any nonbypassable generation 77566
charges that relate to any cost incurred by the electric 77567
distribution utility, the deferral of which has been authorized by 77568
the commission prior to the effective date of the amendment of 77569
this section by S.B. 221 of the 127th general assembly, July 31, 77570
2008. 77571

Sec. 4929.22. For the protection of consumers in this state, 77572

the public utilities commission shall adopt rules under section 77573
4929.10 of the Revised Code specifying the necessary minimum 77574
service requirements of a retail natural gas supplier or 77575
governmental aggregator subject to certification under section 77576
4929.20 of the Revised Code regarding the marketing, solicitation, 77577
sale, or provision, directly or through its billing and collection 77578
agent, of any competitive retail natural gas service for which it 77579
is subject to certification. Rules adopted under this section 77580
shall include additional consumer protections concerning all of 77581
the following: 77582

(A) Contract disclosure. The rules shall include requirements 77583
that a retail natural gas supplier or governmental aggregator 77584
subject to certification under section 4929.20 of the Revised Code 77585
do both of the following: 77586

(1) Provide consumers with adequate, accurate, and 77587
understandable pricing and terms and conditions of service, 77588
including any switching fees, and with a document containing the 77589
terms and conditions of pricing and service before the consumer 77590
enters into the contract for service; 77591

(2) Disclose the conditions under which a customer may 77592
rescind a contract without penalty. 77593

(B) Service qualification and termination. The rules shall 77594
include a requirement that, before a consumer is eligible for 77595
service from a retail natural gas supplier or governmental 77596
aggregator subject to certification under section 4929.20 of the 77597
Revised Code, the consumer shall discharge, or enter into a plan 77598
to discharge, all existing arrearages owed to or being billed by 77599
the natural gas company from which the consumer presently is 77600
receiving service. The rules also shall provide for disclosure of 77601
the terms identifying how customers may switch or terminate 77602
service, including any required notice and any penalties. 77603

(C) Minimum content of customer bills. The rules shall 77604
include all of the following requirements, which shall be 77605
standardized: 77606

(1) Price disclosure and disclosures of total billing units 77607
for the billing period and historical annual usage; 77608

(2) To the maximum extent practicable, separate listing of 77609
each service component to enable a customer to recalculate its 77610
bill for accuracy; 77611

(3) Identification of the supplier of each service; 77612

(4) Statement of where and how payment may be made and 77613
provision of a toll-free or local customer assistance and 77614
complaint number for the retail natural gas supplier or 77615
governmental aggregator, as well as a consumer assistance 77616
telephone number or numbers for state agencies, such as the 77617
commission, ~~the office of the consumers' counsel~~, and the attorney 77618
general's office, with the available hours noted; 77619

(5) Other than for the first billing after the effective date 77620
of initial rules adopted pursuant to division (A) of section 77621
4929.20 of the Revised Code, highlighting and clear explanation on 77622
each customer bill, for two consecutive billing periods, of any 77623
changes in the rates, terms, and conditions of service. 77624

(D) Disconnection and service termination, including 77625
requirements with respect to master-metered buildings. The rules 77626
shall include policies and procedures that are consistent with 77627
sections 4933.12 and 4933.122 of the Revised Code and the 77628
commission's rules adopted under those sections, and that provide 77629
for all of the following: 77630

(1) Coordination between suppliers for the purpose of 77631
maintaining service; 77632

(2) The allocation of partial payments between suppliers when 77633

service components are jointly billed; 77634

(3) A prohibition against switching, or authorizing the 77635
switching of, a customer's supplier of competitive retail natural 77636
gas service without the prior consent of the customer in 77637
accordance with appropriate confirmation practices, which may 77638
include independent, third-party verification procedures; 77639

(4) A requirement of disclosure of the conditions under which 77640
a customer may rescind a decision to switch its supplier without 77641
penalty; 77642

(5) Specification of any required notice and any penalty for 77643
early termination of contract. 77644

(E) Minimum service quality, safety, and reliability. 77645

(F) Customer information. The rules shall include 77646
requirements that a natural gas company make generic customer load 77647
pattern information available to a retail natural gas supplier or 77648
governmental aggregator as defined in division (K)(1) or (2) of 77649
section 4929.01 of the Revised Code on a comparable and 77650
nondiscriminatory basis, and make customer information available 77651
to a retail natural gas supplier or governmental aggregator as 77652
defined in division (K)(1) or (2) of section 4929.01 of the 77653
Revised Code on a comparable and nondiscriminatory basis unless, 77654
as to customer information, the customer objects. The rules shall 77655
ensure that each natural gas company provide clear and frequent 77656
notice to its customers of the right to object and of applicable 77657
procedures. The rules shall establish the exact language that 77658
shall be used in all such notices. The rules also shall require 77659
that, upon the request of a governmental aggregator defined in 77660
division (K)(1) of section 4929.01 of the Revised Code, solely for 77661
purposes of the disclosure required by division (D) of section 77662
4929.26 of the Revised Code, or for purposes of a governmental 77663
aggregator defined in division (K)(2) of section 4929.01 of the 77664

Revised Code, a natural gas company or retail natural gas supplier 77665
must provide the governmental aggregator, in a timely manner and 77666
at such cost as the commission shall provide for in the rules, 77667
with the billing names and addresses of the customers of the 77668
company or supplier whose retail natural gas loads are to be 77669
included in the governmental aggregation. 77670

(G) Ohio office. The rules shall require that a retail 77671
natural gas supplier maintain an office and an employee in this 77672
state. 77673

Sec. 4929.26. (A)(1) The legislative authority of a municipal 77674
corporation may adopt an ordinance, or the board of township 77675
trustees of a township or the board of county commissioners of a 77676
county may adopt a resolution, under which, in accordance with 77677
this section and except as otherwise provided in division (A)(2) 77678
of this section, the legislative authority or board may aggregate 77679
automatically, subject to the opt-out requirements of division (D) 77680
of this section, competitive retail natural gas service for the 77681
retail natural gas loads that are located, respectively, within 77682
the municipal corporation, township, or unincorporated area of the 77683
county and for which there is a choice of supplier of that service 77684
as a result of revised schedules approved under division (C) of 77685
section 4929.29 of the Revised Code, a rule or order adopted or 77686
issued by the commission under Chapter 4905. of the Revised Code, 77687
or an exemption granted by the commission under sections 4929.04 77688
to 4929.08 of the Revised Code. An ordinance or a resolution 77689
adopted under this section shall expressly state that it is 77690
adopted pursuant to the authority conferred by this section. The 77691
legislative authority or board also may exercise its authority 77692
under this section jointly with any other such legislative 77693
authority or board. For the purpose of the aggregation, the 77694
legislative authority or board may enter into service agreements 77695
to facilitate the sale and purchase of the service for the retail 77696

natural gas loads. 77697

(2)(a) No aggregation under an ordinance or resolution 77698
adopted under division (A)(1) of this section shall include the 77699
retail natural gas load of any person that meets any of the 77700
following criteria: 77701

(i) The person is both a distribution service customer and a 77702
mercantile customer on the date of commencement of service to the 77703
aggregated load, or the person becomes a distribution service 77704
customer after that date and also is a mercantile customer. 77705

(ii) The person is supplied with commodity sales service 77706
pursuant to a contract with a retail natural gas supplier that is 77707
in effect on the effective date of the ordinance or resolution. 77708

(iii) The person is supplied with commodity sales service as 77709
part of a retail natural gas load aggregation provided for 77710
pursuant to a rule or order adopted or issued by the commission 77711
under this chapter or Chapter 4905. of the Revised Code. 77712

(b) Nothing in division (A)(2)(a) of this section precludes a 77713
governmental aggregation under this section from permitting the 77714
retail natural gas load of a person described in division 77715
(A)(2)(a) of this section from being included in the aggregation 77716
upon the expiration of any contract or aggregation as described in 77717
division (A)(2)(a)(ii) or (iii) of this section or upon the person 77718
no longer being a customer as described in division (A)(2)(a)(i) 77719
of this section or qualifying to be included in an aggregation 77720
described under division (A)(2)(a)(iii) of this section. 77721

(B) An ordinance or resolution adopted under division (A) of 77722
this section shall direct the board of elections to submit the 77723
question of the authority to aggregate to the electors of the 77724
respective municipal corporation, township, or unincorporated area 77725
of a county at a special election on the day of the next primary 77726

or general election in the municipal corporation, township, or 77727
county. The legislative authority or board shall certify a copy of 77728
the ordinance or resolution to the board of elections not less 77729
than ninety days before the day of the special election. No 77730
ordinance or resolution adopted under division (A) of this section 77731
that provides for an election under this division shall take 77732
effect unless approved by a majority of the electors voting upon 77733
the ordinance or resolution at the election held pursuant to this 77734
division. 77735

(C) Upon the applicable requisite authority under divisions 77736
(A) and (B) of this section, the legislative authority or board 77737
shall develop a plan of operation and governance for the 77738
aggregation program so authorized. Before adopting a plan under 77739
this division, the legislative authority or board shall hold at 77740
least two public hearings on the plan. Before the first hearing, 77741
the legislative authority or board shall publish notice of the 77742
hearings once a week for two consecutive weeks in a newspaper of 77743
general circulation in the jurisdiction or as provided in section 77744
7.16 of the Revised Code. The notice shall summarize the plan and 77745
state the date, time, and location of each hearing. 77746

(D) No legislative authority or board, pursuant to an 77747
ordinance or resolution under divisions (A) and (B) of this 77748
section, shall aggregate any retail natural gas load located 77749
within its jurisdiction unless it in advance clearly discloses to 77750
the person whose retail natural gas load is to be so aggregated 77751
that the person will be enrolled automatically in the aggregation 77752
and will remain so enrolled unless the person affirmatively elects 77753
by a stated procedure not to be so enrolled. The disclosure shall 77754
state prominently the rates, charges, and other terms and 77755
conditions of enrollment. The stated procedure shall allow any 77756
person enrolled in the aggregation the opportunity to opt out of 77757
the aggregation every two years, without paying a switching fee. 77758

Any such person that opts out of the aggregation pursuant to the 77759
stated procedure shall default to the natural gas company 77760
providing distribution service for the person's retail natural gas 77761
load, until the person chooses an alternative supplier. 77762

(E)(1) With respect to a governmental aggregation for a 77763
municipal corporation that is authorized pursuant to divisions (A) 77764
to (D) of this section, resolutions may be proposed by initiative 77765
or referendum petitions in accordance with sections 731.28 to 77766
731.41 of the Revised Code. 77767

(2) With respect to a governmental aggregation for a township 77768
or the unincorporated area of a county, which aggregation is 77769
authorized pursuant to divisions (A) to (D) of this section, 77770
resolutions may be proposed by initiative or referendum petitions 77771
in accordance with sections 731.28 to 731.40 of the Revised Code, 77772
except that: 77773

(a) The petitions shall be filed, respectively, with the 77774
township fiscal officer or the board of county commissioners, who 77775
shall perform those duties imposed under those sections upon the 77776
city auditor or village clerk. 77777

(b) The petitions shall contain the signatures of not less 77778
than ten per cent of the total number of electors in the township 77779
or the unincorporated area of the county, respectively, who voted 77780
for the office of governor at the preceding general election for 77781
that office in that area. 77782

(F) A governmental aggregator under division (A) of this 77783
section is not a public utility engaging in the wholesale purchase 77784
and resale of natural gas, and provision of the aggregated service 77785
is not a wholesale utility transaction. A governmental aggregator 77786
shall be subject to supervision and regulation by the public 77787
utilities commission only to the extent of any competitive retail 77788
natural gas service it provides and commission authority under 77789

this chapter. 77790

Sec. 4929.27. (A)(1) The legislative authority of a municipal 77791
corporation may adopt an ordinance, or the board of township 77792
trustees of a township or the board of county commissioners of a 77793
county may adopt a resolution, under which, in accordance with 77794
this section and except as otherwise provided in division (A)(2) 77795
of this section, the legislative authority or board may aggregate, 77796
with the prior consent of each person whose retail natural gas 77797
load is proposed to be aggregated, competitive retail natural gas 77798
service for any such retail natural gas load that is located, 77799
respectively, within the municipal corporation, township, or 77800
unincorporated area of the county and for which there is a choice 77801
of supplier of that service as a result of revised schedules 77802
approved under division (C) of section 4929.29 of the Revised 77803
Code, a rule or order adopted or issued by the commission under 77804
Chapter 4905. of the Revised Code, or an exemption granted by the 77805
commission under sections 4929.04 to 4929.08 of the Revised Code. 77806
An ordinance or a resolution adopted under this section shall 77807
expressly state that it is adopted pursuant to the authority 77808
conferred by this section. The legislative authority or board also 77809
may exercise such authority jointly with any other such 77810
legislative authority or board. For the purpose of the 77811
aggregation, the legislative authority or board may enter into 77812
service agreements to facilitate the sale and purchase of the 77813
service for the retail natural gas loads. 77814

(2)(a) No aggregation under an ordinance or resolution 77815
adopted under division (A)(1) of this section shall include the 77816
retail natural gas load of any person that meets either of the 77817
following criteria: 77818

(i) The person is supplied with commodity sales service 77819
pursuant to a contract with a retail natural gas supplier that is 77820

in effect on the effective date of the ordinance or resolution. 77821

(ii) The person is supplied with commodity sales service as 77822
part of a retail natural gas load aggregation provided for 77823
pursuant to a rule or order adopted or issued by the commission 77824
under this chapter or Chapter 4905. of the Revised Code. 77825

(b) Nothing in division (A)(2)(a) of this section precludes a 77826
governmental aggregation under this section from permitting the 77827
retail natural gas load of a person described in division 77828
(A)(2)(a) of this section from being included in the aggregation 77829
upon the expiration of any contract or aggregation as described in 77830
division (A)(2)(a)(i) or (ii) of this section or upon the person 77831
no longer qualifying to be included in an aggregation. 77832

(B) Upon the applicable requisite authority under division 77833
(A) of this section, the legislative authority or board shall 77834
develop a plan of operation and governance for the aggregation 77835
program so authorized. Before adopting a plan under this division, 77836
the legislative authority or board shall hold at least two public 77837
hearings on the plan. Before the first hearing, the legislative 77838
authority or board shall publish notice of the hearings once a 77839
week for two consecutive weeks in a newspaper of general 77840
circulation in the jurisdiction or as provided in section 7.16 of 77841
the Revised Code. The notice shall summarize the plan and state 77842
the date, time, and location of each hearing. 77843

(C)(1) With respect to a governmental aggregation for a 77844
municipal corporation that is authorized pursuant to division (A) 77845
of this section, resolutions may be proposed by initiative or 77846
referendum petitions in accordance with sections 731.28 to 731.41 77847
of the Revised Code. 77848

(2) With respect to a governmental aggregation for a township 77849
or the unincorporated area of a county, which aggregation is 77850
authorized pursuant to division (A) of this section, resolutions 77851

may be proposed by initiative or referendum petitions in 77852
accordance with sections 731.28 to 731.40 of the Revised Code, 77853
except that: 77854

(a) The petitions shall be filed, respectively, with the 77855
township fiscal officer or the board of county commissioners, who 77856
shall perform those duties imposed under those sections upon the 77857
city auditor or village clerk. 77858

(b) The petitions shall contain the signatures of not less 77859
than ten per cent of the total number of electors in the township 77860
or the unincorporated area of the county, respectively, who voted 77861
for the office of governor at the preceding general election for 77862
that office in that area. 77863

(D) A governmental aggregator under division (A) of this 77864
section is not a public utility engaging in the wholesale purchase 77865
and resale of natural gas, and provision of the aggregated service 77866
is not a wholesale utility transaction. A governmental aggregator 77867
shall be subject to supervision and regulation by the public 77868
utilities commission only to the extent of any competitive retail 77869
natural gas service it provides and commission authority under 77870
this chapter. 77871

Sec. 4931.51. (A)(1) For the purpose of paying the costs of 77872
establishing, equipping, and furnishing one or more public safety 77873
answering points as part of a countywide 9-1-1 system effective 77874
under division (B) of section 4931.44 of the Revised Code and 77875
paying the expense of administering and enforcing this section, 77876
the board of county commissioners of a county, in accordance with 77877
this section, may fix and impose, on each lot or parcel of real 77878
property in the county that is owned by a person, municipal 77879
corporation, township, or other political subdivision and is 77880
improved, or is in the process of being improved, reasonable 77881
charges to be paid by each such owner. The charges shall be 77882

sufficient to pay only the estimated allowed costs and shall be 77883
equal in amount for all such lots or parcels. 77884

(2) For the purpose of paying the costs of operating and 77885
maintaining the answering points and paying the expense of 77886
administering and enforcing this section, the board, in accordance 77887
with this section, may fix and impose reasonable charges to be 77888
paid by each owner, as provided in division (A)(1) of this 77889
section, that shall be sufficient to pay only the estimated 77890
allowed costs and shall be equal in amount for all such lots or 77891
parcels. The board may fix and impose charges under this division 77892
pursuant to a resolution adopted for the purposes of both 77893
divisions (A)(1) and (2) of this section or pursuant to a 77894
resolution adopted solely for the purpose of division (A)(2) of 77895
this section, and charges imposed under division (A)(2) of this 77896
section may be separately imposed or combined with charges imposed 77897
under division (A)(1) of this section. 77898

(B) Any board adopting a resolution under this section 77899
pursuant to a final plan initiating the establishment of a 9-1-1 77900
system or pursuant to an amendment to a final plan shall adopt the 77901
resolution within sixty days after the board receives the final 77902
plan for the 9-1-1 system pursuant to division (C) of section 77903
4931.43 of the Revised Code. The board by resolution may change 77904
any charge imposed under this section whenever the board considers 77905
it advisable. Any resolution adopted under this section shall 77906
declare whether securities will be issued under Chapter 133. of 77907
the Revised Code in anticipation of the collection of unpaid 77908
special assessments levied under this section. 77909

(C) The board shall adopt a resolution under this section at 77910
a public meeting held in accordance with section 121.22 of the 77911
Revised Code. Additionally, the board, before adopting any such 77912
resolution, shall hold at least two public hearings on the 77913
proposed charges. Prior to the first hearing, the board shall 77914

publish notice of the hearings once a week for two consecutive 77915
weeks in a newspaper of general circulation in the county or as 77916
provided in section 7.16 of the Revised Code. The notice shall 77917
include a listing of the charges proposed in the resolution and 77918
the date, time, and location of each of the hearings. The board 77919
shall hear any person who wishes to testify on the charges or the 77920
resolution. 77921

(D) No resolution adopted under this section shall be 77922
effective sooner than thirty days following its adoption nor shall 77923
any such resolution be adopted as an emergency measure. The 77924
resolution is subject to a referendum in accordance with sections 77925
305.31 to 305.41 of the Revised Code unless, in the resolution, 77926
the board of county commissioners directs the board of elections 77927
of the county to submit the question of imposing the charges to 77928
the electors of the county at the next primary or general election 77929
in the county occurring not less than ninety days after the 77930
resolution is certified to the board. No resolution shall go into 77931
effect unless approved by a majority of those voting upon it in 77932
any election allowed under this division. 77933

(E) To collect charges imposed under division (A) of this 77934
section, the board of county commissioners shall certify them to 77935
the county auditor of the county who then shall place them upon 77936
the real property duplicate against the properties to be assessed, 77937
as provided in division (A) of this section. Each assessment shall 77938
bear interest at the same rate that securities issued in 77939
anticipation of the collection of the assessments bear, is a lien 77940
on the property assessed from the date placed upon the real 77941
property duplicate by the auditor, and shall be collected in the 77942
same manner as other taxes. 77943

(F) All money collected by or on behalf of a county under 77944
this section shall be paid to the county treasurer of the county 77945
and kept in a separate and distinct fund to the credit of the 77946

county. The fund shall be used to pay the costs allowed in 77947
division (A) of this section and specified in the resolution 77948
adopted under that division. In no case shall any surplus so 77949
collected be expended for other than the use and benefit of the 77950
county. 77951

Sec. 4931.52. (A) This section applies only to a county that 77952
meets both of the following conditions: 77953

(1) A final plan for a countywide 9-1-1 system either has not 77954
been approved in the county under section 4931.44 of the Revised 77955
Code or has been approved but has not been put into operation 77956
because of a lack of funding; 77957

(2) The board of county commissioners, at least once, has 77958
submitted to the electors of the county the question of raising 77959
funds for a 9-1-1 system under section 4931.51, 5705.19, or 77960
5739.026 of the Revised Code, and a majority of the electors has 77961
disapproved the question each time it was submitted. 77962

(B) A board of county commissioners may adopt a resolution 77963
imposing a monthly charge on telephone access lines to pay for the 77964
equipment costs of establishing and maintaining no more than three 77965
public safety answering points of a countywide 9-1-1 system, which 77966
public safety answering points shall be only twenty-four-hour 77967
dispatching points already existing in the county. The resolution 77968
shall state the amount of the charge, which shall not exceed fifty 77969
cents per month, and the month the charge will first be imposed, 77970
which shall be no earlier than four months after the special 77971
election held pursuant to this section. Each residential and 77972
business telephone company customer within the area served by the 77973
9-1-1 system shall pay the monthly charge for each of its 77974
residential or business customer access lines or their equivalent. 77975

Before adopting a resolution under this division, the board 77976
of county commissioners shall hold at least two public hearings on 77977

the proposed charge. Before the first hearing, the board shall 77978
publish notice of the hearings once a week for two consecutive 77979
weeks in a newspaper of general circulation in the county or as 77980
provided in section 7.16 of the Revised Code. The notice shall 77981
state the amount of the proposed charge, an explanation of the 77982
necessity for the charge, and the date, time, and location of each 77983
of the hearings. 77984

(C) A resolution adopted under division (B) of this section 77985
shall direct the board of elections to submit the question of 77986
imposing the charge to the electors of the county at a special 77987
election on the day of the next primary or general election in the 77988
county. The board of county commissioners shall certify a copy of 77989
the resolution to the board of elections not less than ninety days 77990
before the day of the special election. No resolution adopted 77991
under division (B) of this section shall take effect unless 77992
approved by a majority of the electors voting upon the resolution 77993
at an election held pursuant to this section. 77994

In any year, the board of county commissioners may impose a 77995
lesser charge than the amount originally approved by the electors. 77996
The board may change the amount of the charge no more than once a 77997
year. The board may not impose a charge greater than the amount 77998
approved by the electors without first holding an election on the 77999
question of the greater charge. 78000

(D) Money raised from a monthly charge on telephone access 78001
lines under this section shall be deposited into a special fund 78002
created in the county treasury by the board of county 78003
commissioners pursuant to section 5705.12 of the Revised Code, to 78004
be used only for the necessary equipment costs of establishing and 78005
maintaining no more than three public safety answering points of a 78006
countywide 9-1-1 system pursuant to a resolution adopted under 78007
division (B) of this section. In complying with this division, any 78008
county may seek the assistance of the public utilities commission 78009

with regard to operating and maintaining a 9-1-1 system. 78010

(E) Pursuant to the voter approval required by division (C) 78011
of this section, the final plan for a countywide 9-1-1 system that 78012
will be funded through a monthly charge imposed in accordance with 78013
this section shall be amended by the existing 9-1-1 planning 78014
committee, and the amendment of such a final plan is not an 78015
amendment of a final plan for the purpose of division (A) of 78016
section 4931.45 of the Revised Code. 78017

Sec. 4931.53. (A) This section applies only to a county that 78018
has a final plan for a countywide 9-1-1 system that either has not 78019
been approved in the county under section 4931.44 of the Revised 78020
Code or has been approved but has not been put into operation 78021
because of a lack of funding. 78022

(B) A board of county commissioners may adopt a resolution 78023
imposing a monthly charge on telephone access lines to pay for the 78024
operating and equipment costs of establishing and maintaining no 78025
more than one public safety answering point of a countywide 9-1-1 78026
system. The resolution shall state the amount of the charge, which 78027
shall not exceed fifty cents per month, and the month the charge 78028
will first be imposed, which shall be no earlier than four months 78029
after the special election held pursuant to this section. Each 78030
residential and business telephone company customer within the 78031
area of the county served by the 9-1-1 system shall pay the 78032
monthly charge for each of its residential or business customer 78033
access lines or their equivalent. 78034

Before adopting a resolution under this division, the board 78035
of county commissioners shall hold at least two public hearings on 78036
the proposed charge. Before the first hearing, the board shall 78037
publish notice of the hearings once a week for two consecutive 78038
weeks in a newspaper of general circulation in the county or as 78039
provided in section 7.16 of the Revised Code. The notice shall 78040

state the amount of the proposed charge, an explanation of the 78041
necessity for the charge, and the date, time, and location of each 78042
of the hearings. 78043

(C) A resolution adopted under division (B) of this section 78044
shall direct the board of elections to submit the question of 78045
imposing the charge to the electors of the county at a special 78046
election on the day of the next primary or general election in the 78047
county. The board of county commissioners shall certify a copy of 78048
the resolution to the board of elections not less than ninety days 78049
before the day of the special election. No resolution adopted 78050
under division (B) of this section shall take effect unless 78051
approved by a majority of the electors voting upon the resolution 78052
at an election held pursuant to this section. 78053

In any year, the board of county commissioners may impose a 78054
lesser charge than the amount originally approved by the electors. 78055
The board may change the amount of the charge no more than once a 78056
year. The board shall not impose a charge greater than the amount 78057
approved by the electors without first holding an election on the 78058
question of the greater charge. 78059

(D) Money raised from a monthly charge on telephone access 78060
lines under this section shall be deposited into a special fund 78061
created in the county treasury by the board of county 78062
commissioners pursuant to section 5705.12 of the Revised Code, to 78063
be used only for the necessary operating and equipment costs of 78064
establishing and maintaining no more than one public safety 78065
answering point of a countywide 9-1-1 system pursuant to a 78066
resolution adopted under division (B) of this section. In 78067
complying with this division, any county may seek the assistance 78068
of the public utilities commission with regard to operating and 78069
maintaining a 9-1-1 system. 78070

(E) Nothing in sections 4931.40 to 4931.53 of the Revised 78071
Code precludes a final plan adopted in accordance with those 78072

sections from being amended to provide that, by agreement included 78073
in the plan, a public safety answering point of another countywide 78074
9-1-1 system is the public safety answering point of a countywide 78075
9-1-1 system funded through a monthly charge imposed in accordance 78076
with this section. In that event, the county for which the public 78077
safety answering point is provided shall be deemed the subdivision 78078
operating the public safety answering point for purposes of 78079
sections 4931.40 to 4931.53 of the Revised Code, except that, for 78080
the purpose of division (D) of section 4931.41 of the Revised 78081
Code, the county shall pay only so much of the costs associated 78082
with establishing, equipping, furnishing, operating, or 78083
maintaining the public safety answering point specified in the 78084
agreement included in the final plan. 78085

(F) Pursuant to the voter approval required by division (C) 78086
of this section, the final plan for a countywide 9-1-1 system that 78087
will be funded through a monthly charge imposed in accordance with 78088
this section, or that will be amended to include an agreement 78089
described in division (E) of this section, shall be amended by the 78090
existing 9-1-1 planning committee, and the amendment of such a 78091
final plan is not an amendment of a final plan for the purpose of 78092
division (A) of section 4931.45 of the Revised Code. 78093

Sec. 5101.16. (A) As used in this section and sections 78094
5101.161 and 5101.162 of the Revised Code: 78095

(1) "Disability financial assistance" means the financial 78096
assistance program established under Chapter 5115. of the Revised 78097
Code. 78098

(2) " Supplemental nutrition assistance program" means the 78099
program administered by the department of job and family services 78100
pursuant to section 5101.54 of the Revised Code. 78101

(3) "Medicaid" means the medical assistance program 78102
established by Chapter 5111. of the Revised Code, excluding 78103

transportation services provided under that chapter.	78104
(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.	78105 78106
(5) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.	78107 78108
(6) "Public assistance expenditures" means expenditures for all of the following:	78109 78110
(a) Ohio works first;	78111
(b) County administration of Ohio works first;	78112
(c) Prevention, retention, and contingency;	78113
(d) County administration of prevention, retention, and contingency;	78114 78115
(e) Disability financial assistance;	78116
(f) County administration of disability financial assistance;	78117
(g) County administration of the supplemental nutrition assistance program;	78118 78119
(h) County administration of medicaid.	78120
(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.	78121 78122
(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:	78123 78124 78125 78126 78127 78128
(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and	78129 78130 78131 78132

family services determines are allowable. 78133

(2) The amount that is ten per cent, or other percentage 78134
determined under division (D) of this section, of the county's 78135
total expenditures for county administration of the supplemental 78136
nutrition assistance program and medicaid during the state fiscal 78137
year ending in the previous calendar year that the department 78138
determines are allowable, less the amount of federal reimbursement 78139
credited to the county under division (E) of this section for the 78140
state fiscal year ending in the previous calendar year; 78141

(3) A percentage of the actual amount of the county share of 78142
program and administrative expenditures during federal fiscal year 78143
1994 for assistance and services, other than child care, provided 78144
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 78145
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 78146
enactment of the "Personal Responsibility and Work Opportunity 78147
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 78148
and family services shall determine the actual amount of the 78149
county share from expenditure reports submitted to the United 78150
States department of health and human services. The percentage 78151
shall be the percentage established in rules adopted under 78152
division (F) of this section. 78153

(C)(1) If a county's share of public assistance expenditures 78154
determined under division (B) of this section for a state fiscal 78155
year exceeds one hundred ~~ten~~ five per cent of the county's share 78156
for those expenditures for the immediately preceding state fiscal 78157
year, the department of job and family services shall reduce the 78158
county's share for expenditures under divisions (B)(1) and (2) of 78159
this section so that the total of the county's share for 78160
expenditures under division (B) of this section equals one hundred 78161
~~ten~~ five per cent of the county's share of those expenditures for 78162
the immediately preceding state fiscal year. 78163

(2) A county's share of public assistance expenditures 78164

determined under division (B) of this section may be increased 78165
pursuant to section 5101.163 of the Revised Code and a sanction 78166
under section 5101.24 of the Revised Code. An increase made 78167
pursuant to section 5101.163 of the Revised Code may cause the 78168
county's share to exceed the limit established by division (C)(1) 78169
of this section. 78170

(D)(1) If the per capita tax duplicate of a county is less 78171
than the per capita tax duplicate of the state as a whole and 78172
division (D)(2) of this section does not apply to the county, the 78173
percentage to be used for the purpose of division (B)(2) of this 78174
section is the product of ten multiplied by a fraction of which 78175
the numerator is the per capita tax duplicate of the county and 78176
the denominator is the per capita tax duplicate of the state as a 78177
whole. The department of job and family services shall compute the 78178
per capita tax duplicate for the state and for each county by 78179
dividing the tax duplicate for the most recent available year by 78180
the current estimate of population prepared by the department of 78181
development. 78182

(2) If the percentage of families in a county with an annual 78183
income of less than three thousand dollars is greater than the 78184
percentage of such families in the state and division (D)(1) of 78185
this section does not apply to the county, the percentage to be 78186
used for the purpose of division (B)(2) of this section is the 78187
product of ten multiplied by a fraction of which the numerator is 78188
the percentage of families in the state with an annual income of 78189
less than three thousand dollars a year and the denominator is the 78190
percentage of such families in the county. The department of job 78191
and family services shall compute the percentage of families with 78192
an annual income of less than three thousand dollars for the state 78193
and for each county by multiplying the most recent estimate of 78194
such families published by the department of development, by a 78195
fraction, the numerator of which is the estimate of average annual 78196

personal income published by the bureau of economic analysis of 78197
the United States department of commerce for the year on which the 78198
census estimate is based and the denominator of which is the most 78199
recent such estimate published by the bureau. 78200

(3) If the per capita tax duplicate of a county is less than 78201
the per capita tax duplicate of the state as a whole and the 78202
percentage of families in the county with an annual income of less 78203
than three thousand dollars is greater than the percentage of such 78204
families in the state, the percentage to be used for the purpose 78205
of division (B)(2) of this section shall be determined as follows: 78206

(a) Multiply ten by the fraction determined under division 78207
(D)(1) of this section; 78208

(b) Multiply the product determined under division (D)(3)(a) 78209
of this section by the fraction determined under division (D)(2) 78210
of this section. 78211

(4) The department of job and family services shall 78212
determine, for each county, the percentage to be used for the 78213
purpose of division (B)(2) of this section not later than the 78214
first day of July of the year preceding the state fiscal year for 78215
which the percentage is used. 78216

(E) The department of job and family services shall credit to 78217
a county the amount of federal reimbursement the department 78218
receives from the United States departments of agriculture and 78219
health and human services for the county's expenditures for 78220
administration of the supplemental nutrition assistance program 78221
and medicaid that the department determines are allowable 78222
administrative expenditures. 78223

(F)(1) The director of job and family services shall adopt 78224
rules in accordance with section 111.15 of the Revised Code to 78225
establish all of the following: 78226

(a) The method the department is to use to change a county's 78227

share of public assistance expenditures determined under division 78228
(B) of this section as provided in division (C) of this section; 78229

(b) The allocation methodology and formula the department 78230
will use to determine the amount of funds to credit to a county 78231
under this section; 78232

(c) The method the department will use to change the payment 78233
of the county share of public assistance expenditures from a 78234
calendar-year basis to a state fiscal year basis; 78235

(d) The percentage to be used for the purpose of division 78236
(B)(3) of this section, which shall, except as provided in section 78237
5101.163 of the Revised Code, meet both of the following 78238
requirements: 78239

(i) The percentage shall not be less than seventy-five per 78240
cent nor more than eighty-two per cent; 78241

(ii) The percentage shall not exceed the percentage that the 78242
state's qualified state expenditures is of the state's historic 78243
state expenditures as those terms are defined in 42 U.S.C. 78244
609(a)(7). 78245

(e) Other procedures and requirements necessary to implement 78246
this section. 78247

(2) The director of job and family services may amend the 78248
rule adopted under division (F)(1)(d) of this section to modify 78249
the percentage on determination that the amount the general 78250
assembly appropriates for Title IV-A programs makes the 78251
modification necessary. The rule shall be adopted and amended as 78252
if an internal management rule and in consultation with the 78253
director of budget and management. 78254

Sec. 5101.181. (A) As used in this section and section 78255
5101.182 of the Revised Code, ~~"public:~~ 78256

(1) "Public assistance" ~~includes, in addition to Ohio works~~ 78257

~~first~~, means any or all of the following: 78258

~~(1)~~(a) Ohio works first; 78259

(b) Prevention, retention, and contingency; 78260

~~(2) Medicaid;~~ 78261

~~(3)~~(c) Disability financial assistance; 78262

~~(4)~~(d) General assistance provided prior to July 17, 1995, 78263
under former Chapter 5113. of the Revised Code. 78264

(2) "Medical assistance" means medical assistance provided 78265
pursuant to, or under programs established by, section 5101.49, 78266
sections 5101.50 to 5101.529, Chapter 5111., or any other 78267
provision of the Revised Code. 78268

(B) As part of the procedure for the determination of 78269
overpayment to a recipient of public assistance under Chapter 78270
5107., 5108., ~~5111.7~~, or 5115. of the Revised Code, the director of 78271
job and family services ~~shall~~ may furnish quarterly the name and 78272
social security number of each individual who receives public 78273
assistance to the director of administrative services, the 78274
administrator of the bureau of workers' compensation, and each of 78275
the state's retirement boards. Within fourteen days after 78276
receiving the name and social security number of an individual who 78277
receives public assistance, the director of administrative 78278
services, administrator, or board shall inform the auditor of 78279
state as to whether such individual is receiving wages or 78280
benefits, the amount of any wages or benefits being received, the 78281
social security number, and the address of the individual. The 78282
director of administrative services, administrator, boards, and 78283
any agent or employee of those officials and boards shall comply 78284
with the rules of the director of job and family services 78285
restricting the disclosure of information regarding recipients of 78286
public assistance. Any person who violates this provision shall 78287
thereafter be disqualified from acting as an agent or employee or 78288

in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A ~~or under Title XIX~~ of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)~~(1)~~ The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. ~~The~~

(E) On the request of the director of job and family services, the auditor of state may conduct an audit of an individual who receives medical assistance. If the auditor decides to conduct an audit, the auditor shall enter into an interagency agreement with the department of job and family services that specifies that the auditor agrees to comply with section 5101.271 of the Revised Code with respect to any information the auditor receives pursuant to the audit.

(F) The auditor shall review the information described in division (D) of this section to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., ~~5111.,~~ and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and, the attorney general, ~~to the district director of job and family services of the district through which public assistance was received,~~ and ~~to~~ the county director of job and family

services and county prosecutor of the county through which public 78321
assistance was received. 78322

~~(2)~~(G) The auditor of state and the attorney general or their 78323
designees may examine any records, whether in computer or printed 78324
format, in the possession of the director of job and family 78325
services or any county director of job and family services. They 78326
shall provide safeguards which restrict access to such records to 78327
purposes directly connected with an audit or investigation, 78328
prosecution, or criminal or civil proceeding conducted in 78329
connection with the administration of the programs and shall 78330
comply with ~~the~~ sections 5101.27 and 5101.271 of the Revised Code 78331
and adopts rules of the director of job and family services 78332
restricting the disclosure of information regarding recipients of 78333
public assistance or medical assistance. Any person who violates 78334
this provision shall thereafter be disqualified from acting as an 78335
agent or employee or in any other capacity under appointment or 78336
employment of any state board, commission, or agency. 78337

~~(3)~~(H) Costs incurred by the auditor of state in carrying out 78338
the auditor of state's duties under this ~~division~~ section shall be 78339
borne by the auditor of state. 78340

Sec. 5101.182. As part of the procedure for the determination 78341
of overpayment to a recipient of public assistance ~~under Chapter~~ 78342
~~5107., 5111., or 5115.~~ pursuant to section 5101.181 of the Revised 78343
Code, the director of job and family services ~~shall~~ may 78344
semiannually, at times determined jointly by the auditor of state 78345
and the tax commissioner, furnish to the tax commissioner in 78346
computer format the name and social security number of each 78347
individual who receives public assistance. Within sixty days after 78348
receiving the name and social security number of a recipient of 78349
public assistance, the commissioner shall inform the auditor of 78350
state whether the individual filed an Ohio individual income tax 78351

return, separate or joint, as provided by section 5747.08 of the Revised Code, for either or both of the two taxable years preceding the year in which the director furnished the names and social security numbers to the commissioner. If the individual did so file, at the same time the commissioner shall also inform the auditor of state of the amount of the federal adjusted gross income as reported on such returns and of the addresses on such returns. The commissioner shall also advise the auditor of state whether such returns were filed on a joint basis, as provided in section 5747.08 of the Revised Code, in which case the federal adjusted gross income as reported may be that of the individual or the individual's spouse.

If the auditor of state determines that further investigation is needed, the auditor of state may request the commissioner to determine whether the individual filed income tax returns for any previous taxable years in which the individual received public assistance and for which the tax department retains income tax returns. Within fourteen days of receipt of the request, the commissioner shall inform the auditor of state whether the individual filed an individual income tax return for the taxable years in question, of the amount of the federal adjusted gross income as reported on such returns, of the addresses on such returns, and whether the returns were filed on a joint or separate basis.

If the auditor of state determines that further investigation is needed of a recipient of public assistance who filed an Ohio individual income tax return, the auditor of state may request a certified copy of the Ohio individual income tax return or returns of that person for the taxable years described above, together with any other documents the commissioner has concerning the return or returns. Within fourteen days of receipt of such a request in writing, the commissioner shall forward the returns and

documents to the auditor of state. 78384

The director of job and family services, ~~district director of~~ 78385
~~job and family services,~~ county director of job and family 78386
services, county prosecutor, attorney general, auditor of state, 78387
or any agent or employee of those officials having access to any 78388
information or documents furnished by the commissioner pursuant to 78389
this section shall not divulge or use any such information except 78390
for the purpose of determining overpayment of public assistance, 78391
or for an audit, investigation, or prosecution, or in accordance 78392
with a proper judicial order. Any person who violates this 78393
provision shall thereafter be disqualified from acting as an agent 78394
or employee or in any other capacity under appointment or 78395
employment of any state or county board, commission, or agency. 78396

Sec. 5101.183. (A) ~~The~~ Except as provided in section 5111.12 78397
of the Revised Code, the director of job and family services, in 78398
accordance with section 111.15 of the Revised Code, may adopt 78399
rules under which county ~~departments of job and family services or~~ 78400
~~public children services~~ agencies shall take action to recover the 78401
cost of ~~social~~ the following benefits and services: 78402

(1) Benefits or services provided to any of the following: 78403

~~(1)~~(a) Persons who were not eligible for ~~social~~ the benefits 78404
or services but who secured ~~social~~ the benefits or services 78405
through fraud or misrepresentation; 78406

~~(2)~~(b) Persons who were eligible for ~~social~~ the benefits or 78407
services but who intentionally diverted the benefits or services 78408
to other persons who were not eligible for the benefits or 78409
services. 78410

(2) Any benefits or services provided by a county family 78411
services agency for which recovery is required or permitted by 78412
federal law for the federal programs administered by the agency. 78413

(B) A county ~~department of job and family services or public~~ 78414
~~children services~~ agency may bring a civil action against a 78415
recipient of ~~social~~ benefits or services to recover any costs 78416
described in division (A) of this section. 78417

(C) A county ~~department of job and family services or public~~ 78418
~~children services~~ agency shall retain any money it recovers under 78419
division (A) of this section and shall use the money ~~for the~~ 78420
~~provision of social~~ to meet a family services duty, except that, 78421
if federal law requires the department of job and family services 78422
to return any portion of the money so recovered to the federal 78423
government, the county ~~department or~~ family services agency shall 78424
pay that portion to the department of job and family services. 78425

Sec. 5101.244. (A) If the department of job and family 78426
services determines that a grant awarded to a county grantee in a 78427
grant agreement entered into under section 5101.21 of the Revised 78428
Code, an allocation, advance, or reimbursement the department 78429
makes to a county family services agency, or a cash draw a county 78430
family services agency makes exceeds the allowable amount for the 78431
grant, allocation, advance, reimbursement, or cash draw, the 78432
department may ~~adjust~~ take one or more of the following actions to 78433
recover the excess amount: 78434

(1) The department may adjust, offset, withhold, or reduce an 78435
allocation, cash draw, advance, reimbursement, or other financial 78436
assistance to the county grantee or county family services agency 78437
as necessary to recover the excess amount ~~of the excess grant,~~ 78438
~~allocation, advance, reimbursement, or cash draw.~~ 78439

(2) The department may require the county grantee or county 78440
family services agency to enter into an agreement with the 78441
department for repayment of the excess amount. The department may 78442
require that the repayment include interest on the excess amount, 78443
calculated from the day that the excess occurred at a rate not 78444

exceeding the rate per annum prescribed by section 5703.47 of the Revised Code. 78445
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(3) The department may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against the county grantee or county family services agency to recover the excess amount. The 78447
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(B) In taking an action authorized under this section, the department is not required to ~~make the adjustment, offset, withholding, or reduction~~ take the action in accordance with section 5101.24 of the Revised Code. 78452
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(C) The director of job and family services may adopt rules under section 111.15 of the Revised Code as necessary to implement this section. The director shall adopt the rules as if they were internal management rules. 78456
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Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code: 78460
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(A) "County agency" means a county department of job and family services or a public children services agency. 78462
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(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence. 78464
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(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, 78472
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or maintained by the department of job and family services, a 78475
county agency, or an entity performing duties on behalf of the 78476
department or a county agency. 78477

(D) "Law enforcement agency" means the state highway patrol, 78478
an agency that employs peace officers as defined in section 109.71 78479
of the Revised Code, the adult parole authority, a county 78480
department of probation, a prosecuting attorney, the attorney 78481
general, similar agencies of other states, federal law enforcement 78482
agencies, and postal inspectors. "Law enforcement agency" includes 78483
the peace officers and other law enforcement officers employed by 78484
the agency. 78485

(E) "Medical assistance ~~provided under a public assistance~~ 78486
~~program~~" means medical assistance provided pursuant to, or under 78487
~~the programs established under sections by, section~~ 5101.49, 78488
sections 5101.50, ~~5101.51, 5101.52, and 5101.5211 to 5101.5216 to~~ 78489
5101.529, Chapter 5111., or any other provision of the Revised 78490
Code. 78491

(F) "Medical assistance recipient" means an applicant for or 78492
recipient or former recipient of medical assistance. 78493

~~(G)~~ "Public assistance" means financial assistance, ~~medical~~ 78494
~~assistance,~~ or social services that are not medical assistance 78495
provided under a program administered by the department of job and 78496
family services or a county agency pursuant to Chapter 329., 78497
5101., 5104., 5107., 5108., ~~5111.~~, or 5115. of the Revised Code or 78498
an executive order issued under section 107.17 of the Revised 78499
Code. 78500

~~(G)~~(H) "Public assistance recipient" means an applicant for 78501
or recipient or former recipient of public assistance. 78502

Sec. 5101.27. (A) Except as permitted by this section, 78503
section ~~5101.272~~ 5101.273, 5101.28, or 5101.29 of the Revised 78504

Code, or ~~the~~ rules adopted under ~~division (A)~~ of section 5101.30 78505
of the Revised Code, or when required by federal law, no person or 78506
government entity shall solicit, disclose, receive, use, or 78507
knowingly permit, or participate in the use of any information 78508
regarding a public assistance recipient for any purpose not 78509
directly connected with the administration of a public assistance 78510
program. 78511

(B) To the extent permitted by federal law, the department of 78512
job and family services and county agencies shall do all of the 78513
following: 78514

(1) Release information regarding a public assistance 78515
recipient for purposes directly connected to the administration of 78516
the program to a government entity responsible for administering 78517
that public assistance program; 78518

(2) Provide information regarding a public assistance 78519
recipient to a law enforcement agency for the purpose of any 78520
investigation, prosecution, or criminal or civil proceeding 78521
relating to the administration of that public assistance program; 78522

(3) Provide, for purposes directly connected to the 78523
administration of a program that assists needy individuals with 78524
the costs of public utility services, information regarding a 78525
recipient of financial assistance provided under a program 78526
administered by the department or a county agency pursuant to 78527
Chapter 5107. or 5108. of the Revised Code or sections 5115.01 to 78528
5115.07 of the Revised Code to an entity administering the public 78529
utility services program. 78530

(C) To the extent permitted by federal law and section 78531
1347.08 of the Revised Code, the department and county agencies 78532
shall provide access to information regarding a public assistance 78533
recipient to all of the following: 78534

(1) The recipient; 78535

(2) The authorized representative;	78536
(3) The legal guardian of the recipient;	78537
(4) The attorney of the recipient, if the attorney has written authorization that complies with section 5101.271 <u>5101.272</u> of the Revised Code from the recipient.	78538 78539 78540
(D) To the extent permitted by federal law and subject to division (E) of this section, the department and county agencies may do both of the following:	78541 78542 78543
(1) Release information about a public assistance recipient if the recipient gives voluntary, written authorization that complies with section 5101.271 <u>5101.272</u> of the Revised Code;	78544 78545 78546
(2) Release information regarding a public assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.	78547 78548 78549 78550 78551 78552
(E) Except when the release is required by division (B), (C), or (D)(2) of this section, the department or county agency shall release the information only in accordance with the authorization. The department or county agency shall provide, at no cost, a copy of each written authorization to the individual who signed it.	78553 78554 78555 78556 78557
(F) The department or county agency may release information under division (D) of this section concerning the receipt of medical assistance provided under a public assistance program only if all of the following conditions are met:	78558 78559 78560 78561
(1) The release of information is for purposes directly connected to the administration of or provision of medical assistance provided under a public assistance program;	78562 78563 78564
(2) The information is released to persons or government	78565

~~entities that are subject to standards of confidentiality and 78566
safeguarding information substantially comparable to those 78567
established for medical assistance provided under a public 78568
assistance program; 78569~~

~~(3) The department or county agency has obtained an 78570
authorization consistent with section 5101.271 of the Revised 78571
Code. 78572~~

~~(G) Information concerning the receipt of medical assistance 78573
provided under a public assistance program may be released only if 78574
the release complies with this section and rules adopted by the 78575
department pursuant to section 5101.30 of the Revised Code or, if 78576
more restrictive, the Health Insurance Portability and 78577
Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 78578
42 U.S.C. 1320d, et seq., as amended, and regulations adopted by 78579
the United States department of health and human services to 78580
implement the act. 78581~~

~~(H) The department of job and family services may adopt rules 78582
defining "authorized representative" for purposes of division 78583
(C)(2) of this section. 78584~~

Sec. 5101.271. (A) Except as permitted by this section, 78585
section 5101.273, or rules adopted under section 5101.30 of the 78586
Revised Code, or when required by federal law, no person or 78587
government entity shall use or disclose information regarding a 78588
medical assistance recipient for any purpose not directly 78589
connected with the administration of the medical assistance 78590
program. 78591

(B) Both of the following shall be considered to be purposes 78592
directly connected with the administration of the medical 78593
assistance program: 78594

(1) Treatment, payment, or other operations or activities 78595

authorized by 42 C.F.R. Chapter IV; 78596

(2) Any administrative function or duty the department of job and family services performs alone or jointly with a federal government entity, another state government entity, or a local government entity implementing a provision of federal law. 78597
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(C) The department or a county agency may disclose information regarding a medical assistance recipient to any of the following: 78601
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(1) The recipient or the recipient's authorized representative; 78604
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(2) The recipient's legal guardian in accordance with division (C) of section 2111.13 of the Revised Code; 78606
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(3) The attorney of the recipient, if the department or county agency has obtained authorization from the recipient, the recipient's authorized representative, or the recipient's legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d et seq., as amended, regulations promulgated by the United States department of health and human services to implement the act, section 5101.272 of the Revised Code, and any rules the director of job and family services adopts under section 5101.30 of the Revised Code; 78608
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(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R 164.502(e)(2) and has been authorized by the recipient, the recipient's authorized representative, or the recipient's legal guardian to receive the recipient's electronic health records in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code; 78618
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(5) A court if pursuant to a written order of the court. 78626

(D) The department may receive from county departments of job and family services information regarding any medical assistance recipient for purposes of training and verifying the accuracy of eligibility determinations for medical assistance. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code. 78627
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(E) The department shall notify courts in this state regarding its authority, under division (C)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order. 78637
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Sec. ~~5101.271~~ 5101.272. (A) For the purposes of ~~section~~ sections 5101.27 and 5101.271 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following: 78641
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(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion; 78646
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(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure; 78649
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(3) The name or other specific identification of the person or governmental entity to which the information may be released; 78652
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(4) A description of each purpose of the requested use or disclosure of the information; 78654
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(5) The date on which the authorization expires or an event 78656

related either to the individual who is the subject of the request 78657
or to the purposes of the requested use or disclosure, the 78658
occurrence of which will cause the authorization to expire; 78659

(6) A statement that the information used or disclosed 78660
pursuant to the authorization may be disclosed by the recipient of 78661
the information and may no longer be protected from disclosure; 78662

(7) The signature of the individual or the individual's 78663
authorized representative and the date on which the authorization 78664
was signed; 78665

(8) If signed by an authorized representative, a description 78666
of the representative's authority to act for the individual; 78667

(9) A statement of the individual or authorized 78668
representative's right to prospectively revoke the written 78669
authorization in writing, along with one of the following: 78670

(a) A description of how the individual or authorized 78671
representative may revoke the authorization; 78672

(b) If the department of job and family services' privacy 78673
notice contains a description of how the individual or authorized 78674
representative may revoke the authorization, a reference to that 78675
privacy notice. 78676

(10) A statement that treatment, payment, enrollment, or 78677
eligibility for public assistance or medical assistance cannot be 78678
conditioned on signing the authorization unless the authorization 78679
is necessary for determining eligibility for the public assistance 78680
or medical assistance program. 78681

(B) An authorization for the release of information regarding 78682
a medical assistance recipient to the recipient's attorney under 78683
division (C)(3) of section 5101.271 of the Revised Code may 78684
include a provision specifically authorizing the release of the 78685
recipient's electronic health records, if any, in accordance with 78686

rules the director of job and family services adopts under section 78687
5101.30 of the Revised Code. 78688

(C) When an individual requests information pursuant to 78689
section 5101.27 or 5101.271 of the Revised Code regarding the 78690
individual's receipt of public assistance or medical assistance 78691
and does not wish to provide a statement of purpose, the statement 78692
"at request of the individual" is a sufficient description for 78693
purposes of division (A)(4) of this section. 78694

~~Sec. 5101.272~~ 5101.273. ~~Not later than August 31, 2007, the~~ 78695
~~director of job and family services shall submit a report to the~~ 78696
~~general assembly on the costs and potential three year cost~~ 78697
~~savings associated with participation in the~~ 78698
~~federally administered public assistance reporting information~~ 78699
~~system. If cost savings are indicated in the report, not later~~ 78700
~~than October 1, 2007, the~~ The department of job and family 78701
services shall enter into any necessary agreements with the United 78702
States department of health and human services and neighboring 78703
states to join and participate as an active member in the public 78704
assistance reporting information system. The department may 78705
disclose information regarding a public assistance recipient or 78706
medical assistance recipient to the extent necessary to 78707
participate as an active member in the public assistance reporting 78708
information system. 78709

Sec. 5101.28. (A)(1) On request of the department of job and 78710
family services or a county agency, a law enforcement agency shall 78711
provide information regarding public assistance recipients to 78712
enable the department or county agency to determine, for 78713
eligibility purposes, whether a recipient or a member of a 78714
recipient's assistance group is a fugitive felon or violating a 78715
condition of probation, a community control sanction, parole, or a 78716
post-release control sanction imposed under state or federal law. 78717

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) To the extent permitted by federal law, the department and county agencies shall provide information, ~~except information directly related to the receipt of medical assistance or medical services,~~ regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a public assistance recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in 78750
damages in a civil action for any injury, death, or loss to person 78751
or property that allegedly arises from the release of information 78752
in accordance with divisions (A), (B), and (C) of this section. 78753
"Employee" has the same meaning as in division (B) of section 78754
2744.01 of the Revised Code. This section does not affect any 78755
immunity or defense that the county agencies and their employees 78756
may be entitled to under another section of the Revised Code or 78757
the common law of this state, including section 2744.02 and 78758
division (A)(6) of section 2744.03 of the Revised Code. 78759

(E) To the extent permitted by federal law, the department 78760
and county agencies shall provide access to information to the 78761
auditor of state acting pursuant to Chapter 117. or sections 78762
5101.181 and 5101.182 of the Revised Code and to any other 78763
government entity authorized by federal law to conduct an audit 78764
of, or similar activity involving, a public assistance program. 78765

(F) The auditor of state shall prepare an annual report on 78766
the outcome of the agreements required under division (A) of this 78767
section. The report shall include the number of fugitive felons, 78768
probation and parole violators, and violators of community control 78769
sanctions and post-release control sanctions apprehended during 78770
the immediately preceding year as a result of the exchange of 78771
information pursuant to that division. The auditor of state shall 78772
file the report with the governor, the president and minority 78773
leader of the senate, and the speaker and minority leader of the 78774
house of representatives. The state department, county agencies, 78775
and law enforcement agencies shall cooperate with the auditor of 78776
state's office in gathering the information required under this 78777
division. 78778

(G) To the extent permitted by federal law, the department of 78779
job and family services, county departments of job and family 78780
services, and employees of the departments may report to a public 78781

children services agency or other appropriate agency information 78782
on known or suspected physical or mental injury, sexual abuse or 78783
exploitation, or negligent treatment or maltreatment, of a child 78784
receiving public assistance, if circumstances indicate that the 78785
child's health or welfare is threatened. 78786

(H) As used in this section: 78787

(1) "Community control sanction" has the same meaning as in 78788
section 2929.01 of the Revised Code. 78789

(2) "Post-release control sanction" has the same meaning as 78790
in section 2967.01 of the Revised Code. 78791

Sec. 5101.30. (A) The director of job and family services 78792
shall adopt rules in accordance with Chapter 119. of the Revised 78793
Code implementing sections 5101.26 to 5101.30 of the Revised Code 78794
and governing the custody, use, disclosure, and preservation of 78795
the information generated or received by the department of job and 78796
family services, county agencies, other state and county entities, 78797
contractors, grantees, private entities, or officials 78798
participating in the administration of public assistance or 78799
medical assistance programs. The rules shall comply with 78800
applicable federal statutes and regulations. The 78801

(1) The rules shall specify conditions and procedures for the 78802
release of information. ~~The rules shall comply with applicable~~ 78803
~~federal statutes and regulations.~~ To the extent permitted by 78804
~~federal law~~ which may include, among other conditions and 78805
procedures, both of the following: 78806

~~(1) The rules may permit~~ (a) Permitting providers of services 78807
or assistance under public assistance programs limited access to 78808
information that is essential for the providers to render services 78809
or assistance or to bill for services or assistance rendered. The 78810
department of aging, when investigating a complaint under section 78811

173.20 of the Revised Code, shall be granted any limited access 78812
permitted in the rules pursuant to division (A)(1) of this 78813
section. 78814

~~(2) The rules may permit~~ (b) Permitting a contractor, 78815
grantee, or other state or county entity limited access to 78816
information that is essential for the contractor, grantee, or 78817
entity to perform administrative or other duties on behalf of the 78818
department or county agency. A contractor, grantee, or entity 78819
given access to information pursuant to division (A)(2) of this 78820
section is bound by the director's rules, and disclosure of the 78821
information by the contractor, grantee, or entity in a manner not 78822
authorized by the rules is a violation of section 5101.27 of the 78823
Revised Code. 78824

(2) The rules may define who is an "authorized 78825
representative" for purposes of sections 5101.27, 5101.271, and 78826
5101.272 of the Revised Code. 78827

(B) Whenever names, addresses, or other information relating 78828
to public assistance recipients is held by any agency other than 78829
the department or a county agency, that other agency shall adopt 78830
rules consistent with sections 5101.26 to 5101.30 of the Revised 78831
Code to prevent the publication or disclosure of names, lists, or 78832
other information concerning those recipients. 78833

Sec. 5101.35. (A) As used in this section: 78834

(1) "Agency" means the following entities that administer a 78835
family services program: 78836

(a) The department of job and family services; 78837

(b) A county department of job and family services; 78838

(c) A public children services agency; 78839

(d) A private or government entity administering, in whole or 78840
in part, a family services program for or on behalf of the 78841

department of job and family services or a county department of 78842
job and family services or public children services agency. 78843

(2) "Appellant" means an applicant, participant, former 78844
participant, recipient, or former recipient of a family services 78845
program who is entitled by federal or state law to a hearing 78846
regarding a decision or order of the agency that administers the 78847
program. 78848

(3) "Family services program" means assistance provided under 78849
a Title IV-A program as defined in section 5101.80 of the Revised 78850
Code or under Chapter 5104., 5111., or 5115. or section ~~173.35~~ 78851
5119.69, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 78852
5153.165 of the Revised Code, other than assistance provided under 78853
section 5101.46 of the Revised Code by the department of mental 78854
health, the department of developmental disabilities, a board of 78855
alcohol, drug addiction, and mental health services, or a county 78856
board of developmental disabilities. 78857

(B) Except as provided by divisions (G) and (H) of this 78858
section, an appellant who appeals under federal or state law a 78859
decision or order of an agency administering a family services 78860
program shall, at the appellant's request, be granted a state 78861
hearing by the department of job and family services. This state 78862
hearing shall be conducted in accordance with rules adopted under 78863
this section. The state hearing shall be recorded, but neither the 78864
recording nor a transcript of the recording shall be part of the 78865
official record of the proceeding. A state hearing decision is 78866
binding upon the agency and department, unless it is reversed or 78867
modified on appeal to the director of job and family services or a 78868
court of common pleas. 78869

(C) Except as provided by division (G) of this section, an 78870
appellant who disagrees with a state hearing decision may make an 78871
administrative appeal to the director of job and family services 78872
in accordance with rules adopted under this section. This 78873

administrative appeal does not require a hearing, but the director 78874
or the director's designee shall review the state hearing decision 78875
and previous administrative action and may affirm, modify, remand, 78876
or reverse the state hearing decision. Any person designated to 78877
make an administrative appeal decision on behalf of the director 78878
shall have been admitted to the practice of law in this state. An 78879
administrative appeal decision is the final decision of the 78880
department and is binding upon the department and agency, unless 78881
it is reversed or modified on appeal to the court of common pleas. 78882

(D) An agency shall comply with a decision issued pursuant to 78883
division (B) or (C) of this section within the time limits 78884
established by rules adopted under this section. If a county 78885
department of job and family services or a public children 78886
services agency fails to comply within these time limits, the 78887
department may take action pursuant to section 5101.24 of the 78888
Revised Code. If another agency fails to comply within the time 78889
limits, the department may force compliance by withholding funds 78890
due the agency or imposing another sanction established by rules 78891
adopted under this section. 78892

(E) An appellant who disagrees with an administrative appeal 78893
decision of the director of job and family services or the 78894
director's designee issued under division (C) of this section may 78895
appeal from the decision to the court of common pleas pursuant to 78896
section 119.12 of the Revised Code. The appeal shall be governed 78897
by section 119.12 of the Revised Code except that: 78898

(1) The person may appeal to the court of common pleas of the 78899
county in which the person resides, or to the court of common 78900
pleas of Franklin county if the person does not reside in this 78901
state. 78902

(2) The person may apply to the court for designation as an 78903
indigent and, if the court grants this application, the appellant 78904
shall not be required to furnish the costs of the appeal. 78905

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under

division (D) of this section. 78937

(G) The department of job and family services may adopt rules 78938
in accordance with Chapter 119. of the Revised Code establishing 78939
an appeals process for an appellant who appeals a decision or 78940
order regarding a Title IV-A program identified under division 78941
(A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code 78942
that is different from the appeals process established by this 78943
section. The different appeals process may include having a state 78944
agency that administers the Title IV-A program pursuant to an 78945
interagency agreement entered into under section 5101.801 of the 78946
Revised Code administer the appeals process. 78947

(H) If an appellant receiving medicaid through a health 78948
insuring corporation that holds a certificate of authority under 78949
Chapter 1751. of the Revised Code is appealing a denial of 78950
medicaid services based on lack of medical necessity or other 78951
clinical issues regarding coverage by the health insuring 78952
corporation, the person hearing the appeal may order an 78953
independent medical review if that person determines that a review 78954
is necessary. The review shall be performed by a health care 78955
professional with appropriate clinical expertise in treating the 78956
recipient's condition or disease. The department shall pay the 78957
costs associated with the review. 78958

A review ordered under this division shall be part of the 78959
record of the hearing and shall be given appropriate evidentiary 78960
consideration by the person hearing the appeal. 78961

(I) The requirements of Chapter 119. of the Revised Code 78962
apply to a state hearing or administrative appeal under this 78963
section only to the extent, if any, specifically provided by rules 78964
adopted under this section. 78965

Sec. 5101.37. (A) The department of job and family services 78966
and each county department of job and family services and child 78967

support enforcement agency may ~~make~~ conduct any audits or 78968
investigations that are necessary in the performance of their 78969
duties, and to that end they shall have the same power as a judge 78970
of a county court to administer oaths and to enforce the 78971
attendance and testimony of witnesses and the production of books 78972
or papers. 78973

The department and each county department and agency shall 78974
keep a record of their audits and investigations stating the time, 78975
place, charges, or subject, witnesses summoned and examined, and 78976
their conclusions. 78977

Witnesses shall be paid the fees and mileage provided for 78978
under section 119.094 of the Revised Code. 78979

(B) In conducting hearings pursuant to Chapters 3119., 3121., 78980
and 3123. or pursuant to division (B) of section 5101.35 of the 78981
Revised Code, the department and each child support enforcement 78982
agency have the same power as a judge of a county court to 78983
administer oaths and to enforce the attendance and testimony of 78984
witnesses and the production of books or papers. The department 78985
and each agency shall keep a record of those hearings stating the 78986
time, place, charges, or subject, witnesses summoned and 78987
examined, and their conclusions. 78988

The issuance of a subpoena by the department or a child 78989
support enforcement agency to enforce attendance and testimony of 78990
witnesses and the production of books or papers at a hearing is 78991
discretionary and the department or agency is not required to pay 78992
the fees of witnesses for attendance and travel. 78993

(C) Any judge of any division of the court of common pleas, 78994
upon application of the department or a county department or child 78995
support enforcement agency, may compel the attendance of 78996
witnesses, the production of books or papers, and the giving of 78997
testimony before the department, county department, or agency, by 78998

a judgment for contempt or otherwise, in the same manner as in cases before those courts. 78999
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(D) Until an audit report is formally released by the department of job and family services, the audit report or any working paper or other document or record prepared by the department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code. 79001
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(E) The director of job and family services may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. 79007
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Sec. 5101.46. (A) As used in this section: 79011

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 79012
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(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities. 79014
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(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. 79020
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(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services 79026
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funded through grants made under Title XX. The social services 79029
furnished with Title XX funds shall be directed at the following 79030
goals: 79031

(1) Achieving or maintaining economic self-support to 79032
prevent, reduce, or eliminate dependency; 79033

(2) Achieving or maintaining self-sufficiency, including 79034
reduction or prevention of dependency; 79035

(3) Preventing or remedying neglect, abuse, or exploitation 79036
of children and adults unable to protect their own interests, or 79037
preserving, rehabilitating, or reuniting families; 79038

(4) Preventing or reducing inappropriate institutional care 79039
by providing for community-based care, home-based care, or other 79040
forms of less intensive care; 79041

(5) Securing referral or admission for institutional care 79042
when other forms of care are not appropriate, or providing 79043
services to individuals in institutions. 79044

(C)(1) All federal funds received under Title XX shall be 79045
appropriated as follows: 79046

(a) Seventy-two and one-half per cent to the department of 79047
job and family services; 79048

(b) Twelve and ninety-three one-hundredths per cent to the 79049
department of mental health; 79050

(c) Fourteen and fifty-seven one-hundredths per cent to the 79051
department of developmental disabilities. 79052

(2) Each of the state department departments shall, subject 79053
to the approval of the controlling board, develop ~~formulas~~ a 79054
formula for the distribution of ~~their the~~ Title XX ~~appropriations~~ 79055
funds appropriated to the department to their its respective local 79056
agencies. The ~~formulas~~ formula developed by each state department 79057
shall take into account all of the following for each of its 79058

respective local agencies: 79059

(a) The total population of the area that is served by the 79060
respective local agency,~~the;~~ 79061

(b) The percentage of the population in the area served that 79062
falls below the federal poverty guidelines,~~and the;~~ 79063

(c) The respective local agency's history of and ability to 79064
utilize Title XX funds. 79065

(3) Each of the state departments shall expend ~~no~~ for state 79066
administrative costs not more than three per cent of its the 79067
XX appropriation for state administrative costs funds appropriated 79068
to the department. ~~Each of the department's respective local~~ 79069
~~agencies shall expend no more than fourteen per cent of its Title~~ 79070
~~XX appropriation~~ 79071

Each state department shall establish for each of its 79072
respective local agencies the maximum percentage of the Title XX 79073
funds distributed to the respective local agency that the 79074
respective local agency may expend for local administrative costs. 79075
The percentage shall be established by rule and shall comply with 79076
federal law governing the use of Title XX funds. The rules shall 79077
be adopted in accordance with section 111.15 of the Revised Code 79078
as if they were internal management rules. 79079

(4) The department of job and family services shall expend ~~no~~ 79080
for the training of the following not more than two per cent of 79081
its the Title XX appropriation for the training of the following 79082
funds appropriated to the department: 79083

(a) Employees of county departments of job and family 79084
services; 79085

(b) Providers of services under contract with the state 79086
departments' respective local agencies; 79087

(c) Employees of a public children services agency directly 79088

engaged in providing Title XX services. 79089

(D) The department of job and family services shall prepare a 79090
biennial comprehensive Title XX social services plan on the 79091
intended use of Title XX funds. The department shall develop a 79092
method for obtaining public comment during the development of the 79093
plan and following its completion. 79094

For each state fiscal year, the department of job and family 79095
services shall prepare a report on the actual use of Title XX 79096
funds. The department shall make the annual report available for 79097
public inspection. 79098

The departments of mental health and developmental 79099
disabilities shall prepare and submit to the department of job and 79100
family services the portions of each biennial plan and annual 79101
report that apply to services for mental health and mental 79102
retardation and developmental disabilities. Each respective local 79103
agency of the three state departments shall submit information as 79104
necessary for the preparation of biennial plans and annual 79105
reports. 79106

(E) Each county department shall adopt a county profile for 79107
the administration and provision of Title XX social services in 79108
the county. In developing its county profile, the county 79109
department shall take into consideration the comments and 79110
recommendations received from the public by the county family 79111
services planning committee pursuant to section 329.06 of the 79112
Revised Code. As part of its preparation of the county profile, 79113
the county department may prepare a local needs report analyzing 79114
the need for Title XX social services. 79115

The county department shall submit the county profile to the 79116
board of county commissioners for its review. Once the county 79117
profile has been approved by the board, the county department 79118
shall file a copy of the county profile with the department of job 79119

and family services. The department shall approve the county 79120
profile if the department determines the profile provides for the 79121
Title XX social services to meet the goals specified in division 79122
(B) of this section. 79123

(F) Any of the three state departments and their respective 79124
local agencies may require that an entity under contract to 79125
provide social services with Title XX funds submit to an audit on 79126
the basis of alleged misuse or improper accounting of funds. If an 79127
audit is required, the social services provider shall reimburse 79128
the state department or respective local agency for the cost it 79129
incurred in conducting the audit or having the audit conducted. 79130

If an audit demonstrates that a social services provider is 79131
responsible for one or more adverse findings, the provider shall 79132
reimburse the appropriate state department or its respective local 79133
agency the amount of the adverse findings. The amount shall not be 79134
reimbursed with Title XX funds received under this section. The 79135
three state departments and their respective local agencies may 79136
terminate or refuse to enter into a Title XX contract with a 79137
social services provider if there are adverse findings in an audit 79138
that are the responsibility of the provider. 79139

(G) The Except with respect to the matters for which each of 79140
the state departments must adopt rules under division (C)(3) of 79141
this section, the department of job and family services may adopt 79142
any rules it considers necessary to implement and carry out the 79143
purposes of this section. Rules governing financial and 79144
operational matters of the department or matters between the 79145
department and county departments of job and family services shall 79146
be adopted as internal management rules in accordance with section 79147
111.15 of the Revised Code. Rules governing eligibility for 79148
services, program participation, and other matters pertaining to 79149
applicants and participants shall be adopted in accordance with 79150
Chapter 119. of the Revised Code. 79151

Sec. 5101.47. (A) Except as provided in ~~division~~ divisions 79152
(B) and (C) of this section, the ~~director~~ department of job and 79153
family services may accept applications, determine eligibility, 79154
redetermine eligibility, and perform related administrative 79155
activities for one or more of the following: 79156

(1) The medicaid program established by Chapter 5111. of the 79157
Revised Code; 79158

(2) The children's health insurance program parts I, II, and 79159
III provided for under sections 5101.50, ~~5101.51, and 5101.52~~ to 79160
5101.529 of the Revised Code; 79161

(3) Publicly funded child care provided under Chapter 5104. 79162
of the Revised Code; 79163

(4) The supplemental nutrition assistance program 79164
administered by the department ~~of job and family services~~ pursuant 79165
to section 5101.54 of the Revised Code; 79166

(5) Other programs the director of job and family services 79167
determines are supportive of children, adults, or families; 79168

(6) Other programs regarding which the director determines 79169
administrative cost savings and efficiency may be achieved through 79170
the department accepting applications, determining eligibility, 79171
redetermining eligibility, or performing related administrative 79172
activities. 79173

(B) To the extent permitted by federal law, the department 79174
may enter into agreements with one or more other state agencies, 79175
local government entities, or political subdivisions to accept 79176
applications, determine eligibility, redetermine eligibility, and 79177
perform related administrative activities on behalf of the 79178
department with respect to the medicaid program and the children's 79179
health insurance program. 79180

(C) If federal law requires a face-to-face interview to 79181

complete an eligibility determination for a program specified in 79182
or pursuant to division (A) of this section, the face-to-face 79183
interview shall not be conducted by the department of job and 79184
family services. 79185

~~(C)~~(D) Subject to division ~~(B)~~(C) of this section, if the 79186
~~director~~ department elects to accept applications, determine 79187
eligibility, redetermine eligibility, and perform related 79188
administrative activities for a program specified in or pursuant 79189
to division (A) of this section, both of the following apply: 79190

(1) An individual seeking services under the program may 79191
apply for the program to the ~~director~~ department or to the entity 79192
that state law governing the program authorizes to accept 79193
applications for the program. 79194

(2) The ~~director~~ department is subject to federal statutes 79195
and regulations and state statutes and rules that require, permit, 79196
or prohibit an action regarding accepting applications, 79197
determining or redetermining eligibility, and performing related 79198
administrative activities for the program. 79199

~~(D)~~(E) The director may adopt rules as necessary to implement 79200
this section. 79201

Sec. 5101.571. As used in sections 5101.571 to 5101.591 of 79202
the Revised Code: 79203

(A) "Information" means all of the following: 79204

(1) An individual's name, address, date of birth, and social 79205
security number; 79206

(2) The group or plan number, or other identifier, assigned 79207
by a third party to a policy held by an individual or a plan in 79208
which the individual participates and the nature of the coverage; 79209

(3) Any other data the director of job and family services 79210
specifies in rules adopted under section 5101.591 of the Revised 79211

Code.	79212
(B) "Medical assistance" means medical items or services provided under any of the following:	79213 79214
(1) Medicaid, as defined in section 5111.01 of the Revised Code;	79215 79216
(2) The children's health insurance program part I, part II, and part III established under sections 5101.50, 5101.51, and 5101.52 of the Revised Code;	79217 79218 79219
(3) The children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code.	79220 79221
(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.	79222 79223 79224
(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.	79225 79226 79227
(E)(1) Subject to division (E)(2) of this section, and except as provided in division (E)(3) of this section, "third party" means all of the following:	79228 79229 79230
(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;	79231 79232
(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis;	79233 79234 79235
(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;	79236 79237
(d) A group health plan as defined in 29 U.S.C. 1167;	79238
(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25);	79239 79240

(f) A managed care organization;	79241
(g) A pharmacy benefit manager;	79242
(h) A third party administrator;	79243
(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant.	79244 79245 79246 79247
(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a person or governmental entity listed in division (E)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.	79248 79249 79250 79251 79252
(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.	79253 79254 79255
Sec. 5101.573. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:	79256 79257
(1) Accept the department of job and family services' right of recovery under section 5101.58 of the Revised Code and the assignment of rights to the department that are described in section 5101.59 of the Revised Code;	79258 79259 79260 79261
(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than three <u>six</u> years after the date of the provision of such medical item or service;	79262 79263 79264 79265
(3) <u>Not charge a fee to do either of the following for a claim described in division (A)(2) of this section:</u>	79266 79267
<u>(a) Determine whether the claim should be paid;</u>	79268
<u>(b) Process the claim.</u>	79269

<u>(4)</u> Pay a claim described in division (A)(2) of this section;	79270
(4) <u>(5)</u> Not deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim form, or a failure by the medical assistance recipient who is the subject of the claim to present proper documentation of coverage at the time of service, if both of the following are true:	79271 79272 79273 79274 79275 79276
(a) The claim was submitted by the department not later than three <u>six</u> years after the date of the provision of the medical item or service.	79277 79278 79279
(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.	79280 79281 79282 79283
(5) <u>(6)</u> Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party;	79284 79285 79286 79287
(6) <u>(7)</u> Not deny a claim described in division (A) (5) <u>(6)</u> of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or service.	79288 79289 79290 79291
(B) For purposes of the requirements in division (A) of this section, a third party shall treat a managed care organization as the department for a claim in which both of the following are true:	79292 79293 79294 79295
(1) The individual who is the subject of the claim received a medical item or service through a managed care organization that has entered into a contract with the department of job and family services under section 5111.17 of the Revised Code;	79296 79297 79298 79299

(2) The department has assigned its right of recovery for the claim to the managed care organization. 79300
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(C) The time limitations associated with the requirements in divisions (A)(2) and ~~(A)(4)~~(5) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which 42 U.S.C. 1396a(a)(25)(I) applies. 79302
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Sec. 5101.58. (A) The acceptance of public assistance gives an automatic right of recovery to the department of job and family services and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the public assistance recipient or participant. When an action or claim is brought against a third party by a public assistance recipient or participant, any payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of job and family services or county department of job and family services. Except in the case of a recipient or participant who receives medical assistance through a managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by a department on behalf of the recipient or participant. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by a department shall not preclude a department from enforcing its rights under this section. 79306
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(B) In the case of a recipient or participant who receives medical assistance through a managed care organization, the amount of the department's or county department's claim shall be the amount the managed care organization pays for medical assistance rendered to the recipient or participant, even if that amount is more than the amount a department pays to the managed care organization for the recipient's or participant's medical 79324
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assistance. 79331

(C) A recipient or participant, and the recipient's or 79332
participant's attorney, if any, shall cooperate with the 79333
departments. In furtherance of this requirement, the recipient or 79334
participant, or the recipient's or participant's attorney, if any, 79335
shall, not later than thirty days after initiating informal 79336
recovery activity or filing a legal recovery action against a 79337
third party, provide written notice of the activity or action to 79338
the department of job and family services when medical assistance 79339
under medicaid ~~or the children's buy in program~~ has been paid. 79340

(D) The written notice that must be given under division (C) 79341
of this section shall disclose the identity and address of any 79342
third party against whom the recipient or participant has or may 79343
have a right of recovery. 79344

(E) No settlement, compromise, judgment, or award or any 79345
recovery in any action or claim by a recipient or participant 79346
where the departments have a right of recovery shall be made final 79347
without first giving the appropriate departments written notice as 79348
described in division (C) of this section and a reasonable 79349
opportunity to perfect their rights of recovery. If the 79350
departments are not given the appropriate written notice, the 79351
recipient or participant and, if there is one, the recipient's or 79352
participant's attorney, are liable to reimburse the departments 79353
for the recovery received to the extent of medical payments made 79354
by the departments. 79355

(F) The departments shall be permitted to enforce their 79356
recovery rights against the third party even though they accepted 79357
prior payments in discharge of their rights under this section if, 79358
at the time the departments received such payments, they were not 79359
aware that additional medical expenses had been incurred but had 79360
not yet been paid by the departments. The third party becomes 79361
liable to the department of job and family services or county 79362

department of job and family services as soon as the third party 79363
is notified in writing of the valid claims for recovery under this 79364
section. 79365

(G)(1) Subject to division (G)(2) of this section, the right 79366
of recovery of a department does not apply to that portion of any 79367
judgment, award, settlement, or compromise of a claim, to the 79368
extent of attorneys' fees, costs, or other expenses incurred by a 79369
recipient or participant in securing the judgment, award, 79370
settlement, or compromise, or to the extent of medical, surgical, 79371
and hospital expenses paid by such recipient or participant from 79372
the recipient's or participant's own resources. 79373

(2) Reasonable attorneys' fees, not to exceed one-third of 79374
the total judgment, award, settlement, or compromise, plus costs 79375
and other expenses incurred by the recipient or participant in 79376
securing the judgment, award, settlement, or compromise, shall 79377
first be deducted from the total judgment, award, settlement, or 79378
compromise. After fees, costs, and other expenses are deducted 79379
from the total judgment, award, settlement, or compromise, the 79380
department of job and family services or appropriate county 79381
department of job and family services shall receive no less than 79382
one-half of the remaining amount, or the actual amount of medical 79383
assistance paid, whichever is less. 79384

(H) A right of recovery created by this section may be 79385
enforced separately or jointly by the department of job and family 79386
services or the appropriate county department of job and family 79387
services. To enforce their recovery rights, the departments may do 79388
any of the following: 79389

(1) Intervene or join in any action or proceeding brought by 79390
the recipient or participant or on the recipient's or 79391
participant's behalf against any third party who may be liable for 79392
the cost of medical assistance paid; 79393

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;	79394 79395
(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled recipient or participant or the recipient's or participant's attorney or representative.	79396 79397 79398
(I) A recipient or participant shall not assess attorney fees, costs, or other expenses against the department of job and family services or a county department of job and family services when the department or county department enforces its right of recovery created by this section.	79399 79400 79401 79402 79403
(J) The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.07 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.	79404 79405 79406 79407 79408
Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:	79409 79410
(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.	79411 79412 79413
(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes an adult care facility licensed pursuant to Chapter 3722. <u>5119.</u> of the Revised Code, but does not include other institutions or	79414 79415 79416 79417 79418 79419 79420 79421 79422 79423

facilities licensed by the state or facilities in which a person 79424
resides as a result of voluntary, civil, or criminal commitment. 79425

(C) "Caretaker" means the person assuming the responsibility 79426
for the care of an adult on a voluntary basis, by contract, 79427
through receipt of payment for care, as a result of a family 79428
relationship, or by order of a court of competent jurisdiction. 79429

(D) "Court" means the probate court in the county where an 79430
adult resides. 79431

(E) "Emergency" means that the adult is living in conditions 79432
which present a substantial risk of immediate and irreparable 79433
physical harm or death to self or any other person. 79434

(F) "Emergency services" means protective services furnished 79435
to an adult in an emergency. 79436

(G) "Exploitation" means the unlawful or improper act of a 79437
caretaker using an adult or an adult's resources for monetary or 79438
personal benefit, profit, or gain. 79439

(H) "In need of protective services" means an adult known or 79440
suspected to be suffering from abuse, neglect, or exploitation to 79441
an extent that either life is endangered or physical harm, mental 79442
anguish, or mental illness results or is likely to result. 79443

(I) "Incapacitated person" means a person who is impaired for 79444
any reason to the extent that the person lacks sufficient 79445
understanding or capacity to make and carry out reasonable 79446
decisions concerning the person's self or resources, with or 79447
without the assistance of a caretaker. Refusal to consent to the 79448
provision of services shall not be the sole determinative that the 79449
person is incapacitated. "Reasonable decisions" are decisions made 79450
in daily living which facilitate the provision of food, shelter, 79451
clothing, and health care necessary for life support. 79452

(J) "Mental illness" means a substantial disorder of thought, 79453

mood, perception, orientation, or memory that grossly impairs 79454
judgment, behavior, capacity to recognize reality, or ability to 79455
meet the ordinary demands of life. 79456

(K) "Neglect" means the failure of an adult to provide for 79457
self the goods or services necessary to avoid physical harm, 79458
mental anguish, or mental illness or the failure of a caretaker to 79459
provide such goods or services. 79460

(L) "Peace officer" means a peace officer as defined in 79461
section 2935.01 of the Revised Code. 79462

(M) "Physical harm" means bodily pain, injury, impairment, or 79463
disease suffered by an adult. 79464

(N) "Protective services" means services provided by the 79465
county department of job and family services or its designated 79466
agency to an adult who has been determined by evaluation to 79467
require such services for the prevention, correction, or 79468
discontinuance of an act of as well as conditions resulting from 79469
abuse, neglect, or exploitation. Protective services may include, 79470
but are not limited to, case work services, medical care, mental 79471
health services, legal services, fiscal management, home health 79472
care, homemaker services, housing-related services, guardianship 79473
services, and placement services as well as the provision of such 79474
commodities as food, clothing, and shelter. 79475

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, 79476
and Friday, except when such day is a holiday as defined in 79477
section 1.14 of the Revised Code. 79478

Sec. 5101.61. (A) As used in this section: 79479

(1) "Senior service provider" means any person who provides 79480
care or services to a person who is an adult as defined in 79481
division (B) of section 5101.60 of the Revised Code. 79482

(2) "Ambulatory health facility" means a nonprofit, public or 79483

proprietary freestanding organization or a unit of such an agency 79484
or organization that: 79485

(a) Provides preventive, diagnostic, therapeutic, 79486
rehabilitative, or palliative items or services furnished to an 79487
outpatient or ambulatory patient, by or under the direction of a 79488
physician or dentist in a facility which is not a part of a 79489
hospital, but which is organized and operated to provide medical 79490
care to outpatients; 79491

(b) Has health and medical care policies which are developed 79492
with the advice of, and with the provision of review of such 79493
policies, an advisory committee of professional personnel, 79494
including one or more physicians, one or more dentists, if dental 79495
care is provided, and one or more registered nurses; 79496

(c) Has a medical director, a dental director, if dental care 79497
is provided, and a nursing director responsible for the execution 79498
of such policies, and has physicians, dentists, nursing, and 79499
ancillary staff appropriate to the scope of services provided; 79500

(d) Requires that the health care and medical care of every 79501
patient be under the supervision of a physician, provides for 79502
medical care in a case of emergency, has in effect a written 79503
agreement with one or more hospitals and other centers or clinics, 79504
and has an established patient referral system to other resources, 79505
and a utilization review plan and program; 79506

(e) Maintains clinical records on all patients; 79507

(f) Provides nursing services and other therapeutic services 79508
in accordance with programs and policies, with such services 79509
supervised by a registered professional nurse, and has a 79510
registered professional nurse on duty at all times of clinical 79511
operations; 79512

(g) Provides approved methods and procedures for the 79513
dispensing and administration of drugs and biologicals; 79514

(h) Has established an accounting and record keeping system 79515
to determine reasonable and allowable costs; 79516

(i) "Ambulatory health facilities" also includes an 79517
alcoholism treatment facility approved by the joint commission on 79518
accreditation of healthcare organizations as an alcoholism 79519
treatment facility or certified by the department of alcohol and 79520
drug addiction services, and such facility shall comply with other 79521
provisions of this division not inconsistent with such 79522
accreditation or certification. 79523

(3) "Community mental health facility" means a facility which 79524
provides community mental health services and is included in the 79525
comprehensive mental health plan for the alcohol, drug addiction, 79526
and mental health service district in which it is located. 79527

(4) "Community mental health service" means services, other 79528
than inpatient services, provided by a community mental health 79529
facility. 79530

(5) "Home health agency" means an institution or a distinct 79531
part of an institution operated in this state which: 79532

(a) Is primarily engaged in providing home health services; 79533

(b) Has home health policies which are established by a group 79534
of professional personnel, including one or more duly licensed 79535
doctors of medicine or osteopathy and one or more registered 79536
professional nurses, to govern the home health services it 79537
provides and which includes a requirement that every patient must 79538
be under the care of a duly licensed doctor of medicine or 79539
osteopathy; 79540

(c) Is under the supervision of a duly licensed doctor of 79541
medicine or doctor of osteopathy or a registered professional 79542
nurse who is responsible for the execution of such home health 79543
policies; 79544

- (d) Maintains comprehensive records on all patients; 79545
- (e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 79546
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- (6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home: 79555
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- (a) Nursing care provided by or under the supervision of a registered professional nurse; 79559
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- (b) Physical, occupational, or speech therapy ordered by the patient's attending physician; 79561
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- (c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician; 79563
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- (d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse; 79566
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- (e) Medical supplies and the use of medical appliances; 79569
- (f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician; 79570
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- (g) Any of the foregoing items and services which: 79574

(i) Are provided on an outpatient basis under arrangements 79575
made by the home health agency at a hospital or skilled nursing 79576
facility; 79577

(ii) Involve the use of equipment of such a nature that the 79578
items and services cannot readily be made available to the patient 79579
in the patient's place of residence, or which are furnished at the 79580
hospital or skilled nursing facility while the patient is there to 79581
receive any item or service involving the use of such equipment. 79582

Any attorney, physician, osteopath, podiatrist, chiropractor, 79583
dentist, psychologist, any employee of a hospital as defined in 79584
section 3701.01 of the Revised Code, any nurse licensed under 79585
Chapter 4723. of the Revised Code, any employee of an ambulatory 79586
health facility, any employee of a home health agency, any 79587
employee of an adult care facility as defined in section ~~3722.01~~ 79588
5119.70 of the Revised Code, any employee of a nursing home, 79589
residential care facility, or home for the aging, as defined in 79590
section 3721.01 of the Revised Code, any senior service provider, 79591
any peace officer, coroner, clergyman, any employee of a community 79592
mental health facility, and any person engaged in social work or 79593
counseling having reasonable cause to believe that an adult is 79594
being abused, neglected, or exploited, or is in a condition which 79595
is the result of abuse, neglect, or exploitation shall immediately 79596
report such belief to the county department of job and family 79597
services. This section does not apply to employees of any hospital 79598
or public hospital as defined in section 5122.01 of the Revised 79599
Code. 79600

(B) Any person having reasonable cause to believe that an 79601
adult has suffered abuse, neglect, or exploitation may report, or 79602
cause reports to be made of such belief to the department. 79603

(C) The reports made under this section shall be made orally 79604
or in writing except that oral reports shall be followed by a 79605
written report if a written report is requested by the department. 79606

Written reports shall include: 79607

(1) The name, address, and approximate age of the adult who 79608
is the subject of the report; 79609

(2) The name and address of the individual responsible for 79610
the adult's care, if any individual is, and if the individual is 79611
known; 79612

(3) The nature and extent of the alleged abuse, neglect, or 79613
exploitation of the adult; 79614

(4) The basis of the reporter's belief that the adult has 79615
been abused, neglected, or exploited. 79616

(D) Any person with reasonable cause to believe that an adult 79617
is suffering abuse, neglect, or exploitation who makes a report 79618
pursuant to this section or who testifies in any administrative or 79619
judicial proceeding arising from such a report, or any employee of 79620
the state or any of its subdivisions who is discharging 79621
responsibilities under section 5101.62 of the Revised Code shall 79622
be immune from civil or criminal liability on account of such 79623
investigation, report, or testimony, except liability for perjury, 79624
unless the person has acted in bad faith or with malicious 79625
purpose. 79626

(E) No employer or any other person with the authority to do 79627
so shall discharge, demote, transfer, prepare a negative work 79628
performance evaluation, or reduce benefits, pay, or work 79629
privileges, or take any other action detrimental to an employee or 79630
in any way retaliate against an employee as a result of the 79631
employee's having filed a report under this section. 79632

(F) Neither the written or oral report provided for in this 79633
section nor the investigatory report provided for in section 79634
5101.62 of the Revised Code shall be considered a public record as 79635
defined in section 149.43 of the Revised Code. Information 79636
contained in the report shall upon request be made available to 79637

the adult who is the subject of the report, to agencies authorized 79638
by the department to receive information contained in the report, 79639
and to legal counsel for the adult. 79640

Sec. 5104.01. As used in this chapter: 79641

(A) "Administrator" means the person responsible for the 79642
daily operation of a center or type A home. The administrator and 79643
the owner may be the same person. 79644

(B) "Approved child day camp" means a child day camp approved 79645
pursuant to section 5104.22 of the Revised Code. 79646

(C) "Authorized provider" means a person authorized by a 79647
county director of job and family services to operate a certified 79648
type B family day-care home. 79649

(D) "Border state child care provider" means a child care 79650
provider that is located in a state bordering Ohio and that is 79651
licensed, certified, or otherwise approved by that state to 79652
provide child care. 79653

(E) "Career pathways model" means an alternative pathway to 79654
meeting the requirements for a child care staff member or 79655
administrator that uses one framework to integrate the pathways of 79656
formal education, training, experience, and specialized 79657
credentials, and certifications, and that allows the member or 79658
administrator to achieve a designation as an early childhood 79659
professional level one, two, three, four, five, or six. 79660

(F) "Caretaker parent" means the father or mother of a child 79661
whose presence in the home is needed as the caretaker of the 79662
child, a person who has legal custody of a child and whose 79663
presence in the home is needed as the caretaker of the child, a 79664
guardian of a child whose presence in the home is needed as the 79665
caretaker of the child, and any other person who stands in loco 79666
parentis with respect to the child and whose presence in the home 79667

is needed as the caretaker of the child. 79668

~~(F)~~(G) "Certified type B family day-care home" and "certified 79669
type B home" mean a type B family day-care home that is certified 79670
by the director of the county department of job and family 79671
services pursuant to section 5104.11 of the Revised Code to 79672
receive public funds for providing child care pursuant to this 79673
chapter and any rules adopted under it. 79674

~~(G)~~(H) "Chartered nonpublic school" means a school that meets 79675
standards for nonpublic schools prescribed by the state board of 79676
education for nonpublic schools pursuant to section 3301.07 of the 79677
Revised Code. 79678

~~(H)~~(I) "Child" includes an infant, toddler, preschool child, 79679
or school child. 79680

~~(I)~~(J) "Child care block grant act" means the "Child Care and 79681
Development Block Grant Act of 1990," established in section 5082 79682
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 79683
1388-236 (1990), 42 U.S.C. 9858, as amended. 79684

~~(J)~~(K) "Child day camp" means a program in which only school 79685
children attend or participate, that operates for no more than 79686
seven hours per day, that operates only during one or more public 79687
school district's regular vacation periods or for no more than 79688
fifteen weeks during the summer, and that operates outdoor 79689
activities for each child who attends or participates in the 79690
program for a minimum of fifty per cent of each day that children 79691
attend or participate in the program, except for any day when 79692
hazardous weather conditions prevent the program from operating 79693
outdoor activities for a minimum of fifty per cent of that day. 79694
For purposes of this division, the maximum seven hours of 79695
operation time does not include transportation time from a child's 79696
home to a child day camp and from a child day camp to a child's 79697
home. 79698

~~(K)~~(L) "Child care" means administering to the needs of 79699
infants, toddlers, preschool children, and school children outside 79700
of school hours by persons other than their parents or guardians, 79701
custodians, or relatives by blood, marriage, or adoption for any 79702
part of the twenty-four-hour day in a place or residence other 79703
than a child's own home. 79704

~~(L)~~(M) "Child day-care center" and "center" mean any place in 79705
which child care or publicly funded child care is provided for 79706
thirteen or more children at one time or any place that is not the 79707
permanent residence of the licensee or administrator in which 79708
child care or publicly funded child care is provided for seven to 79709
twelve children at one time. In counting children for the purposes 79710
of this division, any children under six years of age who are 79711
related to a licensee, administrator, or employee and who are on 79712
the premises of the center shall be counted. "Child day-care 79713
center" and "center" do not include any of the following: 79714

(1) A place located in and operated by a hospital, as defined 79715
in section 3727.01 of the Revised Code, in which the needs of 79716
children are administered to, if all the children whose needs are 79717
being administered to are monitored under the on-site supervision 79718
of a physician licensed under Chapter 4731. of the Revised Code or 79719
a registered nurse licensed under Chapter 4723. of the Revised 79720
Code, and the services are provided only for children who, in the 79721
opinion of the child's parent, guardian, or custodian, are 79722
exhibiting symptoms of a communicable disease or other illness or 79723
are injured; 79724

(2) A child day camp; 79725

(3) A place that provides child care, but not publicly funded 79726
child care, if all of the following apply: 79727

(a) An organized religious body provides the child care; 79728

(b) A parent, custodian, or guardian of at least one child 79729

receiving child care is on the premises and readily accessible at all times; 79730
79731

(c) The child care is not provided for more than thirty days a year; 79732
79733

(d) The child care is provided only for preschool and school children. 79734
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~~(M)~~(N) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care. 79736
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~~(N)~~(O) "Child care resource and referral services" means all of the following services: 79740
79741

(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data; 79742
79743
79744

(2) Provision of individualized consumer education to families seeking child care; 79745
79746

(3) Provision of timely referrals of available child care providers to families seeking child care; 79747
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(4) Recruitment of child care providers; 79749

(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community; 79750
79751
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(6) Collection and analysis of data on the supply of and demand for child care in the community; 79754
79755

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs; 79756
79757
79758

(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;

(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.

~~(O)~~(P) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

~~(P)~~(O) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

~~(O)~~(R) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

~~(R)~~(S) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this

chapter. 79789

~~(S)~~(T) "Federal poverty line" means the official poverty 79790
guideline as revised annually in accordance with section 673(2) of 79791
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 79792
U.S.C. 9902, as amended, for a family size equal to the size of 79793
the family of the person whose income is being determined. 79794

~~(T)~~(U) "Head start program" means a comprehensive child 79795
development program that receives funds distributed under the 79796
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 79797
amended, and is licensed as a child day-care center. 79798

~~(U)~~(V) "Income" means gross income, as defined in section 79799
5107.10 of the Revised Code, less any amounts required by federal 79800
statutes or regulations to be disregarded. 79801

~~(V)~~(W) "Indicator checklist" means an inspection tool, used 79802
in conjunction with an instrument-based program monitoring 79803
information system, that contains selected licensing requirements 79804
that are statistically reliable indicators or predictors of a 79805
child day-care center or type A family day-care home's compliance 79806
with licensing requirements. 79807

~~(W)~~(X) "Infant" means a child who is less than eighteen 79808
months of age. 79809

~~(X)~~(Y) "In-home aide" means a person who does not reside with 79810
the child but provides care in the child's home and is certified 79811
by a county director of job and family services pursuant to 79812
section 5104.12 of the Revised Code to provide publicly funded 79813
child care to a child in a child's own home pursuant to this 79814
chapter and any rules adopted under it. 79815

~~(Y)~~(Z) "Instrument-based program monitoring information 79816
system" means a method to assess compliance with licensing 79817
requirements for child day-care centers and type A family day-care 79818
homes in which each licensing requirement is assigned a weight 79819

indicative of the relative importance of the requirement to the 79820
health, growth, and safety of the children that is used to develop 79821
an indicator checklist. 79822

~~(Z)~~(AA) "License capacity" means the maximum number in each 79823
age category of children who may be cared for in a child day-care 79824
center or type A family day-care home at one time as determined by 79825
the director of job and family services considering building 79826
occupancy limits established by the department of commerce, ~~number~~ 79827
~~of available child-care staff members,~~ amount of available indoor 79828
floor space and outdoor play space, and amount of available play 79829
equipment, materials, and supplies. For the purposes of a 79830
provisional license issued under this chapter, the director shall 79831
also consider the number of available child-care staff members 79832
when determining "license capacity" for the provisional license. 79833

~~(AA)~~(BB) "Licensed preschool program" or "licensed school 79834
child program" means a preschool program or school child program, 79835
as defined in section 3301.52 of the Revised Code, that is 79836
licensed by the department of education pursuant to sections 79837
3301.52 to 3301.59 of the Revised Code. 79838

~~(BB)~~(CC) "Licensee" means the owner of a child day-care 79839
center or type A family day-care home that is licensed pursuant to 79840
this chapter and who is responsible for ensuring its compliance 79841
with this chapter and rules adopted pursuant to this chapter. 79842

~~(CC)~~(DD) "Operate a child day camp" means to operate, 79843
establish, manage, conduct, or maintain a child day camp. 79844

~~(DD)~~(EE) "Owner" includes a person, as defined in section 79845
1.59 of the Revised Code, or government entity. 79846

~~(EE)~~(FF) "Parent cooperative child day-care center," "parent 79847
cooperative center," "parent cooperative type A family day-care 79848
home," and "parent cooperative type A home" mean a corporation or 79849
association organized for providing educational services to the 79850

children of members of the corporation or association, without 79851
gain to the corporation or association as an entity, in which the 79852
services of the corporation or association are provided only to 79853
children of the members of the corporation or association, 79854
ownership and control of the corporation or association rests 79855
solely with the members of the corporation or association, and at 79856
least one parent-member of the corporation or association is on 79857
the premises of the center or type A home during its hours of 79858
operation. 79859

~~(FF)~~(GG) "Part-time child day-care center," "part-time 79860
center," "part-time type A family day-care home," and "part-time 79861
type A home" mean a center or type A home that provides child care 79862
or publicly funded child care for no more than four hours a day 79863
for any child. 79864

~~(GG)~~(HH) "Place of worship" means a building where activities 79865
of an organized religious group are conducted and includes the 79866
grounds and any other buildings on the grounds used for such 79867
activities. 79868

~~(HH)~~(II) "Preschool child" means a child who is three years 79869
old or older but is not a school child. 79870

~~(II)~~(JJ) "Protective child care" means publicly funded child 79871
care for the direct care and protection of a child to whom either 79872
of the following applies: 79873

(1) A case plan prepared and maintained for the child 79874
pursuant to section 2151.412 of the Revised Code indicates a need 79875
for protective care and the child resides with a parent, 79876
stepparent, guardian, or another person who stands in loco 79877
parentis as defined in rules adopted under section 5104.38 of the 79878
Revised Code; 79879

(2) The child and the child's caretaker either temporarily 79880
reside in a facility providing emergency shelter for homeless 79881

families or are determined by the county department of job and 79882
family services to be homeless, and are otherwise ineligible for 79883
publicly funded child care. 79884

~~(JJ)~~(KK) "Publicly funded child care" means administering to 79885
the needs of infants, toddlers, preschool children, and school 79886
children under age thirteen during any part of the 79887
twenty-four-hour day by persons other than their caretaker parents 79888
for remuneration wholly or in part with federal or state funds, 79889
including funds available under the child care block grant act, 79890
Title IV-A, and Title XX, distributed by the department of job and 79891
family services. 79892

~~(KK)~~(LL) "Religious activities" means any of the following: 79893
worship or other religious services; religious instruction; Sunday 79894
school classes or other religious classes conducted during or 79895
prior to worship or other religious services; youth or adult 79896
fellowship activities; choir or other musical group practices or 79897
programs; meals; festivals; or meetings conducted by an organized 79898
religious group. 79899

~~(LL)~~(MM) "School child" means a child who is enrolled in or 79900
is eligible to be enrolled in a grade of kindergarten or above but 79901
is less than fifteen years old. 79902

~~(MM)~~(NN) "School child day-care center," "school child 79903
center," "school child type A family day-care home," and "school 79904
child type A family home" mean a center or type A home that 79905
provides child care for school children only and that does either 79906
or both of the following: 79907

(1) Operates only during that part of the day that 79908
immediately precedes or follows the public school day of the 79909
school district in which the center or type A home is located; 79910

(2) Operates only when the public schools in the school 79911
district in which the center or type A home is located are not 79912

open for instruction with pupils in attendance. 79913

~~(NN)~~(OO) "State median income" means the state median income 79914
calculated by the department of development pursuant to division 79915
(A)(1)(g) of section 5709.61 of the Revised Code. 79916

~~(OO)~~(PP) "Title IV-A" means Title IV-A of the "Social 79917
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 79918

~~(PP)~~(OO) "Title XX" means Title XX of the "Social Security 79919
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 79920

~~(OO)~~(RR) "Toddler" means a child who is at least eighteen 79921
months of age but less than three years of age. 79922

~~(RR)~~(SS) "Type A family day-care home" and "type A home" mean 79923
a permanent residence of the administrator in which child care or 79924
publicly funded child care is provided for seven to twelve 79925
children at one time or a permanent residence of the administrator 79926
in which child care is provided for four to twelve children at one 79927
time if four or more children at one time are under two years of 79928
age. In counting children for the purposes of this division, any 79929
children under six years of age who are related to a licensee, 79930
administrator, or employee and who are on the premises of the type 79931
A home shall be counted. "Type A family day-care home" and "type A 79932
home" do not include any child day camp. 79933

~~(SS)~~(TT) "Type B family day-care home" and "type B home" mean 79934
a permanent residence of the provider in which child care is 79935
provided for one to six children at one time and in which no more 79936
than three children are under two years of age at one time. In 79937
counting children for the purposes of this division, any children 79938
under six years of age who are related to the provider and who are 79939
on the premises of the type B home shall be counted. "Type B 79940
family day-care home" and "type B home" do not include any child 79941
day camp. 79942

Sec. 5104.011. (A) The director of job and family services 79943
shall adopt rules pursuant to Chapter 119. of the Revised Code 79944
governing the operation of child day-care centers, including, but 79945
not limited to, parent cooperative centers, part-time centers, 79946
drop-in centers, and school child centers, which rules shall 79947
reflect the various forms of child care and the needs of children 79948
receiving child care or publicly funded child care and shall 79949
include specific rules for school child care centers that are 79950
developed in consultation with the department of education. The 79951
rules shall not require an existing school facility that is in 79952
compliance with applicable building codes to undergo an additional 79953
building code inspection or to have structural modifications. The 79954
rules shall include the following: 79955

(1) Submission of a site plan and descriptive plan of 79956
operation to demonstrate how the center proposes to meet the 79957
requirements of this chapter and rules adopted pursuant to this 79958
chapter for the initial license application; 79959

(2) Standards for ensuring that the physical surroundings of 79960
the center are safe and sanitary including, but not limited to, 79961
the physical environment, the physical plant, and the equipment of 79962
the center; 79963

(3) Standards for the supervision, care, and discipline of 79964
children receiving child care or publicly funded child care in the 79965
center; 79966

(4) Standards for a program of activities, and for play 79967
equipment, materials, and supplies, to enhance the development of 79968
each child; however, any educational curricula, philosophies, and 79969
methodologies that are developmentally appropriate and that 79970
enhance the social, emotional, intellectual, and physical 79971
development of each child shall be permissible. As used in this 79972
division, "program" does not include instruction in religious or 79973

moral doctrines, beliefs, or values that is conducted at child	79974
day-care centers owned and operated by churches and does include	79975
methods of disciplining children at child day-care centers.	79976
(5) Admissions policies and procedures, health care policies	79977
and procedures, including, but not limited to, procedures for the	79978
isolation of children with communicable diseases, first aid and	79979
emergency procedures, procedures for discipline and supervision of	79980
children, standards for the provision of nutritious meals and	79981
snacks, and procedures for screening children and employees,	79982
including, but not limited to, that may include any necessary	79983
physical examinations and immunizations;	79984
(6) Methods for encouraging parental participation in the	79985
center and methods for ensuring that the rights of children,	79986
parents, and employees are protected and that responsibilities of	79987
parents and employees are met;	79988
(7) Procedures for ensuring the safety and adequate	79989
supervision of children traveling off the premises of the center	79990
while under the care of a center employee;	79991
(8) Procedures for record keeping, organization, and	79992
administration;	79993
(9) Procedures for issuing, renewing, denying, and revoking a	79994
license that are not otherwise provided for in Chapter 119. of the	79995
Revised Code;	79996
(10) Inspection procedures;	79997
(11) Procedures and standards for setting initial and renewal	79998
license application fees;	79999
(12) Procedures for receiving, recording, and responding to	80000
complaints about centers;	80001
(13) Procedures for enforcing section 5104.04 of the Revised	80002
Code;	80003

(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.

~~(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;~~

~~(17)~~ Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

~~(18)~~(17) A procedure for reporting of injuries of children that occur at the center;

~~(19)~~(18) Any other procedures and standards necessary to carry out this chapter.

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that

are not available for the care of children, as determined by the 80035
director, in meeting the space requirement of this division, and 80036
bathrooms shall be counted in determining square footage only if 80037
they are used exclusively by children enrolled in the center, 80038
except that the exclusion of hallways, kitchens, storage areas, 80039
bathrooms not used exclusively by children enrolled in the center, 80040
and any other areas not available for the care of children from 80041
the minimum of thirty-five square feet of usable indoor floor 80042
space shall not apply to: 80043

(a) Centers licensed prior to or on September 1, 1986, that 80044
continue under licensure after that date; 80045

(b) Centers licensed prior to or on September 1, 1986, that 80046
are issued a new license after that date solely due to a change of 80047
ownership of the center. 80048

(2) The child day-care center shall have on the site a safe 80049
outdoor play space which is enclosed by a fence or otherwise 80050
protected from traffic or other hazards. The play space shall 80051
contain not less than sixty square feet per child using such space 80052
at any one time, and shall provide an opportunity for supervised 80053
outdoor play each day in suitable weather. The director may exempt 80054
a center from the requirement of this division, if an outdoor play 80055
space is not available and if all of the following are met: 80056

(a) The center provides an indoor recreation area that has 80057
not less than sixty square feet per child using the space at any 80058
one time, that has a minimum of one thousand four hundred forty 80059
square feet of space, and that is separate from the indoor space 80060
required under division (B)(1) of this section. 80061

(b) The director has determined that there is regularly 80062
available and scheduled for use a conveniently accessible and safe 80063
park, playground, or similar outdoor play area for play or 80064
recreation. 80065

(c) The children are closely supervised during play and while traveling to and from the area. 80066
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The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children. 80068
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(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows: 80080
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	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			80094
(i) Less than twelve months old	5:1, or		80096
	12:2 if two		80097

	child-care		80098
	staff members		80099
	are in the room	12	80100
(ii) At least twelve			80101
months old, but			80102
less than eighteen			80103
months old	6:1	12	80104
(b) Toddlers:			80105
(i) At least eighteen			80106
months old, but			80107
less than thirty			80108
months old	7:1	14	80109
(ii) At least thirty months			80110
old, but less than			80111
three years old	8:1	16	80112
(c) Preschool			80113
children:			80114
(i) Three years old	12:1	24	80115
(ii) Four years old and			80116
five years old who			80117
are not school			80118
children	14:1	28	80119
(d) School children:			80120
(i) A child who is			80121
enrolled in or is			80122
eligible to be			80123
enrolled in a grade			80124
of kindergarten			80125
or above, but			80126
is less than			80127
eleven years old	18:1	36	80128
(ii) Eleven through fourteen			80129
years old	20:1	40	80130

Except as otherwise provided in division (E) of this section, 80131
the maximum number of children per child-care staff member and 80132
maximum group size requirements of the younger age group shall 80133
apply when age groups are combined. 80134

(4)(a) The child day-care center administrator shall show the 80135
director both of the following: 80136

(i) Evidence of at least high school graduation or 80137
certification of high school equivalency by the state board of 80138
education or the appropriate agency of another state; 80139

(ii) Evidence of having completed at least two years of 80140
training in an accredited college, university, or technical 80141
college, including courses in child development or early childhood 80142
education, ~~or~~ at least two years of experience in supervising and 80143
giving daily care to children attending an organized group 80144
program, or the equivalent based on a designation as an "early 80145
childhood professional level three" under the career pathways 80146
model of the quality-rating program established under section 80147
5104.30 of the Revised Code. 80148

(b) In addition to the requirements of division (B)(4)(a) of 80149
this section and except as provided in division (B)(4)(c) of this 80150
section, any administrator employed or designated ~~on or after~~ 80151
September 1, 1986, as such prior to the effective date of this 80152
section, as amended, shall show evidence of, ~~and any administrator~~ 80153
~~employed or designated prior to September 1, 1986, shall show~~ 80154
evidence at least one of the following within six years after ~~such~~ 80155
the date of, at least one of the following employment or 80156
designation: 80157

(i) Two years of experience working as a child-care staff 80158
member in a center and at least four courses in child development 80159
or early childhood education from an accredited college, 80160
university, or technical college, except that a person who has two 80161

years of experience working as a child-care staff member in a 80162
particular center and who has been promoted to or designated as 80163
administrator of that center shall have one year from the time the 80164
person was promoted to or designated as administrator to complete 80165
the required four courses; 80166

(ii) Two years of training, including at least four courses 80167
in child development or early childhood education from an 80168
accredited college, university, or technical college; 80169

(iii) A child development associate credential issued by the 80170
national child development associate credentialing commission; 80171

(iv) An associate or higher degree in child development or 80172
early childhood education from an accredited college, technical 80173
college, or university, or a license designated for teaching in an 80174
associate teaching position in a preschool setting issued by the 80175
state board of education. 80176

(c) For the purposes of division (B)(4)(b) of this section, 80177
any administrator employed or designated as such prior to the 80178
effective date of this section, as amended, may also show evidence 80179
of an administrator's credential as approved by the department of 80180
job and family services in lieu of, or in addition to, the 80181
evidence required under division (B)(4)(b) of this section. The 80182
evidence of an administrator's credential must be shown to the 80183
director not later than one year after the date of employment or 80184
designation. 80185

(d) In addition to the requirements of division (B)(4)(a) of 80186
this section, any administrator employed or designated as such on 80187
or after the effective date of this section, as amended, shall 80188
show evidence of at least one of the following not later than one 80189
year after the date of employment or designation: 80190

(i) Two years of experience working as a child-care staff 80191
member in a center and at least four courses in child development 80192

or early childhood education from an accredited college, 80193
university, or technical college, except that a person who has two 80194
years of experience working as a child-care staff member in a 80195
particular center and who has been promoted to or designated as 80196
administrator of that center shall have one year from the time the 80197
person was promoted to or designated as administrator to complete 80198
the required four courses; 80199

(ii) Two years of training, including at least four courses 80200
in child development or early childhood education from an 80201
accredited college, university, or technical college; 80202

(iii) A child development associate credential issued by the 80203
national child development associate credentialing commission; 80204

(iv) An associate or higher degree in child development or 80205
early childhood education from an accredited college, technical 80206
college, or university, or a license designated for teaching in an 80207
associate teaching position in a preschool setting issued by the 80208
state board of education; 80209

(v) An administrator's credential as approved by the 80210
department of job and family services. 80211

(5) All child-care staff members of a child day-care center 80212
shall be at least eighteen years of age, and shall furnish the 80213
director evidence of at least high school graduation or 80214
certification of high school equivalency by the state board of 80215
education or the appropriate agency of another state or evidence 80216
of completion of a training program approved by the department of 80217
job and family services or state board of education, except as 80218
follows: 80219

(a) A child-care staff member may be less than eighteen years 80220
of age if the staff member is either of the following: 80221

(i) A graduate of a two-year vocational child-care training 80222
program approved by the state board of education; 80223

(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; ~~or~~

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter;

(iii) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio.

(6) Every child care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse

recognition and prevention, first aid, and in prevention, 80255
recognition, and management of communicable diseases, until a 80256
total of forty-five hours of training has been completed, unless 80257
the staff member furnishes one of the following to the director: 80258

(a) Evidence of an associate or higher degree in child 80259
development or early childhood education from an accredited 80260
college, university, or technical college; 80261

(b) A license designated for teaching in an associate 80262
teaching position in a preschool setting issued by the state board 80263
of education; 80264

(c) Evidence of a child development associate credential; 80265

(d) Evidence of a preprimary credential from the American 80266
Montessori society or the association Montessori internationale. 80267
For the purposes of division (B)(6) of this section, "hour" means 80268
sixty minutes. 80269

~~(7) The administrator of each child day care center shall 80270
prepare at least once annually and for each group of children at 80271
the center a roster of names and telephone numbers of parents, 80272
custodians, or guardians of each group of children attending the 80273
center and upon request shall furnish the roster for each group to 80274
the parents, custodians, or guardians of the children in that 80275
group. The administrator may prepare a roster of names and 80276
telephone numbers of all parents, custodians, or guardians of 80277
children attending the center and upon request shall furnish the 80278
roster to the parents, custodians, or guardians of the children 80279
who attend the center. The administrator shall not include in any 80280
roster the name or telephone number of any parent, custodian, or 80281
guardian who requests the administrator not to include the 80282
parent's, custodian's, or guardian's name or number and shall not 80283
furnish any roster to any person other than a parent, custodian, 80284
or guardian of a child who attends the center. 80285~~

(C)(1) Each child day-care center shall have on the center 80286
premises and readily available at all times at least one 80287
child-care staff member who has completed a course in first aid 80288
~~and, one staff member who has completed a course~~ in prevention, 80289
recognition, and management of communicable diseases which is 80290
approved by the state department of health, and a staff member who 80291
has completed a course in child abuse recognition and prevention 80292
training which is approved by the department of job and family 80293
services. 80294

(2) The administrator of each child day-care center shall 80295
maintain enrollment, health, and attendance records for all 80296
children attending the center and health and employment records 80297
for all center employees. The records shall be confidential, 80298
~~except as otherwise provided in division (B)(7) of this section~~ 80299
~~and~~ except that they shall be disclosed by the administrator to 80300
the director upon request for the purpose of administering and 80301
enforcing this chapter and rules adopted pursuant to this chapter. 80302
Neither the center nor the licensee, administrator, or employees 80303
of the center shall be civilly or criminally liable in damages or 80304
otherwise for records disclosed to the director by the 80305
administrator pursuant to this division. It shall be a defense to 80306
any civil or criminal charge based upon records disclosed by the 80307
administrator to the director that the records were disclosed 80308
pursuant to this division. 80309

(3)(a) Any parent who is the residential parent and legal 80310
custodian of a child enrolled in a child day-care center and any 80311
custodian or guardian of such a child shall be permitted unlimited 80312
access to the center during its hours of operation for the 80313
purposes of contacting their children, evaluating the care 80314
provided by the center, evaluating the premises of the center, or 80315
for other purposes approved by the director. A parent of a child 80316
enrolled in a child day-care center who is not the child's 80317

residential parent shall be permitted unlimited access to the 80318
center during its hours of operation for those purposes under the 80319
same terms and conditions under which the residential parent of 80320
that child is permitted access to the center for those purposes. 80321
However, the access of the parent who is not the residential 80322
parent is subject to any agreement between the parents and, to the 80323
extent described in division (C)(3)(b) of this section, is subject 80324
to any terms and conditions limiting the right of access of the 80325
parent who is not the residential parent, as described in division 80326
(I) of section 3109.051 of the Revised Code, that are contained in 80327
a parenting time order or decree issued under that section, 80328
section 3109.12 of the Revised Code, or any other provision of the 80329
Revised Code. 80330

(b) If a parent who is the residential parent of a child has 80331
presented the administrator or the administrator's designee with a 80332
copy of a parenting time order that limits the terms and 80333
conditions under which the parent who is not the residential 80334
parent is to have access to the center, as described in division 80335
(I) of section 3109.051 of the Revised Code, the parent who is not 80336
the residential parent shall be provided access to the center only 80337
to the extent authorized in the order. If the residential parent 80338
has presented such an order, the parent who is not the residential 80339
parent shall be permitted access to the center only in accordance 80340
with the most recent order that has been presented to the 80341
administrator or the administrator's designee by the residential 80342
parent or the parent who is not the residential parent. 80343

(c) Upon entering the premises pursuant to division (C)(3)(a) 80344
or (b) of this section, the parent who is the residential parent 80345
and legal custodian, the parent who is not the residential parent, 80346
or the custodian or guardian shall notify the administrator or the 80347
administrator's designee of the parent's, custodian's, or 80348
guardian's presence. 80349

(D) The director of job and family services, in addition to 80350
the rules adopted under division (A) of this section, shall adopt 80351
rules establishing minimum requirements for child day-care 80352
centers. The rules shall include, but not be limited to, the 80353
requirements set forth in divisions (B) and (C) of this section. 80354
Except as provided in section 5104.07 of the Revised Code, the 80355
rules shall not change the square footage requirements of division 80356
(B)(1) or (2) of this section; the maximum number of children per 80357
child-care staff member and maximum group size requirements of 80358
division (B)(3) of this section; the educational and experience 80359
requirements of division (B)(4) of this section; the age, 80360
educational, and experience requirements of division (B)(5) of 80361
this section; the number and type of inservice training hours 80362
required under division (B)(6) of this section; ~~or the requirement~~ 80363
~~for at least annual preparation of a roster for each group of~~ 80364
~~children of names and telephone numbers of parents, custodians, or~~ 80365
~~guardians of each group of children attending the center that must~~ 80366
~~be furnished upon request to any parent, custodian, or guardian of~~ 80367
~~any child in that group required under division (B)(7) of this~~ 80368
~~section;~~ however, the rules shall provide procedures for 80369
determining compliance with those requirements. 80370

(E)(1) When age groups are combined, the maximum number of 80371
children per child-care staff member shall be determined by the 80372
age of the youngest child in the group, except that when no more 80373
than one child thirty months of age or older receives services in 80374
a group in which all the other children are in the next older age 80375
group, the maximum number of children per child-care staff member 80376
and maximum group size requirements of the older age group 80377
established under division (B)(3) of this section shall apply. 80378

(2) The maximum number of toddlers or preschool children per 80379
child-care staff member in a room where children are napping shall 80380
be twice the maximum number of children per child-care staff 80381

member established under division (B)(3) of this section if all 80382
the following criteria are met: 80383

(a) At least one child-care staff member is present in the 80384
room. 80385

(b) Sufficient child-care staff members are on the child 80386
day-care center premises to meet the maximum number of children 80387
per child-care staff member requirements established under 80388
division (B)(3) of this section. 80389

(c) Naptime preparations are complete and all napping 80390
children are resting or sleeping on cots. 80391

(d) The maximum number established under division (E)(2) of 80392
this section is in effect for no more than ~~one and one-half~~ two 80393
hours during a twenty-four-hour day. 80394

(F) The director of job and family services shall adopt rules 80395
pursuant to Chapter 119. of the Revised Code governing the 80396
operation of type A family day-care homes, including, but not 80397
limited to, parent cooperative type A homes, part-time type A 80398
homes, drop-in type A homes, and school child type A homes, which 80399
shall reflect the various forms of child care and the needs of 80400
children receiving child care. The rules shall include the 80401
following: 80402

(1) Submission of a site plan and descriptive plan of 80403
operation to demonstrate how the type A home proposes to meet the 80404
requirements of this chapter and rules adopted pursuant to this 80405
chapter for the initial license application; 80406

(2) Standards for ensuring that the physical surroundings of 80407
the type A home are safe and sanitary, including, but not limited 80408
to, the physical environment, the physical plant, and the 80409
equipment of the type A home; 80410

(3) Standards for the supervision, care, and discipline of 80411

children receiving child care or publicly funded child care in the type A home; 80412
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(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible; 80414
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(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations; 80420
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(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met; 80428
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(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee; 80432
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(8) Procedures for record keeping, organization, and administration; 80435
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(9) Procedures for issuing, ~~renewing~~, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code; 80437
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(10) Inspection procedures; 80440

(11) Procedures and standards for setting initial ~~and renewal~~ 80441

license application fees;	80442
(12) Procedures for receiving, recording, and responding to complaints about type A homes;	80443 80444
(13) Procedures for enforcing section 5104.04 of the Revised Code;	80445 80446
(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;	80447 80448 80449 80450 80451 80452
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	80453 80454 80455 80456
(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;	80457 80458 80459 80460
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;	80461 80462 80463 80464
(18) <u>(17)</u> Standards for the maximum number of children per child-care staff member;	80465 80466
(19) <u>(18)</u> Requirements for the amount of usable indoor floor space for each child;	80467 80468
(20) <u>(19)</u> Requirements for safe outdoor play space;	80469
(21) <u>(20)</u> Qualifications and training requirements for administrators and for child-care staff members;	80470 80471

(22) (21) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;	80472 80473 80474
(23) (22) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;	80475 80476
(24) (23) Any other procedures and standards necessary to carry out this chapter.	80477 80478
(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.	80479 80480 80481
(1) The rules shall include all of the following:	80482
(a) Procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:	80483 80484 80485
(i) Persons who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;	80486 80487 80488 80489 80490
(ii) Persons who provide child care for eligible children all of whom are the children of the same caretaker parent;	80491 80492
(b) Procedures for the director to ensure, that type B homes that receive a limited certification provide child care to children in a safe and sanitary manner;	80493 80494 80495
(c) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code.	80496 80497 80498
With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath attesting that the provider meets	80499 80500 80501

the standards for limited certification. Such provisional limited 80502
certifications shall remain in effect for no more than sixty 80503
calendar days and shall entitle the provider to offer publicly 80504
funded child care during the provisional period. Except as 80505
otherwise provided in division (G)(1) of this section, section 80506
5104.013 or 5104.09 of the Revised Code, or division (A)(2) of 80507
section 5104.11 of the Revised Code, prior to the expiration of 80508
the provisional limited certificate, a county department of job 80509
and family services shall inspect the home and shall grant limited 80510
certification to the provider if the provider meets the 80511
requirements of this division. Limited certificates remain valid 80512
for two years unless earlier revoked. Except as otherwise provided 80513
in division (G)(1) of this section, providers operating under 80514
limited certification shall be inspected annually. 80515

If a provider is a person described in division (G)(1)(a)(i) 80516
of this section or a person described in division (G)(1)(a)(ii) of 80517
this section who is a friend of the caretaker parent, the provider 80518
and the caretaker parent may verify in writing to the county 80519
department of job and family services that minimum health and 80520
safety requirements are being met in the home. Except as otherwise 80521
provided in section 5104.013 or 5104.09 or in division (A)(2) of 80522
section 5104.11 of the Revised Code, if such verification is 80523
provided, the county shall waive any inspection required by this 80524
chapter and grant limited certification to the provider. 80525

(2) The rules shall provide for safeguarding the health, 80526
safety, and welfare of children receiving child care or publicly 80527
funded child care in a certified type B home and shall include the 80528
following: 80529

(a) Standards for ensuring that the type B home and the 80530
physical surroundings of the type B home are safe and sanitary, 80531
including, but not limited to, physical environment, physical 80532
plant, and equipment; 80533

- (b) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home; 80534
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- (c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible; 80537
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- (d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations; 80543
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- (e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met; 80549
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- (f) Standards for the safe transport of children when under the care of authorized providers; 80553
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- (g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates; 80555
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- (h) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to certification to ensure that the home is safe and sanitary; 80557
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- (i) Procedures for record keeping and evaluation; 80560
- (j) Procedures for receiving, recording, and responding to complaints; 80561
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- (k) Standards providing for the special needs of children who 80563

are handicapped or who receive treatment for health conditions 80564
while the child is receiving child care or publicly funded child 80565
care in the type B home; 80566

(l) Requirements for the amount of usable indoor floor space 80567
for each child; 80568

(m) Requirements for safe outdoor play space; 80569

(n) Qualification and training requirements for authorized 80570
providers; 80571

(o) Procedures for granting a parent who is the residential 80572
parent and legal custodian, or a custodian or guardian access to 80573
the type B home during its hours of operation; 80574

(p) Requirements for the type B home to notify parents with 80575
children in the type B home that the type B home is also certified 80576
as a foster home under section 5103.03 of the Revised Code; 80577

(q) Any other procedures and standards necessary to carry out 80578
this chapter. 80579

(H) The director shall adopt rules pursuant to Chapter 119. 80580
of the Revised Code governing the certification of in-home aides. 80581
The rules shall include procedures, standards, and other necessary 80582
provisions for granting limited certification to in-home aides who 80583
provide child care for eligible children who are 80584
great-grandchildren, grandchildren, nieces, nephews, or siblings 80585
of the in-home aide or for eligible children whose caretaker 80586
parent is a grandchild, child, niece, nephew, or sibling of the 80587
in-home aide. The rules shall require, and shall include 80588
procedures for the director to ensure, that in-home aides that 80589
receive a limited certification provide child care to children in 80590
a safe and sanitary manner. The rules shall provide for 80591
safeguarding the health, safety, and welfare of children receiving 80592
publicly funded child care in their own home and shall include the 80593
following: 80594

(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;	80595 80596 80597 80598
(2) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;	80599 80600
(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	80601 80602 80603 80604 80605 80606
(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;	80607 80608 80609 80610 80611 80612
(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;	80613 80614 80615 80616
(6) Standards for the safe transport of children when under the care of in-home aides;	80617 80618
(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	80619 80620
(8) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;	80621 80622
(9) Procedures for record keeping and evaluation;	80623
(10) Procedures for receiving, recording, and responding to	80624

complaints;	80625
(11) Qualifications and training requirements for in-home aides;	80626 80627
(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;	80628 80629 80630 80631
(13) Any other procedures and standards necessary to carry out this chapter.	80632 80633
(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.	80634 80635 80636 80637 80638
(J)(1) The director of job and family services shall do all of the following:	80639 80640
(a) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes;	80641 80642 80643
(b) Give public notice of hearings regarding the rules to each licensee at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;	80644 80645 80646
(c) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee.	80647 80648 80649
(2) The director shall do all of the following:	80650
(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;	80651 80652 80653 80654

(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance; 80655
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(c) Provide to each county director of job and family services an electronic copy of each adopted rule at least forty-five days prior to the rule's effective date. 80657
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(3) The county director of job and family services shall provide or make available in either paper or electronic form to each authorized provider and in-home aide copies of proposed rules and shall give public notice of hearings regarding the rules to each authorized provider and in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. At least thirty days before the effective date of a rule, the county director of job and family services shall provide, in either paper or electronic form, copies of the adopted rule to each authorized provider and in-home aide. 80660
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(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge. 80671
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(5) The director of job and family services ~~shall recommend standards~~ may adopt rules pursuant to Chapter 119. of the Revised Code for imposing sanctions on persons and entities that are licensed or certified under this chapter ~~and that violate any provision of this chapter.~~ The ~~standards~~ sanctions shall be based on the scope and severity of the violations. ~~The director shall provide copies of the recommendations to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public.~~ 80674
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~~(6)~~ Sanctions adopted under division (J)(5) of this section may be imposed only for a serious risk noncompliance violation of 80684
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licensure or certification standards. Sanctions for a serious risk noncompliance violation identified in a single licensure or certification visit that does not result in permanent harm to, or death of, a child may include one or more of the following: 80686
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(a) Completion of training or technical assistance; 80690

(b) Additional targeted monitoring or extension of a provisional license or certification if applicable. 80691
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For the purposes of division (J)(5) of this section, "serious risk noncompliance violation" means a licensure or certification standard violation that leads to the greatest risk of permanent harm to, or death of, a child and is observable, not inferable. 80693
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(6) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code establishing incentives for persons and entities that are licensed or certified under this chapter and have a history of substantial compliance with licensure or certification standards. Incentives shall include, but not be limited to, less frequent or focused licensure or certification visits, participation in the quality-rating program established under section 5104.30 of the Revised Code, and scholarships for training. 80697
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(7) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code that establish standards for the training of individuals whom any county department of job and family services employs, with whom any county department of job and family services contracts, or with whom the director of job and family services contracts, to inspect or investigate type B family day-care homes pursuant to section 5104.11 of the Revised Code. The department shall provide training in accordance with those standards for individuals in the categories described in this division. 80706
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(K) The director of job and family services shall review all 80716

rules adopted pursuant to this chapter at least once every seven 80717
years. 80718

(L) Notwithstanding any provision of the Revised Code, the 80719
director of job and family services shall not regulate in any way 80720
under this chapter or rules adopted pursuant to this chapter, 80721
instruction in religious or moral doctrines, beliefs, or values. 80722

Sec. 5104.04. (A) The department of job and family services 80723
shall establish procedures to be followed in investigating, 80724
inspecting, and licensing child day-care centers and type A family 80725
day-care homes. 80726

(B)(1)(a) The department shall, at least once during every 80727
twelve-month period of operation of a center or type A home, 80728
inspect the center or type A home. The department shall inspect a 80729
part-time center or part-time type A home at least once during 80730
every twelve-month period of operation. The department shall 80731
provide a written inspection report to the licensee within a 80732
reasonable time after each inspection. The licensee shall display 80733
all written reports of inspections conducted during the current 80734
licensing period in a conspicuous place in the center or type A 80735
home. 80736

Inspections may be unannounced. No person, firm, 80737
organization, institution, or agency shall interfere with the 80738
inspection of a center or type A home by any state or local 80739
official engaged in performing duties required of the state or 80740
local official by Chapter 5104. of the Revised Code or rules 80741
adopted pursuant to Chapter 5104. of the Revised Code, including 80742
inspecting the center or type A home, reviewing records, or 80743
interviewing licensees, employees, children, or parents. 80744

(b) Upon receipt of any complaint that a center or type A 80745
home is out of compliance with the requirements of Chapter 5104. 80746
of the Revised Code or rules adopted pursuant to Chapter 5104. of 80747

the Revised Code, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center or type A home that otherwise is imposed under this section, or any authority of the department to inspect a center or type A home that otherwise is granted under this section when the department believes the inspection is necessary and it is permitted under the grant.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall contract with a third party by the first day of October in each even-numbered year to collect information concerning the amounts charged by the center or home for providing child care services for use in establishing reimbursement ceilings and payment pursuant to section 5104.30 of the Revised Code. The third party shall compile the information and report the results of the survey to the department not later than the first day of December in each even-numbered year.

~~(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of~~

~~Chapter 5104. of the Revised Code or rules adopted pursuant to~~ 80779
~~Chapter 5104. of the Revised Code, the department shall notify the~~ 80780
~~licensee of the center or type A home in writing regarding the~~ 80781
~~nature of the violation, what must be done to correct the~~ 80782
~~violation, and by what date the correction must be made. If the~~ 80783
~~correction is not made by the date established by the department,~~ 80784
~~the department may commence action under Chapter 119. of the~~ 80785
~~Revised Code to revoke the license. The department's commencement~~ 80786
~~of an action to revoke the license is sufficient notice that the~~ 80787
~~correction has not been made, and no other notice regarding the~~ 80788
~~correction is required.~~ 80789

~~(D)~~ The department may deny an application or revoke a 80790
license, ~~or refuse to renew a license~~ of a center or type A home, 80791
if the applicant knowingly makes a false statement on the 80792
application, the center or home does not comply with the 80793
requirements of Chapter 5104. or rules adopted pursuant to Chapter 80794
5104. of the Revised Code, or the applicant or owner has pleaded 80795
guilty to or been convicted of an offense described in section 80796
5104.09 of the Revised Code. 80797

~~(E)~~(D) If the department finds, after notice and hearing 80798
pursuant to Chapter 119. of the Revised Code, that any applicant, 80799
person, firm, organization, institution, or agency applying for 80800
licensure or licensed under section 5104.03 of the Revised Code is 80801
in violation of any provision of Chapter 5104. of the Revised Code 80802
or rules adopted pursuant to Chapter 5104. of the Revised Code, 80803
the department may issue an order of denial to the applicant or an 80804
order of revocation to the center or type A home revoking the 80805
license previously issued by the department. Upon the issuance of 80806
~~any such an order of revocation,~~ the person whose application is 80807
denied or whose license is revoked may appeal in accordance with 80808
section 119.12 of the Revised Code. 80809

~~(F)~~(E) The surrender of a center or type A home license to 80810

the department or the withdrawal of an application for licensure 80811
by the owner or administrator of the center or type A home shall 80812
not prohibit the department from instituting any of the actions 80813
set forth in this section. 80814

~~(G)~~(F) Whenever the department receives a complaint, is 80815
advised, or otherwise has any reason to believe that a center or 80816
type A home is providing child care without a license issued or 80817
renewed pursuant to section 5104.03 and is not exempt from 80818
licensing pursuant to section 5104.02 of the Revised Code, the 80819
department shall investigate the center or type A home and may 80820
inspect the areas children have access to or areas necessary for 80821
the care of children in the center or type A home during suspected 80822
hours of operation to determine whether the center or type A home 80823
is subject to the requirements of Chapter 5104. or rules adopted 80824
pursuant to Chapter 5104. of the Revised Code. 80825

~~(H)~~(G) The department, upon determining that the center or 80826
type A home is operating without a license, shall notify the 80827
attorney general, the prosecuting attorney of the county in which 80828
the center or type A home is located, or the city attorney, 80829
village solicitor, or other chief legal officer of the municipal 80830
corporation in which the center or type A home is located, that 80831
the center or type A home is operating without a license. Upon 80832
receipt of the notification, the attorney general, prosecuting 80833
attorney, city attorney, village solicitor, or other chief legal 80834
officer of a municipal corporation shall file a complaint in the 80835
court of common pleas of the county in which the center or type A 80836
home is located requesting that the court grant an order enjoining 80837
the owner from operating the center or type A home in violation of 80838
section 5104.02 of the Revised Code. The court shall grant such 80839
injunctive relief upon a showing that the respondent named in the 80840
complaint is operating a center or type A home and is doing so 80841
without a license. 80842

~~(I)~~(H) The department shall prepare an annual report on 80843
inspections conducted under this section. The report shall include 80844
the number of inspections conducted, the number and types of 80845
violations found, and the steps taken to address the violations. 80846
The department shall file the report with the governor, the 80847
president and minority leader of the senate, and the speaker and 80848
minority leader of the house of representatives on or before the 80849
first day of January of each year, beginning in 1999. 80850

Sec. 5104.13. ~~No later than July 1, 1998, and at reasonable~~ 80851
~~intervals thereafter, the~~ The department of job and family 80852
services shall ~~publish~~ prepare a guide describing the state 80853
statutes and rules governing the certification of type B family 80854
day-care homes. The department ~~shall distribute~~ may publish the 80855
guide ~~to county departments of job and family services in~~ 80856
~~sufficient number that a copy is available to each~~ electronically 80857
or otherwise and shall do so in a manner that the guide is 80858
accessible to the public, including type B home ~~provider~~ 80859
providers. 80860

Sec. 5104.30. (A) The department of job and family services 80861
is hereby designated as the state agency responsible for 80862
administration and coordination of federal and state funding for 80863
publicly funded child care in this state. Publicly funded child 80864
care shall be provided to the following: 80865

(1) Recipients of transitional child care as provided under 80866
section 5104.34 of the Revised Code; 80867

(2) Participants in the Ohio works first program established 80868
under Chapter 5107. of the Revised Code; 80869

(3) Individuals who would be participating in the Ohio works 80870
first program if not for a sanction under section 5107.16 of the 80871
Revised Code and who continue to participate in a work activity, 80872

developmental activity, or alternative work activity pursuant to 80873
an assignment under section 5107.42 of the Revised Code; 80874

(4) A family receiving publicly funded child care on October 80875
1, 1997, until the family's income reaches one hundred fifty per 80876
cent of the federal poverty line; 80877

(5) Subject to available funds, other individuals determined 80878
eligible in accordance with rules adopted under section 5104.38 of 80879
the Revised Code. 80880

The department shall apply to the United States department of 80881
health and human services for authority to operate a coordinated 80882
program for publicly funded child care, if the director of job and 80883
family services determines that the application is necessary. For 80884
purposes of this section, the department of job and family 80885
services may enter into agreements with other state agencies that 80886
are involved in regulation or funding of child care. The 80887
department shall consider the special needs of migrant workers 80888
when it administers and coordinates publicly funded child care and 80889
shall develop appropriate procedures for accommodating the needs 80890
of migrant workers for publicly funded child care. 80891

(B) The department of job and family services shall 80892
distribute state and federal funds for publicly funded child care, 80893
including appropriations of state funds for publicly funded child 80894
care and appropriations of federal funds available under the child 80895
care block grant act, Title IV-A, and Title XX. The department may 80896
use any state funds appropriated for publicly funded child care as 80897
the state share required to match any federal funds appropriated 80898
for publicly funded child care. 80899

(C) In the use of federal funds available under the child 80900
care block grant act, all of the following apply: 80901

(1) The department may use the federal funds to hire staff to 80902
prepare any rules required under this chapter and to administer 80903

and coordinate federal and state funding for publicly funded child care. 80904
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(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs. 80906
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(3) The department shall allocate and use at least four per cent of the federal funds for the following: 80909
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(a) Activities designed to provide comprehensive consumer education to parents and the public; 80911
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(b) Activities that increase parental choice; 80913

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care; 80914
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(d) Establishing a voluntary child day-care center quality-rating program in which participation in the program may allow a child day-care center to be eligible for grants, technical assistance, training, or other assistance and become eligible for unrestricted monetary awards for maintaining a quality rating. 80917
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(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means. 80922
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(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the 80930
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development of suitable child care designed to accommodate the 80934
special needs of migrant workers. On request, the department, 80935
through its employees or contracts with state or community child 80936
care resource and referral service organizations, shall provide 80937
consultation to groups and individuals interested in developing 80938
child care. The department of job and family services may enter 80939
into interagency agreements with the department of education, the 80940
board of regents, the department of development, and other state 80941
agencies and entities whenever the cooperative efforts of the 80942
other state agencies and entities are necessary for the department 80943
of job and family services to fulfill its duties and 80944
responsibilities under this chapter. 80945

The department shall develop and maintain a registry of 80946
persons providing child care. The director shall adopt rules 80947
pursuant to Chapter 119. of the Revised Code establishing 80948
procedures and requirements for the registry's administration. 80949

(E)(1) The director shall adopt rules in accordance with 80950
Chapter 119. of the Revised Code establishing both of the 80951
following: 80952

(a) Reimbursement ceilings for providers of publicly funded 80953
child care not later than the first day of July in each 80954
odd-numbered year; 80955

(b) A procedure for reimbursing and paying providers of 80956
publicly funded child care. 80957

(2) In establishing reimbursement ceilings under division 80958
(E)(1)(a) of this section, the director shall do all of the 80959
following: 80960

(a) Use the information obtained under division (B)(3) of 80961
section 5104.04 of the Revised Code; 80962

(b) Establish an enhanced reimbursement ceiling for providers 80963
who provide child care for caretaker parents who work 80964

nontraditional hours; 80965

(c) For a type B family day-care home provider that has 80966
received limited certification pursuant to rules adopted under 80967
division (G)(1) of section 5104.011 of the Revised Code, establish 80968
a reimbursement ceiling that is the following: 80969

(i) If the provider is a person described in division 80970
(G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five 80971
per cent of the reimbursement ceiling that applies to a type B 80972
family day-care home certified by the same county department of 80973
job and family services pursuant to section 5104.11 of the Revised 80974
Code; 80975

(ii) If the provider is a person described in division 80976
(G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per 80977
cent of the reimbursement ceiling that applies to a type B family 80978
day-care home certified by the same county department pursuant to 80979
section 5104.11 of the Revised Code. 80980

(d) With regard to the voluntary child day-care center 80981
quality-rating program established pursuant to division (C)(3)(d) 80982
of this section, do both of the following: 80983

(i) Establish enhanced reimbursement ceilings for child 80984
day-care centers that participate in the program and maintain 80985
quality ratings under the program; 80986

(ii) Weigh any reduction in reimbursement ceilings more 80987
heavily against child day-care centers that do not participate in 80988
the program or do not maintain quality ratings under the program. 80989

(3) In establishing reimbursement ceilings under division 80990
(E)(1)(a) of this section, the director may establish different 80991
reimbursement ceilings based on any of the following: 80992

(a) Geographic location of the provider; 80993

(b) Type of care provided; 80994

(c) Age of the child served;	80995
(d) Special needs of the child served;	80996
(e) Whether the expanded hours of service are provided;	80997
(f) Whether weekend service is provided;	80998
(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;	80999 81000
(h) Any other factors the director considers appropriate.	81001
(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.	81002 81003 81004 81005
Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the	81006 81007 81008 81009 81010 81011 81012 81013 81014 81015 81016 81017 81018 81019 81020 81021 81022 81023 81024

expenditure of state, ~~county~~, or federal funds, all contracts for 81025
publicly funded child care shall be entered into in accordance 81026
with the provisions of this chapter and are exempt from any other 81027
provision of the Revised Code that regulates state ~~or county~~ 81028
contracts or contracts involving the expenditure of state, ~~county~~, 81029
or federal funds. 81030

(B) Each contract for publicly funded child care shall 81031
specify at least the following: 81032

(1) That the provider of publicly funded child care agrees to 81033
be paid for rendering services at the ~~lowest~~ lower of the rate 81034
customarily charged by the provider for children enrolled for 81035
child care, or the reimbursement ceiling or rate of payment 81036
established pursuant to section 5104.30 of the Revised Code, ~~or a~~ 81037
~~rate the county department negotiates with the provider;~~ 81038

(2) That, if a provider provides child care to an individual 81039
potentially eligible for publicly funded child care who is 81040
subsequently determined to be eligible, the ~~county~~ department 81041
agrees to pay for all child care provided between the date the 81042
county department of job and family services receives the 81043
individual's completed application and the date the individual's 81044
eligibility is determined; 81045

(3) Whether the county department of job and family services, 81046
the provider, or a child care resource and referral service 81047
organization will make eligibility determinations, whether the 81048
provider or a child care resource and referral service 81049
organization will be required to collect information to be used by 81050
the county department to make eligibility determinations, and the 81051
time period within which the provider or child care resource and 81052
referral service organization is required to complete required 81053
eligibility determinations or to transmit to the county department 81054
any information collected for the purpose of making eligibility 81055
determinations; 81056

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the ~~county~~ department of job and family services, the state department of job and family services, or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds;

(8) That, in the case of a certified type B family day-care home, the provider will be paid according to an hourly reimbursement rate when day care is provided for one-tenth of an hour to nine and nine-tenths hours per week. For the purpose of the reimbursement rate, a part-time week shall be considered ten hours to twenty-four and nine-tenths hours of day care.

(C) Unless specifically prohibited by federal law or by rules adopted under section 5104.42 of the Revised Code, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates ~~for payment~~ that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of

publicly funded child care may present these certificates for 81088
payment ~~for reimbursement~~ in accordance with rules that the 81089
director of job and family services shall adopt. Only providers 81090
may receive ~~reimbursement~~ payment for certificates ~~for payment~~. 81091
The value of the certificate ~~for payment~~ shall be based on the 81092
~~lowest~~ lower of the rate customarily charged by the provider, ~~the~~ 81093
~~reimbursement ceiling~~ or the rate of payment established pursuant 81094
to section 5104.30 of the Revised Code, ~~or a rate the county~~ 81095
~~department negotiates with the provider~~. The county department may 81096
provide the certificates ~~for payment~~ to the individuals or may 81097
contract with child care providers or child care resource and 81098
referral service organizations that make determinations of 81099
eligibility for publicly funded child care pursuant to contracts 81100
entered into under section 5104.34 of the Revised Code for the 81101
providers or resource and referral service organizations to 81102
provide the certificates ~~for payment~~ to individuals whom they 81103
determine are eligible for publicly funded child care. 81104

For each six-month period a provider of publicly funded child 81105
care provides publicly funded child day-care to the child of an 81106
individual given certificates ~~for payment~~, the individual shall 81107
provide the provider certificates for days the provider would have 81108
provided publicly funded child care to the child had the child 81109
been present. The maximum number of days providers shall be 81110
provided certificates shall not exceed ten days in a six-month 81111
period during which publicly funded child care is provided to the 81112
child regardless of the number of providers that provide publicly 81113
funded child care to the child during that period. 81114

Sec. 5104.341. (A) Except as provided in division (B) of this 81115
section, both of the following apply: 81116

(1) An eligibility determination made under section 5104.34 81117
of the Revised Code for publicly funded child care is valid for 81118

one year; 81119

(2) The county department of job and family services shall 81120
adjust the appropriate level of a fee charged under division (B) 81121
of section 5104.34 of the Revised Code if a caretaker parent 81122
reports changes in income, family size, or both. 81123

(B) Division (A) of this section does not apply ~~in either of~~ 81124
~~the following circumstances:~~ 81125

~~(1) The publicly funded child care is provided under division~~ 81126
~~(B)(4) of section 5104.35 of the Revised Code;~~ 81127

~~(2) The~~ if the recipient of the publicly funded child care 81128
ceases to be eligible for publicly funded child care. 81129

Sec. 5104.35. (A) ~~The~~ Each county department of job and 81130
family services shall do all of the following: 81131

(1) Accept any gift, grant, or other funds from either public 81132
or private sources offered unconditionally or under conditions 81133
which are, in the judgment of the department, proper and 81134
consistent with this chapter and deposit the funds in the county 81135
public assistance fund established by section 5101.161 of the 81136
Revised Code; 81137

(2) Recruit individuals and groups interested in 81138
certification as in-home aides or in developing and operating 81139
suitable licensed child day-care centers, type A family day-care 81140
homes, or certified type B family day-care homes, especially in 81141
areas with high concentrations of recipients of public assistance, 81142
and for that purpose provide consultation to interested 81143
individuals and groups on request; 81144

(3) Inform clients of the availability of child care 81145
services; 81146

~~(4) Pay to a child day care center, type A family day care~~ 81147
~~home, certified type B family day care home, in-home aide,~~ 81148

~~approved child day camp, licensed preschool program, licensed 81149
school child program, or border state child care provider for 81150
child care services, the amount provided for in division (B) of 81151
section 5104.32 of the Revised Code. If part of the cost of care 81152
of a child is paid by the child's parent or any other person, the 81153
amount paid shall be subtracted from the amount the provider is 81154
paid. 81155~~

~~(5) In accordance with rules adopted pursuant to section 81156
5104.39 of the Revised Code, provide monthly reports to the 81157
director of job and family services and the director of budget and 81158
management regarding expenditures for the purchase of publicly 81159
funded child care. 81160~~

~~(B) The A county department of job and family services may ~~do~~ 81161
any of the following: 81162~~

~~(1) To, to the extent permitted by federal law, use public 81163
child care funds to extend the hours of operation of the county 81164
department to accommodate the needs of working caretaker parents 81165
and enable those parents to apply for publicly funded child care. 81166~~

~~(2) In accordance with rules adopted by the director of job 81167
and family services, request a waiver of the reimbursement ceiling 81168
established pursuant to section 5104.30 of the Revised Code for 81169
the purpose of paying a higher rate for publicly funded child care 81170
based upon the special needs of a child; 81171~~

~~(3) To the extent permitted by federal law, use state and 81172
federal funds to pay deposits and other advance payments that a 81173
provider of child care customarily charges all children who 81174
receive child care from that provider; 81175~~

~~(4) To the extent permitted by federal law, pay for up to 81176
thirty days of child care for a child whose caretaker parent is 81177
seeking employment, taking part in employment orientation 81178
activities, or taking part in activities in anticipation of 81179~~

~~enrollment or attendance in an education or training program or 81180
activity, if the employment or education or training program or 81181
activity is expected to begin within the thirty day period. 81182~~

Sec. 5104.37. The department of job and family services ~~and a 81183
county department of job and family services~~ may withhold any 81184
money due, and recover through any appropriate method any money 81185
erroneously paid, under this chapter if evidence exists of less 81186
than full compliance with this chapter and any rules adopted under 81187
it. 81188

Sec. 5104.38. In addition to any other rules adopted under 81189
this chapter, the director of job and family services shall adopt 81190
rules in accordance with Chapter 119. of the Revised Code 81191
governing financial and administrative requirements for publicly 81192
funded child care and establishing all of the following: 81193

(A) Procedures and criteria to be used in making 81194
determinations of eligibility for publicly funded child care that 81195
give priority to children of families with lower incomes and 81196
procedures and criteria for eligibility for publicly funded 81197
protective child care. The rules shall specify the maximum amount 81198
of income a family may have for initial and continued eligibility. 81199
The maximum amount shall not exceed two hundred per cent of the 81200
federal poverty line. The rules may specify exceptions to the 81201
eligibility requirements in the case of a family that previously 81202
received publicly funded child care and is seeking to have the 81203
child care reinstated after the family's eligibility was 81204
terminated. 81205

(B) Procedures under which a county department of job and 81206
family services may, if the department, under division (A) of this 81207
section, specifies a maximum amount of income a family may have 81208
for eligibility for publicly funded child care that is less than 81209

the maximum amount specified in that division, specify a maximum 81210
amount of income a family residing in the county the county 81211
department serves may have for initial and continued eligibility 81212
for publicly funded child care that is higher than the amount 81213
specified by the department but does not exceed the maximum amount 81214
specified in division (A) of this section; 81215

(C) A schedule of fees requiring all eligible caretaker 81216
parents to pay a fee for publicly funded child care according to 81217
income and family size, which shall be uniform for all types of 81218
publicly funded child care, except as authorized by rule, and, to 81219
the extent permitted by federal law, shall permit the use of state 81220
and federal funds to pay the customary deposits and other advance 81221
payments that a provider charges all children who receive child 81222
care from that provider. The schedule of fees may not provide for 81223
a caretaker parent to pay a fee that exceeds ten per cent of the 81224
parent's family income. 81225

(D) A formula ~~based upon a percentage of the county's total~~ 81226
~~expenditures for publicly funded child care~~ for determining the 81227
~~maximum~~ amount of state and federal funds appropriated for 81228
publicly funded child care that may be allocated to a county 81229
department ~~may~~ to use for administrative purposes; 81230

(E) Procedures to be followed by the department and county 81231
departments in recruiting individuals and groups to become 81232
providers of child care; 81233

(F) Procedures to be followed in establishing state or local 81234
programs designed to assist individuals who are eligible for 81235
publicly funded child care in identifying the resources available 81236
to them and to refer the individuals to appropriate sources to 81237
obtain child care; 81238

(G) Procedures to deal with fraud and abuse committed by 81239
either recipients or providers of publicly funded child care; 81240

(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;	81241 81242
(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;	81243 81244
(J) A definition of "person who stands in loco parentis" for the purposes of division (II)(1) <u>(JJ)(1)</u> of section 5104.01 of the Revised Code;	81245 81246 81247
(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;	81248 81249 81250 81251 81252
(L) <u>If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;</u>	81253 81254 81255 81256 81257
<u>(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;</u>	81258 81259 81260 81261 81262 81263 81264 81265
(N) Any other rules necessary to carry out sections 5104.30 to 5104.39 <u>5104.43</u> of the Revised Code.	81266 81267
Sec. 5104.39. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures of	81268 81269 81270

~~county departments of job and family services for publicly funded~~ 81271
~~child care~~ to ensure that expenditures do not exceed the available 81272
federal and state funds for publicly funded child care. The 81273
department of job and family services, with the assistance of the 81274
office of budget and management and the child care advisory 81275
council created pursuant to section 5104.08 of the Revised Code, 81276
shall monitor the anticipated future expenditures ~~of county~~ 81277
~~departments~~ for publicly funded child care and shall compare those 81278
anticipated future expenditures to available federal and state 81279
funds for publicly funded child care. Whenever the department 81280
determines that the anticipated future expenditures ~~of the county~~ 81281
~~departments will exceed the available federal and state funds~~ for 81282
publicly funded child care ~~and the department reimburses the~~ 81283
~~county departments in accordance with rules adopted under section~~ 81284
~~5104.42 of the Revised Code will exceed the available federal and~~ 81285
~~state funds~~, the department shall promptly notify the county 81286
departments of job and family services and, before the available 81287
state and federal funds are used, the director shall issue and 81288
implement an administrative order that shall specify both of the 81289
following: 81290

(1) Priorities for expending the remaining available federal 81291
and state funds for publicly funded child care; 81292

(2) Instructions and procedures to be used by the county 81293
departments regarding eligibility determinations. 81294

(B) The order may do any or all of the following: 81295

(1) Suspend enrollment of all new participants in any program 81296
of publicly funded child care; 81297

(2) Limit enrollment of new participants to those with 81298
incomes at or below a specified percentage of the federal poverty 81299
line; 81300

(3) Disenroll existing participants with income above a 81301

specified percentage of the federal poverty line; 81302

(4) Change the schedule of fees paid by eligible caretaker 81303
parents that has been established pursuant to section 5104.38 of 81304
the Revised Code; 81305

(5) Change the rate of payment for providers of publicly 81306
funded child care that has been established pursuant to section 81307
5104.30 of the Revised Code. 81308

(C) Each county department shall comply with the order no 81309
later than thirty days after it is issued. ~~If the department fails~~ 81310
~~to notify the county departments and to implement the reallocation~~ 81311
~~priorities specified in the order before the available federal and~~ 81312
~~state funds for publicly funded child care are used, the state~~ 81313
~~department shall provide sufficient funds to the county~~ 81314
~~departments for publicly funded child care to enable each county~~ 81315
~~department to pay for all publicly funded child care that was~~ 81316
~~provided by providers pursuant to contract prior to the date that~~ 81317
~~the county department received notice under this section and the~~ 81318
~~state department implemented in that county the priorities.~~ 81319

(D) If after issuing an order under this section to suspend 81320
or limit enrollment of new participants or disenroll existing 81321
participants the department determines that available state and 81322
federal funds for publicly funded child care exceed the 81323
anticipated future expenditures ~~of the county departments~~ for 81324
publicly funded child care, the director may issue and implement 81325
another administrative order increasing income eligibility levels 81326
to a specified percentage of the federal poverty line. The order 81327
shall include instructions and procedures to be used by the county 81328
departments. Each county department shall comply with the order 81329
not later than thirty days after it is issued. 81330

(E) The department of job and family services shall do all of 81331
the following: 81332

(1) Conduct a quarterly evaluation of the program of publicly funded child care that is operated pursuant to sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code;

(2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;

(3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Sec. 5104.42. ~~(A)~~ The director of job and family services shall adopt rules pursuant to section 111.15 of the Revised Code establishing a payment procedure for publicly funded child care. ~~The rules may provide that the department of job and family services will reimburse county departments of job and family services for payments made to providers of publicly funded child care, make direct payments to providers, or establish another system for the payment of publicly funded child care.~~

~~Alternately, the (B) The~~ director, by rule adopted in accordance with section 111.15 of the Revised Code, may establish a methodology for allocating ~~among the county departments~~ the state and federal funds appropriated for ~~all~~ publicly funded child care ~~services. If the department chooses to allocate funds for publicly funded child care, it may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the department may determine which county expenditures for child care services are allowable for use of and federal funds.~~

~~The rules may establish procedures that a county department shall follow when the county department determines that its~~

~~anticipated future expenditures for publicly funded child care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.~~

Sec. 5104.43. Each county department of job and family services shall deposit all funds received from any source for child care services into the public assistance fund established under section 5101.161 of the Revised Code. ~~All expenditures by a county department for publicly funded child care shall be made from the public assistance fund.~~

Sec. 5111.012. The (A) Except as provided in division (B) of this section, the county department of job and family services of each county shall establish the eligibility for medical assistance of persons living in the county, and shall notify the department of job and family services in the manner prescribed by the department. The county shall be reimbursed for administrative expenditures in accordance with sections 5101.16, 5101.161, and 5701.01 of the Revised Code. Expenditures for medical assistance shall be made from funds appropriated to the department of job and family services for public assistance subsidies. The program shall conform to the requirements of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) If the department of job and family services elects to enter into agreements with county departments of job and family services pursuant to division (B) of section 5101.47 of the Revised Code, a county department of job and family services shall establish eligibility for medical assistance only if authorized to do so under such an agreement.

Sec. 5111.013. (A) The provision of medical assistance to pregnant women and young children who are eligible for medical

assistance under division (A)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.

(B) The department of job and family services shall do all of the following with regard to the application procedures for the healthy start program:

(1) Establish a short application form for the program that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the healthy start program, except that the form may require applicants to provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the program to apply for assistance provided under any other program administered by the department and that she understands that she is permitted at any other time to apply at the county department of job and family services of the county in which she resides for any other assistance administered by the department.

(2) To the extent permitted by federal law, do one or both of the following:

(a) Distribute the application form for the program to each public or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such agency or entity to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of job and family services are stationed at public or private agencies or entities selected by the department of job and family services that serve as women, infants, and children clinics; child and

family health clinics; or administrative bodies for such clinics 81425
for the purpose both of assisting applicants for the program in 81426
completing the application form and of making determinations at 81427
that location of eligibility for the program. 81428

(3) Establish performance standards by which a county 81429
department of job and family services' level of enrollment of 81430
persons potentially eligible for the program can be measured, and 81431
establish acceptable levels of enrollment for each county 81432
department. 81433

(4) Direct any county department of job and family services 81434
whose rate of enrollment of potentially eligible enrollees in the 81435
program is below acceptable levels established under division 81436
(B)(3) of this section to implement corrective action. Corrective 81437
action may include but is not limited to any one or more of the 81438
following to the extent permitted by federal law: 81439

(a) Establishing formal referral and outreach methods with 81440
local health departments and local entities receiving funding 81441
through the bureau of maternal and child health; 81442

(b) Designating a specialized intake unit within the county 81443
department for healthy start applicants; 81444

(c) Establishing abbreviated timeliness requirements to 81445
shorten the time between receipt of an application and the 81446
scheduling of an initial application interview; 81447

(d) Establishing a system for telephone scheduling of intake 81448
interviews for applicants; 81449

(e) Establishing procedures to minimize the time an applicant 81450
must spend in completing the application and eligibility 81451
determination process, including permitting applicants to complete 81452
the process at times other than the regular business hours of the 81453
county department and at locations other than the offices of the 81454
county department. 81455

(C) To the extent permitted by federal law, local funds, 81456
whether from public or private sources, expended by a county 81457
department for administration of the healthy start program shall 81458
be considered to have been expended by the state for the purpose 81459
of determining the extent to which the state has complied with any 81460
federal requirement that the state provide funds to match federal 81461
funds for medical assistance, except that this division shall not 81462
affect the amount of funds the county is entitled to receive under 81463
section 5101.16, 5101.161, or 5111.012 of the Revised Code. 81464

~~(D) The director of job and family services shall do one or 81465
both of the following: 81466~~

~~(1) To the extent that federal funds are provided for such 81467
assistance, adopt a plan for granting presumptive eligibility for 81468
pregnant women applying for healthy start; 81469~~

~~(2) To the extent permitted by federal medicaid regulations, 81470
adopt a plan for making same day determinations of eligibility for 81471
pregnant women applying for healthy start. 81472~~

~~(E)~~ A county department of job and family services that 81473
maintains offices at more than one location shall accept 81474
applications for the healthy start program at all of those 81475
locations. 81476

~~(F)~~(E) The director of job and family services shall adopt 81477
rules in accordance with section 111.15 of the Revised Code as 81478
necessary to implement this section. 81479

Sec. 5111.0112. (A) The director of job and family services 81480
shall institute a cost-sharing program under the medicaid program. 81481
In instituting the cost-sharing program, the director shall comply 81482
with federal law. ~~In the case of an individual participating in 81483
the children's buy in program established under sections 5101.5211 81484
to 5101.5216 of the Revised Code, the cost sharing program shall 81485~~

~~be consistent with sections 5101.5213 and 5101.5214 of the Revised Code if the children's buy in program is a component of the medicaid program.~~ The cost-sharing program shall establish a copayment requirement for at least dental services, vision services, nonemergency emergency department services, and prescription drugs, other than generic drugs. The cost-sharing program shall establish requirements regarding premiums, enrollment fees, deductions, and similar charges. The director shall adopt rules under section 5111.02 of the Revised Code governing the cost-sharing program.

(B) The cost-sharing program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

(3) Except as provided in division (C) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services.

(C) In the case of a provider that is a hospital, the cost-sharing program shall permit the hospital to take action to collect a copayment by providing, at the time services are rendered to a medicaid recipient, notice that a copayment may be owed. If the hospital provides the notice and chooses not to take any further action to pursue collection of the copayment, the prohibition against waiving copayments specified in division (B)(3) of this section does not apply.

(D) The department of job and family services may work with a state agency that is administering, pursuant to a contract entered into under section 5111.91 of the Revised Code, one or more components of the medicaid program or one or more aspects of a component as necessary for the state agency to apply the cost-sharing program to the components or aspects of the medicaid program that the state agency administers.

Sec. 5111.0122. As used in this section, "maintenance of effort requirement" means the requirement established by section 1902(qg) of the "Social Security Act," 124 Stat. 275 (2010), 42 U.S.C. 1396a(qg), as amended, regarding medicaid eligibility standards, methodologies, and procedures.

Except to the extent, if any, otherwise authorized by the United States secretary of health and human services, the

department of job and family services shall comply with the 81547
maintenance of effort requirement while the requirement is in 81548
effect. 81549

Sec. 5111.0123. (A) Subject to division (B) of this section, 81550
the director of job and family services may adopt rules under 81551
sections 5111.011 and 5111.85 of the Revised Code to reduce the 81552
complexity of the eligibility determination processes for the 81553
medicaid program caused by the different income and resource 81554
standards for the numerous medicaid eligibility categories. 81555

(B) In implementing division (A) of this section, both of the 81556
following apply: 81557

(1) Before implementing a revision to an eligibility 81558
determination process, the director shall obtain, to the extent 81559
necessary, the approval of the United States secretary of health 81560
and human services in the form of a federal medicaid waiver, 81561
medicaid state plan amendment, or demonstration grant. 81562

(2) The director shall comply with section 5111.0122 of the 81563
Revised Code. 81564

Sec. 5111.0124. (A) As used in this section: 81565

"Children's hospital" has the same meaning as in section 81566
2151.86 of the Revised Code. 81567

"Federally-qualified health center" has the same meaning as 81568
in 42 U.S.C. 1396d(1)(2)(B). 81569

"Presumptive eligibility for pregnant women option" means the 81570
option available under 42 U.S.C. 1396r-1 to make ambulatory 81571
prenatal care available to pregnant women under the medicaid 81572
program during presumptive eligibility periods. 81573

(B) The director of job and family services shall submit a 81574
state medicaid plan amendment to the United States secretary of 81575

health and human services to implement the presumptive eligibility for pregnant women option. Children's hospitals and federally-qualified health centers that are eligible to be qualified providers under section 42 U.S.C. 1396r-1(b)(2) may serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. 81576
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Sec. 5111.0125. (A) As used in this section: 81582

"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code. 81583
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"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(1)(2)(B). 81585
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"Presumptive eligibility for children option" means the option available under 42 U.S.C. 1396r-1a to make medical assistance with respect to health care items and services available to children under the medicaid program during presumptive eligibility periods. 81587
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(B) The director of job and family services shall retain the presumptive eligibility for children option in the state medicaid plan. Children's hospitals and federally-qualified health centers that are eligible to be qualified entities under section 42 U.S.C. 1396r-1a(b)(3) may serve as qualified entities for purposes of the presumptive eligibility for children option. 81592
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Sec. 5111.021. Under the medicaid program: 81598

~~(A) Except as otherwise permitted by federal statute or regulation and at the department's discretion, reimbursement by~~ 81599
~~the~~ The department of job and family services ~~to~~ shall not 81600
reimburse a medical provider for any medical ~~service~~ assistance 81601
rendered under the program ~~shall not exceed~~ an amount that exceeds 81602
the following: 81603
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(1) If the provider is a hospital, nursing facility, or intermediate care facility for the mentally retarded, the limits established under Subpart C of 42 C.F.R. Part 447; 81605
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(2) If the provider is other than a provider described in division (A)(1) of this section, the authorized reimbursement level limits for the same service under the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 81608
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(B) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles. 81613
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(C) The department may deduct from payments for services rendered by a medicaid provider under the medicaid program any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider. 81616
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(D) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling. 81620
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(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code. 81626
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(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.023. (A) As used in this section:

(1) "Community mental health agency or facility" means a community mental health agency or facility that has ~~a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is its community mental health services~~ certified by the department of mental health under section 5119.611 of the Revised Code or by the department of job and family services.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.

(B) The state medicaid plan ~~shall~~ may include provision of the following mental health services when provided by community mental health agencies or facilities:

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services rendered

by persons directly supervised by a mental health professional; 81666

(3) Unscheduled, emergency mental health services of a kind 81667
ordinarily provided to persons in crisis when rendered by persons 81668
supervised by a mental health professional; 81669

(4) Subject to receipt of federal approval, assertive 81670
community treatment and intensive home-based mental health 81671
services. 81672

~~(C) The comprehensive annual plan shall certify the 81673
availability of sufficient unencumbered community mental health 81674
state subsidy and local funds to match federal medicaid 81675
reimbursement funds earned by community mental health facilities. 81676~~

~~(D) The department of job and family services shall enter 81677
into a separate contract with the department of mental health 81678
under section 5111.91 of the Revised Code with regard to the 81679
component of the medicaid program provided for by this section. 81680~~

~~(E) Not later than July 21, 2006, the department of job and 81681
family services shall request federal approval to provide 81682
assertive community treatment and intensive home based mental 81683
health services under medicaid pursuant to this section. 81684~~

~~(F) On receipt of federal approval sought under division (E) 81685
of this section, the director of job and family services shall 81686
adopt rules in accordance with Chapter 119. of the Revised Code 81687
for assertive community treatment and intensive home based mental 81688
health services provided under medicaid pursuant to this section. 81689
The director shall consult with the department of mental health in 81690
adopting the rules. 81691~~

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 81692
the Revised Code, the director of job and family services shall 81693
modify the manner or establish a new manner in which the following 81694
are paid under medicaid: 81695

(1) Community mental health agencies or facilities for 81696
providing community mental health services included in the state 81697
medicaid plan pursuant to section 5111.023 of the Revised Code; 81698

(2) Providers of alcohol and drug addiction services for 81699
providing alcohol and drug addiction services included in the 81700
medicaid program pursuant to rules adopted under section 5111.02 81701
of the Revised Code. 81702

(B) The director's authority to modify the manner, or to 81703
establish a new manner, for medicaid to pay for the services 81704
specified in division (A) of this section is not limited by any 81705
rules adopted under section 5111.02 or 5119.61 of the Revised Code 81706
that are in effect on June 26, 2003, and govern the way medicaid 81707
pays for those services. This is the case regardless of what state 81708
agency adopted the rules. 81709

Sec. 5111.0212. As necessary to comply with section 81710
1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997), 81711
42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law 81712
that requires public notice of proposed changes to reimbursement 81713
rates for medical assistance provided under the medicaid program, 81714
the director of job and family services shall give public notice 81715
in the register of Ohio of any change to a method or standard used 81716
to determine the medicaid reimbursement rate for medical 81717
assistance. 81718

Sec. 5111.0213. (A) As used in this section: 81719

(1) "Aide services" means all of the following: 81720

(a) Home health aide services available under the home health 81721
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 81722

(b) Home care attendant services available under a home and 81723
community-based services medicaid waiver component; 81724

<u>(c) Personal care aide services available under a home and community-based services medicaid waiver component.</u>	81725
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<u>(2) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.</u>	81727
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<u>(3) "Nursing services" means all of the following:</u>	81730
<u>(a) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);</u>	81731
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<u>(b) Private duty nursing services as defined in 42 C.F.R. 440.80;</u>	81733
	81734
<u>(c) Nursing services available under a home and community-based services medicaid waiver component.</u>	81735
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<u>(B) The department of job and family services shall do both of the following:</u>	81737
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<u>(1) Effective not later than October 1, 2011, reduce the medicaid program's first-hour-unit price for aide services and nursing services in a manner that reflects, at a minimum, labor market data that shows the medicaid and non-medicaid reimbursement rates for such services or similar services;</u>	81739
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<u>(2) Not sooner than July 1, 2012, adjust the medicaid reimbursement rates for aide services and nursing services in a manner that reflects, at a minimum, labor market data, education and licensure status, home health agency and non-agency provider status, and length of service visit.</u>	81744
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<u>(C) The department shall strive to have the adjustment made under division (B)(2) of this section go into effect on July 1, 2012. The reduction made under division (B)(1) of this section shall remain in effect until the adjustment made under division (B)(2) of this section goes into effect.</u>	81749
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<u>(D) The director of job and family services shall adopt rules</u>	81754

under sections 5111.02 and 5111.85 of the Revised Code as 81755
necessary to implement this section. 81756

Sec. 5111.0214. The department of job and family services 81757
shall not knowingly make a medicaid payment for a 81758
provider-preventable condition for which federal financial 81759
participation is prohibited by regulations adopted under section 81760
2702 of the "Patient Protection and Affordable Care Act," 124 81761
Stat. 318 (2010), 42 U.S.C. 1396b-1. The director of job and 81762
family services shall adopt rules under section 5111.02 of the 81763
Revised Code as necessary to implement this section. 81764

Sec. 5111.0215. (A) The department of job and family services 81765
may establish a program under which it provides incentive 81766
payments, as authorized by the "Health Information Technology for 81767
Economic and Clinical Health Act," 123 Stat. 489 (2009), 42 U.S.C. 81768
1396b(a)(3)(F) and 1396b(t), as amended, to encourage the adoption 81769
and use of electronic health record technology by medicaid 81770
providers who are identified under that federal law as eligible 81771
professionals. 81772

(B) After the department has made a determination regarding 81773
the amount of a medicaid provider's electronic health record 81774
incentive payment or the denial of an incentive payment, the 81775
department shall notify the provider. The provider may request 81776
that the department reconsider its determination. 81777

A request for reconsideration shall be submitted in writing 81778
to the department not later than fifteen days after the provider 81779
receives notification of the determination. The request shall be 81780
accompanied by written materials setting forth the basis for, and 81781
supporting, the reconsideration request. 81782

On receipt of a timely request, the department shall 81783
reconsider the determination. On the basis of the written 81784

materials accompanying the request, the department may uphold, 81785
reverse, or modify its original determination. The department 81786
shall mail to the provider by certified mail a written notice of 81787
the reconsideration decision. 81788

In accordance with Chapter 2505. of the Revised Code, the 81789
medicaid provider may appeal the reconsideration decision by 81790
filing a notice of appeal with the court of common pleas of 81791
Franklin county. The notice shall identify the decision being 81792
appealed and the specific grounds for the appeal. The notice of 81793
appeal shall be filed not later than fifteen days after the 81794
department mails its notice of the reconsideration decision. A 81795
copy of the notice of appeal shall be filed with the department 81796
not later than three days after the notice is filed with the 81797
court. 81798

(C) The director of job and family services may adopt rules 81799
in accordance with Chapter 119. of the Revised Code as necessary 81800
to implement this section. 81801

Sec. 5111.031. (A) As used in this section: 81802

(1) "Independent provider" has the same meaning as in section 81803
5111.034 of the Revised Code. 81804

(2) "Intermediate care facility for the mentally retarded" 81805
and "nursing facility" have the same meanings as in section 81806
5111.20 of the Revised Code. 81807

(3) "Noninstitutional medicaid provider" means any person or 81808
entity with a medicaid provider agreement other than a hospital, 81809
nursing facility, or intermediate care facility for the mentally 81810
retarded. 81811

(4) "Owner" means any person having at least five per cent 81812
ownership in a noninstitutional medicaid provider. 81813

(B) Notwithstanding any provision of this chapter to the 81814

contrary, the department of job and family services shall take 81815
action under this section against a noninstitutional medicaid 81816
provider or its owner, officer, authorized agent, associate, 81817
manager, or employee. 81818

(C) Except as provided in division (D) of this section and in 81819
rules adopted by the department under division (H) of this 81820
section, on receiving notice and a copy of an indictment that is 81821
issued on or after ~~the effective date of this section~~ September 81822
29, 2007, and charges a noninstitutional medicaid provider or its 81823
owner, officer, authorized agent, associate, manager, or employee 81824
with committing an offense specified in division (E) of this 81825
section, the department shall suspend the provider agreement held 81826
by the noninstitutional medicaid provider. Subject to division (D) 81827
of this section, the department shall also terminate medicaid 81828
reimbursement to the provider for services rendered. 81829

The suspension shall continue in effect until the proceedings 81830
in the criminal case are completed through ~~conviction,~~ dismissal 81831
of the indictment, or through conviction, entry of a guilty plea, 81832
or finding of not guilty. If the department commences a process to 81833
terminate the suspended provider agreement, the suspension shall 81834
also continue in effect until the termination process is 81835
concluded. ~~Pursuant~~ 81836

Pursuant to section 5111.06 of the Revised Code, the 81837
department is not required to take action under this division by 81838
issuing an order pursuant to an adjudication conducted in 81839
accordance with Chapter 119. of the Revised Code. 81840

When subject to a suspension under this division, a provider, 81841
owner, officer, authorized agent, associate, manager, or employee 81842
shall not own or provide services to any other medicaid provider 81843
or risk contractor or arrange for, render, or order services for 81844
medicaid recipients during the period of suspension. During the 81845
period of suspension, the provider, owner, officer, authorized 81846

agent, associate, manager, or employee shall not receive 81847
reimbursement in the form of direct payments from the department 81848
or indirect payments of medicaid funds in the form of salary, 81849
shared fees, contracts, kickbacks, or rebates from or through any 81850
participating provider or risk contractor. 81851

(D)(1) The department shall not suspend a provider agreement 81852
or terminate medicaid reimbursement under division (C) of this 81853
section if the provider or owner can demonstrate through the 81854
submission of written evidence that the provider or owner did not 81855
directly or indirectly sanction the action of its authorized 81856
agent, associate, manager, or employee that resulted in the 81857
indictment. 81858

(2) The termination of medicaid reimbursement applies only to 81859
payments for medicaid services rendered subsequent to the date on 81860
which the notice required under division (F) of this section is 81861
sent. Claims for reimbursement for medicaid services rendered by 81862
the provider prior to the issuance of the notice may be subject to 81863
prepayment review procedures whereby the department reviews claims 81864
to determine whether they are supported by sufficient 81865
documentation, are in compliance with state and federal statutes 81866
and rules, and are otherwise complete. 81867

(E)(1) In the case of a noninstitutional medicaid provider 81868
that is not an independent provider, the suspension of a provider 81869
agreement under division (C) of this section applies when an 81870
indictment charges a person with committing an act that would be a 81871
felony or misdemeanor under the laws of this state and the act 81872
relates to or results from either of the following: 81873

(a) Furnishing or billing for medical care, services, or 81874
supplies under the medicaid program; 81875

(b) Participating in the performance of management or 81876
administrative services relating to furnishing medical care, 81877

services, or supplies under the medicaid program. 81878

(2) In the case of a noninstitutional medicaid provider that 81879
is an independent provider, the suspension of a provider agreement 81880
under division (C) of this section applies when an indictment 81881
charges a person with committing an act that would constitute one 81882
of the offenses specified in division (D) of section 5111.034 of 81883
the Revised Code. 81884

(F) Not later than five days after suspending a provider 81885
agreement under division (C) of this section, the department shall 81886
send notice of the suspension to the affected provider or owner. 81887
In providing the notice, the department shall do all of the 81888
following: 81889

(1) Describe the indictment that was the cause of the 81890
suspension, without necessarily disclosing specific information 81891
concerning any ongoing civil or criminal investigation; 81892

(2) State that the suspension will continue in effect until 81893
the proceedings in the criminal case are completed through 81894
~~conviction~~, dismissal of the indictment, or through conviction, 81895
entry of a guilty plea, or finding of not guilty and, if the 81896
department commences a process to terminate the suspended provider 81897
agreement, until the termination process is concluded; 81898

(3) Inform the provider or owner of the opportunity to submit 81899
to the department, not later than thirty days after receiving the 81900
notice, a request for a reconsideration pursuant to division (G) 81901
of this section. 81902

(G)(1) A Pursuant to the procedure specified in division 81903
(G)(2) of this section, a noninstitutional medicaid provider or 81904
owner subject to a suspension under this section may request a 81905
reconsideration. The request shall be made not later than thirty 81906
days after receipt of the notice provided under division (F) of 81907
this section. The reconsideration is not subject to an 81908

adjudication hearing pursuant to Chapter 119. of the Revised Code. 81909

(2) In requesting a reconsideration, the provider or owner 81910
shall submit written information and documents to the department. 81911
The information and documents may pertain to any of the following 81912
issues: 81913

(a) Whether the determination to suspend the provider 81914
agreement was based on a mistake of fact, other than the validity 81915
of the indictment; 81916

(b) Whether any offense charged in the indictment resulted 81917
from an offense specified in division (E) of this section; 81918

(c) Whether the provider or owner can demonstrate that the 81919
provider or owner did not directly or indirectly sanction the 81920
action of its authorized agent, associate, manager, or employee 81921
that resulted in the indictment. 81922

(3) The department shall review the information and documents 81923
submitted in a request for reconsideration. After the review, the 81924
suspension may be affirmed, reversed, or modified, in whole or in 81925
part. The department shall notify the affected provider or owner 81926
of the results of the review. The review and notification of its 81927
results shall be completed not later than forty-five days after 81928
receiving the information and documents submitted in a request for 81929
reconsideration. 81930

(H) The department may adopt rules in accordance with Chapter 81931
119. of the Revised Code to implement this section. The rules may 81932
specify circumstances under which the department would not suspend 81933
a provider agreement pursuant to this section. 81934

Sec. 5111.035. (A) As used in this section: 81935

(1) "Creditable allegation of fraud" has the same meaning as 81936
in 42 C.F.R. 455.2, except that for purposes of this section any 81937
reference in that regulation to the "state" or the "state medicaid 81938

agency" means the department of job and family services. 81939

(2) "Provider" has the same meaning as in section 5111.032 of the Revised Code. 81940
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(3) "Owner" has the same meaning as in section 5111.031 of the Revised Code. 81942
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(B)(1) Except as provided in division (C) of this section and in rules adopted by the department of job and family services under division (J) of this section, on determining there is a creditable allegation of fraud for which an investigation is pending under the medicaid program against a provider, the department shall suspend the provider agreement held by the provider. Subject to division (C) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered. 81944
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(2)(a) The suspension shall continue in effect until either of the following is the case: 81953
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(i) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the provider; 81955
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(ii) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty. 81957
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(b) If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded. 81960
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(3) Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under division (B)(1) of this section by issuing an order pursuant to an adjudication in accordance with Chapter 119. of the Revised Code. 81963
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(4) When subject to a suspension under this section, a provider, owner, officer, authorized agent, associate, manager, or 81967
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employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. 81969
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(C) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (B) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the creditable allegation of fraud. 81980
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(D) The termination of medicaid reimbursement under division (B) of this section applies only to payments for medicaid services rendered subsequent to the date on which the notice required by division (E) of this section is sent. Claims for reimbursement of medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete. 81987
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(E) After suspending a provider agreement under division (B) of this section, the department shall, as specified in 42 C.F.R. 455.23(b), send notice of the suspension to the affected provider or owner in accordance with the following timeframes: 81996
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(1) Not later than five days after the suspension, unless a 82000

law enforcement agency makes a written request to temporarily 82001
delay the notice; 82002

(2) If a law enforcement agency makes a written request to 82003
temporarily delay the notice, not later than thirty days after the 82004
suspension occurs subject to the conditions specified in division 82005
(F) of this section. 82006

(F) A written request for a temporary delay described in 82007
division (E)(2) of this section may be renewed in writing by a law 82008
enforcement agency not more than two times except that under no 82009
circumstances shall the notice be issued more than ninety days 82010
after the suspension occurs. 82011

(G) The notice required by division (E) of this section shall 82012
do all of the following: 82013

(1) State that payments are being suspended in accordance 82014
with this section and 42 C.F.R. 455.23; 82015

(2) Set forth the general allegations related to the nature 82016
of the conduct leading to the suspension, except that it is not 82017
necessary to disclose any specific information concerning an 82018
ongoing investigation; 82019

(3) State that the suspension continues to be in effect until 82020
either of the following is the case: 82021

(a) The department or a prosecuting authority determines that 82022
there is insufficient evidence of fraud by the provider; 82023

(b) The proceedings in any related criminal case are 82024
completed through dismissal of the indictment or through 82025
conviction, entry of a guilty plea, or finding of not guilty and, 82026
if the department commences a process to terminate the suspended 82027
provider agreement, until the termination process is concluded. 82028

(4) Specify, if applicable, the type or types of medicaid 82029
claims or business units of the provider that are affected by the 82030

suspension; 82031

(5) Inform the provider or owner of the opportunity to submit 82032
to the department, not later than thirty days after receiving the 82033
notice, a request for reconsideration of the suspension in 82034
accordance with division (H) of this section. 82035

(H)(1) Pursuant to the procedure specified in division (H)(2) 82036
of this section, a provider or owner subject to a suspension under 82037
this section may request a reconsideration of the suspension. The 82038
request shall be made not later than thirty days after receipt of 82039
a notice required by division (E) of this section. The 82040
reconsideration is not subject to an adjudication hearing pursuant 82041
to Chapter 119. of the Revised Code. 82042

(2) In requesting a reconsideration, the provider or owner 82043
shall submit written information and documents to the department. 82044
The information and documents may pertain to any of the following 82045
issues: 82046

(a) Whether the determination to suspend the provider 82047
agreement was based on a mistake of fact, other than the validity 82048
of an indictment in a related criminal case. 82049

(b) If there has been an indictment in a related criminal 82050
case, whether any offense charged in the indictment resulted from 82051
an offense specified in division (E) of section 5111.031 of the 82052
Revised Code. 82053

(c) Whether the provider or owner can demonstrate that the 82054
provider or owner did not directly or indirectly sanction the 82055
action of its authorized agent, associate, manager, or employee 82056
that resulted in the suspension under this section or an 82057
indictment in a related criminal case. 82058

(I) The department shall review the information and documents 82059
submitted in a request made under division (H) of this section for 82060
reconsideration of a suspension. After the review, the suspension 82061

may be affirmed, reversed, or modified, in whole or in part. The 82062
department shall notify the affected provider or owner of the 82063
results of the review. The review and notification of its results 82064
shall be completed not later than forty-five days after receiving 82065
the information and documents submitted in a request for 82066
reconsideration. 82067

(J) The department may adopt rules in accordance with Chapter 82068
119. of the Revised Code to implement this section. The rules may 82069
specify circumstances under which the department would not suspend 82070
a provider agreement pursuant to this section. 82071

Sec. 5111.051. The director of job and family services may 82072
submit a medicaid state plan amendment or request for a federal 82073
waiver to the United States secretary of health and human services 82074
as necessary to implement, at the director's discretion, a system 82075
under which payments for medical assistance provided under the 82076
medicaid program are made to an organization on behalf of the 82077
providers of the medical assistance. The system may not provide 82078
for an organization to receive an amount that exceeds, in 82079
aggregate, the amount the department would have paid directly to 82080
the providers if not for this section. 82081

Sec. 5111.052. (A) As used in this section, "electronic 82082
claims submission process" means any of the following: 82083

(1) Electronic interchange of data; 82084

(2) Direct entry of data through an internet-based mechanism 82085
implemented by the department of job and family services; 82086

(3) Any other process for the electronic submission of claims 82087
that is specified in rules adopted under this section. 82088

(B) Not later than January 1, 2013, and except as provided in 82089
division (C) of this section, each provider of services to 82090
medicaid recipients shall do both of the following: 82091

<u>(1) Use only an electronic claims submission process to</u>	82092
<u>submit to the department of job and family services claims for</u>	82093
<u>medicaid reimbursement for services provided to medicaid</u>	82094
<u>recipients;</u>	82095
<u>(2) Arrange to receive medicaid reimbursement from the</u>	82096
<u>department by means of electronic funds transfer.</u>	82097
<u>(C) Division (B) of this section does not apply to any of the</u>	82098
<u>following:</u>	82099
<u>(1) A nursing facility, as defined in section 5111.20 of the</u>	82100
<u>Revised Code;</u>	82101
<u>(2) An intermediate care facility for the mentally retarded,</u>	82102
<u>as defined in section 5111.20 of the Revised Code;</u>	82103
<u>(3) A medicaid managed care organization under contract with</u>	82104
<u>the department pursuant to section 5111.17 of the Revised Code;</u>	82105
<u>(4) Any other provider or type of provider designated in</u>	82106
<u>rules adopted under this section.</u>	82107
<u>(D) The department shall not process a medicaid claim</u>	82108
<u>submitted on or after January 1, 2013, unless the claim is</u>	82109
<u>submitted through an electronic claims submission process in</u>	82110
<u>accordance with this section.</u>	82111
<u>(E) The director of job and family services may adopt rules</u>	82112
<u>in accordance with Chapter 119. of the Revised Code as the</u>	82113
<u>director considers necessary to implement this section.</u>	82114
Sec. 5111.06. (A)(1) As used in this section and in sections	82115
5111.061 and 5111.062 <u>5111.063</u> of the Revised Code:	82116
(a) "Provider" means any person, institution, or entity that	82117
furnishes medicaid services under a provider agreement with the	82118
department of job and family services pursuant to Title XIX of the	82119
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as	82120

amended. 82121

(b) "Party" has the same meaning as in division (G) of 82122
section 119.01 of the Revised Code. 82123

(c) "Adjudication" has the same meaning as in division (D) of 82124
section 119.01 of the Revised Code. 82125

(2) This section does not apply to any action taken by the 82126
department of job and family services under sections 5111.35 to 82127
5111.62 of the Revised Code. 82128

(B) Except as provided in division (D) of this section and 82129
section 5111.914 of the Revised Code, the department shall do 82130
either of the following by issuing an order pursuant to an 82131
adjudication conducted in accordance with Chapter 119. of the 82132
Revised Code: 82133

(1) Enter into or refuse to enter into a provider agreement 82134
with a provider, or suspend, terminate, renew, or refuse to renew 82135
an existing provider agreement with a provider; 82136

(2) Take any action based upon a final fiscal audit of a 82137
provider. 82138

(C) Any party who is adversely affected by the issuance of an 82139
adjudication order under division (B) of this section may appeal 82140
to the court of common pleas of Franklin county in accordance with 82141
section 119.12 of the Revised Code. 82142

(D) The department is not required to comply with division 82143
(B)(1) of this section whenever any of the following occur: 82144

(1) The terms of a provider agreement require the provider to 82145
hold a license, permit, or certificate or maintain a certification 82146
issued by an official, board, commission, department, division, 82147
bureau, or other agency of state or federal government other than 82148
the department of job and family services, and the license, 82149
permit, certificate, or certification has been denied, revoked, 82150

not renewed, suspended, or otherwise limited. 82151

(2) The terms of a provider agreement require the provider to 82152
hold a license, permit, or certificate or maintain certification 82153
issued by an official, board, commission, department, division, 82154
bureau, or other agency of state or federal government other than 82155
the department of job and family services, and the provider has 82156
not obtained the license, permit, certificate, or certification. 82157

(3) The provider agreement is denied, terminated, or not 82158
renewed due to the termination, refusal to renew, or denial of a 82159
license, permit, certificate, or certification by an official, 82160
board, commission, department, division, bureau, or other agency 82161
of this state other than the department of job and family 82162
services, notwithstanding the fact that the provider may hold a 82163
license, permit, certificate, or certification from an official, 82164
board, commission, department, division, bureau, or other agency 82165
of another state. 82166

(4) The provider agreement is denied, terminated, or not 82167
renewed pursuant to division (C) or (F) of section 5111.03 of the 82168
Revised Code. 82169

(5) The provider agreement is denied, terminated, or not 82170
renewed due to the provider's termination, suspension, or 82171
exclusion from the medicare program established under Title XVIII 82172
of the "Social Security Act," or from another state's medicaid 82173
program and, in either case, the termination, suspension, or 82174
exclusion is binding on the provider's participation in the 82175
medicaid program in this state. 82176

(6) The provider agreement is denied, terminated, or not 82177
renewed due to the provider's pleading guilty to or being 82178
convicted of a criminal activity materially related to either the 82179
medicare or medicaid program. 82180

(7) The provider agreement is denied, terminated, or 82181

suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(8) ~~The Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended pursuant to section 5111.031 of the Revised Code and payments to the provider are suspended~~ pending indictment of the provider.

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.

(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment pursuant to section 5111.028 of the Revised Code.

(12) The provider agreement is suspended or terminated, or an application for enrollment or re-enrollment is denied, for any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450.

(13) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer.

~~(13)~~(14) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

In the case of a provider described in division (D)~~(12)~~(13) 82213
or ~~(13)~~(14) of this section, the department may take its proposed 82214
action against a provider agreement by sending a notice explaining 82215
the proposed action to the provider. The notice shall be sent to 82216
the provider's address on record with the department. The notice 82217
may be sent by regular mail. 82218

(E) The department may withhold payments for services 82219
rendered by a medicaid provider under the medicaid program during 82220
the pendency of proceedings initiated under division (B)(1) of 82221
this section. If the proceedings are initiated under division 82222
(B)(2) of this section, the department may withhold payments only 82223
to the extent that they equal amounts determined in a final fiscal 82224
audit as being due the state. This division does not apply if the 82225
department fails to comply with section 119.07 of the Revised 82226
Code, requests a continuance of the hearing, or does not issue a 82227
decision within thirty days after the hearing is completed. This 82228
division does not apply to nursing facilities and intermediate 82229
care facilities for the mentally retarded as defined in section 82230
5111.20 of the Revised Code. 82231

Sec. 5111.063. For the purpose of raising funds necessary to 82232
pay the expenses of implementing the provider screening 82233
requirements of subpart E of 42 C.F.R. Part 455, the department of 82234
job and family services shall charge an application fee to a 82235
provider seeking to enter into or renew a medicaid provider 82236
agreement, unless the provider is exempt from paying the 82237
application fee under 42 C.F.R. 455.460(a). The application fees 82238
shall be deposited into the health care services administration 82239
fund created under section 5111.94 of the Revised Code. 82240

The director of job and family services shall adopt rules in 82241
accordance with Chapter 119. of the Revised Code as necessary to 82242
implement this section, including a rule establishing the amount 82243

of the application fee that is charged under this section. The 82244
amount of the application fee shall not be set at an amount that 82245
is more than necessary to pay for the expenses of implementing the 82246
provider screening requirements. 82247

Sec. 5111.085. As used in this section, "federal upper 82248
reimbursement limit" means the limit established pursuant to 82249
section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 82250
(1990), 42 U.S.C. 1396r-8(e), as amended. 82251

The medicaid payment for a drug that is subject to a federal 82252
upper reimbursement limit shall not exceed, in the aggregate, the 82253
federal upper reimbursement limit for the drug. The director of 82254
job and family services shall adopt rules under section 5111.02 of 82255
the Revised Code as necessary to implement this section. 82256

Sec. 5111.113. (A) As used in this section: 82257

(1) "Adult care facility" has the same meaning as in section 82258
~~3722.01~~ 5119.70 of the Revised Code. 82259

(2) "Commissioner" means a person appointed by a probate 82260
court under division (B) of section 2113.03 of the Revised Code to 82261
act as a commissioner. 82262

(3) "Home" has the same meaning as in section 3721.10 of the 82263
Revised Code. 82264

(4) "Personal needs allowance account" means an account or 82265
petty cash fund that holds the money of a resident of an adult 82266
care facility or home and that the facility or home manages for 82267
the resident. 82268

(B) Except as provided in divisions (C) and (D) of this 82269
section, the owner or operator of an adult care facility or home 82270
shall transfer to the department of job and family services the 82271
money in the personal needs allowance account of a resident of the 82272

facility or home who was a recipient of the medical assistance 82273
program no earlier than sixty days but not later than ninety days 82274
after the resident dies. The adult care facility or home shall 82275
transfer the money even though the owner or operator of the 82276
facility or home has not been issued letters testamentary or 82277
letters of administration concerning the resident's estate. 82278

(C) If funeral or burial expenses for a resident of an adult 82279
care facility or home who has died have not been paid and the only 82280
resource the resident had that could be used to pay for the 82281
expenses is the money in the resident's personal needs allowance 82282
account, or all other resources of the resident are inadequate to 82283
pay the full cost of the expenses, the money in the resident's 82284
personal needs allowance account shall be used to pay for the 82285
expenses rather than being transferred to the department of job 82286
and family services pursuant to division (B) of this section. 82287

(D) If, not later than sixty days after a resident of an 82288
adult care facility or home dies, letters testamentary or letters 82289
of administration are issued, or an application for release from 82290
administration is filed under section 2113.03 of the Revised Code, 82291
concerning the resident's estate, the owner or operator of the 82292
facility or home shall transfer the money in the resident's 82293
personal needs allowance account to the administrator, executor, 82294
commissioner, or person who filed the application for release from 82295
administration. 82296

(E) The transfer or use of money in a resident's personal 82297
needs allowance account in accordance with division (B), (C), or 82298
(D) of this section discharges and releases the adult care 82299
facility or home, and the owner or operator of the facility or 82300
home, from any claim for the money from any source. 82301

(F) If, sixty-one or more days after a resident of an adult 82302
care facility or home dies, letters testamentary or letters of 82303
administration are issued, or an application for release from 82304

administration under section 2113.03 of the Revised Code is filed, 82305
concerning the resident's estate, the department of job and family 82306
services shall transfer the funds to the administrator, executor, 82307
commissioner, or person who filed the application, unless the 82308
department is entitled to recover the money under the medicaid 82309
estate recovery program instituted under section 5111.11 of the 82310
Revised Code. 82311

Sec. 5111.13. (A) As used in this section, "cost-effective" 82312
and "group health plan" have the same meanings as in section 1906 82313
of the "Social Security Act," 49 104 Stat. ~~620 (1935)~~ 1388-161 82314
(1990), 42 U.S.C.A. 1396e, as amended, and any regulations adopted 82315
under that section. 82316

(B) The department of job and family services, ~~pursuant to~~ 82317
~~guidelines issued by~~ may submit a medicaid state plan amendment to 82318
the United States secretary of health and human services, ~~shall~~ 82319
~~identify cases in which enrollment of an individual otherwise~~ 82320
~~eligible for medical assistance under this chapter in a group~~ 82321
~~health plan in which the individual is eligible to enroll and~~ 82322
~~payment of the individual's premiums, deductibles, coinsurance,~~ 82323
~~and other cost sharing expenses is cost effective.~~ 82324

~~The department shall require, as a condition of eligibility~~ 82325
~~for medical assistance, individuals identified under this~~ 82326
~~division, or in the case of a child, the child's parent, to apply~~ 82327
~~for enrollment in the group health plan, except that the failure~~ 82328
~~of a parent to enroll self or the parent's child in a group health~~ 82329
~~plan does not affect the child's eligibility under the medical~~ 82330
~~assistance program.~~ 82331

~~The department shall pay enrollee premiums and deductibles,~~ 82332
~~coinsurance, and other cost sharing obligations for services and~~ 82333
~~items otherwise covered under the medical assistance program. The~~ 82334
~~department shall treat coverage under the group health plan in the~~ 82335

~~same manner as any other third party liability under the program. 82336
If not all members of a family are eligible for medical assistance 82337
and enrollment of the eligible members in a group health plan is 82338
not possible without also enrolling the members who are ineligible 82339
for medical assistance, the department shall pay the premiums for 82340
the ineligible members if the payments are cost effective. The 82341
department shall not pay deductibles, coinsurance, or other 82342
cost sharing obligations of enrolled members who are not eligible 82343
for medical assistance. 82344~~

~~The department may make payments under this section to 82345
employers, insurers, or other entities. The department may make 82346
the payments without entering into a contract with employers, 82347
insurers, or other entities. 82348~~

~~(C) To the extent permitted by federal law and regulations, 82349
the department of job and family services shall coordinate the 82350
medical assistance program with group health plans in such a 82351
manner that the medical assistance program serves as a supplement 82352
to the group health plans. In its coordination efforts, the 82353
department shall consider cost effectiveness and quality of care. 82354
The department may enter into agreements with group health plans 82355
as necessary to implement this division for the purpose of 82356
implementing a program pursuant to section 1906 of the "Social 82357
Security Act," 104 Stat. 1388-161 (1990), 42 U.S.C. 1396e, as 82358
amended, for the enrollment of medicaid-eligible individuals in 82359
group health plans when the department determines that enrollment 82360
is cost-effective. 82361~~

~~(D)(C) The director of job and family services shall may 82362
adopt rules in accordance with Chapter 119. of the Revised Code as 82363
necessary to implement this section. 82364~~

Sec. 5111.14. The director of job and family services may 82365
submit to the United States secretary of health and human services 82366

an amendment to the medicaid state plan in order to implement 82367
within the medicaid program a system under which medicaid 82368
recipients with chronic conditions are provided with coordinated 82369
care through health homes, as authorized by section 1945 of the 82370
"Social Security Act," 124 Stat. 319 (2010), 42 U.S.C. 1396w-4. 82371

The director may adopt rules under section 5111.02 of the 82372
Revised Code to implement this section. 82373

Sec. ~~5111.14~~ 5111.141. The department of job and family 82374
services may require county departments of job and family services 82375
to provide case management of nonemergency transportation services 82376
provided under the medical assistance program. County departments 82377
shall provide the case management if required by the department in 82378
accordance with rules adopted by the director of job and family 82379
services. 82380

The department shall determine, for the purposes of claiming 82381
federal reimbursement under the medical assistance program, 82382
whether it will claim expenditures for nonemergency transportation 82383
services as administrative or program expenditures. 82384

Sec. 5111.151. (A)(1) This section applies only to either of 82385
the following: 82386

(a) Initial eligibility determinations for ~~all cases~~ 82387
~~involving medicaid provided pursuant to this chapter, qualified~~ 82388
~~medicare beneficiaries, specified low income medicare~~ 82389
~~beneficiaries, qualifying individuals 1, qualifying individuals 2,~~ 82390
~~and medical assistance for covered families and children~~ the 82391
medicaid program made by the director of job and family services 82392
pursuant to section 5101.47 of the Revised Code or by a county 82393
department of job and family services pursuant to section 5111.012 82394
of the Revised Code; 82395

<u>(b) An appeal from a determination described in division</u>	82396
<u>(A)(1)(a) of this section pursuant to section 5101.35 of the</u>	82397
<u>Revised Code.</u>	82398
<u>(2)(a) Except as provided in division (A)(2)(b) of this</u>	82399
<u>section, this section shall not be used by a court to determine</u>	82400
<u>the effect of a trust on an individual's initial eligibility for</u>	82401
<u>the medicaid program.</u>	82402
<u>(b) The prohibition in division (A)(2)(a) of this section</u>	82403
<u>does not apply to an appeal described in division (A)(1)(b) of</u>	82404
<u>this section.</u>	82405
(B) As used in this section:	82406
(1) "Trust" means any arrangement in which a grantor	82407
transfers real or personal property to a trust with the intention	82408
that it be held, managed, or administered by at least one trustee	82409
for the benefit of the grantor or beneficiaries. "Trust" includes	82410
any legal instrument or device similar to a trust.	82411
(2) "Legal instrument or device similar to a trust" includes,	82412
but is not limited to, escrow accounts, investment accounts,	82413
partnerships, contracts, and other similar arrangements that are	82414
not called trusts under state law but are similar to a trust and	82415
to which all of the following apply:	82416
(a) The property in the trust is held, managed, retained, or	82417
administered by a trustee.	82418
(b) The trustee has an equitable, legal, or fiduciary duty to	82419
hold, manage, retain, or administer the property for the benefit	82420
of the beneficiary.	82421
(c) The trustee holds identifiable property for the	82422
beneficiary.	82423
(3) "Grantor" is a person who creates a trust, including all	82424
of the following:	82425

(a) An individual;	82426
(b) An individual's spouse;	82427
(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;	82428 82429 82430
(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.	82431 82432 82433
(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.	82434 82435
(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.	82436 82437
(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.	82438 82439 82440
(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.	82441 82442
(8) "Recipient" is an individual who receives medicaid or the individual's spouse.	82443 82444
(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:	82445 82446 82447
(a) A trust that provides that the trust can be terminated only by a court;	82448 82449
(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.	82450 82451 82452
(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on	82453 82454

the occurrence of an event outside of the control or direction of 82455
the beneficiary or grantor. 82456

(11) "Payment" is any disbursement from the principal or income 82457
of the trust, including actual cash, noncash or property 82458
disbursements, or the right to use and occupy real property. 82459

(12) "Payments to or for the benefit of the applicant or 82460
recipient" is a payment to any person resulting in a direct or 82461
indirect benefit to the applicant or recipient. 82462

(13) "Testamentary trust" is a trust that is established by a 82463
will and does not take effect until after the death of the person 82464
who created the trust. 82465

(C)(1) If an applicant or recipient is a beneficiary of a 82466
trust, the county department of job and family services shall 82467
determine what type of trust it is and shall treat the trust in 82468
accordance with the appropriate provisions of this section and 82469
rules adopted by the department of job and family services 82470
governing trusts. The county department of job and family services 82471
may determine that the trust or portion of the trust ~~is one of the~~ 82472
~~following:~~ 82473

~~(1) A countable (a) Is a resource available to the applicant 82474
or recipient; 82475~~

~~(2) Countable (b) Contains income available to the applicant 82476
or recipient; 82477~~

~~(3) A countable resource and countable income (c) Constitutes 82478
both items described in divisions (C)(1)(a) and (b) of this 82479
section; 82480~~

~~(4) Not a countable resource or countable income (d) Is 82481
neither an item described in division (C)(1)(a) nor (C)(1)(b) of 82482
this section. 82483~~

(2) Except as provided in division (F) of this section, a 82484

trust or portion of a trust that is a resource available to the 82485
applicant or recipient or contains income available to the 82486
applicant or recipient shall be counted for purposes of 82487
determining medicaid eligibility. 82488

(D)(1) A trust or legal instrument or device similar to a 82489
trust shall be considered a medicaid qualifying trust if all of 82490
the following apply: 82491

(a) The trust was established on or prior to August 10, 1993. 82492

(b) The trust was not established by a will. 82493

(c) The trust was established by an applicant or recipient. 82494

(d) The applicant or recipient is or may become the 82495
beneficiary of all or part of the trust. 82496

(e) Payment from the trust is determined by one or more 82497
trustees who are permitted to exercise any discretion with respect 82498
to the distribution to the applicant or recipient. 82499

(2) If a trust meets the requirement of division (D)(1) of 82500
this section, the amount of the trust that is considered by the 82501
county department of job and family services ~~as an available to be~~ 82502
a resource available to the applicant or recipient shall be the 82503
maximum amount of payments permitted under the terms of the trust 82504
to be distributed to the applicant or recipient, assuming the full 82505
exercise of discretion by the trustee or trustees. The maximum 82506
amount shall include only amounts that are permitted to be 82507
distributed but are not distributed from either the income or 82508
principal of the trust. 82509

(3) Amounts that are actually distributed from a medicaid 82510
qualifying trust to a beneficiary for any purpose shall be treated 82511
in accordance with rules adopted by the department of job and 82512
family services governing income. 82513

(4) Availability of a medicaid qualifying trust shall be 82514

considered without regard to any of the following: 82515

(a) Whether or not the trust is irrevocable or was 82516
established for purposes other than to enable a grantor to qualify 82517
for medicaid, medical assistance for covered families and 82518
children, or as a qualified medicare beneficiary, specified 82519
low-income medicare beneficiary, qualifying individual-1, or 82520
qualifying individual-2; 82521

(b) Whether or not the trustee actually exercises discretion. 82522

(5) If any real or personal property is transferred to a 82523
medicaid qualifying trust that is not distributable to the 82524
applicant or recipient, the transfer shall be considered an 82525
improper disposition of assets and shall be subject to section 82526
5111.0116 of the Revised Code and rules to implement that section 82527
adopted under section 5111.011 of the Revised Code. 82528

(6) The baseline date for the look-back period for 82529
disposition of assets involving a medicaid qualifying trust shall 82530
be the date on which the applicant or recipient is both 82531
institutionalized and first applies for medicaid. 82532

(E)(1) A trust or legal instrument or device similar to a 82533
trust shall be considered a self-settled trust if all of the 82534
following apply: 82535

(a) The trust was established on or after August 11, 1993. 82536

(b) The trust was not established by a will. 82537

(c) The trust was established by an applicant or recipient, 82538
spouse of an applicant or recipient, or a person, including a 82539
court or administrative body, with legal authority to act in place 82540
of or on behalf of an applicant, recipient, or spouse, or acting 82541
at the direction or on request of an applicant, recipient, or 82542
spouse. 82543

(2) A trust that meets the requirements of division (E)(1) of 82544

this section and is a revocable trust shall be treated by the 82545
county department of job and family services as follows: 82546

(a) The corpus of the trust shall be considered a resource 82547
available to the applicant or recipient. 82548

(b) Payments from the trust to or for the benefit of the 82549
applicant or recipient shall be considered unearned income of the 82550
applicant or recipient. 82551

(c) Any other payments from the trust shall be considered an 82552
improper disposition of assets and shall be subject to section 82553
5111.0116 of the Revised Code and rules to implement that section 82554
adopted under section 5111.011 of the Revised Code. 82555

(3) A trust that meets the requirements of division (E)(1) of 82556
this section and is an irrevocable trust shall be treated by the 82557
county department of job and family services as follows: 82558

(a) If there are any circumstances under which payment from 82559
the trust could be made to or for the benefit of the applicant or 82560
recipient, including a payment that can be made only in the 82561
future, the portion from which payments could be made shall be 82562
considered a resource available to the applicant or recipient. The 82563
county department of job and family services shall not take into 82564
account when payments can be made. 82565

(b) Any payment that is actually made to or for the benefit 82566
of the applicant or recipient from either the corpus or income 82567
shall be considered unearned income. 82568

(c) If a payment is made to someone other than to the 82569
applicant or recipient and the payment is not for the benefit of 82570
the applicant or recipient, the payment shall be considered an 82571
improper disposition of assets and shall be subject to section 82572
5111.0116 of the Revised Code and rules to implement that section 82573
adopted under section 5111.011 of the Revised Code. 82574

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.	82575 82576 82577
(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.	82578 82579 82580
(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.	82581 82582 82583
(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.	82584 82585 82586 82587
(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.	82588 82589
(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.	82590 82591 82592 82593 82594 82595
(5) The availability of a self-settled trust shall be considered without regard to any of the following:	82596 82597
(a) The purpose for which the trust is established;	82598
(b) Whether the trustees have exercised or may exercise discretion under the trust;	82599 82600
(c) Any restrictions on when or whether distributions may be made from the trust;	82601 82602
(d) Any restrictions on the use of distributions from the trust.	82603 82604

(6) The baseline date for the look-back period for 82605
dispositions of assets involving a self-settled trust shall be the 82606
date on which the applicant or recipient is both institutionalized 82607
and first applies for medicaid. 82608

(F) The principal or income from any of the following shall 82609
~~be exempt from being counted as~~ not be a resource ~~by a county~~ 82610
~~department of job and family services~~ available to the applicant
or recipient: 82611
82612

(1)(a) A special needs trust that meets all of the following 82613
requirements: 82614

(i) The trust contains assets of an applicant or recipient 82615
under sixty-five years of age and may contain the assets of other 82616
individuals. 82617

(ii) The applicant or recipient is disabled as defined in 82618
rules adopted by the department of job and family services. 82619

(iii) The trust is established for the benefit of the 82620
applicant or recipient by a parent, grandparent, legal guardian, 82621
or a court. 82622

(iv) The trust requires that on the death of the applicant or 82623
recipient the state will receive all amounts remaining in the 82624
trust up to an amount equal to the total amount of medicaid paid 82625
on behalf of the applicant or recipient. 82626

(b) If a special needs trust meets the requirements of 82627
division (F)(1)(a) of this section and has been established for a 82628
disabled applicant or recipient under sixty-five years of age, the 82629
exemption for the trust granted pursuant to division (F) of this 82630
section shall continue after the disabled applicant or recipient 82631
becomes sixty-five years of age if the applicant or recipient 82632
continues to be disabled as defined in rules adopted by the 82633
department of job and family services. Except for income earned by 82634
the trust, the grantor shall not add to or otherwise augment the 82635

trust after the applicant or recipient attains sixty-five years of 82636
age. An addition or augmentation of the trust by the applicant or 82637
recipient with the applicant's own assets after the applicant or 82638
recipient attains sixty-five years of age shall be treated as an 82639
improper disposition of assets. 82640

(c) Cash distributions to the applicant or recipient shall be 82641
counted as unearned income. All other distributions from the trust 82642
shall be treated as provided in rules adopted by the department of 82643
job and family services governing in-kind income. 82644

(d) Transfers of assets to a special needs trust shall not be 82645
treated as an improper transfer of resources. ~~Assets~~ An Asset held 82646
prior to the transfer to the trust shall be considered as 82647
~~countable assets or countable~~ a resource available to the 82648
applicant or recipient, income available to the applicant or 82649
recipient, or ~~countable assets~~ both a resource and income 82650
available to the individual. 82651

(2)(a) A qualifying income trust that meets all of the 82652
following requirements: 82653

(i) The trust is composed only of pension, social security, 82654
and other income to the applicant or recipient, including 82655
accumulated interest in the trust. 82656

(ii) The income is received by the individual and the right 82657
to receive the income is not assigned or transferred to the trust. 82658

(iii) The trust requires that on the death of the applicant 82659
or recipient the state will receive all amounts remaining in the 82660
trust up to an amount equal to the total amount of medicaid paid 82661
on behalf of the applicant or recipient. 82662

(b) No resources shall be used to establish or augment the 82663
trust. 82664

(c) If an applicant or recipient has irrevocably transferred 82665

or assigned the applicant's or recipient's right to receive income 82666
to the trust, the trust shall not be considered a qualifying 82667
income trust by the county department of job and family services. 82668

(d) Income placed in a qualifying income trust shall not be 82669
counted in determining an applicant's or recipient's eligibility 82670
for medicaid. The recipient of the funds may place any income 82671
directly into a qualifying income trust without those funds 82672
adversely affecting the applicant's or recipient's eligibility for 82673
medicaid. Income generated by the trust that remains in the trust 82674
shall not be considered as income to the applicant or recipient. 82675

(e) All income placed in a qualifying income trust shall be 82676
combined with any ~~countable~~ income available to the individual 82677
that is not placed in the trust to arrive at a base income figure 82678
to be used for spend down calculations. 82679

(f) The base income figure shall be used for post-eligibility 82680
deductions, including personal needs allowance, monthly income 82681
allowance, family allowance, and medical expenses not subject to 82682
third party payment. Any income remaining shall be used toward 82683
payment of patient liability. Payments made from a qualifying 82684
income trust shall not be combined with the base income figure for 82685
post-eligibility calculations. 82686

(g) The base income figure shall be used when determining the 82687
spend down budget for the applicant or recipient. Any income 82688
remaining after allowable deductions are permitted as provided 82689
under rules adopted by the department of job and family services 82690
shall be considered the applicant's or recipient's spend down 82691
liability. 82692

(3)(a) A pooled trust that meets all of the following 82693
requirements: 82694

(i) The trust contains the assets of the applicant or 82695
recipient ~~of any~~ under sixty-five years of age who is disabled as 82696

defined in rules adopted by the department of job and family services. 82697
82698

(ii) The trust is established and managed by a nonprofit association. 82699
82700

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts. 82701
82702
82703

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled. 82704
82705
82706
82707

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the beneficiary. 82708
82709
82710
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82712

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income. 82713
82714
82715
82716

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. ~~Assets~~ An asset held prior to the transfer to the trust shall be considered as ~~countable assets, countable a resource available to the applicant or recipient,~~ income available to the applicant or recipient, or ~~countable assets~~ both a resource and income available to the applicant or recipient. 82717
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(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply: 82724
82725
82726

(a) A person may establish a supplemental services trust	82727
pursuant to section 5815.28 of the Revised Code only for another	82728
person who is eligible to receive services through one of the	82729
following agencies:	82730
(i) The department of developmental disabilities;	82731
(ii) A county board of developmental disabilities;	82732
(iii) The department of mental health;	82733
(iv) A board of alcohol, drug addiction, and mental health	82734
services.	82735
(b) A county department of job and family services shall not	82736
determine eligibility for another agency's program. An applicant	82737
or recipient shall do one of the following:	82738
(i) Provide documentation from one of the agencies listed in	82739
division (F)(4)(a) of this section that establishes that the	82740
applicant or recipient was determined to be eligible for services	82741
from the agency at the time of the creation of the trust;	82742
(ii) Provide an order from a court of competent jurisdiction	82743
that states that the applicant or recipient was eligible for	82744
services from one of the agencies listed in division (F)(4)(a) of	82745
this section at the time of the creation of the trust.	82746
(c) At the time the trust is created, the trust principal	82747
does not exceed the maximum amount permitted. The maximum amount	82748
permitted in calendar year 2006 is two hundred twenty-two thousand	82749
dollars. Each year thereafter, the maximum amount permitted is the	82750
prior year's amount plus two thousand dollars.	82751
(d) A county department of job and family services shall	82752
review the trust to determine whether it complies with the	82753
provisions of section 5815.28 of the Revised Code.	82754
(e) Payments from supplemental services trusts shall be	82755
exempt as long as the payments are for supplemental services as	82756

defined in rules adopted by the department of job and family 82757
services. All supplemental services shall be purchased by the 82758
trustee and shall not be purchased through direct cash payments to 82759
the beneficiary. 82760

(f) If a trust is represented as a supplemental services 82761
trust and a county department of job and family services 82762
determines that the trust does not meet the requirements provided 82763
in division (F)(4) of this section and section 5815.28 of the 82764
Revised Code, the county department of job and family services 82765
shall not consider it an exempt trust. 82766

(G)(1) A trust or legal instrument or device similar to a 82767
trust shall be considered a trust established by an individual for 82768
the benefit of the applicant or recipient if all of the following 82769
apply: 82770

(a) The trust is created by a person other than the applicant 82771
or recipient. 82772

(b) The trust names the applicant or recipient as a 82773
beneficiary. 82774

(c) The trust is funded with assets or property in which the 82775
applicant or recipient has never held an ownership interest prior 82776
to the establishment of the trust. 82777

(2) Any portion of a trust that meets the requirements of 82778
division (G)(1) of this section shall be ~~an available~~ a resource 82779
available to the applicant or recipient only if the trust permits 82780
the trustee to expend principal, corpus, or assets of the trust 82781
for the applicant's or recipient's medical care, care, comfort, 82782
maintenance, health, welfare, general well being, or any 82783
combination of these purposes. 82784

(3) A trust that meets the requirements of division (G)(1) of 82785
this section shall be considered ~~an available~~ a resource available 82786
to the applicant or recipient even if the trust contains any of 82787

the following types of provisions: 82788

(a) A provision that prohibits the trustee from making 82789
payments that would supplant or replace medicaid or other public 82790
assistance; 82791

(b) A provision that prohibits the trustee from making 82792
payments that would impact or have an effect on the applicant's or 82793
recipient's right, ability, or opportunity to receive medicaid or 82794
other public assistance; 82795

(c) A provision that attempts to prevent the trust or its 82796
corpus or principal from being ~~counted as an available~~ a resource 82797
available to the applicant or recipient. 82798

(4) A trust that meets the requirements of division (G)(1) of 82799
this section shall not be counted as ~~an available~~ a resource 82800
available to the applicant or recipient if at least one of the 82801
following circumstances applies: 82802

(a) If a trust contains a clear statement requiring the 82803
trustee to preserve a portion of the trust for another beneficiary 82804
or remainderman, that portion of the trust shall not be counted as 82805
~~an available~~ a resource available to the applicant or recipient. 82806
Terms of a trust that grant discretion to preserve a portion of 82807
the trust shall not qualify as a clear statement requiring the 82808
trustee to preserve a portion of the trust. 82809

(b) If a trust contains a clear statement requiring the 82810
trustee to use a portion of the trust for a purpose other than 82811
medical care, care, comfort, maintenance, welfare, or general well 82812
being of the applicant or recipient, that portion of the trust 82813
shall not be counted as ~~an available~~ a resource available to the 82814
applicant or recipient. Terms of a trust that grant discretion to 82815
limit the use of a portion of the trust shall not qualify as a 82816
clear statement requiring the trustee to use a portion of the 82817
trust for a particular purpose. 82818

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as ~~an available~~ a resource available to the applicant or recipient, the trust shall not be counted as ~~an available resource~~ such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or recipient.

(f) If a trust is specifically exempt from being counted as ~~an available~~ a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as ~~a resource~~ such.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient.

(h) If an applicant or recipient presents a final judgment

from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as ~~an~~ available a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as ~~an available a resource available to the applicant or recipient.~~

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as ~~an available a resource available to the applicant or recipient~~, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and

designation of participants, all of the following apply: 82881

(1) In the case of individuals who receive medicaid on the 82882
basis of being included in the category identified by the 82883
department as covered families and children, the department shall 82884
implement the care management system in all counties. All 82885
individuals included in the category shall be designated for 82886
participation, except for individuals included in one or more of 82887
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 82888
The department shall ensure that all participants are enrolled in 82889
health insuring corporations under contract with the department 82890
pursuant to section 5111.17 of the Revised Code. 82891

(2) In the case of individuals who receive medicaid on the 82892
basis of being aged, blind, or disabled, as specified in division 82893
(A)(2) of section 5111.01 of the Revised Code, the department 82894
shall implement the care management system in all counties. ~~All~~ 82895
Except as provided in division (C) of this section, all 82896
individuals included in the category shall be designated for 82897
participation, ~~except for the individuals specified in divisions~~ 82898
~~(B)(2)(a) to (c) of this section.~~ The department shall ensure that 82899
all participants are enrolled in health insuring corporations 82900
under contract with the department pursuant to section 5111.17 of 82901
the Revised Code. 82902

In (3) Alcohol, drug addiction, and mental health services 82903
covered by medicaid shall not be included in any component of the 82904
care management system when the nonfederal share of the cost of 82905
those services is provided by a board of alcohol, drug addiction, 82906
and mental health services or a state agency other than the 82907
department of job and family services, but the recipients of those 82908
services may otherwise be designated for participation in the 82909
system. 82910

(C)(1) In designating participants who receive medicaid on 82911
the basis of being aged, blind, or disabled, the department shall 82912

not include any of the following, <u>except as provided under</u>	82913
<u>division (C)(2) of this section:</u>	82914
(a) Individuals who are under twenty-one years of age;	82915
(b) Individuals who are institutionalized;	82916
(c) Individuals who become eligible for medicaid by spending	82917
down their income or resources to a level that meets the medicaid	82918
program's financial eligibility requirements;	82919
(d) Individuals who are dually eligible under the medicaid	82920
program and the medicare program established under Title XVIII of	82921
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as	82922
amended;	82923
(e) Individuals to the extent that they are receiving	82924
medicaid services through a medicaid waiver component, as defined	82925
in section 5111.85 of the Revised Code.	82926
(3) Alcohol, drug addiction, and mental health services	82927
covered by medicaid shall not be included in any component of the	82928
care management system when the nonfederal share of the cost of	82929
those services is provided by a board of alcohol, drug addiction,	82930
and mental health services or a state agency other than the	82931
department of job and family services, but the recipients of those	82932
services may otherwise be designated for participation in the	82933
system.	82934
<u>(C)(2) If any necessary waiver of federal medicaid</u>	82935
<u>requirements is granted, the department may designate any of the</u>	82936
<u>following individuals who receive medicaid on the basis of being</u>	82937
<u>aged, blind, or disabled as individuals who are permitted or</u>	82938
<u>required to participate in the care management system:</u>	82939
<u>(a) Individuals who are under twenty-one years of age;</u>	82940
<u>(b) Individuals who reside in a nursing facility, as defined</u>	82941
<u>in section 5111.20 of the Revised Code;</u>	82942

<u>(c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, as defined in section 5111.85 of the Revised Code;</u>	82943
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	82946
<u>(d) Individuals who are dually eligible under the medicaid program and the medicare program.</u>	82947
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<u>(D)</u> Subject to division (B) of this section, the department may do both of the following under the care management system:	82949
	82950
(1) Require or permit participants in the system to obtain health care services from providers designated by the department;	82951
	82952
(2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.	82953
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(D) <u>(E)</u> (1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:	82957
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	82960
(a) The required designation of participants included in the category identified by the department as covered families and children;	82961
	82962
	82963
(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;	82964
	82965
(c) The use of any programs for enhanced care management.	82966
(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.	82967
	82968
	82969
(E) <u>(F)</u> The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.	82970
	82971
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Sec. 5111.161. (A) This section applies if the department of job and family services includes in the care management system, pursuant to section 5111.16 of the Revised Code, individuals who are under twenty-one years of age and are included in the category of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code. 82973
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(B) For the purpose of developing a system for the provision of care management services to the individuals under twenty-one years of age specified in division (A) of this section, the department may do either or both of the following: 82980
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(1) Enter into contracts with entities to serve as pediatric accountable care organizations; 82984
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(2) Require that a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code enter into a subcontract with an entity to provide the care management services, subject to the entity meeting the subcontracting criteria established in rules adopted under this section. 82986
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(C) On determining that an entity seeking a contract to serve as a pediatric accountable care organization meets the criteria established in rules adopted under this section, the department may contract with the entity to serve in that capacity. The department's determination of whether to enter into a contract with the entity shall be based on evidence or other documentation submitted by the entity, as required by the department under rules adopted under this section. 82992
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The department's determination to refuse to enter into a contract with an entity may not be appealed. An entity that is denied a contract may seek another contract to serve as a pediatric accountable care organization, but not earlier than six 83000
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months after the most recent contract denial. 83004

(D) The department shall adopt rules as necessary to 83005
implement this section. The rules shall be adopted in accordance 83006
with Chapter 119. of the Revised Code. In adopting the rules, the 83007
department shall specify the following: 83008

(1) The minimum criteria that an entity must meet to qualify 83009
for a contract with the department to serve as a pediatric 83010
accountable care organization, including criteria that 83011
incorporates the minimum criteria established by federal law; 83012

(2) The evidence or other documentation that an entity must 83013
submit to the department when seeking a contract to serve as an 83014
accountable care organization; 83015

(3) The minimum criteria that an entity must meet to qualify 83016
for a subcontract with a managed care organization to provide care 83017
management services to the individuals under twenty-one years of 83018
age specified in division (A) of this section who are enrolled in 83019
the organization. 83020

(E) If the department does not adopt rules under division (D) 83021
of this section on or before July 1, 2012, both of the following 83022
apply until the department adopts those rules: 83023

(1) Each managed care organization under contract with the 83024
department pursuant to section 5111.17 of the Revised Code shall 83025
subcontract with an entity the organization selects to provide 83026
care management services for the individuals specified in division 83027
(A) of this section under twenty-one years of age who are enrolled 83028
in the organization; 83029

(2) The entity shall accept from the organization, as payment 83030
in full for providing the care management services, the same 83031
amount that the department would reimburse a provider for 83032
providing the care management services to a medicaid recipient who 83033
is not enrolled in a managed care organization. 83034

Sec. 5111.162. (A) As used in this section: 83035

(1) "Emergency services" has the same meaning as in section 83036
1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42 83037
U.S.C. 1396u-2(b)(2), as amended. 83038

(2) "Medicaid managed care organization" means a managed care 83039
organization that has entered into a contract with the department 83040
of job and family services pursuant to section 5111.17 of the 83041
Revised Code. 83042

(3) "Hospital" has the same meaning as in section 3727.01 of 83043
the Revised Code. 83044

(4) "Hospital system" means one or more hospitals owned or 83045
controlled by the same organization for the purposes of 83046
coordinating and delivering health services within a geographic 83047
area selected by the organization. 83048

(5) "Hospital system provider" means a health care provider 83049
that is employed, owned, leased, managed, or otherwise controlled 83050
by a hospital system, including a physician, a business entity 83051
under which one or more physicians practice, a provider of 83052
ancillary health services, and any other type of provider 83053
specified in rules adopted under this section. 83054

(B) ~~Except as provided in division (C) of this section, when~~ 83055
~~a participant in the care management system established under~~ 83056
~~section 5111.16 of the Revised Code is enrolled in a medicaid~~ 83057
~~managed care organization and the organization refers the~~ 83058
~~participant to receive services, other than emergency services~~ 83059
~~provided on or after January 1, 2007, at a hospital that~~ 83060
~~participates in the medicaid program but is not under contract~~ 83061
~~with the organization, the hospital shall provide the service for~~ 83062
~~which the referral was made and shall accept from the~~ 83063
~~organization, as payment in full, the amount derived from the~~ 83064

~~reimbursement rate used by the department to reimburse other 83065
hospitals of the same type for providing the same service to a 83066
medicaid recipient who is not enrolled in a medicaid managed care 83067
organization. 83068~~

~~(C) A hospital is not subject to division (B) of this section 83069
if all of the following are the case: 83070~~

~~(1) The hospital is located in a county in which participants 83071
in the care management system are required before January 1, 2006, 83072
to be enrolled in a medicaid managed care organization that is a 83073
health insuring corporation; 83074~~

~~(2) The hospital has entered into a contract before January 83075
1, 2006, with at least one health insuring corporation serving the 83076
participants specified in division (C)(1) of this section; 83077~~

~~(3) The hospital remains under contract with at least one 83078
health insuring corporation serving participants in the care 83079
management system who are required to be enrolled in a health 83080
insuring corporation. 83081~~

~~(D) The director of job and family services shall adopt rules 83082
specifying the circumstances under which a medicaid managed care 83083
organization is permitted to refer a participant in the care 83084
management system to a hospital that is not under contract with 83085
the organization. The If a hospital or hospital system provider 83086
participates in the medicaid program but is not under contract 83087
with a particular medicaid managed care organization, all of the 83088
following apply with respect to that managed care organization and 83089
that hospital or hospital system provider: 83090~~

~~(1) When the organization authorizes a service or services to 83091
be provided to an individual who is enrolled in the organization 83092
as a participant in the care management system established under 83093
section 5111.16 of the Revised Code, the hospital or hospital 83094
system provider shall provide to the individual the service or 83095~~

services authorized by the organization, including inpatient and 83096
outpatient services, as long as the service or services are 83097
medically necessary and covered by medicaid. 83098

(2) Except as provided in division (B)(3) of this section, 83099
the hospital or hospital system provider shall accept from the 83100
organization, as payment in full for providing the authorized 83101
service or services, the same amount that the department of job 83102
and family services would reimburse the hospital or hospital 83103
system provider for providing the authorized service or services 83104
to a medicaid recipient who is not enrolled in a medicaid managed 83105
care organization. 83106

(3) Emergency services provided to the individual are subject 83107
to reimbursement under section 5111.163 of the Revised Code. 83108

(C) The director of job and family services may adopt ~~any~~ 83109
~~other~~ rules as necessary to implement this section. All rules 83110
adopted under this section shall be adopted in accordance with 83111
Chapter 119. of the Revised Code. 83112

Sec. 5111.17. (A) The department of job and family services 83113
may enter into contracts with managed care organizations, 83114
including health insuring corporations, under which the 83115
organizations are authorized to provide, or arrange for the 83116
provision of, health care services to medical assistance 83117
recipients who are required or permitted to obtain health care 83118
services through managed care organizations as part of the care 83119
management system established under section 5111.16 of the Revised 83120
Code. 83121

(B) The department or its actuary shall base the hospital 83122
inpatient capital payment portion of the payment made to managed 83123
care organizations on data for services provided to all recipients 83124
enrolled in managed care organizations with which the department 83125
contracts, as reported by hospitals on relevant cost reports 83126

submitted pursuant to rules adopted under this section. 83127

(C) The director of job and family services may adopt rules 83128
in accordance with Chapter 119. of the Revised Code to implement 83129
this section. 83130

~~(C)~~(D) The department of job and family services shall allow 83131
a managed care plans organization to use providers to render care 83132
upon completion of the managed care ~~plan's~~ organization's 83133
credentialing process. 83134

Sec. 5111.172. (A) When contracting under section 5111.17 of 83135
the Revised Code with a managed care organization that is a health 83136
insuring corporation, the department of job and family services 83137
~~may~~ shall require the health insuring corporation to provide 83138
coverage of prescription drugs for medicaid recipients enrolled in 83139
the health insuring corporation. In providing the required 83140
coverage, the health insuring corporation may, subject to the 83141
department's approval and the limitations specified in division 83142
(B) of this section, use strategies for the management of drug 83143
utilization. 83144

(B) The department shall not permit a health insuring 83145
corporation to impose a prior authorization requirement in the 83146
case of a drug to which all of the following apply: 83147

(1) The drug is an antidepressant or antipsychotic. 83148

(2) The drug is administered or dispensed in a standard 83149
tablet or capsule form, except that in the case of an 83150
antipsychotic, the drug also may be administered or dispensed in a 83151
long-acting injectable form. 83152

(3) The drug is prescribed by a physician whom the health 83153
insuring corporation, pursuant to division (C) of section 5111.17 83154
of the Revised Code, has credentialed to provide care as a 83155
psychiatrist. 83156

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration. 83157
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(C) As used in this division, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 83160
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~~If The department shall permit a health insuring corporation is required under this section to provide coverage of prescription drugs, the department shall permit the health insuring corporation~~ 83162
83163
to develop and implement a pharmacy utilization management program 83164
83165
under which prior authorization through the program is established 83166
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as a condition of obtaining a controlled substance pursuant to a 83168
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prescription. The program may include processes for requiring 83170
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medicaid recipients at high risk for fraud or abuse involving 83172
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controlled substances to have their prescriptions for controlled 83174
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substances filled by a pharmacy, medical provider, or health care 83176
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facility designated by the program. 83178

Sec. 5111.179. (A) The department of job and family services shall establish a managed care performance payment program. Under the program, the department may provide payments to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet performance standards established by the department. 83173
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In establishing performance standards, the department shall use the most recent healthcare effectiveness data and information set and quality measurement tool established by the national committee for quality assurance. 83179
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The standards that must be met to receive the payments may be specified in the contract the department enters into with a managed care organization. 83183
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If a managed care organization meets the performance 83186

standards established by the department, the department shall make 83187
one or more performance payments to the organization. The number 83188
of payments and the schedule for making the payments shall be 83189
established by the department. The payments shall be discontinued 83190
if the department determines that the organization no longer meets 83191
the performance standards. The department shall not make or 83192
discontinue payments based on any performance standard that has 83193
been in effect as part of the organization's contract for less 83194
than six months. 83195

(B) For purposes of the program, the department shall 83196
establish an amount that is to be withheld each time a premium 83197
payment is made to a managed care organization. The amount shall 83198
be established as a percentage of each premium payment. The 83199
percentage shall be the same for all managed care organizations 83200
under contract with the department. The sum of all withholdings 83201
under this division shall not exceed one per cent of the total of 83202
all premium payments made to all managed care organizations under 83203
contract with the department. 83204

Each managed care organization shall agree to the withholding 83205
as a condition of receiving or maintaining its medicaid provider 83206
agreement with the department. 83207

When the amount is established and each time the amount is 83208
modified thereafter, the department shall certify the amount to 83209
the director of budget and management and begin withholding the 83210
amount from each premium the department pays to a managed care 83211
organization. 83212

(C) There is hereby created in the state treasury the managed 83213
care performance payment fund. The fund shall consist of amounts 83214
transferred to it by the director of budget and management for the 83215
purpose of the program. All investment earnings of the fund shall 83216
be credited to the fund. Amounts in the fund shall be used solely 83217
to make performance payments to managed care organizations in 83218

<u>accordance with this section.</u>	83219
<u>(D) The department may adopt rules as necessary to implement</u>	83220
<u>this section. The rules shall be adopted in accordance with</u>	83221
<u>Chapter 119. of the Revised Code.</u>	83222
Sec. 5111.20. As used in sections 5111.20 to 5111.34 <u>5111.33</u>	83223
of the Revised Code:	83224
(A) "Allowable costs" are those costs determined by the	83225
department of job and family services to be reasonable and do not	83226
include fines paid under sections 5111.35 to 5111.61 and section	83227
5111.99 of the Revised Code.	83228
(B) "Ancillary and support costs" means all reasonable costs	83229
incurred by a nursing facility other than direct care costs or	83230
capital costs. "Ancillary and support costs" includes, but is not	83231
limited to, costs of activities, social services, pharmacy	83232
consultants, habilitation supervisors, qualified mental	83233
retardation professionals, program directors, medical and	83234
habilitation records, program supplies, incontinence supplies,	83235
food, enterals, dietary supplies and personnel, laundry,	83236
housekeeping, security, administration, medical equipment,	83237
utilities, liability insurance, bookkeeping, purchasing	83238
department, human resources, communications, travel, dues, license	83239
fees, subscriptions, home office costs not otherwise allocated,	83240
legal services, accounting services, minor equipment, wheelchairs,	83241
resident transportation, maintenance and repairs, help-wanted	83242
advertising, informational advertising, start-up costs,	83243
organizational expenses, other interest, property insurance,	83244
employee training and staff development, employee benefits,	83245
payroll taxes, and workers' compensation premiums or costs for	83246
self-insurance claims and related costs as specified in rules	83247
adopted by the director of job and family services under section	83248
5111.02 of the Revised Code, for personnel listed in this	83249

division. "Ancillary and support costs" also means the cost of 83250
equipment, including vehicles, acquired by operating lease 83251
executed before December 1, 1992, if the costs are reported as 83252
administrative and general costs on the facility's cost report for 83253
the cost reporting period ending December 31, 1992. 83254

(C) "Capital costs" means costs of ownership and, in the case 83255
of an intermediate care facility for the mentally retarded, costs 83256
of nonextensive renovation. 83257

(1) "Cost of ownership" means the actual expense incurred for 83258
all of the following: 83259

(a) Depreciation and interest on any capital assets that cost 83260
five hundred dollars or more per item, including the following: 83261

(i) Buildings; 83262

(ii) Building improvements that are not approved as 83263
nonextensive renovations under section 5111.251 of the Revised 83264
Code; 83265

(iii) Except as provided in division (B) of this section, 83266
equipment; 83267

(iv) In the case of an intermediate care facility for the 83268
mentally retarded, extensive renovations; 83269

(v) Transportation equipment. 83270

(b) Amortization and interest on land improvements and 83271
leasehold improvements; 83272

(c) Amortization of financing costs; 83273

(d) Except as provided in division (K) of this section, lease 83274
and rent of land, building, and equipment. 83275

The costs of capital assets of less than five hundred dollars 83276
per item may be considered capital costs in accordance with a 83277
provider's practice. 83278

(2) "Costs of nonextensive renovation" means the actual 83279
expense incurred by an intermediate care facility for the mentally 83280
retarded for depreciation or amortization and interest on 83281
renovations that are not extensive renovations. 83282

(D) "Capital lease" and "operating lease" shall be construed 83283
in accordance with generally accepted accounting principles. 83284

(E) "Case-mix score" means the measure determined under 83285
section 5111.232 of the Revised Code of the relative direct-care 83286
resources needed to provide care and habilitation to a resident of 83287
a nursing facility or intermediate care facility for the mentally 83288
retarded. 83289

(F)(1) "Date of licensure," for a facility originally 83290
licensed as a nursing home under Chapter 3721. of the Revised 83291
Code, means the date specific beds were originally licensed as 83292
nursing home beds under that chapter, regardless of whether they 83293
were subsequently licensed as residential facility beds under 83294
section 5123.19 of the Revised Code. For a facility originally 83295
licensed as a residential facility under section 5123.19 of the 83296
Revised Code, "date of licensure" means the date specific beds 83297
were originally licensed as residential facility beds under that 83298
section. 83299

If nursing home beds licensed under Chapter 3721. of the 83300
Revised Code or residential facility beds licensed under section 83301
5123.19 of the Revised Code were not required by law to be 83302
licensed when they were originally used to provide nursing home or 83303
residential facility services, "date of licensure" means the date 83304
the beds first were used to provide nursing home or residential 83305
facility services, regardless of the date the present provider 83306
obtained licensure. 83307

If a facility adds nursing home beds or residential facility 83308
beds or extensively renovates all or part of the facility after 83309

its original date of licensure, it will have a different date of 83310
licensure for the additional beds or extensively renovated portion 83311
of the facility, unless the beds are added in a space that was 83312
constructed at the same time as the previously licensed beds but 83313
was not licensed under Chapter 3721. or section 5123.19 of the 83314
Revised Code at that time. 83315

(2) The definition of "date of licensure" in this section 83316
applies in determinations of the medicaid reimbursement rate for a 83317
nursing facility or intermediate care facility for the mentally 83318
retarded but does not apply in determinations of the franchise 83319
permit fee for a nursing facility or intermediate care facility 83320
for the mentally retarded. 83321

(G) "Desk-reviewed" means that costs as reported on a cost 83322
report submitted under section 5111.26 of the Revised Code have 83323
been subjected to a desk review under division (A) of section 83324
5111.27 of the Revised Code and preliminarily determined to be 83325
allowable costs. 83326

(H) "Direct care costs" means all of the following: 83327

(1)(a) Costs for registered nurses, licensed practical 83328
nurses, and nurse aides employed by the facility; 83329

(b) Costs for direct care staff, administrative nursing 83330
staff, medical directors, respiratory therapists, and except as 83331
provided in division (H)(2) of this section, other persons holding 83332
degrees qualifying them to provide therapy; 83333

(c) Costs of purchased nursing services; 83334

(d) Costs of quality assurance; 83335

(e) Costs of training and staff development, employee 83336
benefits, payroll taxes, and workers' compensation premiums or 83337
costs for self-insurance claims and related costs as specified in 83338
rules adopted by the director of job and family services in 83339

accordance with Chapter 119. of the Revised Code, for personnel	83340
listed in divisions (H)(1)(a), (b), and (d) of this section;	83341
(f) Costs of consulting and management fees related to direct	83342
care;	83343
(g) Allocated direct care home office costs.	83344
(2) In addition to the costs specified in division (H)(1) of	83345
this section, for nursing facilities only, direct care costs	83346
include costs of habilitation staff (other than habilitation	83347
supervisors), medical supplies, oxygen, over-the-counter pharmacy	83348
products, physical therapists, physical therapy assistants,	83349
occupational therapists, occupational therapy assistants, speech	83350
therapists, audiologists, habilitation supplies, and universal	83351
precautions supplies.	83352
(3) In addition to the costs specified in division (H)(1) of	83353
this section, for intermediate care facilities for the mentally	83354
retarded only, direct care costs include both of the following:	83355
(a) Costs for physical therapists and physical therapy	83356
assistants, occupational therapists and occupational therapy	83357
assistants, speech therapists, audiologists, habilitation staff	83358
(including habilitation supervisors), qualified mental retardation	83359
professionals, program directors, social services staff,	83360
activities staff, off-site day programming, psychologists and	83361
psychology assistants, and social workers and counselors;	83362
(b) Costs of training and staff development, employee	83363
benefits, payroll taxes, and workers' compensation premiums or	83364
costs for self-insurance claims and related costs as specified in	83365
rules adopted under section 5111.02 of the Revised Code, for	83366
personnel listed in division (H)(3)(a) of this section.	83367
(4) Costs of other direct-care resources that are specified	83368
as direct care costs in rules adopted under section 5111.02 of the	83369
Revised Code.	83370

(I) "Fiscal year" means the fiscal year of this state, as 83371
specified in section 9.34 of the Revised Code. 83372

(J) "Franchise permit fee" means the following: 83373

(1) In the context of nursing facilities, the fee imposed by 83374
sections 3721.50 to 3721.58 of the Revised Code; 83375

(2) In the context of intermediate care facilities for the 83376
mentally retarded, the fee imposed by sections 5112.30 to 5112.39 83377
of the Revised Code. 83378

(K) "Indirect care costs" means all reasonable costs incurred 83379
by an intermediate care facility for the mentally retarded other 83380
than direct care costs, other protected costs, or capital costs. 83381
"Indirect care costs" includes but is not limited to costs of 83382
habilitation supplies, pharmacy consultants, medical and 83383
habilitation records, program supplies, incontinence supplies, 83384
food, enterals, dietary supplies and personnel, laundry, 83385
housekeeping, security, administration, liability insurance, 83386
bookkeeping, purchasing department, human resources, 83387
communications, travel, dues, license fees, subscriptions, home 83388
office costs not otherwise allocated, legal services, accounting 83389
services, minor equipment, maintenance and repairs, help-wanted 83390
advertising, informational advertising, start-up costs, 83391
organizational expenses, other interest, property insurance, 83392
employee training and staff development, employee benefits, 83393
payroll taxes, and workers' compensation premiums or costs for 83394
self-insurance claims and related costs as specified in rules 83395
adopted under section 5111.02 of the Revised Code, for personnel 83396
listed in this division. Notwithstanding division (C)(1) of this 83397
section, "indirect care costs" also means the cost of equipment, 83398
including vehicles, acquired by operating lease executed before 83399
December 1, 1992, if the costs are reported as administrative and 83400
general costs on the facility's cost report for the cost reporting 83401
period ending December 31, 1992. 83402

(L) "Inpatient days" means all days during which a resident, 83403
regardless of payment source, occupies a bed in a nursing facility 83404
or intermediate care facility for the mentally retarded that is 83405
included in the facility's certified capacity under Title XIX. 83406
Therapeutic or hospital leave days for which payment is made under 83407
section 5111.33 of the Revised Code are considered inpatient days 83408
proportionate to the percentage of the facility's per resident per 83409
day rate paid for those days. 83410

(M) "Intermediate care facility for the mentally retarded" 83411
means an intermediate care facility for the mentally retarded 83412
certified as in compliance with applicable standards for the 83413
medicaid program by the director of health in accordance with 83414
Title XIX. 83415

(N) "Maintenance and repair expenses" means, except as 83416
provided in division (BB)(2) of this section, expenditures that 83417
are necessary and proper to maintain an asset in a normally 83418
efficient working condition and that do not extend the useful life 83419
of the asset two years or more. "Maintenance and repair expenses" 83420
includes but is not limited to the cost of ordinary repairs such 83421
as painting and wallpapering. 83422

(O) "Medicaid days" means all days during which a resident 83423
who is a ~~Medicaid~~ medicaid recipient eligible for nursing facility 83424
services occupies a bed in a nursing facility that is included in 83425
the nursing facility's certified capacity under Title XIX. 83426
Therapeutic or hospital leave days for which payment is made under 83427
section 5111.33 of the Revised Code are considered ~~Medicaid~~ 83428
medicaid days proportionate to the percentage of the nursing 83429
facility's per resident per day rate paid for those days. 83430

(P) "Nursing facility" means a facility, or a distinct part 83431
of a facility, that is certified as a nursing facility by the 83432
director of health in accordance with Title XIX and is not an 83433
intermediate care facility for the mentally retarded. "Nursing 83434

facility" includes a facility, or a distinct part of a facility, 83435
that is certified as a nursing facility by the director of health 83436
in accordance with Title XIX and is certified as a skilled nursing 83437
facility by the director in accordance with Title XVIII. 83438

(Q) "Operator" means the person or government entity 83439
responsible for the daily operating and management decisions for a 83440
nursing facility or intermediate care facility for the mentally 83441
retarded. 83442

(R) "Other protected costs" means costs incurred by an 83443
intermediate care facility for the mentally retarded for medical 83444
supplies; real estate, franchise, and property taxes; natural gas, 83445
fuel oil, water, electricity, sewage, and refuse and hazardous 83446
medical waste collection; allocated other protected home office 83447
costs; and any additional costs defined as other protected costs 83448
in rules adopted under section 5111.02 of the Revised Code. 83449

(S)(1) "Owner" means any person or government entity that has 83450
at least five per cent ownership or interest, either directly, 83451
indirectly, or in any combination, in any of the following 83452
regarding a nursing facility or intermediate care facility for the 83453
mentally retarded: 83454

(a) The land on which the facility is located; 83455

(b) The structure in which the facility is located; 83456

(c) Any mortgage, contract for deed, or other obligation 83457
secured in whole or in part by the land or structure on or in 83458
which the facility is located; 83459

(d) Any lease or sublease of the land or structure on or in 83460
which the facility is located. 83461

(2) "Owner" does not mean a holder of a debenture or bond 83462
related to the nursing facility or intermediate care facility for 83463
the mentally retarded and purchased at public issue or a regulated 83464

lender that has made a loan related to the facility unless the 83465
holder or lender operates the facility directly or through a 83466
subsidiary. 83467

(T) "Patient" includes "resident." 83468

(U) Except as provided in divisions (U)(1) and (2) of this 83469
section, "per diem" means a nursing facility's or intermediate 83470
care facility for the mentally retarded's actual, allowable costs 83471
in a given cost center in a cost reporting period, divided by the 83472
facility's inpatient days for that cost reporting period. 83473

(1) When calculating indirect care costs for the purpose of 83474
establishing rates under section 5111.241 of the Revised Code, 83475
"per diem" means an intermediate care facility for the mentally 83476
retarded's actual, allowable indirect care costs in a cost 83477
reporting period divided by the greater of the facility's 83478
inpatient days for that period or the number of inpatient days the 83479
facility would have had during that period if its occupancy rate 83480
had been eighty-five per cent. 83481

(2) When calculating capital costs for the purpose of 83482
establishing rates under section 5111.251 of the Revised Code, 83483
"per diem" means a facility's actual, allowable capital costs in a 83484
cost reporting period divided by the greater of the facility's 83485
inpatient days for that period or the number of inpatient days the 83486
facility would have had during that period if its occupancy rate 83487
had been ninety-five per cent. 83488

(V) "Provider" means an operator with a provider agreement. 83489

(W) "Provider agreement" means a contract between the 83490
department of job and family services and the operator of a 83491
nursing facility or intermediate care facility for the mentally 83492
retarded for the provision of nursing facility services or 83493
intermediate care facility services for the mentally retarded 83494
under the medicaid program. 83495

(X) "Purchased nursing services" means services that are 83496
provided in a nursing facility by registered nurses, licensed 83497
practical nurses, or nurse aides who are not employees of the 83498
facility. 83499

(Y) "Reasonable" means that a cost is an actual cost that is 83500
appropriate and helpful to develop and maintain the operation of 83501
patient care facilities and activities, including normal standby 83502
costs, and that does not exceed what a prudent buyer pays for a 83503
given item or services. Reasonable costs may vary from provider to 83504
provider and from time to time for the same provider. 83505

(Z) "Related party" means an individual or organization that, 83506
to a significant extent, has common ownership with, is associated 83507
or affiliated with, has control of, or is controlled by, the 83508
provider. 83509

(1) An individual who is a relative of an owner is a related 83510
party. 83511

(2) Common ownership exists when an individual or individuals 83512
possess significant ownership or equity in both the provider and 83513
the other organization. Significant ownership or equity exists 83514
when an individual or individuals possess five per cent ownership 83515
or equity in both the provider and a supplier. Significant 83516
ownership or equity is presumed to exist when an individual or 83517
individuals possess ten per cent ownership or equity in both the 83518
provider and another organization from which the provider 83519
purchases or leases real property. 83520

(3) Control exists when an individual or organization has the 83521
power, directly or indirectly, to significantly influence or 83522
direct the actions or policies of an organization. 83523

(4) An individual or organization that supplies goods or 83524
services to a provider shall not be considered a related party if 83525
all of the following conditions are met: 83526

(a) The supplier is a separate bona fide organization.	83527
(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.	83528 83529 83530 83531
(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.	83532 83533 83534 83535 83536
(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.	83537 83538 83539 83540
(AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:	83541 83542 83543
(1) Spouse;	83544
(2) Natural parent, child, or sibling;	83545
(3) Adopted parent, child, or sibling;	83546
(4) Stepparent, stepchild, stepbrother, or stepsister;	83547
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;	83548 83549
(6) Grandparent or grandchild;	83550
(7) Foster caregiver, foster child, foster brother, or foster sister.	83551 83552
(BB) "Renovation" and "extensive renovation" mean:	83553
(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started	83554 83555

before July 1, 1993, that meets the definition of a renovation or 83556
extensive renovation established in rules adopted by the director 83557
of job and family services in effect on December 22, 1992. 83558

(2) In the case of betterments, improvements, and 83559
restorations of intermediate care facilities for the mentally 83560
retarded started on or after July 1, 1993: 83561

(a) "Renovation" means the betterment, improvement, or 83562
restoration of an intermediate care facility for the mentally 83563
retarded beyond its current functional capacity through a 83564
structural change that costs at least five hundred dollars per 83565
bed. A renovation may include betterment, improvement, 83566
restoration, or replacement of assets that are affixed to the 83567
building and have a useful life of at least five years. A 83568
renovation may include costs that otherwise would be considered 83569
maintenance and repair expenses if they are an integral part of 83570
the structural change that makes up the renovation project. 83571
"Renovation" does not mean construction of additional space for 83572
beds that will be added to a facility's licensed or certified 83573
capacity. 83574

(b) "Extensive renovation" means a renovation that costs more 83575
than sixty-five per cent and no more than eighty-five per cent of 83576
the cost of constructing a new bed and that extends the useful 83577
life of the assets for at least ten years. 83578

For the purposes of division (BB)(2) of this section, the 83579
cost of constructing a new bed shall be considered to be forty 83580
thousand dollars, adjusted for the estimated rate of inflation 83581
from January 1, 1993, to the end of the calendar year during which 83582
the renovation is completed, using the consumer price index for 83583
shelter costs for all urban consumers for the north central 83584
region, as published by the United States bureau of labor 83585
statistics. 83586

The department of job and family services may treat a 83587
renovation that costs more than eighty-five per cent of the cost 83588
of constructing new beds as an extensive renovation if the 83589
department determines that the renovation is more prudent than 83590
construction of new beds. 83591

(CC) "Title XIX" means Title XIX of the "Social Security 83592
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 83593

(DD) "Title XVIII" means Title XVIII of the "Social Security 83594
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 83595

Sec. 5111.21. (A) In order to be eligible for medicaid 83596
payments, the operator of a nursing facility or intermediate care 83597
facility for the mentally retarded shall do all of the following: 83598

(1) Enter into a provider agreement with the department as 83599
provided in section 5111.22, 5111.671, or 5111.672 of the Revised 83600
Code; 83601

(2) Apply for and maintain a valid license to operate if so 83602
required by law; 83603

(3) Subject to division (B) of this section, comply with all 83604
applicable state and federal laws and rules. 83605

(B) A state rule that requires the operator of an 83606
intermediate care facility for the mentally retarded to have 83607
received approval of a plan for the proposed facility pursuant to 83608
section 5123.042 of the Revised Code as a condition of the 83609
operator being eligible for medicaid payments for the facility 83610
does not apply if, under former section 5123.193 of the Revised 83611
Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly 83612
or section 5123.197 of the Revised Code, a residential facility 83613
license was obtained or modified for the facility without 83614
obtaining approval of such a plan. 83615

(C)(1) Except as provided in division (C)(2) of this section, 83616

the operator of a nursing facility that elects to obtain and 83617
maintain eligibility for payments under the medicaid program shall 83618
qualify all of the facility's medicaid-certified beds in the 83619
medicare program established by Title XVIII. The director of job 83620
and family services may adopt rules under section 5111.02 of the 83621
Revised Code to establish the time frame in which a nursing 83622
facility must comply with this requirement. 83623

(2) The department of veterans services is not required to 83624
qualify all of the medicaid-certified beds in a nursing facility 83625
the agency maintains and operates under section 5907.01 of the 83626
Revised Code in the medicare program. 83627

Sec. 5111.211. (A) Except as provided in division (C) of this 83628
section, the department of developmental disabilities is 83629
responsible for the nonfederal share of claims submitted for 83630
services that are covered by the medicaid program and provided to 83631
an eligible medicaid recipient by an intermediate care facility 83632
for the mentally retarded if all of the following are the case: 83633

(1) The services are provided on or after July 1, 2003; 83634

(2) The facility receives initial certification by the 83635
director of health as an intermediate care facility for the 83636
mentally retarded on or after June 1, 2003; 83637

(3) The facility, or a portion of the facility, is licensed 83638
by the director of developmental disabilities as a residential 83639
facility under section 5123.19 of the Revised Code; 83640

(4) There is a valid provider agreement for the facility. 83641

(B) Each month, the department of job and family services 83642
shall invoice the department of developmental disabilities by 83643
interagency transfer voucher for the claims for which the 83644
department of developmental disabilities is responsible pursuant 83645
to this section. 83646

(C) Division (A) of this section does not apply to claims 83647
submitted for an intermediate care facility for the mentally 83648
retarded if, under former section 5123.193 of the Revised Code as 83649
enacted by Am. Sub. H.B. 1 of the 128th general assembly or 83650
section 5123.197 of the Revised Code, a residential facility 83651
license was obtained or modified for the facility without 83652
obtaining approval of a plan for the proposed residential facility 83653
pursuant to section 5123.042 of the Revised Code. 83654

Sec. 5111.222. (A) Except as otherwise provided by sections 83655
5111.20 to 5111.33 of the Revised Code and by division (B) of this 83656
section, the payments that the department of job and family 83657
services shall agree to make to the provider of a nursing facility 83658
pursuant to a provider agreement shall equal the sum of all of the 83659
following: 83660

(1) The rate for direct care costs determined for the nursing 83661
facility under section 5111.231 of the Revised Code; 83662

(2) The rate for ancillary and support costs determined for 83663
the nursing facility's ancillary and support cost peer group under 83664
section 5111.24 of the Revised Code; 83665

(3) The rate for tax costs determined for the nursing 83666
facility under section 5111.242 of the Revised Code; 83667

~~(4) The rate for franchise permit fees determined for the 83668
nursing facility under section 5111.243 of the Revised Code;~~ 83669

~~(5) The quality incentive payment, if any, paid to the 83670
nursing facility under section 5111.244 of the Revised Code;~~ 83671

~~(6)~~(5) The ~~median~~ rate for capital costs determined for the 83672
~~nursing facilities in the~~ nursing facility's capital costs peer 83673
group ~~as determined~~ under section 5111.25 of the Revised Code. 83674

(B) The department shall adjust the rates otherwise 83675
determined under ~~divisions~~ division (A)~~(1), (2), (3), and (6)~~ of 83676

this section as directed by the general assembly through the 83677
enactment of law governing medicaid payments to providers of 83678
nursing facilities, including any law that ~~does either of the~~ 83679
~~following:~~ 83680

~~(1) Establishes~~ establishes factors by which the rates are to 83681
be adjusted; 83682

~~(2) Establishes a methodology for phasing in the rates~~ 83683
~~determined for fiscal year 2006 under uncodified law the general~~ 83684
~~assembly enacts to rates determined for subsequent fiscal years~~ 83685
~~under sections 5111.20 to 5111.33 of the Revised Code.~~ 83686

Sec. 5111.224. (A) Except as otherwise provided by sections 83687
5111.20 to 5111.33 of the Revised Code and by division (B) of this 83688
section, the payments that the department of job and family 83689
services shall agree to make to the provider of an intermediate 83690
care facility for the mentally retarded pursuant to a provider 83691
agreement shall equal the sum of all of the following: 83692

(1) The rate for direct care costs determined for the 83693
facility under section 5111.23 of the Revised Code; 83694

(2) The rate for other protected costs determined for the 83695
facility under section 5111.235 of the Revised Code; 83696

(3) The rate for indirect care costs determined for the 83697
facility under section 5111.241 of the Revised Code; 83698

(4) The rate for capital costs determined for the facility 83699
under section 5111.251 of the Revised Code. 83700

(B) The department shall adjust the total rate otherwise 83701
determined under division (A) of this section as directed by the 83702
general assembly through the enactment of law governing medicaid 83703
payments to providers of intermediate care facilities for the 83704
mentally retarded. 83705

<u>Sec. 5111.225. (A) As used in this section:</u>	83706
<u>"Dual eligible individual" has the same meaning as in section</u>	83707
<u>1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010),</u>	83708
<u>42 U.S.C. 1396n(h)(2)(B).</u>	83709
<u>"Medicaid maximum allowable amount" means one hundred per</u>	83710
<u>cent of a nursing facility's per diem rate for a medicaid day.</u>	83711
<u>(B) The department of job and family services shall pay the</u>	83712
<u>provider of a nursing facility the lesser of the following for</u>	83713
<u>nursing facility services the nursing facility provides on or</u>	83714
<u>after January 1, 2012, to a dual eligible individual who is</u>	83715
<u>eligible for nursing facility services under the medicaid program</u>	83716
<u>and post-hospital extended care services under Part A of Title</u>	83717
<u>XVIII:</u>	83718
<u>(1) The coinsurance amount for the services as provided under</u>	83719
<u>Part A of Title XVIII;</u>	83720
<u>(2) The medicaid maximum allowable amount for the services,</u>	83721
<u>less the amount paid under Part A of Title XVIII for the services.</u>	83722
Sec. 5111.23. (A) The department of job and family services	83723
shall pay a provider for each of the provider's eligible	83724
intermediate care facilities for the mentally retarded a per	83725
resident per day rate for direct care costs established	83726
prospectively for each facility. The department shall establish	83727
each facility's rate for direct care costs quarterly.	83728
(B) Each facility's rate for direct care costs shall be based	83729
on the facility's cost per case-mix unit, subject to the maximum	83730
costs per case-mix unit established under division (B)(2) of this	83731
section, from the calendar year preceding the fiscal year in which	83732
the rate is paid. To determine the rate, the department shall do	83733
all of the following:	83734

(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.232 of the Revised Code for the same calendar year.

(2)(a) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division ~~(E)~~(F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division ~~(D)~~(E)(2) of this section.

(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division ~~(E)~~(F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division ~~(D)~~(E)(3) of this section.

(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) ~~to~~ and (b) of this section for each peer group, the department shall exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month

period beginning on the first day of July of the calendar year 83767
preceding the fiscal year in which the rate will be paid and 83768
ending on the thirty-first day of December of the fiscal year in 83769
which the rate will be paid, using the ~~employment cost index for~~ 83770
~~total compensation, health services component, published by the~~ 83771
~~United States bureau of labor statistics~~ specified in division (C) 83772
of this section. If the estimated inflation rate for the 83773
eighteen-month period is different from the actual inflation rate 83774
for that period, as measured using the same index, the difference 83775
shall be added to or subtracted from the inflation rate estimated 83776
under division (B)(3) of this section for the following fiscal 83777
year. 83778

(4) The department shall not recalculate a maximum cost per 83779
case-mix unit under division (B)(2) of this section or a 83780
percentage under division ~~(D)~~(E) of this section based on 83781
additional information that it receives after the maximum costs 83782
per case-mix unit or percentages are set. The department shall 83783
recalculate a maximum cost per case-mix units or percentage only 83784
if it made an error in computing the maximum cost per case-mix 83785
unit or percentage based on information available at the time of 83786
the original calculation. 83787

(C) The department shall use the following index for the 83788
purpose of division (B)(3) of this section: 83789

(1) The employment cost index for total compensation, health 83790
services component, published by the United States bureau of labor 83791
statistics; 83792

(2) If the United States bureau of labor statistics ceases to 83793
publish the index specified in division (C)(1) of this section, 83794
the index that is subsequently published by the bureau and covers 83795
nursing facilities' staff costs. 83796

(D) Each facility's rate for direct care costs shall be 83797

determined as follows for each calendar quarter within a fiscal year: 83798
83799

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter: 83800
83801
83802
83803

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section; 83804
83805
83806

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section; 83807
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83809

(2) Adjust the product determined under division ~~(C)~~(D)(1) of this section by the inflation rate estimated under division (B)(3) of this section. 83810
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~~(D)~~(E)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992. 83813
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(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid 83822
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inpatient days for such facilities for calendar year 1992. 83829

~~(E)~~(F) The director of job and family services shall adopt 83830
rules under section 5111.02 of the Revised Code that specify peer 83831
groups of intermediate care facilities for the mentally retarded 83832
with more than eight beds and intermediate care facilities for the 83833
mentally retarded with eight or fewer beds, based on findings of 83834
significant per diem direct care cost differences due to geography 83835
and facility bed-size. The rules also may specify peer groups 83836
based on findings of significant per diem direct care cost 83837
differences due to other factors which may include case-mix. 83838

~~(F)~~(G) The department, in accordance with division (D) of 83839
section 5111.232 of the Revised Code and rules adopted under 83840
division ~~(E)~~(F) of that section, may assign case-mix scores or 83841
costs per case-mix unit if a provider fails to submit assessment 83842
data necessary to calculate an intermediate care facility for the 83843
mentally retarded's case-mix score in accordance with that 83844
section. 83845

Sec. 5111.231. (A) As used in this section, ~~"applicable:~~ 83846

(1) "Applicable calendar year" means the following: 83847

~~(1)~~(a) For the purpose of the department of job and family 83848
services' initial determination under division (D) of this section 83849
of each peer group's cost per case-mix unit, calendar year 2003; 83850

~~(2)~~(b) For the purpose of the department's ~~subsequent~~ 83851
~~determinations under division (D) of this section of each peer~~ 83852
~~group's cost per case-mix unit~~ rebasings, the calendar year the 83853
department selects. 83854

(2) "Rebasing" means a redetermination under division (D) of 83855
this section of each peer groups' cost per case-mix unit using 83856
information from cost reports for an applicable calendar year that 83857
is later than the applicable calendar year used for the previous 83858

determination of such costs. 83859

(B) The department of job and family services shall pay a 83860
provider for each of the provider's eligible nursing facilities a 83861
per resident per day rate for direct care costs determined 83862
semiannually by multiplying the cost per case-mix unit determined 83863
under division (D) of this section for the facility's peer group 83864
by the facility's semiannual case-mix score determined under 83865
section 5111.232 of the Revised Code. 83866

(C) For the purpose of determining nursing facilities' rate 83867
for direct care costs, the department shall establish three peer 83868
groups. 83869

Each nursing facility located in any of the following 83870
counties shall be placed in peer group one: Brown, Butler, 83871
Clermont, Clinton, Hamilton, and Warren. 83872

Each nursing facility located in any of the following 83873
counties shall be placed in peer group two: Ashtabula, Champaign, 83874
Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 83875
Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 83876
Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 83877
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 83878
and Wood. 83879

Each nursing facility located in any of the following 83880
counties shall be placed in peer group three: Adams, Allen, 83881
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 83882
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 83883
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 83884
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 83885
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 83886
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 83887
Washington, Wayne, Williams, and Wyandot. 83888

(D)(1) ~~At least once every ten years, the~~ The department 83889

shall determine a cost per case-mix unit for each peer group 83890
established under division (C) of this section. ~~A~~ The department 83891
is not required to conduct a rebasing more than once every ten 83892
years. Except as necessary to implement the amendments made by 83893
this act to this section, the cost per case-mix unit determined 83894
under this division for a peer group shall be used for subsequent 83895
years until the department ~~redetermines it~~ conducts a rebasing. To 83896
determine a peer group's cost per case-mix unit, the department 83897
shall do all of the following: 83898

(a) Determine the cost per case-mix unit for each nursing 83899
facility in the peer group for the applicable calendar year by 83900
dividing each facility's desk-reviewed, actual, allowable, per 83901
diem direct care costs for the applicable calendar year by the 83902
facility's annual average case-mix score determined under section 83903
5111.232 of the Revised Code for the applicable calendar year-~~i~~ 83904

(b) Subject to division (D)(2) of this section, identify 83905
which nursing facility in the peer group is at the twenty-fifth 83906
percentile of the cost per case-mix units determined under 83907
division (D)(1)(a) of this section-~~i~~ 83908

~~(c) Calculate the amount that is seven per cent above the~~ 83909
~~cost per case mix unit determined under division (D)(1)(a) of this~~ 83910
~~section for the nursing facility identified under division~~ 83911
~~(D)(1)(b) of this section.~~ 83912

~~(d) Multiply the amount calculated under division (D)(1)(c)~~ 83913
~~of this section by~~ Using the index specified in division (D)(3) of 83914
this section, multiply the rate of inflation for the 83915
eighteen-month period beginning on the first day of July of the 83916
applicable calendar year and ending the last day of December of 83917
the calendar year immediately following the applicable calendar 83918
year ~~using the following:~~ 83919

~~(i) In the case of the initial calculation made under~~ 83920

~~division (D)(1)(d) of this section, the employment cost index for 83921
total compensation, health services component, published by the 83922
United States bureau of labor statistics, as the index existed on 83923
July 1, 2005; 83924~~

~~(ii) In the case of subsequent calculations made under 83925
division (D)(1)(d) of this section and except as provided in 83926
division (D)(1)(d)(iii) of this section, the employment cost index 83927
for total compensation, nursing and residential care facilities 83928
occupational group, published by the United States bureau of labor 83929
statistics; 83930~~

~~(iii) If the United States bureau of labor statistics ceases 83931
to publish the index specified in division (D)(1)(d)(ii) of this 83932
section, the index the bureau subsequently publishes that covers 83933
nursing facilities' staff costs by the cost per case-mix unit 83934
determined under division (D)(1)(a) of this section for the 83935
nursing facility identified under division (D)(1)(b) of this 83936
section; 83937~~

~~(d) Until the first rebasing occurs, add one dollar and 83938
eighty-eight cents to the amount calculated under division 83939
(D)(1)(c) of this section. 83940~~

(2) In making the identification under division (D)(1)(b) of 83941
this section, the department shall exclude both of the following: 83942

(a) Nursing facilities that participated in the medicaid 83943
program under the same provider for less than twelve months in the 83944
applicable calendar year; 83945

(b) Nursing facilities whose cost per case-mix unit is more 83946
than one standard deviation from the mean cost per case-mix unit 83947
for all nursing facilities in the nursing facility's peer group 83948
for the applicable calendar year. 83949

(3) The following index shall be used for the purpose of the 83950
calculation made under division (D)(1)(c) of this section: 83951

(a) Until the first rebasing occurs, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005; 83952
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83955

(b) Effective with the first rebasing and except as provided in division (D)(3)(c) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics; 83956
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83959
83960

(c) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(3)(b) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs. 83961
83962
83963
83964

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination. 83965
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Sec. 5111.235. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for other protected costs established prospectively each fiscal year for each facility. The rate for each facility shall be the facility's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year preceding the fiscal year in which the rate will be paid, all adjusted for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year 83973
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preceding the fiscal year in which the rate will be paid and 83983
ending on the thirty-first day of December of that fiscal year. 83984
The department shall estimate inflation using the ~~consumer price~~ 83985
~~index for all urban consumers for nonprescription drugs and~~ 83986
~~medical supplies, as published by the United States bureau of~~ 83987
~~labor statistics~~ specified in division (B) of this section. If the 83988
estimated inflation rate for the eighteen-month period is 83989
different from the actual inflation rate for that period, the 83990
difference shall be added to or subtracted from the inflation rate 83991
estimated for the following year. 83992

(B) The department shall use the following index for the 83993
purpose of division (A) of this section: 83994

(1) The consumer price index for all urban consumers for 83995
nonprescription drugs and medical supplies, as published by the 83996
United States bureau of labor statistics; 83997

(2) If the United States bureau of labor statistics ceases to 83998
publish the index specified in division (B)(1) of this section, 83999
the index that is subsequently published by the bureau and covers 84000
nonprescription drugs and medical supplies. 84001

Sec. 5111.24. (A) As used in this section, ~~"applicable:~~ 84002

(1) "Applicable calendar year" means the following: 84003

~~(1)(a)~~ (a) For the purpose of the department of job and family 84004
services' initial determination under division (D) of this section 84005
of each peer group's rate for ancillary and support costs, 84006
calendar year 2003; 84007

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent~~ 84008
~~determinations under division (D) of this section of each peer~~ 84009
~~group's rate for ancillary and support costs~~ rebasings, the 84010
calendar year the department selects. 84011

(2) "Rebasing" means a redetermination under division (D) of 84012

this section of each peer groups' rate for ancillary and support 84013
costs using information from cost reports for an applicable 84014
calendar year that is later than the applicable calendar year used 84015
for the previous determination of such rates. 84016

(B) The department of job and family services shall pay a 84017
provider for each of the provider's eligible nursing facilities a 84018
per resident per day rate for ancillary and support costs 84019
determined for the nursing facility's peer group under division 84020
(D) of this section. 84021

(C) For the purpose of determining nursing facilities' rate 84022
for ancillary and support costs, the department shall establish 84023
six peer groups. 84024

Each nursing facility located in any of the following 84025
counties shall be placed in peer group one or two: Brown, Butler, 84026
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 84027
located in any of those counties that has fewer than one hundred 84028
beds shall be placed in peer group one. Each nursing facility 84029
located in any of those counties that has one hundred or more beds 84030
shall be placed in peer group two. 84031

Each nursing facility located in any of the following 84032
counties shall be placed in peer group three or four: Ashtabula, 84033
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 84034
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 84035
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 84036
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 84037
Union, and Wood. Each nursing facility located in any of those 84038
counties that has fewer than one hundred beds shall be placed in 84039
peer group three. Each nursing facility located in any of those 84040
counties that has one hundred or more beds shall be placed in peer 84041
group four. 84042

Each nursing facility located in any of the following 84043

counties shall be placed in peer group five or six: Adams, Allen, 84044
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 84045
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 84046
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 84047
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 84048
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 84049
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 84050
Washington, Wayne, Williams, and Wyandot. Each nursing facility 84051
located in any of those counties that has fewer than one hundred 84052
beds shall be placed in peer group five. Each nursing facility 84053
located in any of those counties that has one hundred or more beds 84054
shall be placed in peer group six. 84055

(D)(1) ~~At least once every ten years, the~~ The department 84056
shall determine the rate for ancillary and support costs for each 84057
peer group established under division (C) of this section. The 84058
department is not required to conduct a rebasing more than once 84059
every ten years. Except as necessary to implement the amendments 84060
made by this act to this section, the rate for ancillary and 84061
support costs determined under this division for a peer group 84062
shall be used for subsequent years until the department 84063
~~redetermines it~~ conducts a rebasing. To determine a peer group's 84064
rate for ancillary and support costs, the department shall do all 84065
of the following: 84066

(a) ~~Determine~~ Subject to division (D)(2) of this section, 84067
determine the rate for ancillary and support costs for each 84068
nursing facility in the peer group for the applicable calendar 84069
year by using the greater of the nursing facility's actual 84070
inpatient days for the applicable calendar year or the inpatient 84071
days the nursing facility would have had for the applicable 84072
calendar year if its occupancy rate had been ninety per cent. ~~For~~ 84073
~~the purpose of determining a nursing facility's occupancy rate~~ 84074
~~under division (D)(1)(a) of this section, the department shall~~ 84075

~~include any beds that the nursing facility removes from its
medicaid certified capacity unless the nursing facility also
removes the beds from its licensed bed capacity.;~~

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(b) Subject to division (D)~~(2)~~(3) of this section, identify
which nursing facility in the peer group is at the twenty-fifth
percentile of the rate for ancillary and support costs for the
applicable calendar year determined under division (D)(1)(a) of
this section.;

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~~(c) Calculate the amount that is three per cent above the
rate for ancillary and support costs determined under division
(D)(1)(a) of this section for the nursing facility identified
under division (D)(1)(b) of this section.~~

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~~(d) Multiply the amount calculated rate for ancillary and
support costs determined under division (D)(1)~~(e)~~(a) of this
section for the nursing facility identified under division
(D)(1)(b) of this section by the rate of inflation for the
eighteen-month period beginning on the first day of July of the
applicable calendar year and ending the last day of December of
the calendar year immediately following the applicable calendar
year using the following:~~

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~~(i) In the case of the initial calculation made under
division (D)(1)~~(d)~~ of this section Until the first rebasing
occurs, the consumer price index for all items for all urban
consumers for the north central region, published by the United
States bureau of labor statistics, as that index existed on July
1, 2005;~~

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84101

~~(ii) In the case of subsequent calculations made under
division (D)(1)~~(d)~~ of this section Effective with the first
rebasings and except as provided in division (D)(1)~~(d)~~(c)(iii) of
this section, the consumer price index for all items for all urban
consumers for the midwest region, published by the United States~~

84102
84103
84104
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bureau of labor statistics; 84107

(iii) If the United States bureau of labor statistics ceases 84108
to publish the index specified in division (D)(1)~~(d)~~(c)(ii) of 84109
this section, the index the bureau subsequently publishes that 84110
covers urban consumers' prices for items for the region that 84111
includes this state. 84112

(2) For the purpose of determining a nursing facility's 84113
occupancy rate under division (D)(1)(a) of this section, the 84114
department shall include any beds that the nursing facility 84115
removes from its medicaid-certified capacity unless the nursing 84116
facility also removes the beds from its licensed bed capacity. 84117

(3) In making the identification under division (D)(1)(b) of 84118
this section, the department shall exclude both of the following: 84119

(a) Nursing facilities that participated in the medicaid 84120
program under the same provider for less than twelve months in the 84121
applicable calendar year; 84122

(b) Nursing facilities whose ancillary and support costs are 84123
more than one standard deviation from the mean desk-reviewed, 84124
actual, allowable, per diem ancillary and support cost for all 84125
nursing facilities in the nursing facility's peer group for the 84126
applicable calendar year. 84127

~~(3)~~(4) The department shall not redetermine a peer group's 84128
rate for ancillary and support costs under this division based on 84129
additional information that it receives after the rate is 84130
determined. The department shall redetermine a peer group's rate 84131
for ancillary and support costs only if the department made an 84132
error in determining the rate based on information available to 84133
the department at the time of the original determination. 84134

Sec. 5111.241. (A) The department of job and family services 84135
shall pay a provider for each of the provider's eligible 84136

intermediate care facilities for the mentally retarded a per 84137
resident per day rate for indirect care costs established 84138
prospectively each fiscal year for each facility. The rate for 84139
each intermediate care facility for the mentally retarded shall be 84140
the sum of the following, but shall not exceed the maximum rate 84141
established for the facility's peer group under division (B) of 84142
this section: 84143

(1) The facility's desk-reviewed, actual, allowable, per diem 84144
indirect care costs from the calendar year preceding the fiscal 84145
year in which the rate will be paid, adjusted for the inflation 84146
rate estimated under division (C)(1) of this section; 84147

(2) An efficiency incentive in the following amount: 84148

(a) For fiscal years ending in even-numbered calendar years: 84149

(i) In the case of intermediate care facilities for the 84150
mentally retarded with more than eight beds, seven and one-tenth 84151
per cent of the maximum rate established for the facility's peer 84152
group under division (B) of this section; 84153

(ii) In the case of intermediate care facilities for the 84154
mentally retarded with eight or fewer beds, seven per cent of the 84155
maximum rate established for the facility's peer group under 84156
division (B) of this section; 84157

(b) For fiscal years ending in odd-numbered calendar years, 84158
the amount calculated for the preceding fiscal year under division 84159
(A)(2)(a) of this section. 84160

(B)(1) The maximum rate for indirect care costs for each peer 84161
group of intermediate care facilities for the mentally retarded 84162
with more than eight beds specified in rules adopted under 84163
division (D) of this section shall be determined as follows: 84164

(a) For fiscal years ending in even-numbered calendar years, 84165
the maximum rate for each peer group shall be the rate that is no 84166

less than twelve and four-tenths per cent above the median 84167
desk-reviewed, actual, allowable, per diem indirect care cost for 84168
all intermediate care facilities for the mentally retarded with 84169
more than eight beds in the group, excluding facilities in the 84170
group whose indirect care costs for that period are more than 84171
three standard deviations from the mean desk-reviewed, actual, 84172
allowable, per diem indirect care cost for all intermediate care 84173
facilities for the mentally retarded with more than eight beds, 84174
for the calendar year preceding the fiscal year in which the rate 84175
will be paid, adjusted by the inflation rate estimated under 84176
division (C)(1) of this section. 84177

(b) For fiscal years ending in odd-numbered calendar years, 84178
the maximum rate for each peer group is the group's maximum rate 84179
for the previous fiscal year, adjusted for the inflation rate 84180
estimated under division (C)(2) of this section. 84181

(2) The maximum rate for indirect care costs for each peer 84182
group of intermediate care facilities for the mentally retarded 84183
with eight or fewer beds specified in rules adopted under division 84184
(D) of this section shall be determined as follows: 84185

(a) For fiscal years ending in even-numbered calendar years, 84186
the maximum rate for each peer group shall be the rate that is no 84187
less than ten and three-tenths per cent above the median 84188
desk-reviewed, actual, allowable, per diem indirect care cost for 84189
all intermediate care facilities for the mentally retarded with 84190
eight or fewer beds in the group, excluding facilities in the 84191
group whose indirect care costs are more than three standard 84192
deviations from the mean desk-reviewed, actual, allowable, per 84193
diem indirect care cost for all intermediate care facilities for 84194
the mentally retarded with eight or fewer beds, for the calendar 84195
year preceding the fiscal year in which the rate will be paid, 84196
adjusted by the inflation rate estimated under division (C)(1) of 84197
this section. 84198

(b) For fiscal years that end in odd-numbered calendar years, 84199
the maximum rate for each peer group is the group's maximum rate 84200
for the previous fiscal year, adjusted for the inflation rate 84201
estimated under division (C)(2) of this section. 84202

(3) The department shall not recalculate a maximum rate for 84203
indirect care costs under division (B)(1) or (2) of this section 84204
based on additional information that it receives after the maximum 84205
rate is set. The department shall recalculate the maximum rate for 84206
indirect care costs only if it made an error in computing the 84207
maximum rate based on the information available at the time of the 84208
original calculation. 84209

(C)(1) When adjusting rates for inflation under divisions 84210
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 84211
shall estimate the rate of inflation for the eighteen-month period 84212
beginning on the first day of July of the calendar year preceding 84213
the fiscal year in which the rate will be paid and ending on the 84214
thirty-first day of December of the fiscal year in which the rate 84215
will be paid, using the. To estimate the rate of inflation, the 84216
department shall use the following: 84217

(a) The consumer price index for all items for all urban 84218
consumers for the north central region, published by the United 84219
States bureau of labor statistics; 84220

(b) If the United States bureau of labor statistics ceases to 84221
publish the index specified in division (C)(1)(a) of this section, 84222
a comparable index that the bureau publishes and the department 84223
determines is appropriate. 84224

(2) When adjusting rates for inflation under divisions 84225
(B)(1)(b) and (B)(2)(b) of this section, the department shall 84226
estimate the rate of inflation for the twelve-month period 84227
beginning on the first day of January of the fiscal year preceding 84228
the fiscal year in which the rate will be paid and ending on the 84229

thirty-first day of December of the fiscal year in which the rate 84230
will be paid, ~~using the.~~ To estimate the rate of inflation, the 84231
department shall use the following: 84232

(a) The consumer price index for all items for all urban 84233
consumers for the north central region, published by the United 84234
States bureau of labor statistics; 84235

(b) If the United States bureau of labor statistics ceases to 84236
publish the index specified in division (C)(2)(a) of this section, 84237
a comparable index that the bureau publishes and the department 84238
determines is appropriate. 84239

(3) If an inflation rate estimated under division (C)(1) or 84240
(2) of this section is different from the actual inflation rate 84241
for the relevant time period, as measured using the same index, 84242
the difference shall be added to or subtracted from the inflation 84243
rate estimated pursuant to this division for the following fiscal 84244
year. 84245

(D) The director of job and family services shall adopt rules 84246
under section 5111.02 of the Revised Code that specify peer groups 84247
of intermediate care facilities for the mentally retarded with 84248
more than eight beds, and peer groups of intermediate care 84249
facilities for the mentally retarded with eight or fewer beds, 84250
based on findings of significant per diem indirect care cost 84251
differences due to geography and facility bed-size. The rules also 84252
may specify peer groups based on findings of significant per diem 84253
indirect care cost differences due to other factors, including 84254
case-mix. 84255

Sec. 5111.244. (A) As used in this section, "deficiency" and 84256
"standard survey" have the same meanings as in section 5111.35 of 84257
the Revised Code. 84258

(B) ~~Each fiscal year~~ Subject to division (D) of this section, 84259

the department of job and family services shall pay the provider 84260
of each nursing facility a quality incentive payment. The amount 84261
of a quality incentive payment paid to a provider ~~for a fiscal~~ 84262
~~year~~ shall be based on the number of points the provider's nursing 84263
facility is awarded ~~under division (C) of this section for that~~ 84264
~~fiscal year~~ meeting accountability measures. The amount of a 84265
quality incentive payment paid to a provider of a nursing facility 84266
that is awarded no points may be zero. ~~The mean payment for fiscal~~ 84267
~~year 2007, weighted by medicaid days, shall be three dollars per~~ 84268
~~medicaid day. The department shall adjust the mean payment for~~ 84269
~~subsequent fiscal years by the same adjustment factors the~~ 84270
~~department uses to adjust, pursuant to division (B) of section~~ 84271
~~5111.222 of the Revised Code, nursing facilities' rates otherwise~~ 84272
~~determined under divisions (A)(1), (2), (3), and (6) of that~~ 84273
~~section.~~ 84274

(C)(1) Except as provided by ~~division~~ divisions (C)(2) and 84275
(D) of this section, the department shall ~~annually~~ award each 84276
nursing facility participating in the medicaid program one point 84277
for each of the following accountability measures the facility 84278
meets: 84279

(a) The facility had no health deficiencies on the facility's 84280
most recent standard survey. 84281

(b) The facility had no health deficiencies with a scope and 84282
severity level greater than E, as determined under nursing 84283
facility certification standards established under Title XIX, on 84284
the facility's most recent standard survey. 84285

(c) The facility's resident satisfaction is above the 84286
statewide average. 84287

(d) The facility's family satisfaction is above the statewide 84288
average. 84289

(e) The number of hours the facility employs nurses is above 84290

the statewide average. 84291

(f) The facility's employee retention rate is above the 84292
average for the facility's peer group established in division (C) 84293
of section 5111.231 of the Revised Code. 84294

(g) The facility's occupancy rate is above the statewide 84295
average. 84296

(h) The facility's medicaid utilization rate is above the 84297
statewide average. 84298

(i) The facility's case-mix score is above the statewide 84299
average. 84300

(2) The department shall award points pursuant to division 84301
(C)(1)(c) or (d) of this section to a nursing facility only for a 84302
fiscal year immediately following a calendar year for which if 84303
a survey of resident or family satisfaction has been was 84304
conducted under section 173.47 of the Revised Code for the nursing facility 84305
in calendar year 2010. 84306

(D) The department shall cease to award points to nursing 84307
facilities under division (C) of this section on the earlier of 84308
the effective date of the rules adopted under division (E) of this 84309
section establishing new accountability measures and July 1, 2012. 84310
If the effective date of the rules establishing the new 84311
accountability measures is after July 1, 2012, the department 84312
shall not award any points, and therefore not pay quality 84313
incentive payments, for the period beginning July 1, 2012, and 84314
ending on the effective date of the rules. Once the rules are in 84315
effect, the department shall award each nursing facility 84316
participating in the medicaid program points in accordance with 84317
the new accountability measures established in the rules. 84318

(E) The director of job and family services shall adopt rules 84319
under section 5111.02 of the Revised Code as necessary to 84320
implement this section. ~~The rules shall include, including rules~~ 84321

governing the methodology for converting points awarded under this 84322
section into quality incentive payments and rules establishing the 84323
system for awarding points under division (C) of this section. The 84324
director shall strive to have in effect not later than July 1, 84325
2012, rules establishing new accountability measures for the 84326
purpose of division (D) of this section. In adopting those rules, 84327
the director shall collaborate with persons interested in the 84328
issue of medicaid coverage of nursing facility services. The new 84329
accountability measures shall include measures relating to the 84330
quality of care that nursing facilities provide their residents 84331
and the residents' quality of life. 84332

Sec. 5111.25. (A) As used in this section, ~~"applicable:~~ 84333

(1) "Applicable calendar year" means the following: 84334

~~(1)(a)~~ (a) For the purpose of the department of job and family 84335
services' initial determination under division (D) of this section 84336
of each peer group's ~~median~~ rate for capital costs, calendar year 84337
2003; 84338

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent~~ 84339
~~determinations under division (D) of this section of each peer~~ 84340
~~group's median rate for capital costs~~ rebasing, the calendar year 84341
the department selects. 84342

(2) "Rebasing" means a redetermination under division (D) of 84343
this section of each peer groups' rate for capital costs using 84344
information from cost reports for an applicable calendar year that 84345
is later than the applicable calendar year used for the previous 84346
determination of such rates. 84347

(B) The department of job and family services shall pay a 84348
provider for each of the provider's eligible nursing facilities a 84349
per resident per day rate for capital costs. ~~A nursing facility's~~ 84350
~~rate for capital costs shall be the median rate for capital costs~~ 84351

~~for the nursing facilities in~~ determined for the nursing 84352
facility's peer group ~~as determined~~ under division (D) of this 84353
section. 84354

(C) For the purpose of determining nursing facilities' rate 84355
for capital costs, the department shall establish six peer groups. 84356

Each nursing facility located in any of the following 84357
counties shall be placed in peer group one or two: Brown, Butler, 84358
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 84359
located in any of those counties that has fewer than one hundred 84360
beds shall be placed in peer group one. Each nursing facility 84361
located in any of those counties that has one hundred or more beds 84362
shall be placed in peer group two. 84363

Each nursing facility located in any of the following 84364
counties shall be placed in peer group three or four: Ashtabula, 84365
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 84366
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 84367
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 84368
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 84369
Union, and Wood. Each nursing facility located in any of those 84370
counties that has fewer than one hundred beds shall be placed in 84371
peer group three. Each nursing facility located in any of those 84372
counties that has one hundred or more beds shall be placed in peer 84373
group four. 84374

Each nursing facility located in any of the following 84375
counties shall be placed in peer group five or six: Adams, Allen, 84376
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 84377
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 84378
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 84379
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 84380
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 84381
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 84382
Washington, Wayne, Williams, and Wyandot. Each nursing facility 84383

located in any of those counties that has fewer than one hundred 84384
beds shall be placed in peer group five. Each nursing facility 84385
located in any of those counties that has one hundred or more beds 84386
shall be placed in peer group six. 84387

(D)(1) ~~At least once every ten years, the~~ The department 84388
shall determine the ~~median~~ rate for capital costs for each peer 84389
group established under division (C) of this section. ~~The median~~ 84390
department is not required to conduct a rebasing more than once 84391
every ten years. Except as necessary to implement the amendments 84392
made by this act to this section, the rate for capital costs 84393
determined under this division for a peer group shall be used for 84394
subsequent years until the department ~~redetermines it~~ conducts a 84395
rebasing. ~~To determine a~~ A peer group's ~~median~~ rate for capital 84396
costs shall be the rate for capital costs determined for the 84397
nursing facility in the peer group that is at the twenty-fifth 84398
percentile of the rate for capital costs for the applicable 84399
calendar year. In identifying that nursing facility, the 84400
department shall do both of the following: 84401

(a) Subject to division (D)(2) of this section, use the 84402
greater of each nursing facility's actual inpatient days for the 84403
applicable calendar year or the inpatient days the nursing 84404
facility would have had for the applicable calendar year if its 84405
occupancy rate had been one hundred per cent-; 84406

(b) Exclude both of the following: 84407

(i) Nursing facilities that participated in the medicaid 84408
program under the same provider for less than twelve months in the 84409
applicable calendar year; 84410

(ii) Nursing facilities whose capital costs are more than one 84411
standard deviation from the mean desk-reviewed, actual, allowable, 84412
per diem capital cost for all nursing facilities in the nursing 84413
facility's peer group for the applicable calendar year. 84414

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(3) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under sections 5111.20 to 5111.33 of the Revised Code is used to reimburse the government agency.

(F) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (F)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed,

actual, allowable, capital cost basis that is listed on the 84447
facility's cost report for the calendar year preceding the fiscal 84448
year during which the rate will be paid. 84449

(2) For facilities with dates of licensure after June 30, 84450
1993, the capital cost basis shall be determined in accordance 84451
with the principles of the medicare program established under 84452
Title XVIII, except as otherwise provided in sections 5111.20 to 84453
5111.33 of the Revised Code. 84454

(3) Except as provided in division (F)(4) of this section, if 84455
a provider transfers an interest in a facility to another provider 84456
after June 30, 1993, there shall be no increase in the capital 84457
cost basis of the asset if the providers are related parties or 84458
the provider to which the interest is transferred authorizes the 84459
provider that transferred the interest to continue to operate the 84460
facility under a lease, management agreement, or other 84461
arrangement. If the previous sentence does not prohibit the 84462
adjustment of the capital cost basis under this division, the 84463
basis of the asset shall be adjusted by ~~the lesser of the~~ 84464
~~following:~~ 84465

~~(a) One half of the change in construction costs during the 84466
time that the transferor held the asset, as calculated by the 84467
department of job and family services using the "Dodge building 84468
cost indexes, northeastern and north central states," published by 84469
Marshall and Swift;~~ 84470

~~(b) One half~~ one-half of the change in the consumer price 84471
index for all items for all urban consumers, as published by the 84472
United States bureau of labor statistics, during the time that the 84473
transferor held the asset. 84474

(4) If a provider transfers an interest in a facility to 84475
another provider who is a related party, the capital cost basis of 84476
the asset shall be adjusted as specified in division (F)(3) of 84477

this section if all of the following conditions are met: 84478

(a) The related party is a relative of owner; 84479

(b) Except as provided in division (F)(4)(c)(ii) of this 84480
section, the provider making the transfer retains no ownership 84481
interest in the facility; 84482

(c) The department of job and family services determines that 84483
the transfer is an arm's length transaction pursuant to rules 84484
adopted under section 5111.02 of the Revised Code. The rules shall 84485
provide that a transfer is an arm's length transaction if all of 84486
the following apply: 84487

(i) Once the transfer goes into effect, the provider that 84488
made the transfer has no direct or indirect interest in the 84489
provider that acquires the facility or the facility itself, 84490
including interest as an owner, officer, director, employee, 84491
independent contractor, or consultant, but excluding interest as a 84492
creditor. 84493

(ii) The provider that made the transfer does not reacquire 84494
an interest in the facility except through the exercise of a 84495
creditor's rights in the event of a default. If the provider 84496
reacquires an interest in the facility in this manner, the 84497
department shall treat the facility as if the transfer never 84498
occurred when the department calculates its reimbursement rates 84499
for capital costs. 84500

(iii) The transfer satisfies any other criteria specified in 84501
the rules. 84502

(d) Except in the case of hardship caused by a catastrophic 84503
event, as determined by the department, or in the case of a 84504
provider making the transfer who is at least sixty-five years of 84505
age, not less than twenty years have elapsed since, for the same 84506
facility, the capital cost basis was adjusted most recently under 84507
division (F)(4) of this section or actual, allowable cost of 84508

ownership was determined most recently under division (G)(9) of 84509
this section. 84510

(G) As used in this division: 84511

"Imputed interest" means the lesser of the prime rate plus 84512
two per cent or ten per cent. 84513

"Lease expense" means lease payments in the case of an 84514
operating lease and depreciation expense and interest expense in 84515
the case of a capital lease. 84516

"New lease" means a lease, to a different lessee, of a 84517
nursing facility that previously was operated under a lease. 84518

(1) Subject to division (B) of this section, for a lease of a 84519
facility that was effective on May 27, 1992, the entire lease 84520
expense is an actual, allowable capital cost during the term of 84521
the existing lease. The entire lease expense also is an actual, 84522
allowable capital cost if a lease in existence on May 27, 1992, is 84523
renewed under either of the following circumstances: 84524

(a) The renewal is pursuant to a renewal option that was in 84525
existence on May 27, 1992; 84526

(b) The renewal is for the same lease payment amount and 84527
between the same parties as the lease in existence on May 27, 84528
1992. 84529

(2) Subject to division (B) of this section, for a lease of a 84530
facility that was in existence but not operated under a lease on 84531
May 27, 1992, actual, allowable capital costs shall include the 84532
lesser of the annual lease expense or the annual depreciation 84533
expense and imputed interest expense that would be calculated at 84534
the inception of the lease using the lessor's entire historical 84535
capital asset cost basis, adjusted by ~~the lesser of the following~~ 84536
~~amounts:~~ 84537

~~(a) One half of the change in construction costs during the 84538~~

~~time the lessor held each asset until the beginning of the lease, 84539
as calculated by the department using the "Dodge building cost 84540
indexes, northeastern and north central states," published by 84541
Marshall and Swift; 84542~~

~~(b) One half one-half of the change in the consumer price 84543
index for all items for all urban consumers, as published by the 84544
United States bureau of labor statistics, during the time the 84545
lessor held each asset until the beginning of the lease. 84546~~

(3) Subject to division (B) of this section, for a lease of a 84547
facility with a date of licensure on or after May 27, 1992, that 84548
is initially operated under a lease, actual, allowable capital 84549
costs shall include the annual lease expense if there was a 84550
substantial commitment of money for construction of the facility 84551
after December 22, 1992, and before July 1, 1993. If there was not 84552
a substantial commitment of money after December 22, 1992, and 84553
before July 1, 1993, actual, allowable capital costs shall include 84554
the lesser of the annual lease expense or the sum of the 84555
following: 84556

(a) The annual depreciation expense that would be calculated 84557
at the inception of the lease using the lessor's entire historical 84558
capital asset cost basis; 84559

(b) The greater of the lessor's actual annual amortization of 84560
financing costs and interest expense at the inception of the lease 84561
or the imputed interest expense calculated at the inception of the 84562
lease using seventy per cent of the lessor's historical capital 84563
asset cost basis. 84564

(4) Subject to division (B) of this section, for a lease of a 84565
facility with a date of licensure on or after May 27, 1992, that 84566
was not initially operated under a lease and has been in existence 84567
for ten years, actual, allowable capital costs shall include the 84568
lesser of the annual lease expense or the annual depreciation 84569

expense and imputed interest expense that would be calculated at 84570
the inception of the lease using the entire historical capital 84571
asset cost basis of ~~the lessor, adjusted by the lesser of the~~ 84572
~~following:~~ 84573

~~(a) One half of the change in construction costs during the 84574
time the lessor held each asset until the beginning of the lease, 84575
as calculated by the department using the "Dodge building cost 84576
indexes, northeastern and north central states," published by 84577
Marshall and Swift;~~ 84578

~~(b) One half one-half of the change in the consumer price 84579
index for all items for all urban consumers, as published by the 84580
United States bureau of labor statistics, during the time the 84581
lessor held each asset until the beginning of the lease. 84582~~

(5) Subject to division (B) of this section, for a new lease 84583
of a facility that was operated under a lease on May 27, 1992, 84584
actual, allowable capital costs shall include the lesser of the 84585
annual new lease expense or the annual old lease payment. If the 84586
old lease was in effect for ten years or longer, the old lease 84587
payment from the beginning of the old lease shall be adjusted by 84588
~~the lesser of the following:~~ 84589

~~(a) One half of the change in construction costs from the 84590
beginning of the old lease to the beginning of the new lease, as 84591
calculated by the department using the "Dodge building cost 84592
indexes, northeastern and north central states," published by 84593
Marshall and Swift;~~ 84594

~~(b) One half one-half of the change in the consumer price 84595
index for all items for all urban consumers, as published by the 84596
United States bureau of labor statistics, from the beginning of 84597
the old lease to the beginning of the new lease. 84598~~

(6) Subject to division (B) of this section, for a new lease 84599
of a facility that was not in existence or that was in existence 84600

but not operated under a lease on May 27, 1992, actual, allowable 84601
capital costs shall include the lesser of annual new lease expense 84602
or the annual amount calculated for the old lease under division 84603
(G)(2), (3), (4), or (6) of this section, as applicable. If the 84604
old lease was in effect for ten years or longer, the lessor's 84605
historical capital asset cost basis shall be ~~adjusted by the~~ 84606
~~lesser of the following,~~ for purposes of calculating the annual 84607
amount under division (G)(2), (3), (4), or (6) of this section: 84608

~~(a) One half of the change in construction costs from the 84609
beginning of the old lease to the beginning of the new lease, as 84610
calculated by the department using the "Dodge building cost 84611
indexes, northeastern and north central states," published by 84612
Marshall and Swift; 84613~~

~~(b) One half, adjusted by one-half of the change in the 84614
consumer price index for all items for all urban consumers, as 84615
published by the United States bureau of labor statistics, from 84616
the beginning of the old lease to the beginning of the new lease. 84617~~

In the case of a lease under division (G)(3) of this section 84618
of a facility for which a substantial commitment of money was made 84619
after December 22, 1992, and before July 1, 1993, the old lease 84620
payment shall be adjusted for the purpose of determining the 84621
annual amount. 84622

(7) For any revision of a lease described in division (G)(1), 84623
(2), (3), (4), (5), or (6) of this section, or for any subsequent 84624
lease of a facility operated under such a lease, other than 84625
execution of a new lease, the portion of actual, allowable capital 84626
costs attributable to the lease shall be the same as before the 84627
revision or subsequent lease. 84628

(8) Except as provided in division (G)(9) of this section, if 84629
a provider leases an interest in a facility to another provider 84630
who is a related party or previously operated the facility, the 84631

related party's or previous operator's actual, allowable capital 84632
costs shall include the lesser of the annual lease expense or the 84633
reasonable cost to the lessor. 84634

(9) If a provider leases an interest in a facility to another 84635
provider who is a related party, regardless of the date of the 84636
lease, the related party's actual, allowable capital costs shall 84637
include the annual lease expense, subject to the limitations 84638
specified in divisions (G)(1) to (7) of this section, if all of 84639
the following conditions are met: 84640

(a) The related party is a relative of owner; 84641

(b) If the lessor retains an ownership interest, it is, 84642
except as provided in division (G)(9)(c)(ii) of this section, in 84643
only the real property and any improvements on the real property; 84644

(c) The department of job and family services determines that 84645
the lease is an arm's length transaction pursuant to rules adopted 84646
under section 5111.02 of the Revised Code. The rules shall provide 84647
that a lease is an arm's length transaction if all of the 84648
following apply: 84649

(i) Once the lease goes into effect, the lessor has no direct 84650
or indirect interest in the lessee or, except as provided in 84651
division (G)(9)(b) of this section, the facility itself, including 84652
interest as an owner, officer, director, employee, independent 84653
contractor, or consultant, but excluding interest as a lessor. 84654

(ii) The lessor does not reacquire an interest in the 84655
facility except through the exercise of a lessor's rights in the 84656
event of a default. If the lessor reacquires an interest in the 84657
facility in this manner, the department shall treat the facility 84658
as if the lease never occurred when the department calculates its 84659
reimbursement rates for capital costs. 84660

(iii) The lease satisfies any other criteria specified in the 84661
rules. 84662

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. 5111.251. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to 5111.33 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

(2) Any efficiency incentive determined under division (B) of this section;

(3) Any amounts for renovations determined under division (D) of this section;

(4) Any amounts for return on equity determined under division ~~(I)~~(H) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the

department. Components and equipment shall be depreciated using 84693
the straight line method over a period designated by the director 84694
of job and family services in rules adopted under section 5111.02 84695
of the Revised Code, consistent with the guidelines of the 84696
American hospital association, or over a different period approved 84697
by the department of job and family services. Any rules authorized 84698
by this division that specify useful lives of buildings, 84699
components, or equipment apply only to assets acquired on or after 84700
July 1, 1993. Depreciation for costs paid or reimbursed by any 84701
government agency shall not be included in costs of ownership or 84702
renovation unless that part of the payment under sections 5111.20 84703
to 5111.33 of the Revised Code is used to reimburse the government 84704
agency. 84705

(B) The department of job and family services shall pay to a 84706
provider for each of the provider's eligible intermediate care 84707
facilities for the mentally retarded an efficiency incentive equal 84708
to fifty per cent of the difference between any desk-reviewed, 84709
actual, allowable cost of ownership and the applicable limit on 84710
cost of ownership payments under division (C) of this section. For 84711
purposes of computing the efficiency incentive, depreciation for 84712
costs paid or reimbursed by any government agency shall be 84713
considered as a cost of ownership, and the applicable limit under 84714
division (C) of this section shall apply both to facilities with 84715
more than eight beds and facilities with eight or fewer beds. The 84716
efficiency incentive paid to a provider for a facility with eight 84717
or fewer beds shall not exceed three dollars per patient day, 84718
adjusted annually for the inflation rate for the twelve-month 84719
period beginning on the first day of July of the calendar year 84720
preceding the calendar year that precedes the fiscal year for 84721
which the efficiency incentive is determined and ending on the 84722
thirtieth day of the following June, using the consumer price 84723
index for shelter costs for all urban consumers for the north 84724
central region, as published by the United States bureau of labor 84725

statistics.	84726
(C) Cost of ownership payments for intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:	84727 84728 84729
(1) For facilities with dates of licensure prior to January 1, 1958, not exceeding two dollars and fifty cents per patient day;	84730 84731 84732
(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:	84733 84734
(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	84735 84736 84737
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	84738 84739 84740
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	84741 84742
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	84743 84744 84745
(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	84746 84747 84748 84749
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	84750 84751 84752
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	84753 84754
(a) Five dollars and fifty cents per patient day if the cost	84755

of construction was six thousand eight hundred dollars or more per 84756
bed; 84757

(b) Four dollars and fifty cents per patient day if the cost 84758
of construction was less than six thousand eight hundred dollars 84759
per bed but exceeds five thousand one hundred fifty dollars per 84760
bed; 84761

(c) Three dollars and fifty cents per patient day if the cost 84762
of construction was five thousand one hundred fifty dollars or 84763
less per bed, but exceeds three thousand five hundred dollars per 84764
bed; 84765

(d) Two dollars and fifty cents per patient day if the cost 84766
of construction was three thousand five hundred dollars or less 84767
per bed. 84768

(5) For facilities with dates of licensure after December 31, 84769
1978, but prior to January 1, 1980, not exceeding: 84770

(a) Six dollars per patient day if the cost of construction 84771
was seven thousand six hundred twenty-five dollars or more per 84772
bed; 84773

(b) Five dollars and fifty cents per patient day if the cost 84774
of construction was less than seven thousand six hundred 84775
twenty-five dollars per bed but exceeds six thousand eight hundred 84776
dollars per bed; 84777

(c) Four dollars and fifty cents per patient day if the cost 84778
of construction was six thousand eight hundred dollars or less per 84779
bed but exceeds five thousand one hundred fifty dollars per bed; 84780

(d) Three dollars and fifty cents per patient day if the cost 84781
of construction was five thousand one hundred fifty dollars or 84782
less but exceeds three thousand five hundred dollars per bed; 84783

(e) Two dollars and fifty cents per patient day if the cost 84784
of construction was three thousand five hundred dollars or less 84785

per bed.	84786
(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:	84787 84788
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	84789 84790 84791
(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.	84792 84793
(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:	84794 84795
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	84796 84797 84798
(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	84799 84800 84801
(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	84802 84803
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	84804 84805 84806
(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	84807 84808 84809
(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	84810 84811
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	84812 84813 84814

(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	84815 84816 84817
(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	84818 84819
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	84820 84821 84822
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	84823 84824 84825
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	84826 84827
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	84828 84829 84830
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	84831 84832 84833
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	84834 84835
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	84836 84837 84838
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	84839 84840 84841
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	84842 84843
(a) Twelve dollars and ninety-nine cents per patient day if	84844

the beds were originally licensed as residential facility beds by 84845
the department of developmental disabilities; 84846

(b) Seven dollars and sixty-seven cents per patient day if 84847
the beds were originally licensed as nursing home beds by the 84848
department of health. 84849

(14) For facilities with dates of licensure after December 84850
31, 1987, but prior to January 1, 1989, not exceeding thirteen 84851
dollars and twenty-six cents per patient day; 84852

(15) For facilities with dates of licensure after December 84853
31, 1988, but prior to January 1, 1990, not exceeding thirteen 84854
dollars and forty-six cents per patient day; 84855

(16) For facilities with dates of licensure after December 84856
31, 1989, but prior to January 1, 1991, not exceeding thirteen 84857
dollars and sixty cents per patient day; 84858

(17) For facilities with dates of licensure after December 84859
31, 1990, but prior to January 1, 1992, not exceeding thirteen 84860
dollars and forty-nine cents per patient day; 84861

(18) For facilities with dates of licensure after December 84862
31, 1991, but prior to January 1, 1993, not exceeding thirteen 84863
dollars and sixty-seven cents per patient day; 84864

(19) For facilities with dates of licensure after December 84865
31, 1992, not exceeding fourteen dollars and twenty-eight cents 84866
per patient day. 84867

(D) Beginning January 1, 1981, regardless of the original 84868
date of licensure, the department of job and family services shall 84869
pay a rate for the per diem capitalized costs of renovations to 84870
intermediate care facilities for the mentally retarded made after 84871
January 1, 1981, not exceeding six dollars per patient day using 84872
1980 as the base year and adjusting the amount annually until June 84873
30, 1993, for fluctuations in construction costs calculated by the 84874

department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the

characterization of the project as a renovation or as an extensive 84907
renovation. No provider shall increase the scope of a project 84908
after it is approved by the department of job and family services 84909
unless the increase in scope is approved by the department. 84910

(E) The amounts specified in divisions (C) and (D) of this 84911
section shall be adjusted beginning July 1, 1993, for the 84912
estimated inflation for the twelve-month period beginning on the 84913
first day of July of the calendar year preceding the calendar year 84914
that precedes the fiscal year for which rate will be paid and 84915
ending on the thirtieth day of the following June, using the 84916
consumer price index for shelter costs for all urban consumers for 84917
the north central region, as published by the United States bureau 84918
of labor statistics. 84919

(F)(1) For facilities of eight or fewer beds that have dates 84920
of licensure or have been granted project authorization by the 84921
department of developmental disabilities before July 1, 1993, and 84922
for facilities of eight or fewer beds that have dates of licensure 84923
or have been granted project authorization after that date if the 84924
providers of the facilities demonstrate that they made substantial 84925
commitments of funds on or before that date, cost of ownership 84926
shall not exceed eighteen dollars and thirty cents per resident 84927
per day. The eighteen-dollar and thirty-cent amount shall be 84928
increased by the change in the "Dodge building cost indexes, 84929
northeastern and north central states," published by Marshall and 84930
Swift, during the period beginning June 30, 1990, and ending July 84931
1, 1993, and by the change in the consumer price index for shelter 84932
costs for all urban consumers for the north central region, as 84933
published by the United States bureau of labor statistics, 84934
annually thereafter. 84935

(2) For facilities with eight or fewer beds that have dates 84936
of licensure or have been granted project authorization by the 84937
department of developmental disabilities on or after July 1, 1993, 84938

for which substantial commitments of funds were not made before 84939
that date, cost of ownership payments shall not exceed the 84940
applicable amount calculated under division (F)(1) of this 84941
section, if the department of job and family services gives prior 84942
approval for construction of the facility. If the department does 84943
not give prior approval, cost of ownership payments shall not 84944
exceed the amount specified in division (C) of this section. 84945

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 84946
section, the total payment for cost of ownership, cost of 84947
ownership efficiency incentive, and capitalized costs of 84948
renovations for an intermediate care facility for the mentally 84949
retarded with eight or fewer beds shall not exceed the sum of the 84950
limitations specified in divisions (C) and (D) of this section. 84951

(G) Notwithstanding any provision of this section or section 84952
5111.241 of the Revised Code, the director of job and family 84953
services may adopt rules under section 5111.02 of the Revised Code 84954
that provide for a calculation of a combined maximum payment limit 84955
for indirect care costs and cost of ownership for intermediate 84956
care facilities for the mentally retarded with eight or fewer 84957
beds. 84958

~~(H) After the date on which a transaction of sale is closed,~~ 84959
~~the provider shall refund to the department the amount of excess~~ 84960
~~depreciation paid to the provider for the facility by the~~ 84961
~~department for each year the provider has operated the facility~~ 84962
~~under a provider agreement and prorated according to the number of~~ 84963
~~medicaid patient days for which the provider has received payment~~ 84964
~~for the facility. For the purposes of this division, "depreciation~~ 84965
~~paid to the provider for the facility" means the amount paid to~~ 84966
~~the provider for the intermediate care facility for the mentally~~ 84967
~~retarded for cost of ownership pursuant to this section less any~~ 84968
~~amount paid for interest costs. For the purposes of this division,~~ 84969
~~"excess depreciation" is the intermediate care facility for the~~ 84970

~~mentally retarded's depreciated basis, which is the provider's 84971
cost less accumulated depreciation, subtracted from the purchase 84972
price but not exceeding the amount of depreciation paid to the 84973
provider for the facility. 84974~~

~~(I)~~ The department of job and family services shall pay a 84975
provider for each of the provider's eligible proprietary 84976
intermediate care facilities for the mentally retarded a return on 84977
the facility's net equity computed at the rate of one and one-half 84978
times the average of interest rates on special issues of public 84979
debt obligations issued to the federal hospital insurance trust 84980
fund for the cost reporting period. No facility's return on net 84981
equity paid under this division shall exceed one dollar per 84982
patient day. 84983

In calculating the rate for return on net equity, the 84984
department shall use the greater of the facility's inpatient days 84985
during the applicable cost reporting period or the number of 84986
inpatient days the facility would have had during that period if 84987
its occupancy rate had been ninety-five per cent. 84988

~~(J)(I)~~(1) Except as provided in division ~~(J)(I)~~(2) of this 84989
section, if a provider leases or transfers an interest in a 84990
facility to another provider who is a related party, the related 84991
party's allowable cost of ownership shall include the lesser of 84992
the following: 84993

(a) The annual lease expense or actual cost of ownership, 84994
whichever is applicable; 84995

(b) The reasonable cost to the lessor or provider making the 84996
transfer. 84997

(2) If a provider leases or transfers an interest in a 84998
facility to another provider who is a related party, regardless of 84999
the date of the lease or transfer, the related party's allowable 85000
cost of ownership shall include the annual lease expense or actual 85001

cost of ownership, whichever is applicable, subject to the 85002
limitations specified in divisions (B) to ~~(I)~~(H) of this section, 85003
if all of the following conditions are met: 85004

(a) The related party is a relative of owner; 85005

(b) In the case of a lease, if the lessor retains any 85006
ownership interest, it is, except as provided in division 85007
~~(J)~~(I)(2)(d)(ii) of this section, in only the real property and 85008
any improvements on the real property; 85009

(c) In the case of a transfer, the provider making the 85010
transfer retains, except as provided in division ~~(J)~~(I)(2)(d)(iv) 85011
of this section, no ownership interest in the facility; 85012

(d) The department of job and family services determines that 85013
the lease or transfer is an arm's length transaction pursuant to 85014
rules adopted under section 5111.02 of the Revised Code. The rules 85015
shall provide that a lease or transfer is an arm's length 85016
transaction if all of the following, as applicable, apply: 85017

(i) In the case of a lease, once the lease goes into effect, 85018
the lessor has no direct or indirect interest in the lessee or, 85019
except as provided in division ~~(J)~~(I)(2)(b) of this section, the 85020
facility itself, including interest as an owner, officer, 85021
director, employee, independent contractor, or consultant, but 85022
excluding interest as a lessor. 85023

(ii) In the case of a lease, the lessor does not reacquire an 85024
interest in the facility except through the exercise of a lessor's 85025
rights in the event of a default. If the lessor reacquires an 85026
interest in the facility in this manner, the department shall 85027
treat the facility as if the lease never occurred when the 85028
department calculates its reimbursement rates for capital costs. 85029

(iii) In the case of a transfer, once the transfer goes into 85030
effect, the provider that made the transfer has no direct or 85031
indirect interest in the provider that acquires the facility or 85032

the facility itself, including interest as an owner, officer, 85033
director, employee, independent contractor, or consultant, but 85034
excluding interest as a creditor. 85035

(iv) In the case of a transfer, the provider that made the 85036
transfer does not reacquire an interest in the facility except 85037
through the exercise of a creditor's rights in the event of a 85038
default. If the provider reacquires an interest in the facility in 85039
this manner, the department shall treat the facility as if the 85040
transfer never occurred when the department calculates its 85041
reimbursement rates for capital costs. 85042

(v) The lease or transfer satisfies any other criteria 85043
specified in the rules. 85044

(e) Except in the case of hardship caused by a catastrophic 85045
event, as determined by the department, or in the case of a lessor 85046
or provider making the transfer who is at least sixty-five years 85047
of age, not less than twenty years have elapsed since, for the 85048
same facility, allowable cost of ownership was determined most 85049
recently under this division. 85050

Sec. 5111.254. (A) The department of job and family services 85051
shall establish initial rates for a nursing facility with a first 85052
date of licensure that is on or after July 1, 2006, including a 85053
facility that replaces one or more existing facilities, or for a 85054
nursing facility with a first date of licensure before that date 85055
that was initially certified for the medicaid program on or after 85056
that date, in the following manner: 85057

(1) The rate for direct care costs shall be the product of 85058
the cost per case-mix unit determined under division (D) of 85059
section 5111.231 of the Revised Code for the facility's peer group 85060
and the nursing facility's case-mix score. For the purpose of 85061
division (A)(1) of this section, the nursing facility's case-mix 85062
score shall be the following: 85063

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group;

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code.

(3) The rate for capital costs shall be the ~~median~~ rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.

(4) The rate for tax costs as defined in section 5111.242 of the Revised Code shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code.

(5) The quality incentive payment, if any, shall be the mean payment ~~specified in division (B) of~~ made to nursing facilities under section 5111.244 of the Revised Code.

(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to 5111.33 of the Revised Code.

(C) If a rate for direct care costs is determined under this 85095
section for a nursing facility using the median annual average 85096
case-mix score for the nursing facility's peer group, the rate 85097
shall be redetermined to reflect the replacement nursing 85098
facility's actual semiannual case-mix score determined under 85099
section 5111.232 of the Revised Code after the nursing facility 85100
submits its first two quarterly assessment data that qualify for 85101
use in calculating a case-mix score in accordance with rules 85102
authorized by division (E) of section 5111.232 of the Revised 85103
Code. If the nursing facility's quarterly submissions do not 85104
qualify for use in calculating a case-mix score, the department 85105
shall continue to use the median annual average case-mix score for 85106
the nursing facility's peer group in lieu of the nursing 85107
facility's semiannual case-mix score until the nursing facility 85108
submits two consecutive quarterly assessment data that qualify for 85109
use in calculating a case-mix score. 85110

Sec. 5111.258. (A) Notwithstanding sections 5111.20 to 85111
5111.33 of the Revised Code (except section 5111.259 of the 85112
Revised Code), the director of job and family services shall adopt 85113
rules under section 5111.02 of the Revised Code that establish a 85114
methodology for calculating the prospective rates that will be 85115
paid each fiscal year to a provider for each of the provider's 85116
eligible nursing facilities and intermediate care facilities for 85117
the mentally retarded, and discrete units of the provider's 85118
nursing facilities or intermediate care facilities for the 85119
mentally retarded, that serve residents who have diagnoses or 85120
special care needs that require direct care resources that are not 85121
measured adequately by the applicable assessment instrument 85122
specified in rules authorized by section 5111.232 of the Revised 85123
Code, or who have diagnoses or special care needs specified in the 85124
rules as otherwise qualifying for consideration under this 85125
section. The facilities and units of facilities whose rates are 85126

established under this division may include, but shall not be 85127
limited to, any of the following: 85128

(1) In the case of nursing facilities, facilities and units 85129
of facilities that serve medically fragile pediatric residents, 85130
residents who are dependent on ventilators, or residents who have 85131
severe traumatic brain injury, end-stage Alzheimer's disease, or 85132
end-stage acquired immunodeficiency syndrome; 85133

(2) In the case of intermediate care facilities for the 85134
mentally retarded, facilities and units of facilities that serve 85135
residents who have complex medical conditions or severe behavioral 85136
problems. 85137

The department shall use the methodology established under 85138
this division to pay for services rendered by such facilities and 85139
units after June 30, 1993. 85140

The rules authorized by this division shall specify the 85141
criteria and procedures the department will apply when designating 85142
facilities and units that qualify for calculation of rates under 85143
this division. The criteria shall include consideration of whether 85144
all of the allowable costs of the facility or unit would be paid 85145
by rates established under sections 5111.20 to 5111.33 of the 85146
Revised Code, and shall establish a minimum bed size for a 85147
facility or unit to qualify to have its rates established under 85148
this division. The criteria shall not be designed to require that 85149
residents be served only in facilities located in large cities. 85150
The methodology established by the rules shall consider the 85151
historical costs of providing care to the residents of the 85152
facilities or units. 85153

The rules may require that a facility designated under this 85154
division or containing a unit designated under this division 85155
receive authorization from the department to admit or retain a 85156
resident to the facility or unit and shall specify the criteria 85157

and procedures the department will apply when granting that authorization. 85158
85159

Notwithstanding any other provision of sections 5111.20 to 85160
5111.33 of the Revised Code (except section 5111.259 of the 85161
Revised Code), the costs incurred by facilities or units whose 85162
rates are established under this division shall not be considered 85163
in establishing payment rates for other facilities or units. 85164

(B) The director may adopt rules under section 5111.02 of the 85165
Revised Code under which the department, notwithstanding any other 85166
provision of sections 5111.20 to 5111.33 of the Revised Code 85167
(except section 5111.259 of the Revised Code), may adjust the 85168
rates determined under sections 5111.20 to 5111.33 of the Revised 85169
Code for a facility that serves a resident who has a diagnosis or 85170
special care need that, in the rules authorized by division (A) of 85171
this section, would qualify a facility or unit of a facility to 85172
have its rate determined under that division, but who is not in 85173
such a unit. The rules may require that a facility that qualifies 85174
for a rate adjustment under this division receive authorization 85175
from the department to admit or retain a resident who qualifies 85176
the facility for the rate adjustment and shall specify the 85177
criteria and procedures the department will apply when granting 85178
that authorization. 85179

Sec. 5111.259. The director of job and family services may 85180
submit a request to the United States secretary of health and 85181
human services for approval to establish a centers of excellence 85182
component of the medicaid program. The purpose of the centers of 85183
excellence component is to increase the efficiency and quality of 85184
nursing facility services provided to medicaid recipients with 85185
complex nursing facility service needs. If federal approval for 85186
the centers of excellence component is granted, the director may 85187
adopt rules under section 5111.02 of the Revised Code governing 85188

the component, including rules that establish a method of 85189
determining the medicaid reimbursement rates for nursing 85190
facilities providing nursing facility services to medicaid 85191
recipients participating in the component. The rules may specify 85192
the extent to which, if any, of the provisions of section 5111.258 85193
of the Revised Code are to apply to the centers of excellence 85194
component. If such rules are adopted, the nursing facilities that 85195
provide nursing facility services to medicaid recipients 85196
participating in the centers of excellence component shall be paid 85197
for those services in accordance with the method established in 85198
the rules notwithstanding anything to the contrary in sections 85199
5111.20 to 5111.33 of the Revised Code. 85200

Sec. 5111.261. (A) Except as provided in division (B) of this 85201
section and not later than three years after a provider files a 85202
cost report with the department of job and family services under 85203
section 5111.26 of the Revised Code, the provider may amend the 85204
cost report if the provider discovers a material error in the cost 85205
report or additional information to be included in the cost 85206
report. The department shall review the amended cost report for 85207
accuracy and notify the provider of its determination. 85208

(B) A provider may not amend a cost report if the department 85209
has notified the provider that an audit of the cost report or a 85210
cost report of the provider for a subsequent cost reporting period 85211
is to be conducted under section 5111.27 of the Revised Code. The 85212
provider may, however, provide the department information that 85213
affects the costs included in the cost report. Such information 85214
may not be provided after the adjudication of the final settlement 85215
of the cost report. 85216

Sec. ~~5111.261~~ 5111.263. Except as otherwise provided in 85217
section 5111.264 of the Revised Code, the department of job and 85218

family services, in determining whether an intermediate care 85219
facility for the mentally retarded's direct care costs and 85220
indirect care costs are allowable, shall place no limit on 85221
specific categories of reasonable costs other than compensation of 85222
owners, compensation of relatives of owners, and compensation of 85223
administrators. 85224

Compensation cost limits for owners and relatives of owners 85225
shall be based on compensation costs for individuals who hold 85226
comparable positions but who are not owners or relatives of 85227
owners, as reported on facility cost reports. As used in this 85228
section, "comparable position" means the position that is held by 85229
the owner or the owner's relative, if that position is listed 85230
separately on the cost report form, or if the position is not 85231
listed separately, the group of positions that is listed on the 85232
cost report form and that includes the position held by the owner 85233
or the owner's relative. In the case of an owner or owner's 85234
relative who serves the facility in a capacity such as corporate 85235
officer, proprietor, or partner for which no comparable position 85236
or group of positions is listed on the cost report form, the 85237
compensation cost limit shall be based on civil service 85238
equivalents and shall be specified in rules adopted under section 85239
5111.02 of the Revised Code. 85240

Compensation cost limits for administrators shall be based on 85241
compensation costs for administrators who are not owners or 85242
relatives of owners, as reported on facility cost reports. 85243
Compensation cost limits for administrators of four or more 85244
intermediate care facilities for the mentally retarded shall be 85245
the same as the limits for administrators of intermediate care 85246
facilities for the mentally retarded with one hundred fifty or 85247
more beds. 85248

Sec. 5111.27. (A) The department of job and family services 85249

shall conduct a desk review of each cost report it receives under 85250
section 5111.26 of the Revised Code. Based on the desk review, the 85251
department shall make a preliminary determination of whether the 85252
reported costs are allowable costs. The department shall notify 85253
each provider of whether any of the reported costs are 85254
preliminarily determined not to be allowable, the rate calculation 85255
under sections 5111.20 to 5111.33 of the Revised Code that results 85256
from that determination, and the reasons for the determination and 85257
resulting rate. The department shall allow the provider to verify 85258
the calculation and submit additional information. 85259

(B) The department may conduct an audit, as defined by rule 85260
adopted under section 5111.02 of the Revised Code, of any cost 85261
report ~~and shall notify the provider of its findings.~~ 85262

~~Audits shall be conducted by auditors under contract with or~~ 85263
~~employed by the department.~~ The decision whether to conduct an 85264
audit and the scope of the audit, which may be a desk or field 85265
audit, ~~shall~~ may be determined based on prior performance of the 85266
provider ~~and may be based on,~~ a risk analysis, or other evidence 85267
that gives the department reason to believe that the provider has 85268
reported costs improperly. A desk or field audit may be performed 85269
annually, but is required whenever a provider does not pass the 85270
risk analysis tolerance factors. An audit shall be conducted by 85271
auditors under contract with or employed by the department. The 85272
department shall notify a provider of the findings of an audit by 85273
issuing an audit report. The department shall issue the audit 85274
report no later than three years after the cost report is filed, 85275
or upon the completion of a desk or field audit on the report or a 85276
report for a subsequent cost reporting period, whichever is 85277
earlier. ~~During the time within which the department may issue an~~ 85278
~~audit report, the provider may amend the cost report upon~~ 85279
~~discovery of a material error or material additional information.~~ 85280
~~The department shall review the amended cost report for accuracy~~ 85281

~~and notify the provider of its determination.~~ 85282

The department may establish a contract for the auditing of 85283
facilities by outside firms. Each contract entered into by bidding 85284
shall be effective for one to two years. The department shall 85285
establish an audit manual and program which shall require that all 85286
field audits, conducted either pursuant to a contract or by 85287
department employees: 85288

(1) Comply with the applicable rules prescribed pursuant to 85289
Titles XVIII and XIX; 85290

(2) Consider generally accepted auditing standards prescribed 85291
by the American institute of certified public accountants; 85292

(3) Include a written summary as to whether the costs 85293
included in the report examined during the audit are allowable and 85294
are presented ~~fairly~~ in accordance with ~~generally accepted~~ 85295
~~accounting principles and department rules~~ state and federal laws 85296
and regulations, and whether, in all material respects, allowable 85297
costs are documented, reasonable, and related to patient care; 85298

(4) Are conducted by accounting firms or auditors who, during 85299
the period of the auditors' professional engagement or employment 85300
and during the period covered by the cost reports, do not have nor 85301
are committed to acquire any direct or indirect financial interest 85302
in the ownership, financing, or operation of a nursing facility or 85303
intermediate care facility for the mentally retarded in this 85304
state; 85305

(5) Are conducted by accounting firms or auditors who, as a 85306
condition of the contract or employment, shall not audit any 85307
facility that has been a client of the firm or auditor; 85308

(6) Are conducted by auditors who are otherwise independent 85309
as determined by the standards of independence ~~established by~~ 85310
included in the American institute of certified public accountants 85311
government auditing standards produced by the United States 85312

government accountability office; 85313

(7) Are completed within the time period specified by the 85314
department; 85315

(8) Provide to the provider complete written interpretations 85316
that explain in detail the application of all relevant contract 85317
provisions, regulations, auditing standards, rate formulae, and 85318
departmental policies, with explanations and examples, that are 85319
sufficient to permit the provider to calculate with reasonable 85320
certainty those costs that are allowable and the rate to which the 85321
provider's facility is entitled. 85322

For the purposes of division (B)(4) of this section, 85323
employment of a member of an auditor's family by a nursing 85324
facility or intermediate care facility for the mentally retarded 85325
that the auditor does not review does not constitute a direct or 85326
indirect financial interest in the ownership, financing, or 85327
operation of the facility. 85328

(C) The department, pursuant to rules adopted under section 85329
5111.02 of the Revised Code, may conduct an exception review of 85330
assessment data submitted under section 5111.232 of the Revised 85331
Code. The department may conduct an exception review based on the 85332
findings of a certification survey conducted by the department of 85333
health, a risk analysis, or prior performance of the provider. 85334

Exception reviews shall be conducted at the facility by 85335
appropriate health professionals under contract with or employed 85336
by the department of job and family services. The professionals 85337
may review resident assessment forms and supporting documentation, 85338
conduct interviews, and observe residents to identify any patterns 85339
or trends of inaccurate assessments and resulting inaccurate 85340
case-mix scores. 85341

The rules shall establish an exception review program that 85342
requires that exception reviews do all of the following: 85343

(1) Comply with Titles XVIII and XIX; 85344

(2) Provide a written summary that states whether the 85345
resident assessment forms have been completed accurately; 85346

(3) Are conducted by health professionals who, during the 85347
period of their professional engagement or employment with the 85348
department, neither have nor are committed to acquire any direct 85349
or indirect financial interest in the ownership, financing, or 85350
operation of a nursing facility or intermediate care facility for 85351
the mentally retarded in this state; 85352

(4) Are conducted by health professionals who, as a condition 85353
of their engagement or employment with the department, shall not 85354
review any provider that has been a client of the professional. 85355

For the purposes of division (C)(3) of this section, 85356
employment of a member of a health professional's family by a 85357
nursing facility or intermediate care facility for the mentally 85358
retarded that the professional does not review does not constitute 85359
a direct or indirect financial interest in the ownership, 85360
financing, or operation of the facility. 85361

If an exception review is conducted before the effective date 85362
of the rate that is based on the case-mix data subject to the 85363
review and the review results in findings that exceed tolerance 85364
levels specified in the rules adopted under this division, the 85365
department, in accordance with those rules, may use the findings 85366
to recalculate individual resident case-mix scores, quarterly 85367
average facility case-mix scores, and annual average facility 85368
case-mix scores. The department may use the recalculated quarterly 85369
and annual facility average case-mix scores to calculate the 85370
facility's rate for direct care costs for the appropriate calendar 85371
quarter or quarters. 85372

(D) The department shall prepare a written summary of any 85373
audit disallowance or exception review finding that is made after 85374

the effective date of the rate that is based on the cost or 85375
case-mix data. Where the provider is pursuing judicial or 85376
administrative remedies in good faith regarding the disallowance 85377
or finding, the department shall not withhold from the provider's 85378
current payments any amounts the department claims to be due from 85379
the provider pursuant to section 5111.28 of the Revised Code. 85380

(E) The department shall not reduce rates calculated under 85381
sections 5111.20 to 5111.33 of the Revised Code on the basis that 85382
the provider charges a lower rate to any resident who is not 85383
eligible for the medicaid program. 85384

(F) The department shall adjust the rates calculated under 85385
sections 5111.20 to 5111.33 of the Revised Code to account for 85386
reasonable additional costs that must be incurred by intermediate 85387
care facilities for the mentally retarded to comply with 85388
requirements of federal or state statutes, rules, or policies 85389
enacted or amended after January 1, 1992, or with orders issued by 85390
state or local fire authorities. 85391

Sec. 5111.28. (A) If a provider properly amends its cost 85392
report under section ~~5111.27~~ 5111.261 of the Revised Code and the 85393
amended report shows that the provider received a lower rate under 85394
the original cost report than it was entitled to receive, the 85395
department of job and family services shall adjust the provider's 85396
rate prospectively to reflect the corrected information. The 85397
department shall pay the adjusted rate beginning two months after 85398
the first day of the month after the provider files the amended 85399
cost report. If the department finds, from an exception review of 85400
resident assessment information conducted after the effective date 85401
of the rate for direct care costs that is based on the assessment 85402
information, that inaccurate assessment information resulted in 85403
the provider receiving a lower rate than it was entitled to 85404
receive, the department prospectively shall adjust the provider's 85405

rate accordingly and shall make payments using the adjusted rate 85406
for the remainder of the calendar quarter for which the assessment 85407
information is used to determine the rate, beginning one month 85408
after the first day of the month after the exception review is 85409
completed. 85410

(B) If the provider properly amends its cost report under 85411
section ~~5111.27~~ 5111.261 of the Revised Code, the department makes 85412
a finding based on an audit under ~~that~~ section 5111.27 of the 85413
Revised Code, or the department makes a finding based on an 85414
exception review of resident assessment information conducted 85415
under ~~that~~ section 5111.27 of the Revised Code after the effective 85416
date of the rate for direct care costs that is based on the 85417
assessment information, any of which results in a determination 85418
that the provider has received a higher rate than it was entitled 85419
to receive, the department shall recalculate the provider's rate 85420
using the revised information. The department shall apply the 85421
recalculated rate to the periods when the provider received the 85422
incorrect rate to determine the amount of the overpayment. The 85423
provider shall refund the amount of the overpayment. 85424

In addition to requiring a refund under this division, the 85425
department may charge the provider interest at the applicable rate 85426
specified in this division from the time the overpayment was made. 85427

(1) If the overpayment resulted from costs reported for 85428
calendar year 1993, the interest shall be no greater than one and 85429
one-half times the average bank prime rate. 85430

(2) If the overpayment resulted from costs reported for 85431
subsequent calendar years: 85432

(a) The interest shall be no greater than two times the 85433
average bank prime rate if the overpayment was equal to or less 85434
than one per cent of the total medicaid payments to the provider 85435
for the fiscal year for which the incorrect information was used 85436

to establish a rate. 85437

(b) The interest shall be no greater than two and one-half 85438
times the current average bank prime rate if the overpayment was 85439
greater than one per cent of the total medicaid payments to the 85440
provider for the fiscal year for which the incorrect information 85441
was used to establish a rate. 85442

(C) The department also may impose the following penalties: 85443

(1) If a provider does not furnish invoices or other 85444
documentation that the department requests during an audit within 85445
sixty days after the request, no more than the greater of one 85446
thousand dollars per audit or twenty-five per cent of the 85447
cumulative amount by which the costs for which documentation was 85448
not furnished increased the total medicaid payments to the 85449
provider during the fiscal year for which the costs were used to 85450
establish a rate; 85451

(2) If an exiting operator or owner fails to provide notice 85452
of a facility closure, voluntary termination, or voluntary 85453
withdrawal of participation in the medicaid program as required by 85454
section 5111.66 of the Revised Code, or an exiting operator or 85455
owner and entering operator fail to provide notice of a change of 85456
operator as required by section 5111.67 of the Revised Code, no 85457
more than the current average bank prime rate plus four per cent 85458
of the last two monthly payments. 85459

(D) If the provider continues to participate in the medicaid 85460
program, the department shall deduct any amount that the provider 85461
is required to refund under this section, and the amount of any 85462
interest charged or penalty imposed under this section, from the 85463
next available payment from the department to the provider. The 85464
department and the provider may enter into an agreement under 85465
which the amount, together with interest, is deducted in 85466
installments from payments from the department to the provider. 85467

(E) The department shall transmit refunds and penalties to 85468
the treasurer of state for deposit in the general revenue fund. 85469

(F) For the purpose of this section, the department shall 85470
determine the average bank prime rate using statistical release 85471
H.15, "selected interest rates," a weekly publication of the 85472
federal reserve board, or any successor publication. If 85473
statistical release H.15, or its successor, ceases to contain the 85474
bank prime rate information or ceases to be published, the 85475
department shall request a written statement of the average bank 85476
prime rate from the federal reserve bank of Cleveland or the 85477
federal reserve board. 85478

~~Sec. 5111.33. Reimbursement to a provider under sections 85479
5111.20 to 5111.32 of the Revised Code shall include payments to 85480
the provider, at a rate equal to the percentage of the per 85481
resident per day rates that the (A) The department of job and 85482
family services has established for the provider's nursing 85483
facility or intermediate care facility for the mentally retarded 85484
may make payments to a provider under sections 5111.20 to 5111.33 85485
of the Revised Code ~~for the fiscal year for which the cost of 85486
services is reimbursed,~~ to reserve a bed for a recipient during a 85487
temporary absence under conditions prescribed by the department, 85488
to include hospitalization for an acute condition, visits with 85489
relatives and friends, and participation in therapeutic programs 85490
outside the facility, when the resident's plan of care provides 85491
for such absence and federal participation in the payments is 85492
available. ~~The~~ 85493~~

~~(B) The maximum period during for which payments may be made 85494
to reserve a bed shall not exceed the ~~maximum period specified 85495
under federal regulations, and shall not be more than following: 85496~~~~

~~(1) For calendar year 2011 and in the case of a bed in a 85497
nursing facility, thirty days ~~during any calendar year for 85498~~~~

~~hospital stays, visits with relatives and friends, and 85499
participation in therapeutic programs; 85500~~

~~(2) For calendar year 2012 and each calendar year thereafter 85501
and in the case of a bed in a nursing facility, fifteen days; 85502~~

~~(3) For any calendar year and in the case of a bed in an 85503
intermediate care facility for the mentally retarded, the number 85504
of days specified in rules adopted under section 5111.02 of the 85505
Revised Code. Recipients who have been identified by the 85506
department as requiring the level of care of an intermediate care 85507
facility for the mentally retarded shall not be subject to a 85508
maximum period during which payments may be made to reserve a bed 85509
if prior authorization of the department is obtained for hospital 85510
stays, visits with relatives and friends, and participation in 85511
therapeutic programs. The director of job and family services 85512
shall adopt rules under section 5111.02 of the Revised Code 85513
establishing conditions under which prior authorization may be 85514
obtained. 85515~~

~~(C) The department shall establish the per diem rates to be 85516
paid to providers for reserving beds under this section. In 85517
establishing the per diem rates, the department shall do the 85518
following: 85519~~

~~(1) In the case of a payment to reserve a bed in a nursing 85520
facility for a day during calendar year 2011, set the per diem 85521
rate at an amount not exceeding fifty per cent of the per diem 85522
rate the provider would be paid if the recipient were not absent 85523
from the nursing facility that day; 85524~~

~~(2) In the case of a payment to reserve a bed in a nursing 85525
facility for a day during calendar year 2012 and each calendar 85526
year thereafter, set the per diem rate at an amount not exceeding 85527
twenty-five per cent of the per diem rate the provider would be 85528
paid if the recipient were not absent from the nursing facility 85529~~

that day; 85530

(3) In the case of a payment to reserve a bed in an 85531
intermediate care facility for the mentally retarded for a day 85532
during any calendar year, set the per diem rate at an amount equal 85533
to a percentage specified in rules adopted under section 5111.02 85534
of the Revised Code of the per diem rate the provider would be 85535
paid if the recipient were not absent from the facility that day. 85536

Sec. 5111.35. As used in this section "a resident's rights" 85537
means the rights of a nursing facility resident under sections 85538
3721.10 to 3721.17 of the Revised Code and subsection (c) of 85539
section 1819 or 1919 of the "Social Security Act," 49 Stat. 620 85540
(1935), 42 U.S.C.A. 301, as amended, and regulations issued under 85541
those subsections. 85542

As used in sections 5111.35 to 5111.62 of the Revised Code: 85543

(A) "Certification requirements" means the requirements for 85544
nursing facilities established under sections 1819 and 1919 of the 85545
"Social Security Act." 85546

(B) "Compliance" means substantially meeting all applicable 85547
certification requirements. 85548

(C) "Contracting agency" means a state agency that has 85549
entered into a contract with the department of job and family 85550
services under section 5111.38 of the Revised Code. 85551

(D)(1) "Deficiency" means a finding cited by the department 85552
of health during a survey, on the basis of one or more actions, 85553
practices, situations, or incidents occurring at a nursing 85554
facility, that constitutes a severity level three finding, 85555
severity level four finding, scope level three finding, or scope 85556
level four finding. Whenever the finding is a repeat finding, 85557
"deficiency" also includes any finding that is a severity level 85558
two and scope level one finding, a severity level two and scope 85559

level two finding, or a severity level one and scope level two finding. 85560
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(2) "Cluster of deficiencies" means deficiencies that result from noncompliance with two or more certification requirements and are causing or resulting from the same action, practice, situation, or incident. 85562
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(E) "Emergency" means either of the following: 85566

(1) A deficiency or cluster of deficiencies that creates a condition of immediate jeopardy; 85567
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(2) An unexpected situation or sudden occurrence of a serious or urgent nature that creates a substantial likelihood that one or more residents of a nursing facility may be seriously harmed if allowed to remain in the facility, including the following: 85569
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(a) A flood or other natural disaster, civil disaster, or similar event; 85573
85574

(b) A labor strike that suddenly causes the number of staff members in a nursing facility to be below that necessary for resident care. 85575
85576
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(F) "Finding" means a finding of noncompliance with certification requirements determined by the department of health under section 5111.41 of the Revised Code. 85578
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(G) "Immediate jeopardy" means that one or more residents of a nursing facility are in imminent danger of serious physical or life-threatening harm. 85581
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(H) "Medicaid eligible resident" means a person who is a resident of a nursing facility, or is applying for admission to a nursing facility, and is eligible to receive financial assistance under the medical assistance program for the care the person receives in such a facility. 85584
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(I) "Noncompliance" means failure to substantially meet all 85589

applicable certification requirements. 85590

(J) "Nursing facility" has the same meaning as in section 85591
5111.20 of the Revised Code. 85592

(K) "Provider" means a person, institution, or entity that 85593
furnishes nursing facility services under a medical assistance 85594
program provider agreement. 85595

(L) "Provider agreement" means a contract between the 85596
department of job and family services and a provider for the 85597
provision of nursing facility services under the medicaid program. 85598

(M) "Repeat finding" or "repeat deficiency" means a finding 85599
or deficiency cited pursuant to a survey, to which both of the 85600
following apply: 85601

(1) The finding or deficiency involves noncompliance with the 85602
same certification requirement, and the same kind of actions, 85603
practices, situations, or incidents caused by or resulting from 85604
the noncompliance, as were cited in the immediately preceding 85605
standard survey or another survey conducted subsequent to the 85606
immediately preceding standard survey of the facility. For 85607
purposes of this division, actions, practices, situations, or 85608
incidents may be of the same kind even though they involve 85609
different residents, staff, or parts of the facility. 85610

(2) The finding or deficiency is cited subsequent to a 85611
determination by the department of health that the finding or 85612
deficiency cited on the immediately preceding standard survey, or 85613
another survey conducted subsequent to the immediately preceding 85614
standard survey, had been corrected. 85615

~~(M)~~(N)(1) "Scope level one finding" means a finding of 85616
noncompliance by a nursing facility in which the actions, 85617
situations, practices, or incidents causing or resulting from the 85618
noncompliance affect one or a very limited number of facility 85619
residents and involve one or a very limited number of facility 85620

staff members. 85621

(2) "Scope level two finding" means a finding of 85622
noncompliance by a nursing facility in which the actions, 85623
situations, practices, or incidents causing or resulting from the 85624
noncompliance affect more than a limited number of facility 85625
residents or involve more than a limited number of facility staff 85626
members, but the number or percentage of facility residents 85627
affected or staff members involved and the number or frequency of 85628
the actions, situations, practices, or incidents in short 85629
succession does not establish any reasonable degree of 85630
predictability of similar actions, situations, practices, or 85631
incidents occurring in the future. 85632

(3) "Scope level three finding" means a finding of 85633
noncompliance by a nursing facility in which the actions, 85634
situations, practices, or incidents causing or resulting from the 85635
noncompliance affect more than a limited number of facility 85636
residents or involve more than a limited number of facility staff 85637
members, and the number or percentage of facility residents 85638
affected or staff members involved or the number or frequency of 85639
the actions, situations, practices, or incidents in short 85640
succession establishes a reasonable degree of predictability of 85641
similar actions, situations, practices, or incidents occurring in 85642
the future. 85643

(4) "Scope level four finding" means a finding of 85644
noncompliance by a nursing facility causing or resulting from 85645
actions, situations, practices, or incidents that involve a 85646
sufficient number or percentage of facility residents or staff 85647
members or occur with sufficient regularity over time that the 85648
noncompliance can be considered systemic or pervasive in the 85649
facility. 85650

~~(N)~~(O)(1) "Severity level one finding" means a finding of 85651
noncompliance by a nursing facility that has not caused and, if 85652

continued, is unlikely to cause physical harm to a facility 85653
resident, mental or emotional harm to a resident, or a violation 85654
of a resident's rights that results in physical, mental, or 85655
emotional harm to the resident. 85656

(2) "Severity level two finding" means a finding of 85657
noncompliance by a nursing facility that, if continued over time, 85658
will cause, or is likely to cause, physical harm to a facility 85659
resident, mental or emotional harm to a resident, or a violation 85660
of a resident's rights that results in physical, mental, or 85661
emotional harm to the resident. 85662

(3) "Severity level three finding" means a finding of 85663
noncompliance by a nursing facility that has caused physical harm 85664
to a facility resident, mental or emotional harm to a resident, or 85665
a violation of a resident's rights that results in physical, 85666
mental, or emotional harm to the resident. 85667

(4) "Severity level four finding" means a finding of 85668
noncompliance by a nursing facility that has caused 85669
life-threatening harm to a facility resident or caused a 85670
resident's death. 85671

~~(O)~~(P) "State agency" has the same meaning as in section 1.60 85672
of the Revised Code. 85673

~~(P)~~(Q) "Substandard care" means care furnished in a facility 85674
in which the department of health has cited a deficiency or 85675
deficiencies that constitute one of the following: 85676

(1) A severity level four finding, regardless of scope; 85677

(2) A severity level three and scope level four finding, in 85678
the quality of care provided to residents; 85679

(3) A severity level three and scope level three finding, in 85680
the quality of care provided to residents. 85681

~~(Q)~~(R)(1) "Survey" means a survey of a nursing facility 85682

conducted under section 5111.39 of the Revised Code. 85683

(2) "Standard survey" means a survey conducted by the 85684
department of health under division (A) of section 5111.39 of the 85685
Revised Code and includes an extended survey. 85686

(3) "Follow-up survey" means a survey conducted by the 85687
department of health to determine whether a nursing facility has 85688
substantially corrected deficiencies cited in a previous survey. 85689

Sec. 5111.52. (A) As used in this section+ 85690

~~(1) "Provider agreement" means a contract between the 85691
department of job and family services and a nursing facility for 85692
the provision of nursing facility services under the medical 85693
assistance program. 85694~~

~~(2) "Terminating", "terminating" includes not renewing. 85695~~

(B) A nursing facility's participation in the medical 85696
assistance program shall be terminated under sections 5111.35 to 85697
5111.62 of the Revised Code as follows: 85698

(1) If the department of job and family services is 85699
terminating the facility's participation, it shall issue an order 85700
terminating the facility's provider agreement. 85701

(2) If the department of health, acting as a contracting 85702
agency, is terminating the facility's participation, it shall 85703
issue an order terminating certification of the facility's 85704
compliance with certification requirements. When the department of 85705
health terminates certification, the department of job and family 85706
services shall terminate the facility's provider agreement. The 85707
department of job and family services is not required to provide 85708
an adjudication hearing when it terminates a provider agreement 85709
following termination of certification by the department of 85710
health. 85711

(3) If a state agency other than the department of health, 85712

acting as a contracting agency, is terminating the facility's 85713
participation, it shall notify the department of job and family 85714
services, and the department of job and family services shall 85715
issue an order terminating the facility's provider agreement. The 85716
contracting agency shall conduct any administrative proceedings 85717
concerning the order. 85718

(C) If the following conditions are met, the department of 85719
job and family services may make medical assistance payments to a 85720
nursing facility for a period not exceeding thirty days after the 85721
effective date of termination under sections 5111.35 to 5111.62 of 85722
the Revised Code of the facility's participation in the medical 85723
assistance program: 85724

(1) The payments are for medicaid eligible residents admitted 85725
to the facility prior to the effective date of the termination; 85726

(2) The provider is making reasonable efforts to transfer 85727
medicaid eligible residents to other care settings. 85728

The period during which payments may be made under this 85729
division begins on the later of the effective date of the 85730
termination or, if the facility has appealed a termination order, 85731
the date of issuance of the adjudication order upholding 85732
termination. 85733

Sec. 5111.65. As used in sections 5111.65 to 5111.689 of the 85734
Revised Code: 85735

(A) "Affiliated operator" means an operator affiliated with 85736
either of the following: 85737

(1) The exiting operator for whom the affiliated operator is 85738
to assume liability for the entire amount of the exiting 85739
operator's debt under the medicaid program or the portion of the 85740
debt that represents the franchise permit fee the exiting operator 85741
owes; 85742

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section. 85743
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(B) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator. 85746
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(1) Actions that constitute a change of operator include the following: 85749
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(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 85751
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(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred; 85754
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(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease; 85759
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(d) If the exiting operator is a partnership, dissolution of the partnership; 85761
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(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 85763
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(i) The change in composition does not cause the partnership's dissolution under state law. 85765
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(ii) The partners agree that the change in composition does not constitute a change in operator. 85767
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(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation. 85769
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(2) The following, alone, do not constitute a change of operator:	85773 85774
(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;	85775 85776 85777 85778
(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;	85779 85780 85781 85782 85783
(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.	85784 85785 85786 85787
(C) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.	85788 85789 85790
(D) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.	85791 85792 85793 85794
(E) <u>"Effective date of an involuntary termination" means the date the department of job and family services terminates an operator's provider agreement for a nursing facility or intermediate care facility for the mentally retarded or the last day that such a provider agreement is in effect when the department refuses to renew it.</u>	85795 85796 85797 85798 85799 85800
(F) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.	85801 85802 85803

~~(F)~~(G) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

~~(G)~~(H) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs or following an involuntary termination.

~~(H)~~(I) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;

(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;

(5) An operator of a nursing facility or intermediate care facility for the mentally retarded that has undergone an involuntary termination.

~~(I)~~(J)(1) "Facility Subject to division (J)(2) of this section, "facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the

following:	85834
(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility;	85835 85836 85837
(b) The facility's residents relocating to another of the operator's facilities;	85838 85839
(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities;	85840 85841 85842 85843 85844
(d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code;	85845 85846
(e) Any action the department of developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code.	85847 85848 85849
(2) A facility closure does not occur if all <u>either of the following applies:</u>	85850 85851
(a) <u>All</u> of the facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the facility not later than thirty days after the evacuation occurs;	85852 85853 85854 85855
(b) <u>The building, or part of the building, that houses the facility converts to a different use, any necessary license or other approval needed for that use is obtained, and one or more of the facility's residents remain in the facility to receive services under the new use.</u>	85856 85857 85858 85859 85860
(J) (K) "Fiscal year," "franchise permit fee," "intermediate care facility for the mentally retarded," "nursing facility," "operator," "owner," and "provider agreement" have the same	85861 85862 85863

meanings as in section 5111.20 of the Revised Code. 85864

~~(K)~~(L) "Involuntary termination" means the department of job 85865
and family services' termination of, or refusal to renew, an 85866
operator's provider agreement for a nursing facility or 85867
intermediate care facility for the mentally retarded when such 85868
action is not taken at the operator's request. 85869

(M) "Voluntary termination" means an operator's voluntary 85870
election to terminate the participation of an intermediate care 85871
facility for the mentally retarded in the medicaid program but to 85872
continue to provide service of the type provided by a residential 85873
facility as defined in section 5123.19 of the Revised Code. 85874

~~(L)~~(N) "Voluntary withdrawal of participation" means an 85875
operator's voluntary election to terminate the participation of a 85876
nursing facility in the medicaid program but to continue to 85877
provide service of the type provided by a nursing facility. 85878

Sec. 5111.66. An exiting operator or owner of a nursing 85879
facility or intermediate care facility for the mentally retarded 85880
participating in the medicaid program shall provide the department 85881
of job and family services written notice of a facility closure, 85882
voluntary termination, or voluntary withdrawal of participation 85883
not less than ninety days before the effective date of the 85884
facility closure, voluntary termination, or voluntary withdrawal 85885
of participation. The written notice shall be provided to the 85886
department in accordance with the method specified in rules 85887
adopted under section 5111.689 of the Revised Code. 85888

The written notice shall include all of the following: 85889

(A) The name of the exiting operator and, if any, the exiting 85890
operator's authorized agent; 85891

(B) The name of the nursing facility or intermediate care 85892
facility for the mentally retarded that is the subject of the 85893

written notice;	85894
(C) The exiting operator's medicaid provider agreement number for the facility that is the subject of the written notice;	85895 85896
(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation;	85897 85898
(E) The signature of the exiting operator's or owner's representative.	85899 85900
Sec. 5111.67. (A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to continue the facility's participation. <u>The written notice shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code. The</u> written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. The	85901 85902 85903 85904 85905 85906 85907 85908 85909 85910 85911 85912 85913 85914 85915
<u>The</u> written notice shall include all of the following:	85916
(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;	85917 85918
(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;	85919 85920 85921
(3) The exiting operator's medicaid provider agreement <u>seven-digit medicaid legacy number and ten-digit national provider</u>	85922 85923

<u>identifier number</u> for the facility that is the subject of the	85924
change of operator;	85925
(4) The name of the entering operator;	85926
(5) The effective date of the change of operator;	85927
(6) The manner in which the entering operator becomes the	85928
facility's operator, including through sale, lease, merger, or	85929
other action;	85930
(7) If the manner in which the entering operator becomes the	85931
facility's operator involves more than one step, a description of	85932
each step;	85933
(8) Written authorization from the exiting operator or owner	85934
and entering operator for the department to process a provider	85935
agreement for the entering operator;	85936
(9) <u>The names and addresses of the persons to whom the</u>	85937
<u>department should send initial correspondence regarding the change</u>	85938
<u>of operator;</u>	85939
(10) <u>If the nursing facility also participates in the</u>	85940
<u>medicare program, notification of whether the entering operator</u>	85941
<u>intends to accept assignment of the exiting operator's medicare</u>	85942
<u>provider agreement;</u>	85943
(11) The signature of the exiting operator's or owner's	85944
representative.	85945
(B) The entering operator shall include a completed	85946
application for a provider agreement with the written notice to	85947
the department. The entering operator shall attach to the	85948
application the following:	85949
(1) If the written notice is provided to the department	85950
before the date the exiting operator or owner and entering	85951
operator complete the transaction for the change of operator, all	85952
the proposed leases, management agreements, merger agreements and	85953

~~supporting documents, and sales contracts and supporting documents~~ 85954
~~relating to the facility's change of operator;~~ 85955

~~(2) If the written notice is provided to the department on or~~ 85956
~~after the date the exiting operator or owner and entering operator~~ 85957
~~complete the transaction for the change of operator, copies of all~~ 85958
~~the executed leases, management agreements, merger agreements and~~ 85959
~~supporting documents, and sales contracts and supporting documents~~ 85960
~~relating to the facility's change of operator. An exiting operator~~ 85961
~~or owner and entering operator immediately shall provide the~~ 85962
~~department written notice of any changes to information included~~ 85963
~~in a written notice of a change of operator that occur after that~~ 85964
~~notice is provided to the department. The notice of the changes~~ 85965
~~shall be provided to the department in accordance with the method~~ 85966
~~specified in rules adopted under section 5111.689 of the Revised~~ 85967
~~Code.~~ 85968

Sec. 5111.671. The department of job and family services may 85969
enter into a provider agreement with an entering operator that 85970
goes into effect at 12:01 a.m. on the effective date of the change 85971
of operator if all of the following requirements are met: 85972

(A) The department receives a properly completed written 85973
notice required by section 5111.67 of the Revised Code on or 85974
before the date required by that section. 85975

(B) ~~The entering operator furnishes to the department copies~~ 85976
~~of all the fully executed leases, management agreements, merger~~ 85977
~~agreements and supporting documents, and sales contracts and~~ 85978
~~supporting documents relating to the change of operator not later~~ 85979
~~than ten days after the effective date of the change of operator~~ 85980
~~receives both of the following in accordance with the method~~ 85981
~~specified in rules adopted under section 5111.689 of the Revised~~ 85982
~~Code and not later than ten days after the effective date of the~~ 85983
~~change of operator:~~ 85984

<u>(1) From the entering operator, a completed application for a provider agreement and all other forms and documents specified in rules adopted under section 5111.689 of the Revised Code;</u>	85985
	85986
	85987
<u>(2) From the exiting operator or owner, all forms and documents specified in rules adopted under section 5111.689 of the Revised Code.</u>	85988
	85989
	85990
(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.	85991
	85992
Sec. 5111.672. (A) The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:	85993
	85994
	85995
	85996
(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code <u>after the time required by that section.</u>	85997
	85998
	85999
(2) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator <u>receives both of the following in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code and more than ten days after the effective date of the change of operator:</u>	86000
	86001
	86002
	86003
	86004
	86005
	86006
<u>(a) From the entering operator, a completed application for a provider agreement and all other forms and documents specified in rules adopted under section 5111.689 of the Revised Code;</u>	86007
	86008
	86009
<u>(b) From the exiting operator or owner, all forms and documents specified in rules adopted under section 5111.689 of the Revised Code.</u>	86010
	86011
	86012
(3) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code,	86013
	86014

~~the requirement of division (A)(2) of this section is met more
than ten days after the effective date of the change of operator,
or both.~~

~~(4) The entering operator is eligible for medicaid payments
as provided in section 5111.21 of the Revised Code.~~

(B) The department shall determine the date a provider
agreement entered into under this section is to go into effect as
follows:

(1) The effective date shall give the department sufficient
time to process the change of operator, assure no duplicate
payments are made, and make the withholding required by section
5111.681 of the Revised Code, ~~and withhold the final payment to
the exiting operator until one hundred eighty days after either of
the following:~~

~~(a) The date that the exiting operator submits to the
department a properly completed cost report under section 5111.682
of the Revised Code;~~

~~(b) The date that the department waives the cost report
requirement of section 5111.682 of the Revised Code.~~

(2) The effective date shall be not earlier than the later of
the effective date of the change of operator or the date that the
exiting operator or owner and entering operator comply with
section 5111.67 of the Revised Code and division (A)(2) of this
section.

(3) The effective date shall be not later than the following
after the later of the dates specified in division (B)(2) of this
section:

(a) Forty-five days if the change of operator does not entail
the relocation of residents;

(b) Ninety days if the change of operator entails the

relocation of residents. 86045

Sec. 5111.68. (A) On receipt of a written notice under 86046
section 5111.66 of the Revised Code of a facility closure, 86047
voluntary termination, or voluntary withdrawal of participation 86048
~~or, on receipt of~~ a written notice under section 5111.67 of the 86049
Revised Code of a change of operator, or on the effective date of 86050
an involuntary termination, the department of job and family 86051
services shall estimate the amount of any overpayments made under 86052
the medicaid program to the exiting operator, including 86053
overpayments the exiting operator disputes, and other actual and 86054
potential debts the exiting operator owes or may owe to the 86055
department and United States centers for medicare and medicaid 86056
services under the medicaid program, including a franchise permit 86057
fee. 86058

(B) In estimating the exiting operator's other actual and 86059
potential debts to the department and the United States centers 86060
for medicare and medicaid services under the medicaid program, the 86061
department shall use a debt estimation methodology the director of 86062
job and family services shall establish in rules adopted under 86063
section 5111.689 of the Revised Code. The methodology shall 86064
provide for estimating all of the following that the department 86065
determines are applicable: 86066

(1) Refunds due the department under section 5111.27 of the 86067
Revised Code; 86068

(2) Interest owed to the department and United States centers 86069
for medicare and medicaid services; 86070

(3) Final civil monetary and other penalties for which all 86071
right of appeal has been exhausted; 86072

(4) Money owed the department and United States centers for 86073
medicare and medicaid services from any outstanding final fiscal 86074

audit, including a final fiscal audit for the last fiscal year or 86075
portion thereof in which the exiting operator participated in the 86076
medicaid program; 86077

(5) Other amounts the department determines are applicable. 86078

(C) The department shall provide the exiting operator written 86079
notice of the department's estimate under division (A) of this 86080
section not later than thirty days after the department receives 86081
the notice under section 5111.66 of the Revised Code of the 86082
facility closure, voluntary termination, or voluntary withdrawal 86083
of participation ~~or~~; the department receives the notice under 86084
section 5111.67 of the Revised Code of the change of operator; or 86085
the effective date of the involuntary termination. The 86086
department's written notice shall include the basis for the 86087
estimate. 86088

Sec. 5111.681. (A) Except as provided in divisions (B) ~~and~~, 86089
(C), and (D) of this section, the department of job and family 86090
services may withhold from payment due an exiting operator under 86091
the medicaid program the total amount specified in the notice 86092
provided under division (C) of section 5111.68 of the Revised Code 86093
that the exiting operator owes or may owe to the department and 86094
United States centers for medicare and medicaid services under the 86095
medicaid program. 86096

(B) In the case of a change of operator and subject to 86097
division ~~(D)~~(E) of this section, the following shall apply 86098
regarding a withholding under division (A) of this section if the 86099
exiting operator or entering operator or an affiliated operator 86100
executes a successor liability agreement meeting the requirements 86101
of division ~~(E)~~(F) of this section: 86102

(1) If the exiting operator, entering operator, or affiliated 86103
operator assumes liability for the total, actual amount of debt 86104
the exiting operator owes the department and the United States 86105

centers for medicare and medicaid services under the medicaid 86106
program as determined under section 5111.685 of the Revised Code, 86107
the department shall not make the withholding. 86108

(2) If the exiting operator, entering operator, or affiliated 86109
operator assumes liability for only the portion of the amount 86110
specified in division (B)(1) of this section that represents the 86111
franchise permit fee the exiting operator owes, the department 86112
shall withhold not more than the difference between the total 86113
amount specified in the notice provided under division (C) of 86114
section 5111.68 of the Revised Code and the amount for which the 86115
exiting operator, entering operator, or affiliated operator 86116
assumes liability. 86117

(C) In the case of a voluntary termination, voluntary 86118
withdrawal of participation, or facility closure and subject to 86119
division ~~(D)~~(E) of this section, the following shall apply 86120
regarding a withholding under division (A) of this section if the 86121
exiting operator or an affiliated operator executes a successor 86122
liability agreement meeting the requirements of division ~~(E)~~(F) of 86123
this section: 86124

(1) If the exiting operator or affiliated operator assumes 86125
liability for the total, actual amount of debt the exiting 86126
operator owes the department and the United States centers for 86127
medicare and medicaid services under the medicaid program as 86128
determined under section 5111.685 of the Revised Code, the 86129
department shall not make the withholding. 86130

(2) If the exiting operator or affiliated operator assumes 86131
liability for only the portion of the amount specified in division 86132
(C)(1) of this section that represents the franchise permit fee 86133
the exiting operator owes, the department shall withhold not more 86134
than the difference between the total amount specified in the 86135
notice provided under division (C) of section 5111.68 of the 86136
Revised Code and the amount for which the exiting operator or 86137

affiliated operator assumes liability. 86138

(D) In the case of an involuntary termination and subject to 86139
division (E) of this section, the following shall apply regarding 86140
a withholding under division (A) of this section if the exiting 86141
operator, the entering operator, or an affiliated operator 86142
executes a successor liability agreement meeting the requirements 86143
of division (F) of this section and the department approves the 86144
successor liability agreement: 86145

(1) If the exiting operator, entering operator, or affiliated 86146
operator assumes liability for the total, actual amount of debt 86147
the exiting operator owes the department and the United States 86148
centers for medicare and medicaid services under the medicaid 86149
program as determined under section 5111.685 of the Revised Code, 86150
the department shall not make the withholding. 86151

(2) If the exiting operator, entering operator, or affiliated 86152
operator assumes liability for only the portion of the amount 86153
specified in division (D)(1) of this section that represents the 86154
franchise permit fee the exiting operator owes, the department 86155
shall withhold not more than the difference between the total 86156
amount specified in the notice provided under division (C) of 86157
section 5111.68 of the Revised Code and the amount for which the 86158
exiting operator, entering operator, or affiliated operator 86159
assumes liability. 86160

(E) For an exiting operator or affiliated operator to be 86161
eligible to enter into a successor liability agreement under 86162
division (B) ~~or~~, (C), or (D) of this section, both of the 86163
following must apply: 86164

(1) The exiting operator or affiliated operator must have one 86165
or more valid provider agreements, other than the provider 86166
agreement for the nursing facility or intermediate care facility 86167
for the mentally retarded that is the subject of the involuntary 86168

termination, voluntary termination, voluntary withdrawal of 86169
participation, facility closure, or change of operator; 86170

(2) During the twelve-month period preceding either the 86171
effective date of the involuntary termination or the month in 86172
which the department receives the notice of the voluntary 86173
termination, voluntary withdrawal of participation, or facility 86174
closure under section 5111.66 of the Revised Code or the notice of 86175
the change of operator under section 5111.67 of the Revised Code, 86176
the average monthly medicaid payment made to the exiting operator 86177
or affiliated operator pursuant to the exiting operator's or 86178
affiliated operator's one or more provider agreements, other than 86179
the provider agreement for the nursing facility or intermediate 86180
care facility for the mentally retarded that is the subject of the 86181
involuntary termination, voluntary termination, voluntary 86182
withdrawal of participation, facility closure, or change of 86183
operator, must equal at least ninety per cent of the sum of the 86184
following: 86185

(a) The average monthly medicaid payment made to the exiting 86186
operator pursuant to the exiting operator's provider agreement for 86187
the nursing facility or intermediate care facility for the 86188
mentally retarded that is the subject of the involuntary 86189
termination, voluntary termination, voluntary withdrawal of 86190
participation, facility closure, or change of operator; 86191

(b) Whichever of the following apply: 86192

(i) If the exiting operator or affiliated operator has 86193
assumed liability under one or more other successor liability 86194
agreements, the total amount for which the exiting operator or 86195
affiliated operator has assumed liability under the other 86196
successor liability agreements; 86197

(ii) If the exiting operator or affiliated operator has not 86198
assumed liability under any other successor liability agreements, 86199

zero. 86200

~~(E)~~(F) A successor liability agreement executed under this 86201
section must comply with all of the following: 86202

(1) It must provide for the operator who executes the 86203
successor liability agreement to assume liability for either of 86204
the following as specified in the agreement: 86205

(a) The total, actual amount of debt the exiting operator 86206
owes the department and the United States centers for medicare and 86207
medicaid services under the medicaid program as determined under 86208
section 5111.685 of the Revised Code; 86209

(b) The portion of the amount specified in division 86210
~~(E)~~(F)(1)(a) of this section that represents the franchise permit 86211
fee the exiting operator owes. 86212

(2) It may not require the operator who executes the 86213
successor liability agreement to furnish a surety bond. 86214

(3) It must provide that the department, after determining 86215
under section 5111.685 of the Revised Code the actual amount of 86216
debt the exiting operator owes the department and United States 86217
centers for medicare and medicaid services under the medicaid 86218
program, may deduct the lesser of the following from medicaid 86219
payments made to the operator who executes the successor liability 86220
agreement: 86221

(a) The total, actual amount of debt the exiting operator 86222
owes the department and the United States centers for medicare and 86223
medicaid services under the medicaid program as determined under 86224
section 5111.685 of the Revised Code; 86225

(b) The amount for which the operator who executes the 86226
successor liability agreement assumes liability under the 86227
agreement. 86228

(4) It must provide that the deductions authorized by 86229

division ~~(E)~~(F)(3) of this section are to be made for a number of 86230
months, not to exceed six, agreed to by the operator who executes 86231
the successor liability agreement and the department or, if the 86232
operator who executes the successor liability agreement and 86233
department cannot agree on a number of months that is less than 86234
six, a greater number of months determined by the attorney general 86235
pursuant to a claims collection process authorized by statute of 86236
this state. 86237

(5) It must provide that, if the attorney general determines 86238
the number of months for which the deductions authorized by 86239
division ~~(E)~~(F)(3) of this section are to be made, the operator 86240
who executes the successor liability agreement shall pay, in 86241
addition to the amount collected pursuant to the attorney 86242
general's claims collection process, the part of the amount so 86243
collected that, if not for division ~~(G)~~(H) of this section, would 86244
be required by section 109.081 of the Revised Code to be paid into 86245
the attorney general claims fund. 86246

~~(F)~~(G) Execution of a successor liability agreement does not 86247
waive an exiting operator's right to contest the amount specified 86248
in the notice the department provides the exiting operator under 86249
division (C) of section 5111.68 of the Revised Code. 86250

~~(G)~~(H) Notwithstanding section 109.081 of the Revised Code, 86251
the entire amount that the attorney general, whether by employees 86252
or agents of the attorney general or by special counsel appointed 86253
pursuant to section 109.08 of the Revised Code, collects under a 86254
successor liability agreement, other than the additional amount 86255
the operator who executes the agreement is required by division 86256
~~(E)~~(F)(5) of this section to pay, shall be paid to the department 86257
of job and family services for deposit into the appropriate fund. 86258
The additional amount that the operator is required to pay shall 86259
be paid into the state treasury to the credit of the attorney 86260
general claims fund created under section 109.081 of the Revised 86261

Code. 86262

Sec. 5111.687. The department of job and family services, at 86263
its sole discretion, may release the amount withheld under 86264
division (A) of section 5111.681 of the Revised Code if the 86265
exiting operator submits to the department written notice of a 86266
postponement of a change of operator, facility closure, voluntary 86267
termination, or voluntary withdrawal of participation and the 86268
transactions leading to the change of operator, facility closure, 86269
voluntary termination, or voluntary withdrawal of participation 86270
are postponed for at least thirty days but less than ninety days 86271
after the date originally proposed for the change of operator, 86272
facility closure, voluntary termination, or voluntary withdrawal 86273
of participation as reported in the written notice required by 86274
section 5111.66 or 5111.67 of the Revised Code. The department 86275
shall release the amount withheld if the exiting operator submits 86276
to the department written notice of a cancellation or postponement 86277
of a change of operator, facility closure, voluntary termination, 86278
or voluntary withdrawal of participation and the transactions 86279
leading to the change of operator, facility closure, voluntary 86280
termination, or voluntary withdrawal of participation are canceled 86281
or postponed for more than ninety days after the date originally 86282
proposed for the change of operator, facility closure, voluntary 86283
termination, or voluntary withdrawal of participation as reported 86284
in the written notice required by section 5111.66 or 5111.67 of 86285
the Revised Code. A written notice shall be provided to the 86286
department in accordance with the method specified in rules 86287
adopted under section 5111.689 of the Revised Code. 86288

After the department receives a written notice regarding a 86289
cancellation or postponement of a facility closure, voluntary 86290
termination, or voluntary withdrawal of participation, the exiting 86291
operator or owner shall provide new written notice to the 86292
department under section 5111.66 of the Revised Code regarding any 86293

transactions leading to a facility closure, voluntary termination, 86294
or voluntary withdrawal of participation at a future time. After 86295
the department receives a written notice regarding a cancellation 86296
or postponement of a change of operator, the exiting operator or 86297
owner and entering operator shall provide new written notice to 86298
the department under section 5111.67 of the Revised Code regarding 86299
any transactions leading to a change of operator at a future time. 86300

Sec. 5111.689. The director of job and family services shall 86301
adopt rules under section 5111.02 of the Revised Code to implement 86302
sections 5111.65 to 5111.689 of the Revised Code, including rules 86303
applicable to an exiting operator that provides written 86304
notification under section 5111.66 of the Revised Code of a 86305
voluntary withdrawal of participation. Rules adopted under this 86306
section shall comply with section 1919(c)(2)(F) of the "Social 86307
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 86308
regarding restrictions on transfers or discharges of nursing 86309
facility residents in the case of a voluntary withdrawal of 86310
participation. The rules may prescribe a medicaid reimbursement 86311
methodology and other procedures that are applicable after the 86312
effective date of a voluntary withdrawal of participation that 86313
differ from the reimbursement methodology and other procedures 86314
that would otherwise apply. The rules shall specify all of the 86315
following: 86316

(A) The method by which written notices to the department 86317
required by sections 5111.65 to 5111.689 of the Revised Code are 86318
to be provided; 86319

(B) The forms and documents that are to be provided to the 86320
department under sections 5111.671 and 5111.672 of the Revised 86321
Code, which shall include, in the case of such forms and documents 86322
provided by entering operators, all the fully executed leases, 86323
management agreements, merger agreements and supporting documents, 86324

<u>and fully executed sales contracts and any other supporting</u>	86325
<u>documents culminating in the change of operator;</u>	86326
<u>(C) The method by which the forms and documents identified in</u>	86327
<u>division (B) of this section are to be provided to the department.</u>	86328
Sec. 5111.709. (A) There is hereby created the medicaid	86329
buy-in advisory council. The council shall consist of all of the	86330
following:	86331
(1) The following voting members:	86332
(a) The executive director of assistive technology of Ohio or	86333
the executive director's designee;	86334
(b) The director of the axis center for public awareness of	86335
people with disabilities or the director's designee;	86336
(c) The executive director of the cerebral palsy association	86337
of Ohio or the executive director's designee;	86338
(d) The chief executive officer of Ohio advocates for mental	86339
health or the chief executive officer's designee;	86340
(e) The state director of the Ohio chapter of AARP or the	86341
state director's designee;	86342
(f) The director of the Ohio developmental disabilities	86343
council created under section 5123.35 of the Revised Code or the	86344
director's designee;	86345
(g) The executive director of the governor's council on	86346
people with disabilities created under section 3303.41 of the	86347
Revised Code or the executive director's designee;	86348
(h) The administrator of the legal rights service created	86349
under section 5123.60 of the Revised Code or the administrator's	86350
designee;	86351
(i) The chairperson of the Ohio Olmstead task force or the	86352
chairperson's designee;	86353

(j) (i) The executive director of the Ohio statewide independent living council or the executive director's designee;	86354 86355
(k) (j) The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;	86356 86357
(l) (k) The executive director of the arc of Ohio or the executive director's designee;	86358 86359
(m) (l) The executive director of the commission on minority health or the executive director's designee;	86360 86361
(n) (m) The executive director of the brain injury association of Ohio or the executive director's designee;	86362 86363
(o) (n) The executive officer of any other advocacy organization who volunteers to serve on the council, or such an executive officer's designee, if the other voting members, at a meeting called by the chairperson elected under division (C) of this section, determine it is appropriate for the advocacy organization to be represented on the council;	86364 86365 86366 86367 86368 86369
(p) (o) One or more participants who volunteer to serve on the council and are selected by the other voting members at a meeting the chairperson calls after the medicaid buy-in for workers with disabilities program is implemented.	86370 86371 86372 86373
(2) The following non-voting members:	86374
(a) The director of job and family services or the director's designee;	86375 86376
(b) The administrator of the rehabilitation services commission or the administrator's designee;	86377 86378
(c) The director of alcohol and drug addiction services or the director's designee;	86379 86380
(d) The director of developmental disabilities or the director's designee;	86381 86382

(e) The director of mental health or the director's designee; 86383

(f) The executive officer of any other government entity, or 86384
the executive officer's designee, if the voting members, at a 86385
meeting called by the chairperson, determine it is appropriate for 86386
the government entity to be represented on the council. 86387

(B) All members of the medicaid buy-in advisory council shall 86388
serve without compensation or reimbursement, except as serving on 86389
the council is considered part of their usual job duties. 86390

(C) The voting members of the medicaid buy-in advisory 86391
council shall elect one of the members of the council to serve as 86392
the council's chairperson for a two-year term. The chairperson may 86393
be re-elected to successive terms. 86394

(D) The department of job and family services shall provide 86395
the Ohio medicaid buy-in advisory council with accommodations for 86396
the council to hold its meetings and shall provide the council 86397
with other administrative assistance the council needs to perform 86398
its duties. 86399

Sec. 5111.83. (A) Not later than January 1, 2012, the 86400
director of job and family services shall apply to the United 86401
States secretary of health and human services for approval to 86402
claim federal financial participation for administrative costs 86403
incurred by the department of health and the Arthur G. James and 86404
Richard J. Solove research institute of the Ohio state university 86405
in analyzing and evaluating both of the following pursuant to 86406
sections 3701.261 to 3701.236 of the Revised Code: 86407

(1) Cancer reports under the Ohio cancer incidence 86408
surveillance system; 86409

(2) The incidence, prevalence, costs, and medical 86410
consequences of cancer on medicaid recipients and other low-income 86411
populations. 86412

(B) The director of job and family services shall consult with the director of health in seeking approval to claim federal financial participation, as described in division (A) of this section. The directors shall cooperate in seeking the approval to the extent they find the approval necessary for the effective and efficient administration of the medicaid program.

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Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code:

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"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

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"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

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"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

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"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.

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"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

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(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

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(1) Eligibility requirements for the medicaid waiver

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components;	86443
(2) The type, amount, duration, and scope of services the medicaid waiver components provide;	86444 86445
(3) The conditions under which the medicaid waiver components cover services;	86446 86447
(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	86448 86449
(5) The manner in which the medicaid waiver components pay for services;	86450 86451
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	86452 86453
(7) Procedures for both of the following ;	86454
(a) Identifying individuals who meet all of the following requirements ;	86455 86456
(i) Are <u>prioritizing and approving for enrollment individuals</u> who are eligible for a home and community-based services medicaid waiver component and on a waiting list for the component;	86457 86458 86459
(ii) Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component) ;	86460 86461 86462
(iii) Choose <u>choose</u> to be enrolled in the component ;	86463
(b) Approving the enrollment of individuals identified under the procedures established under division (B)(7)(a) of this section into the home and community based services medicaid waiver component. ;	86464 86465 86466 86467
(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating	86468 86469 86470 86471

medicaid provider agreements. The procedures shall include due
process protections.

(9) Other policies necessary for the efficient administration
of the medicaid waiver components.

(C) The director of job and family services may adopt
different rules for the different medicaid waiver components. The
rules shall be consistent with the terms of the waiver authorizing
the medicaid waiver component.

(D) Any procedures established under division (B)(7) of this
section for the medicaid-funded component of the PASSPORT program
shall be consistent with section 173.401 of the Revised Code. Any
procedures established under division (B)(7) of this section for
the medicaid-funded component of the assisted living program shall
be consistent with section 5111.894 of the Revised Code.

Sec. 5111.861. (A) As used in this section:

"Medicaid waiver component" has the same meaning as in
section 5111.85 of the Revised Code.

"Unified long-term services and support medicaid waiver
component" means the medicaid waiver component authorized by
section 5111.863 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby
created the Ohio home care program. The program shall provide home
and community-based services. The department of job and family
services shall administer the program.

(C) If the unified long-term services and support medicaid
waiver component is created, the departments of aging and job and
family services shall work together to determine whether the Ohio
home care program should continue to operate as a separate
medicaid waiver component or be terminated. If the departments
determine that the Ohio home care program should be terminated,

the program shall cease to exist on a date the departments shall 86502
specify. 86503

Sec. 5111.862. (A) As used in this section: 86504

"Medicaid waiver component" has the same meaning as in 86505
section 5111.85 of the Revised Code. 86506

"Unified long-term services and support medicaid waiver 86507
component" means the medicaid waiver component authorized by 86508
section 5111.863 of the Revised Code. 86509

(B) Subject to division (C) of this section, there is hereby 86510
created the Ohio transitions II aging carve-out program. The 86511
program shall provide home and community-based services. The 86512
department of job and family services shall administer the 86513
program. 86514

(C) If the unified long-term services and support medicaid 86515
waiver component is created, the departments of aging and job and 86516
family services shall work together to determine whether the Ohio 86517
transitions II aging carve-out program should continue to operate 86518
as a separate medicaid waiver component or be terminated. If the 86519
departments determine that the Ohio transitions II aging carve-out 86520
program should be terminated, the program shall cease to exist on 86521
a date the departments shall specify. 86522

Sec. 5111.863. (A) As used in this section: 86523

"Medicaid waiver component" has the same meaning as in 86524
section 5111.85 of the Revised Code. 86525

"Nursing facility" has the same meaning as in section 5111.20 86526
of the Revised Code. 86527

(B) The director of job and family services shall submit a 86528
request to the United States secretary of health and human 86529
services pursuant to section 1915n of the "Social Security Act," 86530

95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to obtain 86531
approval to create a unified long-term services and support 86532
medicaid waiver component to provide home and community-based 86533
services to eligible individuals of any age who require the level 86534
of care provided by nursing facilities. The director of job and 86535
family services shall work with the director of aging in seeking 86536
approval of the unified long-term services and support medicaid 86537
waiver component and, if the approval is obtained, in creating and 86538
implementing the component. 86539

If the request to create the unified long-term services and 86540
support medicaid waiver component is approved, the director of job 86541
and family services, working with the director of aging, shall 86542
adopt rules under section 5111.85 of the Revised Code to implement 86543
the component. The rules may authorize the director of aging to 86544
adopt rules in accordance with Chapter 119. of the Revised Code 86545
governing aspects of the unified long-term services and support 86546
medicaid waiver component. 86547

Sec. 5111.871. The department of job and family services 86548
shall enter into a contract with the department of developmental 86549
disabilities under section 5111.91 of the Revised Code with regard 86550
to one or more of the medicaid waiver components ~~of the medicaid~~ 86551
~~program~~ established by the department of job and family services 86552
under ~~one or more of the medicaid waivers sought~~ under section 86553
5111.87 of the Revised Code. Subject, if needed, to the approval 86554
of the United States secretary of health and human services, the 86555
contract shall include the medicaid waiver component known as the 86556
transitions developmental disabilities waiver. The contract shall 86557
provide for the department of developmental disabilities to 86558
administer the components in accordance with the terms of the 86559
waivers. The contract shall include a schedule for the department 86560
of developmental disabilities to begin administering the 86561
transitions developmental disabilities waiver. The directors of 86562

job and family services and developmental disabilities shall adopt 86563
rules in accordance with Chapter 119. of the Revised Code 86564
governing the components. 86565

If the department of developmental disabilities or the 86566
department of job and family services denies an individual's 86567
application for home and community-based services provided under 86568
any of these medicaid components, the department that denied the 86569
services shall give timely notice to the individual that the 86570
individual may request a hearing under section 5101.35 of the 86571
Revised Code. 86572

The departments of developmental disabilities and job and 86573
family services may approve, reduce, deny, or terminate a service 86574
included in the individualized service plan developed for a 86575
medicaid recipient eligible for home and community-based services 86576
provided under any of these medicaid components. The departments 86577
shall consider the recommendations a county board of developmental 86578
disabilities makes under division (A)(1)(c) of section 5126.055 of 86579
the Revised Code. If either department approves, reduces, denies, 86580
or terminates a service, that department shall give timely notice 86581
to the medicaid recipient that the recipient may request a hearing 86582
under section 5101.35 of the Revised Code. 86583

If supported living, as defined in section 5126.01 of the 86584
Revised Code, is to be provided as a service under any of these 86585
components, any person or government entity with a current, valid 86586
medicaid provider agreement and a current, valid certificate under 86587
section 5123.161 of the Revised Code may provide the service. 86588

If a service is to be provided under any of these components 86589
by a residential facility, as defined in section 5123.19 of the 86590
Revised Code, any person or government entity with a current, 86591
valid medicaid provider agreement and a current, valid license 86592
under section 5123.19 of the Revised Code may provide the service. 86593

Sec. 5111.872. ~~When~~ (A) Subject to division (B) of this 86594
section, when the department of developmental disabilities 86595
allocates enrollment numbers to a county board of developmental 86596
disabilities for home and community-based services specified in 86597
division (B)(1) of section 5111.87 of the Revised Code and 86598
provided under any of the medicaid waiver components ~~of the~~ 86599
~~medicaid program~~ that the department administers under section 86600
5111.871 of the Revised Code, the department shall consider all of 86601
the following: 86602

~~(A)(1)~~ (1) The number of individuals with mental retardation or 86603
other developmental disability who are on a waiting list the 86604
county board establishes under ~~division (C) of~~ section 5126.042 of 86605
the Revised Code for those services and are given priority on the 86606
waiting list ~~pursuant to division (D) or (E) of that section;~~ 86607

~~(B)(2)~~ (2) The implementation component required by division 86608
(A)(3) of section 5126.054 of the Revised Code of the county 86609
board's plan approved under section 5123.046 of the Revised Code; 86610

~~(C)(3)~~ (3) Anything else the department considers necessary to 86611
enable county boards to provide those services to individuals in 86612
accordance with the priority requirements ~~of divisions (D) and (E)~~ 86613
~~of~~ for waiting lists included in the rules adopted under section 86614
5126.042 of the Revised Code. 86615

(B) Division (A) of this section applies to home and 86616
community-based services provided under the medicaid waiver 86617
component known as the transitions developmental disabilities 86618
waiver only to the extent, if any, provided by the contract 86619
required by section 5111.871 of the Revised Code regarding the 86620
waiver. 86621

Sec. 5111.873. (A) ~~Not later than the effective date of the~~ 86622
~~first of any medicaid waivers the United States secretary of~~ 86623

~~health and human services grants pursuant to a request made under~~ 86624
~~section 5111.87 of the Revised Code~~ Subject to division (D) of 86625
this section, the director of job and family services shall adopt 86626
rules in accordance with Chapter 119. of the Revised Code 86627
establishing ~~statewide fee schedules~~ the amount of reimbursement 86628
or the methods by which amounts of reimbursement are to be 86629
determined for home and community-based services specified in 86630
division (B)(1) of section 5111.87 of the Revised Code and 86631
provided under the components of the medicaid program that the 86632
department of developmental disabilities administers under section 86633
5111.871 of the Revised Code. ~~The~~ With respect to these rules 86634
~~shall provide for,~~ all of the following apply: 86635

(1) The rules shall establish procedures for the department 86636
of developmental disabilities to follow in arranging for the 86637
initial and ongoing collection of cost information from a 86638
comprehensive, statistically valid sample of persons and 86639
government entities providing the services at the time the 86640
information is obtained~~+~~. 86641

(2) The rules shall establish procedures for the collection 86642
of consumer-specific information through an assessment instrument 86643
the department of developmental disabilities shall provide to the 86644
department of job and family services~~+~~. 86645

(3) With the information collected pursuant to divisions 86646
(A)(1) and (2) of this section, an analysis of that information, 86647
and other information the director determines relevant, ~~methods~~ 86648
~~and~~ the rules shall establish reimbursement standards ~~for~~ 86649
~~calculating the fee schedules~~ that do all of the following: 86650

(a) Assure that ~~the fees are~~ reimbursement is consistent with 86651
efficiency, economy, and quality of care; 86652

(b) Consider the intensity of consumer resource need; 86653

(c) Recognize variations in different geographic areas 86654

regarding the resources necessary to assure the health and welfare of consumers; 86655
86656

(d) Recognize variations in environmental supports available to consumers. 86657
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(B) As part of the process of adopting rules under this section, the director shall consult with the director of developmental disabilities, representatives of county boards of developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies. 86659
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(C) The directors of job and family services and developmental disabilities shall review the rules adopted under this section at times they determine are necessary to ensure that the ~~methods and amount of reimbursement or the methods by which the amounts of reimbursement are to be determined~~ continue to meet the reimbursement standards established by the rules for calculating the fee schedules ~~continue to do everything that~~ under division (A)(3) of this section ~~requires~~. 86665
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(D) This section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver. 86673
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Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code: 86678
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"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code. 86680
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"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a 86682
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resident of the facility who is a medicaid recipient eligible for 86685
medicaid-covered intermediate care facility for the mentally 86686
retarded services. 86687

"Intermediate care facility for the mentally retarded" means 86688
an intermediate care facility for the mentally retarded that is 86689
certified as in compliance with applicable standards for the 86690
medicaid program by the director of health in accordance with 86691
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 86692
U.S.C. 1396, as amended, and licensed as a residential facility 86693
under section 5123.19 of the Revised Code. 86694

"Residential facility" has the same meaning as in section 86695
5123.19 of the Revised Code. 86696

(B) For the purpose of increasing the number of slots 86697
available for home and community-based services and subject to 86698
sections 5111.877 and 5111.878 of the Revised Code, the operator 86699
of an intermediate care facility for the mentally retarded may 86700
convert some or all of the beds in the facility from providing 86701
ICF/MR services to providing home and community-based services if 86702
all of the following requirements are met: 86703

(1) The operator provides the directors of health, job and 86704
family services, and developmental disabilities at least ninety 86705
days' notice of the operator's intent to ~~relinquish the facility's~~ 86706
~~certification as an intermediate care facility for the mentally~~ 86707
~~retarded and to begin providing home and community based services~~ 86708
make the conversion. 86709

(2) The operator complies with the requirements of sections 86710
5111.65 to 5111.689 of the Revised Code regarding a voluntary 86711
termination as defined in section 5111.65 of the Revised Code if 86712
those requirements are applicable. 86713

(3) ~~The~~ If the operator intends to convert all of the 86714
facility's beds, the operator notifies each of the facility's 86715

residents that the facility is to cease providing ICF/MR services 86716
and inform each resident that the resident may do either of the 86717
following: 86718

(a) Continue to receive ICF/MR services by transferring to 86719
another facility that is an intermediate care facility for the 86720
mentally retarded willing and able to accept the resident if the 86721
resident continues to qualify for ICF/MR services; 86722

(b) Begin to receive home and community-based services 86723
instead of ICF/MR services from any provider of home and 86724
community-based services that is willing and able to provide the 86725
services to the resident if the resident is eligible for the 86726
services and a slot for the services is available to the resident. 86727

(4) If the operator intends to convert some but not all of 86728
the facility's beds, the operator notifies each of the facility's 86729
residents that the facility is to convert some of its beds from 86730
providing ICF/MR services to providing home and community-based 86731
services and inform each resident that the resident may do either 86732
of the following: 86733

(a) Continue to receive ICF/MR services from any provider of 86734
ICF/MR services that is willing and able to provide the services 86735
to the resident if the resident continues to qualify for ICF/MR 86736
services; 86737

(b) Begin to receive home and community-based services 86738
instead of ICF/MR services from any provider of home and 86739
community-based services that is willing and able to provide the 86740
services to the resident if the resident is eligible for the 86741
services and a slot for the services is available to the resident. 86742

(5) The operator meets the requirements for providing home 86743
and community-based services, including the following: 86744

(a) Such requirements applicable to a residential facility if 86745
the operator maintains the facility's license as a residential 86746

facility; 86747

(b) Such requirements applicable to a facility that is not 86748
licensed as a residential facility if the operator surrenders the 86749
facility's residential facility license under section 5123.19 of 86750
the Revised Code. 86751

~~(5)~~(6) The ~~director~~ directors of developmental disabilities 86752
approves and job and family services approve the conversion. 86753

(C) A decision by the directors to approve or refuse to 86754
approve a proposed conversion of beds is final. In making a 86755
decision, the directors shall consider all of the following: 86756

(1) The fiscal impact on the facility if some but not all of 86757
the beds are converted; 86758

(2) The fiscal impact on the medical assistance program; 86759

(3) The availability of home and community-based services. 86760

(D) The notice provided to the directors under division 86761
(B)(1) of this section shall specify whether some or all of the 86762
facility's beds are to be converted. If some but not all of the 86763
beds are to be converted, the notice shall specify how many of the 86764
facility's beds are to be converted and how many of the beds are 86765
to continue to provide ICF/MR services. The notice to the director 86766
of developmental disabilities ~~under division (B)(1) of this~~ 86767
~~section~~ shall specify whether the operator wishes to surrender the 86768
facility's license as a residential facility under section 5123.19 86769
of the Revised Code. 86770

~~(D)~~(E)(1) If the ~~director~~ directors of developmental 86771
disabilities approves and job and family services approve a 86772
conversion under division ~~(B)~~(C) of this section, the director of 86773
health shall ~~terminate~~ do the following: 86774

(a) Terminate the certification of the intermediate care 86775
facility for the mentally retarded if the notice specifies that 86776

all of the facility's beds are to be converted; 86777

(b) Reduce the facility's certified capacity by the number of 86778
beds being converted if the notice specifies that some but not all 86779
of the beds are to be converted. The 86780

(2) The director of health shall notify the director of job 86781
and family services of the termination or reduction. On receipt of 86782
the director of health's notice, the director of job and family 86783
services shall ~~terminate~~ do the following: 86784

(a) Terminate the operator's medicaid provider agreement that 86785
authorizes the operator to provide ICF/MR services at the facility 86786
if the facility's certification was terminated; 86787

(b) Amend the operator's medicaid provider agreement to 86788
reflect the facility's reduced certified capacity if the 86789
facility's certified capacity is reduced. The 86790

(3) In the case of action taken under division (E)(2)(a) of 86791
this section, the operator is not entitled to notice or a hearing 86792
under Chapter 119. of the Revised Code before the director of job 86793
and family services terminates the medicaid provider agreement. 86794

Sec. 5111.877. The director of job and family services may 86795
seek approval from the United States secretary of health and human 86796
services for not more than a total of ~~one~~ two hundred slots for 86797
home and community-based services for the purposes of sections 86798
5111.874, 5111.875, and 5111.876 of the Revised Code. 86799

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of 86800
the Revised Code: 86801

(1) "Adult" means an individual at least eighteen years of 86802
age. 86803

(2) "Authorized representative" means the following: 86804

(a) In the case of a consumer who is a minor, the consumer's 86805

parent, custodian, or guardian; 86806

(b) In the case of a consumer who is an adult, an individual 86807
selected by the consumer pursuant to section 5111.8810 of the 86808
Revised Code to act on the consumer's behalf for purposes 86809
regarding home care attendant services. 86810

(3) "Authorizing health care professional" means a health 86811
care professional who, pursuant to section 5111.887 of the Revised 86812
Code, authorizes a home care attendant to assist a consumer with 86813
self-administration of medication, nursing tasks, or both. 86814

(4) "Consumer" means an individual to whom all of the 86815
following apply: 86816

(a) The individual is enrolled in a participating medicaid 86817
waiver component. 86818

(b) The individual has a medically determinable physical 86819
impairment to which both of the following apply: 86820

(i) It is expected to last for a continuous period of not 86821
less than twelve months. 86822

(ii) It causes the individual to require assistance with 86823
activities of daily living, self-care, and mobility, including 86824
either assistance with self-administration of medication or the 86825
performance of nursing tasks, or both. 86826

(c) In the case of an individual who is an adult, the 86827
individual is mentally alert and is, or has an authorized 86828
representative who is, capable of selecting, directing the actions 86829
of, and dismissing a home care attendant. 86830

(d) In the case of an individual who is a minor, the 86831
individual has an authorized representative who is capable of 86832
selecting, directing the actions of, and dismissing a home care 86833
attendant. 86834

(5) "Controlled substance" has the same meaning as in section 86835

3719.01 of the Revised Code.	86836
(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.	86837 86838
(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.	86839 86840
(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.	86841 86842
(9) "Health care professional" means a physician or registered nurse.	86843 86844
(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.	86845 86846 86847 86848
(11) "Home care attendant services" means all of the following as provided by a home care attendant:	86849 86850
(a) Personal care aide services;	86851
(b) Assistance with the self-administration of medication;	86852
(c) Assistance with nursing tasks.	86853
(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.	86854 86855
(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	86856 86857
(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.	86858 86859
(15) "Minor" means an individual under eighteen years of age.	86860
(16) "Participating medicaid waiver component" means both of the following:	86861 86862
(a) The medicaid waiver component known as Ohio home care	86863

~~that the department of job and family services administers program~~ 86864
~~created under section 5111.861 of the Revised Code;~~ 86865

(b) The ~~medicaid waiver component known as~~ Ohio transitions 86866
II aging carve-out ~~that the department of job and family services~~ 86867
~~administers program created under section 5111.862 of the Revised~~ 86868
~~Code.~~ 86869

(17) "Physician" means an individual authorized under Chapter 86870
4731. of the Revised Code to practice medicine and surgery or 86871
osteopathic medicine and surgery. 86872

(18) "Practice of nursing as a registered nurse," "practice 86873
of nursing as a licensed practical nurse," and "registered nurse" 86874
have the same meanings as in section 4723.01 of the Revised Code. 86875
"Registered nurse" includes an advanced practice nurse, as defined 86876
in section 4723.01 of the Revised Code. 86877

(19) "Schedule II," "schedule III," "schedule IV," and 86878
"schedule V" have the same meanings as in section 3719.01 of the 86879
Revised Code. 86880

(B) The director of job and family services may submit 86881
requests to the United States secretary of health and human 86882
services to amend the federal medicaid waivers authorizing the 86883
participating medicaid waiver components to have those components 86884
cover home care attendant services in accordance with sections 86885
5111.88 to 5111.8810 and rules adopted under section 5111.8811 of 86886
the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 86887
of the Revised Code, those sections shall be implemented regarding 86888
a participating medicaid waiver component only if the secretary 86889
approves a waiver amendment for the component. 86890

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of 86891
the Revised Code: 86892

"Area agency on aging" has the same meaning as in section 86893

173.14 of the Revised Code.	86894
"Assisted living program" means the program created under this section.	86895 86896
"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.	86897 86898 86899 86900
<u>"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program.</u>	86901 86902 86903 86904
"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.	86905 86906
"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.	86907 86908 86909
"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.	86910 86911 86912 86913 86914
"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	86915 86916
"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	86917 86918
"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.	86919 86920
"State administrative agency" means the department of job and family services if the department of job and family services administers the assisted living program or the department of aging	86921 86922 86923

~~if the department of aging administers the assisted living program.~~ 86924
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"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.863 of the Revised Code. 86926
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(B) There is hereby created the assisted living program. The 86929
program shall provide assisted living services to individuals who 86930
meet the program's applicable eligibility requirements ~~established~~ 86931
~~under section 5111.891 of the Revised Code. The~~ Subject to 86932
division (C) of this section, the program may not serve more 86933
~~individuals than the number that is set by the United States~~ 86934
~~secretary of health and human services when the medicaid waiver~~ 86935
~~authorizing the program is approved~~ shall have a medicaid-funded 86936
component and a state-funded component. 86937

(C)(1) Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply: 86938
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(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. 86941
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(b) The contract shall include an estimate of the medicaid-funded component's costs. The program 86945
86946

(c) The medicaid-funded component shall be operated as a separate medicaid waiver component ~~until the United States secretary approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver.~~ 86947
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~~If the director of budget and management approves the contract, the department of job and family services shall enter~~ 86953
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~~into a contract with the department of aging under section 5111.91
of the Revised Code that provides for the department of aging to
administer the assisted living program. The contract shall include
an estimate of the program's costs.~~

The (d) The medicaid-funded component may not serve more
individuals than is set by the United States secretary of health
and human services in the assisted living waiver.

(e) The director of job and family services may adopt rules
under section 5111.85 of the Revised Code regarding the assisted
living program medicaid-funded component. The

(f) The director of aging may adopt rules under Chapter 119.
of the Revised Code regarding the program medicaid-funded
component that the rules adopted by the director of job and family
services under division (C)(1)(e) of this section authorize the
director of aging to adopt.

(2) If the unified long-term services and support medicaid
waiver component is created, the departments of aging and job and
family services shall work together to determine whether the
medicaid-funded component of the assisted living program should
continue to operate as a separate medicaid waiver component or be
terminated. If the departments determine that the medicaid-funded
component of the assisted living program should be terminated, the
medicaid-funded component shall cease to exist on a date the
departments shall specify.

(D) The department of aging shall administer the state-funded
component of the assisted living program. The state-funded
component shall not be administered as part of the medicaid
program.

An individual who is eligible for the state-funded component
may participate in the component for not more than three months.

The director of aging shall adopt rules in accordance with

section 111.15 of the Revised Code to implement the state-funded component. 86986
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Sec. 5111.891. To be eligible for the medicaid-funded component of the assisted living program, an individual must meet all of the following requirements: 86988
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(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code; 86991
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~~(B) At the time the individual applies for the assisted living program, be one of the following:~~ 86993
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~~(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long-term care if not for the assisted living program;~~ 86995
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~~(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program:~~ 86998
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~~(a) The PASSPORT program created under section 173.40 of the Revised Code;~~ 87001
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~~(b) The choices program created under section 173.403 of the Revised Code;~~ 87003
87004

~~(c) A medicaid waiver component that the department of job and family services administers.~~ 87005
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~~(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program.~~ 87007
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~~(C) At the time the individual receives~~ While receiving assisted living services under the assisted living program medicaid-funded component, reside in a residential care facility that is authorized by a valid medicaid provider agreement to 87011
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participate in the ~~assisted living program~~ component, including 87015
both of the following: 87016

(1) A residential care facility that is owned or operated by 87017
a metropolitan housing authority that has a contract with the 87018
United States department of housing and urban development to 87019
receive an operating subsidy or rental assistance for the 87020
residents of the facility; 87021

(2) A county or district home licensed as a residential care 87022
facility. 87023

~~(D)~~(C) Meet all other eligibility requirements for the 87024
~~assisted living program~~ medicaid-funded component established in 87025
rules adopted ~~under~~ pursuant to division (C) of section 5111.85 87026
5111.89 of the Revised Code. 87027

Sec. 5111.892. To be eligible for the state-funded component 87028
of the assisted living program, an individual must meet all of the 87029
following requirements: 87030

(A) The individual must need an intermediate level of care as 87031
determined under rule 5101:3-3-06 of the Administrative Code; 87032

(B) The individual must have an application for the 87033
medicaid-funded component of the assisted living program (or, if 87034
the medicaid-funded component is terminated under division (C)(2) 87035
of section 5111.89 of the Revised Code, the unified long-term 87036
services and support medicaid waiver component) pending and the 87037
department or the department's designee must have determined that 87038
the individual meets the nonfinancial eligibility requirements of 87039
the medicaid-funded component (or, if the medicaid-funded 87040
component is terminated under division (C)(2) of section 5111.89 87041
of the Revised Code, the unified long-term services and support 87042
medicaid waiver component) and not have reason to doubt that the 87043
individual meets the financial eligibility requirements of the 87044

medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of section 5111.89 of the Revised Code, the unified long-term services and support medicaid waiver component). 87045
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(C) While receiving assisted living services under state-funded component, the individual must reside in a residential care facility that is authorized by a valid provider agreement to participate in the component, including both of the following: 87049
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87053

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility; 87054
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(2) A county or district home licensed as a residential care facility. 87059
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(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under division (D) of section 5111.89 of the Revised Code. 87061
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Sec. ~~5111.892~~ 5111.893. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following: 87064
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(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence; 87069
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(B) Provide supervision services for those individuals; 87072

(C) Help keep the individuals safe and secure. 87073

Sec. 5111.894. (A) ~~The state administrative agency~~ Subject to 87074
division (C)(2) of section 5111.89 of the Revised Code, the 87075
department of aging shall establish a home first component of the 87076
assisted living program under which eligible individuals may be 87077
enrolled in the medicaid-funded component of the assisted living 87078
program in accordance with this section. An individual is eligible 87079
for the assisted living program's home first component if ~~all~~ both 87080
of the following apply: 87081

(1) The individual ~~is~~ has been determined to be eligible for 87082
the medicaid-funded component of the assisted living program. 87083

(2) ~~The individual is on the unified waiting list established~~ 87084
~~under section 173.404 of the Revised Code.~~ 87085

~~(3)~~ At least one of the following applies: 87086

(a) The individual has been admitted to a nursing facility. 87087

(b) A physician has determined and documented in writing that 87088
the individual has a medical condition that, unless the individual 87089
is enrolled in home and community-based services such as the 87090
assisted living program, will require the individual to be 87091
admitted to a nursing facility within thirty days of the 87092
physician's determination. 87093

(c) The individual has been hospitalized and a physician has 87094
determined and documented in writing that, unless the individual 87095
is enrolled in home and community-based services such as the 87096
assisted living program, the individual is to be transported 87097
directly from the hospital to a nursing facility and admitted. 87098

(d) Both of the following apply: 87099

(i) The individual is the subject of a report made under 87100
section 5101.61 of the Revised Code regarding abuse, neglect, or 87101
exploitation or such a report referred to a county department of 87102
job and family services under section 5126.31 of the Revised Code 87103

or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code. 87104
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(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual should be admitted to a nursing facility. 87106
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(e) The individual resided in a residential care facility for at least six months immediately before applying for the medicaid-funded component of the assisted living program and is at risk of imminent admission to a nursing facility because the costs of residing in the residential care facility have depleted the individual's resources such that the individual is unable to continue to afford the cost of residing in the residential care facility. 87111
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(B) Each month, each area agency on aging shall identify individuals residing in the area that the area agency on aging serves who are eligible for the home first component of the assisted living program. When an area agency on aging identifies such an individual and determines that there is a vacancy in a residential care facility participating in the medicaid-funded component of the assisted living program that is acceptable to the individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the assisted living program is appropriate for the individual and whether the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility. If the administrator determines that the assisted living program is appropriate for the individual and the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility, the administrator shall so 87119
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notify the ~~state administrative agency~~ department of aging. On 87136
receipt of the notice from the administrator, the ~~state~~ 87137
~~administrative agency~~ department shall approve the individual's 87138
enrollment in the medicaid-funded component of the assisted living 87139
program regardless of the unified waiting list established under 87140
section 173.404 of the Revised Code, unless the enrollment would 87141
cause the ~~assisted living program~~ component to exceed any limit on 87142
the number of individuals who may participate in the ~~program~~ 87143
component as set by the United States secretary of health and 87144
human services ~~when the medicaid waiver authorizing in the program~~ 87145
~~is approved~~ assisted living waiver. 87146

~~(C) Each quarter, the state administrative agency shall 87147
certify to the director of budget and management the estimated 87148
increase in costs of the assisted living program resulting from 87149
enrollment of individuals in the assisted living program pursuant 87150
to this section. 87151~~

Sec. 5111.911. Any contract the department of job and family 87152
services enters into with the department of mental health or 87153
department of alcohol and drug addiction services under section 87154
5111.91 of the Revised Code is subject to the approval of the 87155
director of budget and management and shall require or specify all 87156
of the following: 87157

(A) In the case of a contract with the department of mental 87158
health, that section 5111.912 of the Revised Code be complied 87159
with; 87160

(B) In the case of a contract with the department of alcohol 87161
and drug addiction services, that section 5111.913 of the Revised 87162
Code be complied with; 87163

(C) How providers will be paid for providing the services; 87164

(D) The department of mental health's or department of 87165

alcohol and drug addiction services' responsibilities ~~for~~ 87166
~~reimbursing with regard to~~ providers, including program oversight 87167
and quality assurance. 87168

Sec. 5111.912. If the department of job and family services 87169
enters into a contract with the department of mental health under 87170
section 5111.91 of the Revised Code, the department of ~~mental~~ 87171
~~health and boards of alcohol, drug addiction, and mental health~~ 87172
job and family services shall pay the nonfederal share of any 87173
medicaid payment to a provider for services under the component, 87174
or aspect of the component, the department of mental health 87175
administers. If necessary, the director of job and family services 87176
shall submit a state medicaid plan amendment to the United States 87177
secretary of health and human services regarding the department of 87178
job and family services' duty under this section. 87179

Sec. 5111.913. If the department of job and family services 87180
enters into a contract with the department of alcohol and drug 87181
addiction services under section 5111.91 of the Revised Code, ~~the~~ 87182
~~department of alcohol and drug addiction services and~~ boards of 87183
alcohol, drug addiction, and mental health services shall pay the 87184
nonfederal share of any medicaid payment to a provider for 87185
services under the component, or aspect of the component, the 87186
department of alcohol and drug addiction services administers. A 87187
board shall use funds allocated to the board under section 3793.04 87188
of the Revised Code to pay the nonfederal share. 87189

Sec. 5111.94. (A) As used in this section, "vendor offset" 87190
means a reduction of a medicaid payment to a medicaid provider to 87191
correct a previous, incorrect medicaid payment to that provider. 87192

(B) There is hereby created in the state treasury the health 87193
care services administration fund. Except as provided in division 87194
(C) of this section, all the following shall be deposited into the 87195

fund:	87196
(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;	87197 87198
(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;	87199 87200 87201 87202 87203 87204 87205
(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;	87206 87207 87208 87209 87210 87211
(4) Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law;	87212 87213 87214 87215
(5) Amounts that the department of education pays to the department of job and family services, if any, pursuant to an interagency agreement entered into under section 5111.713 of the Revised Code;	87216 87217 87218 87219
<u>(6) The application fees charged to providers under section 5111.063 of the Revised Code.</u>	87220 87221
(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.	87222 87223 87224
(D) In determining under division (B)(3) of this section the	87225

amount of money the department, in a fiscal year, recovers through 87226
audits of medicaid providers, the amount recovered in the form of 87227
vendor offset shall be excluded. 87228

(E) The director of job and family services shall use funds 87229
available in the health care services administration fund to pay 87230
for costs associated with the administration of the medicaid 87231
program. 87232

Sec. 5111.941. ~~(A)~~ The medicaid revenue and collections fund 87233
is hereby created in the state treasury. Except as otherwise 87234
provided by statute or as authorized by the controlling board, 87235
~~both of the following shall be credited to the fund:~~ 87236

~~(1) The the nonfederal share of all medicaid-related 87237
revenues, collections, and recoveries:~~ 87238

~~(2) The monthly premiums charged under the children's buy-in 87239
program pursuant to section 5101.5213 of the Revised Code shall be 87240
credited to the fund. 87241~~

~~(B) The department of job and family services shall use money 87242
credited to the medicaid revenue and collections fund to pay for 87243
medicaid services and contracts and the children's buy-in program 87244
established under sections 5101.5211 to 5101.5216 of the Revised 87245
Code. 87246~~

Sec. 5111.944. (A) As used in this section: 87247

"Dual eligible individual" has the same meaning as in section 87248
1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 87249
42 U.S.C. 1396n(h)(2)(B). 87250

"Dual eligible integrated care demonstration project" means 87251
the demonstration project authorized by section 5111.981 of the 87252
Revised Code. 87253

"Medicare program" means the program created under Title 87254

XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 87255
1395, as amended. 87256

(B) There is created in the state treasury the integrated 87257
care delivery systems fund. If the terms of the federal approval 87258
for the dual eligible integrated care demonstration project 87259
provide for the state to receive a portion of the amounts that the 87260
demonstration project saves the medicare program, such amounts 87261
shall be deposited into the fund. The department of job and family 87262
services shall use the money in the fund to further develop 87263
integrated delivery systems and improved care coordination for 87264
dual eligible individuals. 87265

Sec. 5111.945. There is created in the state treasury the 87266
health care special activities fund. The department of job and 87267
family services shall deposit all funds it receives pursuant to 87268
the administration of the medicaid program into the fund, other 87269
than any such funds that are required by law to be deposited into 87270
another fund. The department shall use the money in the fund to 87271
pay for expenses related to the services provided under, and the 87272
administration of, the medicaid program. 87273

Sec. 5111.97. (A) As used in this section and in section 87274
5111.971 of the Revised Code, "nursing facility" has the same 87275
meaning as in section 5111.20 of the Revised Code. 87276

(B) To the extent funds are available, the director of job 87277
and family services may establish the Ohio access success project 87278
to help medicaid recipients make the transition from residing in a 87279
nursing facility to residing in a community setting. The ~~program~~ 87280
project may be established as a separate ~~non-medicaid~~ nonmedicaid 87281
program or integrated into a new or existing program of 87282
medicaid-funded home and community-based services authorized by a 87283
waiver approved by the United States department of health and 87284

human services. The director shall permit any recipient of 87285
medicaid-funded nursing facility services to apply for 87286
participation in the ~~program project~~, but may limit the number of 87287
~~program project~~ participants. ~~If an application is received before~~ 87288
~~the applicant has been a recipient of medicaid-funded nursing~~ 87289
~~facility services for six months, the~~ 87290

The director shall ensure that an assessment of an applicant 87291
is conducted as soon as practicable to determine whether the 87292
applicant is eligible for participation in the ~~program project~~. To 87293
the maximum extent possible, the assessment and eligibility 87294
determination shall be completed not later than the date that 87295
occurs six months after the applicant became a recipient of 87296
medicaid-funded nursing facility services. 87297

(C) To be eligible for benefits under the project, a medicaid 87298
recipient must satisfy all of the following requirements: 87299

(1) ~~Be~~ The medicaid recipient must be a recipient of 87300
medicaid-funded nursing facility services, at the time of applying 87301
for the project benefits. 87302

(2) ~~Need the level of care provided by nursing facilities;~~ 87303

~~(3) For participation in a non-medicaid~~ If the project is 87304
established as a nonmedicaid program, ~~receive services~~ the 87305
medicaid recipient must be able to remain in the community ~~with a~~ 87306
as a result of receiving project benefits and the projected cost 87307
of the benefits to the project does not exceeding exceed eighty 87308
per cent of the average monthly medicaid cost of a medicaid 87309
recipient in a nursing facility. 87310

~~(4) For participation in a program established as part of.~~ 87311

(3) If the project is integrated into a medicaid-funded home 87312
and community-based services waiver program, the medicaid 87313
recipient must meet waiver enrollment criteria. 87314

(D) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

(1) The first month's rent in a community setting;

(2) Rental deposits;

(3) Utility deposits;

(4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

(E) If the project is established as a ~~non-medicaid~~ nonmedicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.

(F) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the ~~program~~ project.

Sec. 5111.981. (A) As used in this section:

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) Subject to division (C) of this section, the director of

job and family services may implement a demonstration project to 87344
test and evaluate the integration of the care that dual eligible 87345
individuals receive under the medicare and medicaid programs. No 87346
provision of Title LI of the Revised Code applies to the 87347
demonstration project if that provision implements or incorporates 87348
a provision of federal law governing the medicaid program and that 87349
provision of federal law does not apply to the demonstration 87350
project. 87351

(C) Before implementing the demonstration project under 87352
division (B) of this section, the director shall obtain the 87353
approval of the United States secretary of health and human 87354
services in the form of a federal medicaid waiver, medicaid state 87355
plan amendment, or demonstration grant. The director is required 87356
to seek the federal approval only if the director seeks to 87357
implement the demonstration project. The director shall implement 87358
the demonstration project in accordance with the terms of the 87359
federal approval, including the terms regarding the duration of 87360
the demonstration project. 87361

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 87362
Revised Code: 87363

(A) "Franchise permit fee rate" means the following: 87364

(1) ~~Until August 1, 2009, eleven dollars and ninety eight~~ 87365
~~cents;~~ 87366

~~(2) For the period beginning August 1, 2009, and ending June~~ 87367
~~30, 2010, fourteen dollars and seventy five cents;~~ 87368

~~(3) For fiscal year 2011 2012, thirteen seventeen~~ 87369
~~fifty five ninety-nine cents;~~ 87370

~~(4)(2) For fiscal year 2012 2013 and each fiscal year~~ 87371
~~thereafter, the rate used for the immediately preceding fiscal~~ 87372
~~year as adjusted in accordance with the composite inflation factor~~ 87373

established in rules adopted under section 5112.39 of the Revised Code eighteen dollars and thirty-two cents.

(B) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii), as amended, that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(C) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code, except that, until August 1, 2009, it does not include any such facility operated by the department of developmental disabilities.

~~(C)~~(D) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) Subject to ~~division~~ divisions (B) and (C) of this section and for the purposes specified in sections 5112.37 and 5112.371 of the Revised Code, assess for each fiscal year each intermediate care facility for the mentally retarded a franchise permit fee equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year

in which the assessment is determined pursuant to division (A) of 87404
section 5112.33 of the Revised Code; 87405

(2) ~~The following number of days:~~ 87406

(a) ~~For fiscal year 2010, the following:~~ 87407

(i) ~~For the part of fiscal year 2010 during which the 87408
franchise permit fee rate is eleven dollars and ninety eight 87409
cents, the number of days during fiscal year 2010 during which the 87410
franchise permit fee rate is that amount;~~ 87411

(ii) ~~For the part of fiscal year 2010 during which the 87412
franchise permit fee rate is fourteen dollars and seventy five 87413
cents, the number of days during fiscal year 2010 during which the 87414
franchise permit fee is that amount;~~ 87415

(iii) ~~For fiscal year 2011 and each fiscal year thereafter, 87416
the number of days in the fiscal year. 87417~~

(B) If the total amount of the franchise permit fee assessed 87418
under division (A) of this section for a fiscal year exceeds five 87419
~~and one half per cent~~ the indirect guarantee percentage of the 87420
actual net patient revenue for all intermediate care facilities 87421
for the mentally retarded for that fiscal year, do both of the 87422
following: 87423

(1) Recalculate the assessments under division (A) of this 87424
section using a per bed per day rate equal to ~~five and one half~~ 87425
~~per cent~~ the indirect guarantee percentage of actual net patient 87426
revenue for all intermediate care facilities for the mentally 87427
retarded for that fiscal year; 87428

(2) Refund the difference between the amount of the franchise 87429
permit fee assessed for that fiscal year under division (A) of 87430
this section and the amount recalculated under division (B)(1) of 87431
this section as a credit against the assessments imposed under 87432
division (A) of this section for the subsequent fiscal year. 87433

(C) If the United States secretary of health and human 87434
services determines that the franchise permit fee established by 87435
sections 5112.30 to 5112.39 of the Revised Code would be an 87436
impermissible health care-related tax under section 1903(w) of the 87437
"Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all 87438
necessary actions to cease implementation of those sections in 87439
accordance with rules adopted under section 5112.39 of the Revised 87440
Code. 87441

Sec. 5112.37. There is hereby created in the state treasury 87442
the home and community-based services for the mentally retarded 87443
and developmentally disabled fund. ~~Eighty-four~~ Eighty-one and ~~two~~ 87444
~~tenths~~ seventy-seven hundredths per cent of all installment 87445
payments and penalties paid by an intermediate care facility for 87446
the mentally retarded under sections 5112.33 and 5112.34 of the 87447
Revised Code for state fiscal year ~~2010~~ 2012 shall be deposited 87448
into the fund. ~~Seventy-nine~~ Eighty-two and ~~twelve hundredths~~ two 87449
tenths per cent of all installment payments and penalties paid by 87450
an intermediate care facility for the mentally retarded under 87451
sections 5112.33 and 5112.34 of the Revised Code for state fiscal 87452
year ~~2011~~ 2013 and thereafter shall be deposited into the fund. 87453
The department of job and family services shall distribute the 87454
money in the fund in accordance with rules adopted under section 87455
5112.39 of the Revised Code. The departments of job and family 87456
services and developmental disabilities shall use the money for 87457
the medicaid program established under Chapter 5111. of the 87458
Revised Code and home and community-based services to mentally 87459
retarded and developmentally disabled persons. 87460

Sec. 5112.371. There is hereby created in the state treasury 87461
the department of developmental disabilities operating and 87462
services fund. ~~Fifteen and eight tenths per cent of all~~ All 87463
installment payments and penalties paid by an intermediate care 87464

facility for the mentally retarded under sections 5112.33 and 87465
5112.34 of the Revised Code ~~for state fiscal year 2010 that are~~ 87466
~~not deposited into the home and community-based services for the~~ 87467
~~mentally retarded and developmentally disabled fund~~ shall be 87468
deposited into the department of developmental disabilities 87469
operating and services fund. ~~Twenty and eighty eight hundredths~~ 87470
~~per cent of all installment payments and penalties paid by an~~ 87471
~~intermediate care facility for the mentally retarded under~~ 87472
~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 87473
~~year 2011 and thereafter shall be deposited into the fund.~~ The 87474
money in the fund shall be used for the expenses of the programs 87475
that the department of ~~mental retardation and~~ developmental 87476
disabilities administers and the department's administrative 87477
expenses. 87478

Sec. 5112.39. The director of job and family services shall 87479
adopt rules in accordance with Chapter 119. of the Revised Code to 87480
do all of the following: 87481

(A) ~~Establish a composite inflation factor for the purpose of~~ 87482
~~division (A)(4) of section 5112.30 of the Revised Code;~~ 87483

~~(B)~~ Prescribe the actions the department will take to cease 87484
implementation of sections 5112.30 to 5112.39 of the Revised Code 87485
if the United States secretary of health and human services 87486
determines that the franchise permit fee imposed under section 87487
5112.31 of the Revised Code is an impermissible health 87488
care-related tax under section 1903(w) of the "Social Security 87489
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended; 87490

~~(C)~~(B) Establish the method of distributing the money in the 87491
home and community-based services for the mentally retarded and 87492
developmentally disabled fund created by section 5112.37 of the 87493
Revised Code; 87494

~~(D)~~(C) Establish any other requirements or procedures the 87495
director considers necessary to implement sections 5112.30 to 87496
5112.39 of the Revised Code. 87497

Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the 87498
Revised Code: 87499

(A) "Applicable assessment percentage" means the percentage 87500
specified in rules adopted under section 5112.46 of the Revised 87501
Code that is used in calculating a hospital's assessment under 87502
section 5112.41 of the Revised Code. 87503

(B) "Assessment program year" means the twelve-month period 87504
beginning the first day of October of a calendar year and ending 87505
the last day of September of the following calendar year. 87506

~~(B)~~(C) "Cost reporting period" means the period of time used 87507
by a hospital in reporting costs for purposes of the medicare 87508
program. 87509

~~(C)~~(D) "Federal fiscal year" means the twelve-month period 87510
beginning the first day of October of a calendar year and ending 87511
the last day of September of the following calendar year. 87512

~~(D)~~(E)(1) Except as provided in division ~~(D)~~(E)(2) of this 87513
section, "hospital" means a hospital to which any of the following 87514
applies: 87515

(a) The hospital is registered under section 3701.07 of the 87516
Revised Code as a general medical and surgical hospital or a 87517
pediatric general hospital and provides inpatient hospital 87518
services, as defined in 42 C.F.R. 440.10. 87519

(b) The hospital is recognized under the medicare program as 87520
a cancer hospital and is exempt from the medicare prospective 87521
payment system. 87522

(c) The hospital is a psychiatric hospital licensed under 87523
section 5119.20 of the Revised Code. 87524

(2) "Hospital" does not include either of the following:	87525
(a) A federal hospital;	87526
(b) A hospital that does not charge any of its patients for its services.	87527 87528
(E) <u>(F)</u> "Hospital care assurance program" means the program established under sections 5112.01 to 5112.21 of the Revised Code.	87529 87530
(F) <u>(G)</u> "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.	87531 87532
(G) <u>(H)</u> "Medicare" means the program established under Title XVIII of the Social Security Act.	87533 87534
(H) <u>(I)</u> "State fiscal year" means the twelve-month period beginning the first day of July of a calendar year and ending the last day of June of the following calendar year.	87535 87536 87537
(I) <u>(J)</u> (1) Except as provided in divisions (I) <u>(J)</u> (2) and (3) of this section, "total facility costs" means the total costs to a hospital for all care provided to all patients, including the direct, indirect, and overhead costs to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation.	87538 87539 87540 87541 87542 87543 87544
(2) "Total facility costs" excludes all of the following of a hospital's costs as shown on the cost-reporting data used for purposes of determining the hospital's assessment under section 5112.41 of the Revised Code:	87545 87546 87547 87548
(a) Skilled nursing services provided in distinct-part nursing facility units;	87549 87550
(b) Home health services;	87551
(c) Hospice services;	87552
(d) Ambulance services;	87553

(e) Renting durable medical equipment; 87554

(f) Selling durable medical equipment. 87555

(3) "Total facility costs" excludes any costs excluded from a 87556
hospital's total facility costs pursuant to rules, if any, adopted 87557
under division (B)(1) of section 5112.46 of the Revised Code. 87558

Sec. 5112.41. (A) For the purposes specified in section 87559
5112.45 of the Revised Code and subject to section 5112.48 of the 87560
Revised Code, there is hereby imposed an assessment on all 87561
hospitals each assessment program year. The amount of a hospital's 87562
assessment for an assessment program year shall equal, ~~except as~~ 87563
~~provided in division (D) of this section,~~ the applicable 87564
assessment percentage ~~specified in division (B) of this section~~ of 87565
the hospital's total facility costs for the period of time 87566
specified in division ~~(C)~~(B) of this section. The amount of a 87567
hospital's total facility costs shall be derived from 87568
cost-reporting data for the hospital submitted to the department 87569
of job and family services for purposes of the hospital care 87570
assurance program. If a hospital has not submitted that 87571
cost-reporting data to the department, the amount of a hospital's 87572
total facility costs shall be derived from other financial 87573
statements that the hospital shall provide to the department as 87574
directed by the department. The cost-reporting data or financial 87575
statements used to determine a hospital's assessment is subject to 87576
the same type of adjustments made to the cost-reporting data under 87577
the hospital care assurance program. 87578

(B) ~~The percentage specified in this division is the~~ 87579
~~following:~~ 87580

~~(1) For the first assessment program year beginning after the~~ 87581
~~effective date of this section, one and fifty two hundredths per~~ 87582
~~cent;~~ 87583

~~(2) Subject to division (D) of this section, for the second assessment program year after the effective date of this section and each successive assessment program year, one and sixty one hundredths per cent.~~ 87584
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~~(C) The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the federal fiscal year that precedes the assessment program year for which the assessment is imposed.~~ 87588
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~~(D) The department of job and family services shall apply to the United States secretary of health and human services for a waiver under 42 U.S.C. 1396b(w)(3)(E) to establish, for the second assessment program year after the effective date of this section and each successive assessment program year, a tiered assessment on hospitals' total facility costs instead of applying the percentage specified in division (B)(2) of this section. If the United States secretary denies the waiver, the department shall apply the percentage specified in division (B)(2) of this section for the second assessment program year after the effective date of this section and each successive assessment program year.~~ 87593
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~~(E)(C) The assessment imposed by this section on a hospital is in addition to the assessment imposed by section 5112.06 of the Revised Code.~~ 87604
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Sec. 5112.46. (A) The director of job and family services ~~may~~ shall adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5112.40 to 5112.48 of the Revised Code, including rules that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5112.41 of the Revised Code. 87607
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(B) The rules adopted under this section may ~~provide~~ do the 87614

<u>following:</u>	87615
<u>(1) Provide</u> that a hospital's total facility costs for the purpose of the assessment under section 5112.41 of the Revised Code exclude any of the following:	87616 87617 87618
(1) <u>(a)</u> A hospital's costs associated with providing care to recipients of any of the following:	87619 87620
(a) <u>(i)</u> The medicaid program;	87621
(b) <u>(ii)</u> The medicare program;	87622
(c) <u>(iii)</u> The disability financial assistance program established under Chapter 5115. of the Revised Code;	87623 87624
(d) <u>(iv)</u> The program for medically handicapped children established under section 3701.023 of the Revised Code;	87625 87626
(e) <u>(v)</u> Services provided under the maternal and child health services block grant established under Title V of the Social Security Act.	87627 87628 87629
(2) <u>(b)</u> Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.	87630 87631 87632
<u>(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;</u>	87633 87634 87635
<u>(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section 5112.43 of the Revised Code.</u>	87636 87637 87638 87639
<u>(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under section 1903(w)(3)(E) of the "Social Security Act,"</u>	87640 87641 87642 87643 87644

105 Stat. 1796 (1991), 42 U.S.C. 1396b(w)(3)(E), as amended, if 87645
the varied percentages would cause the assessments to not be 87646
imposed uniformly. 87647

Sec. 5112.99. (A) The director of job and family services 87648
shall impose a penalty for each day that a hospital fails to 87649
report the information required under section 5112.04 of the 87650
Revised Code on or before the dates specified in that section. The 87651
amount of the penalty shall be established by the director in 87652
rules adopted under section 5112.03 of the Revised Code. 87653

(B) In addition to any other remedy available to the 87654
department of job and family services under law to collect unpaid 87655
assessments and transfers under sections 5112.01 to 5112.21 of the 87656
Revised Code, the director shall impose a penalty of ten per cent 87657
of the amount due on any hospital that fails to pay assessments or 87658
make intergovernmental transfers by the dates required by rules 87659
adopted under section 5112.03 of the Revised Code. 87660

(C) In addition to any other remedy available to the 87661
department of job and family services under law to collect unpaid 87662
assessments imposed under section 5112.41 of the Revised Code, the 87663
director shall impose a penalty of ten per cent of the amount due 87664
on any hospital that fails to pay the assessment by the date it is 87665
due. 87666

(D) The director shall waive the penalties provided for in 87667
~~divisions (A) and (B)~~ of this section for good cause shown by the 87668
hospital. 87669

~~(D)~~(E) All penalties imposed under this section shall be 87670
deposited into the health care administration fund created by 87671
section 5111.94 of the Revised Code. 87672

Sec. 5112.991. The department of job and family services may 87673
offset the amount of a hospital's unpaid penalty imposed under 87674

section 5112.99 of the Revised Code from one or more payments due 87675
the hospital under the medicaid program. The total amount that may 87676
be offset from one or more payments shall not exceed the amount of 87677
the unpaid penalty. 87678

Sec. 5119.01. The director of mental health is the chief 87679
executive and administrative officer of the department of mental 87680
health. The director may establish procedures for the governance 87681
of the department, conduct of its employees and officers, 87682
performance of its business, and custody, use, and preservation of 87683
departmental records, papers, books, documents, and property. 87684
Whenever the Revised Code imposes a duty upon or requires an 87685
action of the department or any of its institutions, the director 87686
shall perform the action or duty in the name of the department, 87687
except that the medical director appointed pursuant to section 87688
5119.07 of the Revised Code shall be responsible for decisions 87689
relating to medical diagnosis, treatment, rehabilitation, quality 87690
assurance, and the clinical aspects of the following: licensure of 87691
hospitals and residential facilities, research, community mental 87692
health plans, and delivery of mental health services. 87693

The director shall: 87694

(A) Adopt rules for the proper execution of the powers and 87695
duties of the department with respect to the institutions under 87696
its control, and require the performance of additional duties by 87697
the officers of the institutions as necessary to fully meet the 87698
requirements, intents, and purposes of this chapter. In case of an 87699
apparent conflict between the powers conferred upon any managing 87700
officer and those conferred by such sections upon the department, 87701
the presumption shall be conclusive in favor of the department. 87702

(B) Adopt rules for the nonpartisan management of the 87703
institutions under the department's control. An officer or 87704

employee of the department or any officer or employee of any 87705
institution under its control who, by solicitation or otherwise, 87706
exerts influence directly or indirectly to induce any other 87707
officer or employee of the department or any of its institutions 87708
to adopt the exerting officer's or employee's political views or 87709
to favor any particular person, issue, or candidate for office 87710
shall be removed from the exerting officer's or employee's office 87711
or position, by the department in case of an officer or employee, 87712
and by the governor in case of the director. 87713

(C) Appoint such employees, including the medical director, 87714
as are necessary for the efficient conduct of the department, and 87715
prescribe their titles and duties; 87716

(D) Prescribe the forms of affidavits, applications, medical 87717
certificates, orders of hospitalization and release, and all other 87718
forms, reports, and records that are required in the 87719
hospitalization or admission and release of all persons to the 87720
institutions under the control of the department, or are otherwise 87721
required under this chapter or Chapter 5122. of the Revised Code; 87722

(E) Contract with hospitals licensed by the department under 87723
section 5119.20 of the Revised Code for the care and treatment of 87724
mentally ill patients, or with persons, organizations, or agencies 87725
for the custody, evaluation, supervision, care, or treatment of 87726
mentally ill persons receiving services elsewhere than within the 87727
enclosure of a hospital operated under section 5119.02 of the 87728
Revised Code; 87729

(F) Exercise the powers and perform the duties relating to 87730
community mental health facilities and services that are assigned 87731
to the director under this chapter and Chapter 340. of the Revised 87732
Code; 87733

(G) Develop and implement clinical evaluation and monitoring 87734
of services that are operated by the department; 87735

~~(H) At the director's discretion, adopt rules establishing standards for the adequacy of services provided by community mental health facilities, and certify the compliance of such facilities with the standards for the purpose of authorizing their participation in the health care plans of health insuring corporations under Chapter 1751. and sickness and accident insurance policies issued under Chapter 3923. of the Revised Code. The director shall cease to certify such compliance two years after June 6, 2001. The director shall rescind the rules after the date the director ceases to certify such compliance.~~

~~(I)~~ Adopt rules establishing standards for the performance of evaluations by a forensic center or other psychiatric program or facility of the mental condition of defendants ordered by the court under section 2919.271, or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial and ordered by the court under section 2945.38, 2945.39, 2945.401, or 2945.402 of the Revised Code to receive treatment in facilities;

~~(J)~~(I) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements;

~~(K)~~(J) Prepare and publish regularly a state mental health plan that describes the department's philosophy, current activities, and long-term and short-term goals and activities;

~~(L)~~(K) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

~~(M)~~(L) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

Sec. 5119.012. The department of mental health has all the 87767
authority necessary to carry out its powers and duties under this 87768
chapter and Chapters 340., 2919., 2945., and 5122. of the Revised 87769
Code. 87770

Sec. 5119.013. Pursuant to the director of mental health's 87771
authority under division (J) of section 5119.01 of the Revised 87772
Code, the director may contract with agencies, institutions, and 87773
other entities both public and private, as necessary for the 87774
department of mental health to carry out its duties under this 87775
chapter and Chapters 340., 2919., 2945., and 5122. of the Revised 87776
Code. Chapter 125. of the Revised Code does not apply to contracts 87777
the director enters into under this section. 87778

Sec. 5119.02. (A) The department of mental health shall 87779
maintain, operate, manage, and govern state institutions for the 87780
care and treatment of mentally ill persons. 87781

(B) The department of mental health may designate all 87782
institutions under its jurisdiction by appropriate respective 87783
names, regardless of present statutory designation. 87784

(C) Subject to section 5139.08 and pursuant to Chapter 5122. 87785
of the Revised Code and on the agreement of the departments of 87786
mental health and youth services, the department of mental health 87787
may receive from the department of youth services for psychiatric 87788
observation, diagnosis, or treatment any person eighteen years of 87789
age or older in the custody of the department of youth services. 87790
The departments shall enter into a written agreement specifying 87791
the procedures necessary to implement this division. 87792

(D) The department of mental health shall ~~provide and~~ 87793
designate hospitals, facilities, and community mental health 87794
agencies for the custody, care, and special treatment of, and 87795
authorize payment for such custody, care, and special treatment 87796

provided to, persons who are charged with a crime and who are 87797
found incompetent to stand trial or not guilty by reason of 87798
insanity. 87799

(E) The department of mental health may do all of the 87800
following: 87801

(1) Require reports from the managing officer of any 87802
institution under the department's jurisdiction, relating to the 87803
admission, examination, comprehensive evaluation, diagnosis, 87804
release, or discharge of any patient; 87805

(2) Visit each institution regularly to review its operations 87806
and to investigate complaints made by any patient or by any person 87807
on behalf of a patient, provided these duties may be performed by 87808
a person designated by the director. 87809

(F) The department of mental health shall divide the state 87810
into districts for the purpose of designating the institution in 87811
which mentally ill persons are hospitalized, and may change the 87812
districts. 87813

(G) In addition to the powers expressly conferred, the 87814
department of mental health shall have all powers and authority 87815
necessary for the full and efficient exercise of the executive, 87816
administrative, and fiscal supervision over the state institutions 87817
described in this section. 87818

(H) The department of mental health may provide for the 87819
custody, supervision, control, treatment, and training of mentally 87820
ill persons hospitalized elsewhere than within the enclosure of a 87821
hospital, if the department so determines with respect to any 87822
individual or group of individuals. In all such cases, the 87823
department shall ensure adequate and proper supervision for the 87824
protection of such persons and of the public. 87825

Sec. 5119.06. ~~(A)~~ The department of mental health shall: 87826

~~(1) Establish and~~ (A) To the extent the department has 87827
available resources and in consultation with boards of alcohol, 87828
drug addiction, and mental health services, support a ~~program at~~ 87829
~~the state level to promote a~~ community support system in 87830
accordance with section 340.03 of the Revised Code ~~to be available~~ 87831
~~for every alcohol, drug addiction, and mental health service~~ 87832
district on a district or multi-district basis. The department 87833
shall define the essential elements of a community support system, 87834
shall assist in identifying resources, ~~and coordinating the~~ 87835
~~planning, evaluation, and delivery of services to facilitate the~~ 87836
~~access of mentally ill people to public services at federal,~~ 87837
~~state, and local levels, and shall operate~~ may prioritize support 87838
for one or more of the elements. 87839

(B) Operate inpatient and other mental health services 87840
~~pursuant to the approved community mental health plan.~~ 87841

~~(2)~~i 87842

(C) Provide training, consultation, and technical assistance 87843
regarding mental health programs and services and appropriate 87844
prevention and mental health promotion activities, including those 87845
that are culturally sensitive, to employees of the department, 87846
community mental health agencies and boards, and other agencies 87847
providing mental health services; 87848

~~(3) Promote~~ (D) To the extent the department has available 87849
resources, promote and support a full range of mental health 87850
services that are available and accessible to all residents of 87851
this state, especially for severely mentally disabled children, 87852
adolescents, and adults, and other special target populations, 87853
including racial and ethnic minorities, as determined by the 87854
department. ~~i~~ 87855

~~(4)~~(E) Design and set criteria for the determination of 87856
severe mental disability; 87857

~~(5)~~(F) Establish standards for evaluation of mental health programs; 87858
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~~(6)~~(G) Promote, direct, conduct, and coordinate scientific research, taking ethnic and racial differences into consideration, concerning the causes and prevention of mental illness, methods of providing effective services and treatment, and means of enhancing the mental health of all residents of this state; 87860
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~~(7)~~(H) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for consumers of mental health services, including members of racial and ethnic minorities; 87865
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~~(8)~~(I) Establish a program to protect and promote the rights of persons receiving mental health services, including the issuance of guidelines on informed consent and other rights; 87869
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~~(9)~~(J) Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code; 87872
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~~(10)~~(K) Promote the involvement of persons who are receiving or have received mental health services, including families and other persons having a close relationship to a person receiving mental health services, in the planning, evaluation, delivery, and operation of mental health services-; 87878
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~~(11)~~(L) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of mental health. These constituencies shall include consumers of mental health services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the 87883
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department proposes the adoption, amendment, or rescission of 87889
rules under Chapter 119. of the Revised Code, the notification and 87890
consultation required by this division shall occur prior to the 87891
commencement of proceedings under Chapter 119. The department 87892
shall adopt rules under Chapter 119. of the Revised Code that 87893
establish procedures for the notification and consultation 87894
required by this division. 87895

~~(12)~~(M) In cooperation with board of alcohol, drug addiction, 87896
and mental health services representatives, provide training 87897
regarding the provision of community-based mental health services 87898
to those department employees who are utilized in state-operated, 87899
community-based mental health services; 87900

~~(13)~~(N) Provide consultation to the department of 87901
rehabilitation and correction concerning the delivery of mental 87902
health services in state correctional institutions. 87903

~~(B) The department of mental health may negotiate and enter 87904
into agreements with other agencies and institutions, both public 87905
and private, for the joint performance of its duties. 87906~~

Sec. 5119.16. As used in this section, "free clinic" has the 87907
same meaning as in section 2305.2341 of the Revised Code. 87908

(A) The department of mental health may provide certain goods 87909
and services for the department of mental health, the department 87910
of developmental disabilities, the department of rehabilitation 87911
and correction, the department of youth services, and other state, 87912
county, or municipal agencies requesting such goods and services 87913
when the department of mental health determines that it is in the 87914
public interest, and considers it advisable, to provide these 87915
goods and services. The department of mental health also may 87916
provide goods and services to agencies operated by the United 87917
States government and to public or private nonprofit agencies, 87918
other than free clinics, that are funded in whole or in part by 87919

the state if the public or private nonprofit agencies are 87920
designated for participation in this program by the director of 87921
mental health for community mental health agencies, the director 87922
of developmental disabilities for community mental retardation and 87923
developmental disabilities agencies, the director of 87924
rehabilitation and correction for community rehabilitation and 87925
correction agencies, or the director of youth services for 87926
community youth services agencies. 87927

Designated community agencies shall receive goods and 87928
services through the department of mental health only in those 87929
cases where the designating state agency certifies that providing 87930
such goods and services to the agency will conserve public 87931
resources to the benefit of the public and where the provision of 87932
such goods and services is considered feasible by the department 87933
of mental health. 87934

(B) The department of mental health may permit free clinics 87935
to purchase certain goods and services to the extent the purchases 87936
fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 87937
et seq., applicable to nonprofit institutions, in 15 U.S.C. 13c, 87938
as amended. 87939

(C) The goods and services that may be provided by the 87940
department of mental health under divisions (A) and (B) of this 87941
section may include: 87942

(1) Procurement, storage, processing, and distribution of 87943
food and professional consultation on food operations; 87944

(2) Procurement, storage, and distribution of medical and 87945
laboratory supplies, dental supplies, medical records, forms, 87946
optical supplies, and sundries, subject to section 5120.135 of the 87947
Revised Code; 87948

(3) Procurement, storage, repackaging, distribution, and 87949
dispensing of drugs, the provision of professional pharmacy 87950

consultation, and drug information services; 87951

(4) Other goods and services. 87952

(D) The department of mental health may provide the goods and 87953
services designated in division (C) of this section to its 87954
institutions and to state-operated community-based mental health 87955
services. 87956

(E) After consultation with and advice from the director of 87957
developmental disabilities, the director of rehabilitation and 87958
correction, and the director of youth services, the department of 87959
mental health may provide the goods and services designated in 87960
division (C) of this section to the department of developmental 87961
disabilities, the department of rehabilitation and correction, and 87962
the department of youth services. 87963

(F) The cost of administration of this section shall be 87964
determined by the department of mental health and paid by the 87965
agencies or free clinics receiving the goods and services to the 87966
department for deposit in the state treasury to the credit of the 87967
mental health fund, which is hereby created. The fund shall be 87968
used to pay the cost of administration of this section to the 87969
department. 87970

(G) Whenever a state agency fails to make a payment for goods 87971
and services provided under this section within thirty-one days 87972
after the date the payment was due, the office of budget and 87973
management may transfer moneys from the state agency to the 87974
department of mental health. The amount transferred shall not 87975
exceed the amount of overdue payments. Prior to making a transfer 87976
under this division, the office of budget and management shall 87977
apply any credits the state agency has accumulated in payments for 87978
goods and services provided under this section. 87979

(H) Purchases Except as specified in section 125.024 of the 87980
Revised Code, purchases of goods and services under this section 87981

are not subject to section 307.86 of the Revised Code. 87982

Sec. 5119.18. There is hereby created in the state treasury 87983
the department of mental health trust fund. Not later than the 87984
first day of September of each year, the director of mental health 87985
shall certify to the director of budget and management the amount 87986
of all of the unexpended, unencumbered balances of general revenue 87987
fund appropriations made to the department of mental health for 87988
the previous fiscal year, excluding funds appropriated for rental 87989
payments to the Ohio public facilities commission. On receipt of 87990
the certification, the director of budget and management shall 87991
transfer cash to the trust fund in an amount up to, but not 87992
exceeding, the total of the amounts certified by the director of 87993
mental health. 87994

In addition, the trust fund shall receive all amounts, 87995
subject to any provisions in bond documents, received from the 87996
sale or lease of lands and facilities by the department. 87997

All moneys in the trust fund shall be used by the department 87998
of mental health ~~for mental health purposes specified in division~~ 87999
~~(A) of section 5119.06 of the Revised Code to pay for expenditures~~ 88000
~~the department incurs in performing any of its duties under this~~ 88001
~~chapter.~~ The use of moneys in the trust fund pursuant to this 88002
section does not represent an ongoing commitment to the 88003
continuation of the trust fund or to the use of moneys in the 88004
trust fund. 88005

Sec. 5119.22. (A)(1) As used in this section and sections 88006
5119.221 and 5119.222 of the Revised Code: 88007

(a) "Community mental health agency" means a community mental 88008
health agency as defined in division (H) of section 5122.01 of the 88009
Revised Code, ~~or, until two years after the effective date of this~~ 88010
~~amendment, a community mental health facility certified by the~~ 88011

~~department of mental health pursuant to division (H) of section 88012
5119.01 of the Revised Code. 88013~~

(b) "Community mental health services" means any of the 88014
services listed in section 340.09 of the Revised Code. 88015

(c) "Personal care services" means services including, but 88016
not limited to, the following: 88017

(i) Assisting residents with activities of daily living; 88018

(ii) Assisting residents with self-administration of 88019
medication in accordance with rules adopted under this section; 88020

(iii) Preparing special diets, other than complex therapeutic 88021
diets, for residents pursuant to the instructions of a physician 88022
or a licensed dietitian, in accordance with rules adopted under 88023
this section. 88024

"Personal care services" does not include "skilled nursing 88025
care" as defined in section 3721.01 of the Revised Code. A 88026
facility need not provide more than one of the services listed in 88027
division (A)(1)(c) of this section to be considered to be 88028
providing personal care services. 88029

(d) "Residential facility" means a publicly or privately 88030
operated home or facility that provides one of the following: 88031

(i) Room and board, personal care services, and community 88032
mental health services to one or more persons with mental illness 88033
or persons with severe mental disabilities who are referred by or 88034
are receiving community mental health services from a community 88035
mental health agency, hospital, or practitioner; 88036

(ii) Room and board and personal care services to one or two 88037
persons with mental illness or persons with severe mental 88038
disabilities who are referred by or are receiving community mental 88039
health services from a community mental health agency, hospital, 88040
or practitioner; 88041

(iii) Room and board to five or more persons with mental 88042
illness or persons with severe mental disabilities who are 88043
referred by or are receiving community mental health services from 88044
a community mental health agency, hospital, or practitioner. 88045

The following are not residential facilities: the residence 88046
of a relative or guardian of a mentally ill individual, a hospital 88047
subject to licensure under section 5119.20 of the Revised Code, a 88048
residential facility as defined in section 5123.19 of the Revised 88049
Code, a facility providing care for a child in the custody of a 88050
public children services agency or a private agency certified 88051
under section 5103.03 of the Revised Code, a foster care facility 88052
subject to section 5103.03 of the Revised Code, an adult care 88053
facility subject to licensure under ~~Chapter 3722.~~ sections 5119.70 88054
to 5119.88 of the Revised Code, and a nursing home, residential 88055
care facility, or home for the aging subject to licensure under 88056
section 3721.02 of the Revised Code. 88057

(2) Nothing in division (A)(1)(d) of this section shall be 88058
construed to permit personal care services to be imposed on a 88059
resident who is capable of performing the activity in question 88060
without assistance. 88061

(3) Except in the case of a residential facility described in 88062
division (A)(1)(d)(i) of this section, members of the staff of a 88063
residential facility shall not administer medication to residents, 88064
all medication taken by residents of a residential facility shall 88065
be self-administered, and no person shall be admitted to or 88066
retained by a residential facility unless the person is capable of 88067
taking the person's own medication and biologicals, as determined 88068
in writing by the person's personal physician. Members of the 88069
staff of a residential facility may do any of the following: 88070

(a) Remind a resident when to take medication and watch to 88071
ensure that the resident follows the directions on the container; 88072

(b) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(B) Every person operating or desiring to operate a residential facility shall apply for licensure of the facility to the department of mental health and shall send a copy of the application to the board of alcohol, drug addiction, and mental health services whose service district includes the county in which the person operates or desires to operate a residential facility. The board shall review such applications and recommend approval or disapproval to the department. Each recommendation shall be consistent with the board's community mental health plan.

(C) The department of mental health shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision. The department may issue full, probationary, and interim licenses. A full license shall expire two years after the date of issuance, a probationary license shall expire in a shorter period of time as prescribed by rule adopted by the director of mental health pursuant to Chapter 119. of the Revised Code, and an interim license shall expire

ninety days after the date of issuance. The department may refuse 88105
to issue or renew and may revoke a license if it finds the 88106
facility is not in compliance with rules adopted by the department 88107
pursuant to division (G) of this section or if any facility 88108
operated by the applicant or licensee has had repeated violations 88109
of statutes or rules during the period of previous licenses. 88110
Proceedings initiated to deny applications for full or 88111
probationary licenses or to revoke such licenses are governed by 88112
Chapter 119. of the Revised Code. 88113

(D) The department may issue an interim license to operate a 88114
residential facility if both of the following conditions are met: 88115

(1) The department determines that the closing of or the need 88116
to remove residents from another residential facility has created 88117
an emergency situation requiring immediate removal of residents 88118
and an insufficient number of licensed beds are available. 88119

(2) The residential facility applying for an interim license 88120
meets standards established for interim licenses in rules adopted 88121
by the director under Chapter 119. of the Revised Code. 88122

An interim license shall be valid for ninety days and may be 88123
renewed by the director no more than twice. Proceedings initiated 88124
to deny applications for or to revoke interim licenses under this 88125
division are not subject to Chapter 119. of the Revised Code. 88126

(E) The department of mental health may conduct an inspection 88127
of a residential facility: 88128

(1) Prior to the issuance of a license to a prospective 88129
operator; 88130

(2) Prior to the renewal of any operator's license; 88131

(3) To determine whether a facility has completed a plan of 88132
correction required pursuant to this division and corrected 88133
deficiencies to the satisfaction of the department and in 88134

compliance with this section and rules adopted pursuant to it;	88135
(4) Upon complaint by any individual or agency;	88136
(5) At any time the director considers an inspection to be necessary in order to determine whether a residential facility is in compliance with this section and rules adopted pursuant to this section.	88137 88138 88139 88140
In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility, its personnel, activities, and services. The department shall have access to examine all records, accounts, and any other documents relating to the operation of the residential facility, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.	88141 88142 88143 88144 88145 88146 88147 88148 88149 88150 88151 88152
(F) No person shall do any of the following:	88153
(1) Operate a residential facility unless the facility holds a valid license;	88154 88155
(2) Violate any of the conditions of licensure after having been granted a license;	88156 88157
(3) Interfere with a state or local official's inspection or investigation of a residential facility;	88158 88159
(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.	88160 88161
(G) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code, prescribing minimum standards for the health, safety, adequacy, and cultural	88162 88163 88164

specificity and sensitivity of treatment of and services for 88165
persons in residential facilities; establishing procedures for the 88166
issuance, renewal or revocation of the licenses of such 88167
facilities; establishing the maximum number of residents of a 88168
facility; establishing the rights of residents and procedures to 88169
protect such rights; and requiring an affiliation agreement 88170
approved by the board between a residential facility and a mental 88171
health agency. Such affiliation agreement must be consistent with 88172
the residential portion of the community mental health plan 88173
submitted pursuant to section 340.03 of the Revised Code. 88174

(H) The department may investigate any facility that has been 88175
reported to the department or that the department has reasonable 88176
cause to believe is operating as a residential facility without a 88177
valid license. 88178

(I) The department may withhold the source of any complaint 88179
reported as a violation of this act when the department determines 88180
that disclosure could be detrimental to the department's purposes 88181
or could jeopardize the investigation. The department may disclose 88182
the source of any complaint if the complainant agrees in writing 88183
to such disclosure and shall disclose the source upon order by a 88184
court of competent jurisdiction. 88185

(J) The director of mental health may petition the court of 88186
common pleas of the county in which a residential facility is 88187
located for an order enjoining any person from operating a 88188
residential facility without a license or from operating a 88189
licensed facility when, in the director's judgment, there is a 88190
real and present danger to the health or safety of any of the 88191
occupants of the facility. The court shall have jurisdiction to 88192
grant such injunctive relief upon a showing that the respondent 88193
named in the petition is operating a facility without a license or 88194
there is a real and present danger to the health or safety of any 88195
residents of the facility. 88196

(K) Whoever violates division (F) of this section or any rule adopted under this section is liable for a civil penalty of one hundred dollars for the first offense; for each subsequent offense, such violator is liable for a civil penalty of five hundred dollars. If the violator does not pay, the attorney general, upon the request of the director of mental health, shall bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the mental health sale of goods and services fund.

Sec. 5119.221. (A) Upon petition by the director of mental health, the court of common pleas or the probate court may appoint a receiver to take possession of and operate a residential facility licensed pursuant to section 5119.22 of the Revised Code, when conditions existing at the residential facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents.

Petitions filed pursuant to this section shall include:

(1) A description of the specific conditions existing at the residential facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the residential facility as a pattern or practice; and

(5) The name and address of the person holding the license 88227
for the residential facility. 88228

(B) A court in which a petition is filed pursuant to this 88229
section shall notify the person holding the license for the 88230
facility of the filing. The department shall send notice of the 88231
filing to the following, as appropriate: the ~~legal rights service~~ 88232
~~created pursuant to~~ Ohio protection and advocacy system as defined 88233
in section 5123.60 of the Revised Code; facility owner; facility 88234
operator; board of alcohol, drug addiction, and mental health 88235
services; board of health; department of developmental 88236
disabilities; department of job and family services; facility 88237
residents; and residents' families and guardians. The court shall 88238
provide a hearing on the petition within five court days of the 88239
time it was filed, except that the court may appoint a receiver 88240
prior to that time if it determines that the circumstances 88241
necessitate such action. 88242

Following a hearing on the petition, and upon a determination 88243
that the appointment of a receiver is warranted, the court shall 88244
appoint a receiver and notify the department of mental health and 88245
appropriate persons of this action. 88246

In setting forth the powers of the receiver, the court may 88247
generally authorize the receiver to do all that is prudent and 88248
necessary to safely and efficiently operate the residential 88249
facility within the requirements of state and federal law, but 88250
shall require the receiver to obtain court approval prior to 88251
making any single expenditure of more than five thousand dollars 88252
to correct deficiencies in the structure or furnishings of a 88253
facility. The court shall closely review the conduct of the 88254
receiver and shall require regular and detailed reports. 88255

(C) A receivership established pursuant to this section shall 88256
be terminated, following notification of the appropriate parties 88257
and a hearing, if the court determines either of the following: 88258

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility;

(2) Circumstances no longer exist at the residential facility which present a substantial risk of physical or mental harm to residents, and there is no deficiency in the residential facility that is likely to create a future risk of harm.

Notwithstanding division (C)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of mental health.

(D) Except for the department of mental health or appropriate board of alcohol, drug addiction, and mental health services, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of the department of mental health shall maintain a list of the names of such persons. The department of mental health, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before entering upon the duties of receiver, the receiver must be sworn to perform the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court, a receiver may do the following:

(a) Bring and defend actions in the appointee's name as

receiver;	88290
(b) Take and keep possession of property.	88291
(2) The court shall authorize the receiver to do the following:	88292
(a) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;	88294 88295 88296 88297 88298
(b) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession, but, in the case of a rental agreement only to the extent of payments that are for the use of the property during the period of the receivership, or, in the case of a purchase agreement, only to the extent that payments come due during the period of the receivership;	88299 88300 88301 88302 88303 88304 88305
(c) If transfer of residents is necessary, provide for the orderly transfer of residents by:	88306 88307
(i) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;	88308 88309 88310
(ii) Providing for the transportation of residents' belongings and records;	88311 88312
(iii) Helping to locate alternative placements and develop plans for transfer;	88313 88314
(iv) Encouraging residents or guardians to participate in transfer planning except when an emergency exists and immediate transfer is necessary.	88315 88316 88317
(d) Make periodic reports on the status of the residential facility to the court; the appropriate state agencies; and the	88318 88319

board of alcohol, drug addiction, and mental health services. Each 88320
report shall be made available to residents, their guardians, and 88321
families. 88322

(e) Compromise demands or claims; and 88323

(f) Generally do such acts respecting the residential 88324
facility as the court authorizes. 88325

Notwithstanding any other provision of law, contracts which 88326
are necessary to carry out the powers and duties of the receiver 88327
need not be competitively bid. 88328

Sec. 5119.222. No rule adopted under section 5119.22 of the 88329
Revised Code regarding documentation that residential facilities 88330
must submit to the department of mental health or a board of 88331
alcohol, drug addiction, and mental health services shall be more 88332
stringent than a comparable documentation submission requirement 88333
that applies to residential facilities and is established by a 88334
federal regulation promulgated by the United States department of 88335
health and human services. 88336

Sec. 5119.61. Any provision in this chapter that refers to a 88337
board of alcohol, drug addiction, and mental health services also 88338
refers to the community mental health board in an alcohol, drug 88339
addiction, and mental health service district that has a community 88340
mental health board. 88341

The director of mental health with respect to all facilities 88342
and programs established and operated under Chapter 340. of the 88343
Revised Code for mentally ill and emotionally disturbed persons, 88344
shall do all of the following: 88345

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 88346
that may be necessary to carry out the purposes of Chapter 340. 88347
and sections 5119.61 to 5119.63 of the Revised Code. 88348

(1) The rules shall include all of the following:	88349
(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section 173.35 <u>5119.69</u> of the Revised Code;	88350 88351 88352 88353
(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 3722.18 <u>5119.88</u> of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:	88354 88355 88356 88357 88358 88359 88360 88361
(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A) of section 3722.18 <u>5119.88</u> of the Revised Code;	88362 88363 88364 88365
(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.	88366 88367 88368 88369 88370
(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 <u>5119.87</u> of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.	88371 88372 88373 88374 88375 88376
(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B)	88377 88378 88379

of that section. Such rules must be consistent with the contract 88380
entered into between the departments of job and family services 88381
and mental health under section 5111.91 of the Revised Code and 88382
include requirements ensuring appropriate service utilization. 88383

(B) Review and evaluate, and, taking into account the 88384
findings and recommendations of the board of alcohol, drug 88385
addiction, and mental health services of the district served by 88386
the program and the requirements and priorities of the state 88387
mental health plan, including the needs of residents of the 88388
district now residing in state mental institutions, ~~approve and~~ 88389
~~allocate funds to support community programs,~~ and make 88390
recommendations for needed improvements to boards of alcohol, drug 88391
addiction, and mental health services; 88392

(C) ~~Withhold state and federal funds for any program, in~~ 88393
~~whole or in part, from a board of alcohol, drug addiction, and~~ 88394
~~mental health services in the event of failure of that program to~~ 88395
~~comply with Chapter 340. or section 5119.61, 5119.611, 5119.612,~~ 88396
~~or 5119.62 of the Revised Code or rules of the department of~~ 88397
~~mental health. The director shall identify the areas of~~ 88398
~~noncompliance and the action necessary to achieve compliance. The~~ 88399
~~director shall offer technical assistance to the board to achieve~~ 88400
~~compliance. The director shall give the board a reasonable time~~ 88401
~~within which to comply or to present its position that it is in~~ 88402
~~compliance. Before withholding funds, a hearing shall be conducted~~ 88403
~~to determine if there are continuing violations and that either~~ 88404
~~assistance is rejected or the board is unable to achieve~~ 88405
~~compliance. Subsequent to the hearing process, if it is determined~~ 88406
~~that compliance has not been achieved, the director may allocate~~ 88407
~~all or part of the withheld funds to a public or private agency to~~ 88408
~~provide the services not in compliance until the time that there~~ 88409
~~is compliance. The director shall establish rules pursuant to~~ 88410
~~Chapter 119. of the Revised Code to implement this division.~~ 88411

~~(D) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;~~ 88412
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~~(E)~~ Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services; 88418
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~~(F)~~ Provide (D) At the director's discretion, provide to 88421
boards of alcohol, drug addiction, and mental health services 88422
state or federal funds, in addition to those allocated under 88423
section 5119.62 of the Revised Code, for special programs or 88424
projects the director considers necessary but for which local 88425
funds are not available; 88426

~~(G)~~(E) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions. 88427
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~~(H)~~ Develop (F) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, develop and operate, or contract for the operation of, a community mental health 88440
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information system or systems. 88444

Boards of alcohol, drug abuse, and mental health services 88445
shall submit information requested by the department in the form 88446
and manner prescribed by the department. Information collected by 88447
the department shall include, but not be limited to, all of the 88448
following: 88449

(1) Information regarding units of services provided in whole 88450
or in part under contract with a board, including diagnosis and 88451
special needs, demographic information, the number of units of 88452
service provided, past treatment, financial status, and service 88453
dates in accordance with rules adopted by the department in 88454
accordance with Chapter 119. of the Revised Code; 88455

(2) Financial information other than price or price-related 88456
data regarding expenditures of boards and community mental health 88457
agencies, including units of service provided, budgeted and actual 88458
expenses by type, and sources of funds. 88459

Boards shall submit the information specified in division 88460
~~(H)~~(F)(1) of this section no less frequently than annually for 88461
each client, and each time the client's case is opened or closed. 88462
The department shall not collect any personal information from the 88463
boards except as required or permitted by state or federal law for 88464
purposes related to payment, health care operations, program and 88465
service evaluation, reporting activities, research, system 88466
administration, and oversight. 88467

~~(I)~~(G) Review each board's community mental health plan 88468
submitted pursuant to section 340.03 of the Revised Code and 88469
approve or disapprove it in whole or in part. Periodically, in 88470
consultation with representatives of boards and after considering 88471
the recommendations of the medical director, the director shall 88472
issue criteria for determining when a plan is complete, criteria 88473
for plan approval or disapproval, and provisions for conditional 88474

approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute ~~thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire~~, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. ~~Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the~~ The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.611. (A) A community mental health agency that 88506
seeks certification of its community mental health services shall 88507
submit an application to the director of mental health. On receipt 88508
of the application, the director may visit and shall evaluate the 88509
agency to determine whether its services satisfy the standards 88510
established by rules adopted under division (C) of this section. 88511
The director shall make the evaluation, and, if the director 88512
visits the agency, shall make the visit, in cooperation with the 88513
board of alcohol, drug addiction, and mental health services with 88514
which the agency seeks to contract under division (A)(8)(a) of 88515
section 340.03 of the Revised Code. 88516

~~If (B)(1) Subject to division (B)(2) of this section, the~~ 88517
~~director shall determine whether the services of an applicant's~~ 88518
~~community mental health agency satisfy the standards for~~ 88519
~~certification of the services.~~ 88520

If the director determines that a community mental health 88521
agency's services satisfy the standards for certification and the 88522
agency has paid the fee required under division ~~(B)(D)~~ of this 88523
section, the director shall certify the services. 88524

~~If (2) If an applicant submits to the director evidence of~~ 88525
~~holding national accreditation from the joint commission, the~~ 88526
~~council on accreditation of rehabilitation facilities, or the~~ 88527
~~council on accreditation, the director shall accept that~~ 88528
~~accreditation as evidence of the applicant satisfying the~~ 88529
~~standards for certification of the community mental health~~ 88530
~~agency's services. The director shall certify or recertify the~~ 88531
~~agency's services without any further evaluation of the services.~~ 88532

(C) If the director determines that a community mental health 88533
agency's services do not satisfy the standards for certification, 88534
the director shall identify the areas of noncompliance, specify 88535
what action is necessary to satisfy the standards, and offer 88536

technical assistance to the board of alcohol, drug addiction, and 88537
mental health services so that the board may assist the agency in 88538
satisfying the standards. The director shall give the agency a 88539
reasonable time within which to demonstrate that its services 88540
satisfy the standards or to bring the services into compliance 88541
with the standards. If the director concludes that the services 88542
continue to fail to satisfy the standards, the director may 88543
request that the board reallocate the funds for the community 88544
mental health services the agency was to provide to another 88545
community mental health agency whose community mental health 88546
services satisfy the standards. If the board does not reallocate 88547
those funds in a reasonable period of time, the director may 88548
withhold state and federal funds for the community mental health 88549
services and allocate those funds directly to a community mental 88550
health agency whose community mental health services satisfy the 88551
standards. 88552

~~(B)~~(D) Each community mental health agency seeking 88553
certification of its community mental health services under this 88554
section shall pay a fee for the certification ~~review~~ required by 88555
this section. Fees shall be paid into the sale of goods and 88556
services fund created pursuant to section 5119.161 of the Revised 88557
Code. 88558

~~(C)~~(E) The director shall adopt rules in accordance with 88559
Chapter 119. of the Revised Code to implement this section. The 88560
rules shall do all of the following: 88561

(1) Establish certification standards for community mental 88562
health services, including assertive community treatment and 88563
intensive home-based mental health services, that are consistent 88564
with nationally recognized applicable standards and facilitate 88565
participation in federal assistance programs. The rules shall 88566
include as certification standards only requirements that improve 88567
the quality of services or the health and safety of clients of 88568

community mental health services. The standards shall address at a minimum all of the following:

- (a) Reporting major unusual incidents to the director;
- (b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;
- (c) Seclusion;
- (d) Restraint;
- (e) Development of written policies addressing the rights of clients, including all of the following:
 - (i) The right to a copy of the written policies addressing client rights;
 - (ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;
 - (iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;
 - (iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.

(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;

(3) Establish the process for certification of community mental health services;

(4) Set the amount of certification review fees based on a portion of the cost of performing the review;

(5) Specify the type of notice and hearing to be provided 88598
prior to a decision on whether to reallocate funds. 88599

Sec. 5119.612. No rule adopted under section 5119.611 of the 88600
Revised Code regarding documentation that community mental health 88601
agencies must submit to the department of mental health or a board 88602
of alcohol, drug addiction, and mental health services shall be 88603
more stringent than a comparable documentation submission 88604
requirement that applies to community mental health agencies and 88605
is established by a federal regulation promulgated by the United 88606
States department of health and human services. 88607

~~Sec. 5119.612~~ 5119.613. The director of mental health shall 88608
require that each board of alcohol, drug addiction, and mental 88609
health services ensure that each community mental health agency 88610
with which it contracts under division (A)(8)(a) of section 340.03 88611
of the Revised Code to provide community mental health services 88612
establish grievance procedures consistent with rules adopted under 88613
section 5119.611 of the Revised Code that are available to all 88614
applicants for and clients of the community mental health 88615
services. 88616

~~Sec. 5119.613~~ 5119.614. For purposes of ~~Chapter 3722-~~ 88617
sections 5119.70 to 5119.88 of the Revised Code, the director of 88618
mental health shall approve a standardized form to be used in all 88619
areas of this state by adult care facilities and boards of 88620
alcohol, drug addiction, and mental health services when entering 88621
into mental health resident program participation agreements. As 88622
part of approving the form, the director shall specify the 88623
requirements that adult care facilities must meet in order to be 88624
authorized to admit residents who are receiving or are eligible 88625
for publicly funded mental health services. 88626

Sec. 5119.62. (A) ~~Upon approving the plan submitted pursuant~~ 88627
~~to section 340.03 of the Revised Code, the director~~ The department 88628
of mental health shall ~~authorize the payment of funds~~ establish a 88629
methodology for allocating to a board boards of alcohol, drug 88630
addiction, and mental health services ~~from the~~ funds appropriated 88631
~~for such purpose~~ by the general assembly to the department for the 88632
purpose of local mental health systems of care. The ~~director~~ 88633
department shall ~~release all or part of such~~ establish the 88634
methodology after notifying and consulting with relevant 88635
constituencies as required by division (L) of section 5119.06 of 88636
the Revised Code. The methodology may provide for the funds to be 88637
allocated to boards on a district or multi-district basis. Subject 88638
to sections 5119.622 and 5119.623 of the Revised Code, the 88639
department shall allocate the funds as is to the boards in a 88640
manner consistent with the methodology, this section, other state 88641
and federal laws, rules, and regulations, ~~and the approved plan.~~ 88642

(B)(1) ~~The director, in consultation with relevant~~ 88643
~~constituencies as required by division (A)(11) of section 5119.06~~ 88644
of the Revised Code, shall establish a formula for allocating to 88645
boards of alcohol, drug addiction, and mental health services 88646
appropriations ~~from the general revenue fund for the purpose of~~ 88647
local management of mental health services ~~as this purpose is~~ 88648
identified in appropriations to the department of mental health in 88649
appropriation acts. The formula shall include as a factor ~~the~~ 88650
~~number of severely mentally disabled persons residing in each~~ 88651
alcohol, drug addiction, and mental health service district ~~and~~ 88652
~~may include other factors, including, but not limited to, the~~ 88653
~~historical utilization of public hospitals by persons in each~~ 88654
service district. The appropriations shall be allocated to each 88655
board in accordance with the formula but shall be distributed only 88656
to those boards that elect the option provided under division 88657
~~(B)(3)(a) of this section.~~ 88658

~~(2) The director shall allocate each fiscal year to boards of alcohol, drug addiction, and mental health services for services to severely mentally disabled persons a percentage of the appropriations to the department from the general revenue fund for the purposes of hospital personal services, hospital maintenance, and hospital equipment as those purposes are identified in appropriations to the department in appropriation acts. After excluding funds for providing services to persons committed to the department pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, or 5139.08 of the Revised Code, the percentage of those appropriations so allocated each year shall equal ten per cent in fiscal year 1990, twenty per cent in fiscal year 1991, forty per cent in fiscal year 1992, sixty per cent in fiscal year 1993, eighty per cent in fiscal year 1994, and one hundred per cent in fiscal year 1995 and thereafter. The amounts so allocated shall be transferred from the appropriations for the purposes of hospital personal services, hospital maintenance, and hospital equipment and credited to appropriations for the purpose of local management of mental health services. Appropriations for the purpose of local management of mental health services may be used by the department and by the boards The department may allocate to boards a portion of the funds appropriated by the general assembly to the department for the operation of state hospital services. If the department allocates the funds, the department shall do all of the following:~~

(1) In consultation with the boards:

(a) Annually determine the unit costs of providing state hospital services; and

(b) Establish the methodology for allocating the funds to the boards.

(2) Determine the type of unit costs of providing state hospital services to be included as a factor in the methodology

and include that unit cost as a factor in the methodology; 88691

(3) Subject to sections 5119.622 and 5119.623 of the Revised Code, allocate the funds to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations. 88692
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~~(3) No(c) Not~~ later than the first day of April of each year, 88696
the department ~~of mental health~~ shall notify each board ~~of~~ 88697
~~alcohol, drug addiction, and mental health services~~ of the 88698
department's estimate of the amount of ~~general revenue~~ funds to be 88699
allocated to the board under ~~division (D)~~ of this section during 88700
the fiscal year beginning on the next July first. ~~No~~ If the 88701
department makes an allocation under division (B) of this section, 88702
the department shall also notify each board of the unit costs of 88703
providing state hospital services for the upcoming fiscal year as 88704
determined under that division. Not later than the first day of 88705
May of each year, each board shall notify the ~~director~~ department 88706
as to which of the following options it has elected for ~~that~~ the 88707
upcoming fiscal year: 88708

~~(a)(1)~~ The board elects to accept distribution of the amount 88709
allocated to it under ~~division (B)(1)~~ of this section. ~~Any board~~ 88710
~~that makes such an election shall agree to make payments into the~~ 88711
~~risk fund established in division (E) of this section, to make any~~ 88712
~~payments for utilization of state hospitals that are required~~ 88713
~~under division (E)(3) of this section, to use the funds~~ 88714
~~distributed to it within the limitations set forth in division~~ 88715
~~(B)(2) of this section, and to provide the department with a~~ 88716
~~statement of projected utilization of state hospitals and other~~ 88717
~~state operated services by residents of its service district~~ 88718
~~during the fiscal year.~~ 88719

The department shall retain and expend the funds projected to 88720
be utilized for state hospitals and other state operated services 88721
section. Funds distributed to each board shall be used to 88722

supplement and not to supplant other state, local, or federal 88723
funds that are being used to support community-based programs for 88724
severely mentally disabled children, adolescents, and adults, 88725
unless the funds have been specifically designated for the 88726
initiation of programs in accordance with the community mental 88727
health plan developed and submitted under section 340.03 and 88728
approved under section 5119.61 of the Revised Code. 88729
Notwithstanding section 131.33 of the Revised Code, any board may 88730
expend unexpended funds distributed to the board from 88731
appropriations for the purpose of local management of mental 88732
health services in the fiscal year following the fiscal year ~~in~~ 88733
for which the appropriations are made, in accordance with the 88734
approved community mental health plan. 88735

~~(b) The (2) Subject to division (D) of this section, the~~ 88736
board elects not to accept the amount allocated to it under 88737
~~division (B)(1) of this section, authorizes the department to~~ 88738
determine the use of its allocation, and agrees to provide the 88739
department with a statement of projected utilization of state 88740
hospitals and other state-operated services by residents of its 88741
service district during the fiscal year. 88742

~~(4) Beginning with the notification required to be made by~~ 88743
~~May 1, 1995, under division (B)(3) of this section, no (D) No~~ 88744
board of alcohol, drug addiction, and mental health services shall 88745
elect the option in division ~~(B)(3)(b)(C)(2)~~ of this section 88746
unless ~~one~~ all of the following ~~applies~~ apply: 88747

~~(a) The (1) Either the total general revenue funds estimated~~ 88748
by the department to be allocated to the board under this section 88749
for the next fiscal year ~~is~~ are reduced by a substantial amount, 88750
as defined in guidelines adopted by the director of mental health 88751
under division ~~(B)(4)(E)~~ of this section, in comparison to the 88752
amount allocated for the current fiscal year, for reasons not 88753
related to performance. 88754

~~(b) The amount of estimated general revenue funds to be allocated to the board is not reduced by a substantial amount but or the board has experienced other circumstances specified in the guidelines adopted by the director under division (B)(4) of this section.~~ 88755
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~~The director shall consult with boards of alcohol, drug addiction, and mental health services and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of general revenue funds for the purpose of electing the option under division (B)(3)(b) of this section, and what other circumstances qualify a board to elect that option.~~ 88760
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~~Beginning with the notification required to be made by May 1, 1995, under division (B)(3) of this section, no board shall notify the director that it elects the option under division (B)(3)(b) of this section unless it has conducted (2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following:~~ 88767
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~~(a) Individuals who receive mental health services and such individuals' families;~~ 88774
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~~(b) Boards of county commissioners;~~ 88776

~~(c) Judges of juvenile and probate courts;~~ 88777

~~(d) County sheriffs, jail administrators, and other local law enforcement officials.~~ 88778
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~~(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation required by division (D)(2) of this section, the board conducts a public hearing on the issue no later than seven days before making the notification.~~ 88780
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~~(C) Boards of alcohol, drug addiction, and mental health services and community mental health agencies (E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of funds and what other circumstances qualify a board to elect the option in division (C)(2) of this section.~~ 88785
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~~(F) No board shall not use state funds for the purpose of influencing employees with respect to unionization. As used in this division, "influencing" means discouraging employees from seeking collective bargaining representation or encouraging employees to decertify a recognized collective bargaining agent.~~ 88792
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~~(D) The director shall develop, and review at least annually, a methodology, including the formula developed under division (B)(1) of this section, for distributing and allocating funds to boards. The methodology shall be consistent with state and federal law and regulations. A portion of the funds shall be distributed based on the ratio of the population of the district served by the board to the total population of the state as determined from the federal census or the most recent estimates produced by the United States census bureau's federal state cooperative program for population program series P-26 or the population estimates and projections program series P-25, whichever is most recent.~~ 88797
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~~(E)(1) There is hereby created in the state treasury the department of mental health risk fund, which shall receive payments from boards that have elected the option provided in division (B)(3)(a) of this section. All investment earnings of the fund shall be credited to the fund. Moneys in the fund shall be used for the following purposes:~~ 88808
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~~(a) To assist boards that elect the option provided in division (B)(3)(a) of this section and that serve service districts in which the costs of utilization of state hospitals by~~ 88814
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~~residents in a fiscal year exceed the amount allocated to the 88817
district under the formula developed under division (B)(1) of this 88818
section. The department shall define such costs by unit and 88819
establish them annually after consultation with representatives of 88820
such boards. 88821~~

~~(b) To make payments to boards that elect the option provided 88822
in division (B)(3)(a) of this section and that experience 88823
conditions of financial hardship, as determined by the director. 88824~~

~~The director of mental health, in consultation with 88825
representatives of the boards, shall develop guidelines for the 88826
use of moneys in the risk fund. 88827~~

~~(2) On or before the first day of April of each year, the 88828
department shall specify the percentage of the amount of money 88829
allocated under division (B)(1) of this section for distribution 88830
to boards subject to division (E) of this section that each such 88831
board is to transmit to the director of mental health for deposit 88832
in the risk fund for the following fiscal year. On or before the 88833
first day of August of each year, each such board shall transmit 88834
to the director for deposit to the credit of the risk fund the 88835
amount obtained by multiplying that percentage by the amount 88836
allocated for distribution to such boards. 88837~~

~~(3) Whenever the costs of utilization of state hospitals by 88838
residents in a district served by a board subject to division (E) 88839
of this section exceed the amount allocated to the district under 88840
the formula, responsibility for payment of the excess costs shall 88841
be borne by the board of that district and the risk fund as 88842
follows: 88843~~

~~(a) The board and the risk fund each are responsible for 88844
payment of one half of any costs that exceed one hundred per cent 88845
of the amount allocated under the formula but do not exceed one 88846
hundred five per cent of that amount. 88847~~

~~(b) The board is responsible for payment of one fourth, and the risk fund responsible for three fourths, of any costs that exceed one hundred five per cent of the amount allocated under the formula but do not exceed one hundred ten per cent of that amount.~~

~~(c) The risk fund is responsible for payment of any costs that exceed one hundred ten per cent of the amount allocated under the formula but do not exceed one hundred fifteen per cent of that amount.~~

~~(d) The board is responsible for payment of all costs that exceed one hundred fifteen per cent of the amount allocated under the formula.~~

~~(F)(G) The department shall charge against the allocation made to a board under division (B)(1) of this section, if any, any unreimbursed costs for services provided by the department. ~~This requirement is not affected by any election a board makes under division (B)(3) of this section.~~~~

(H) A board's use of funds allocated under this section is subject to audit by county, state, and federal authorities.

Sec. 5119.621. (A) As used in this section, "administrative function" means a function related to one or more of the following:

(1) Continuous quality improvement;

(2) Utilization review;

(3) Resource development;

(4) Fiscal administration;

(5) General administration;

(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health

services shall submit an annual report to the department of mental 88877
health specifying how the board used ~~state and federal~~ funds 88878
allocated to the board, ~~according to the formula the director of~~ 88879
~~mental health establishes~~ under section 5119.62 of the Revised 88880
Code, for administrative functions in the year preceding the 88881
report's submission. The director of mental health shall establish 88882
the date by which the report must be submitted each year. 88883

Sec. 5119.622. The director of mental health, in whole or in 88884
part, may withhold funds otherwise to be allocated to a board of 88885
alcohol, drug addiction, and mental health services under section 88886
5119.62 of the Revised Code if the board fails to comply with 88887
Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.621 88888
of the Revised Code or rules of the department of mental health 88889
regarding a community mental health service. The director shall 88890
identify the areas of noncompliance and the action necessary to 88891
achieve compliance. The director shall offer technical assistance 88892
to the board to achieve compliance. The director shall give the 88893
board a reasonable time within which to comply or to present its 88894
position that it is in compliance. Before withholding funds, a 88895
hearing shall be conducted to determine if there are continuing 88896
violations and that either assistance is rejected or the board is 88897
unable to achieve compliance. Subsequent to the hearing process, 88898
if it is determined that compliance has not been achieved, the 88899
director may allocate all or part of the withheld funds to a 88900
public or private agency to provide the community mental health 88901
service for which the board is not in compliance until the time 88902
that there is compliance. The director shall adopt rules in 88903
accordance with Chapter 119. of the Revised Code to implement this 88904
section. 88905

Sec. 5119.623. The director of mental health may withhold 88906
funds otherwise to be allocated to a board of alcohol, drug 88907

addiction, and mental health services under section 5119.62 of the 88908
Revised Code if the board denies available service on the basis of 88909
religion, race, color, creed, sex, national origin, age, 88910
disability as defined in section 4112.01 of the Revised Code, or 88911
developmental disability. 88912

Sec. 173.35 5119.69. (A) ~~As used in this section, "PASSPORT~~ 88913
~~administrative agency" means an entity under contract with the~~ 88914
~~department of aging to provide administrative services regarding~~ 88915
~~the PASSPORT program created under section 173.40 of the Revised~~ 88916
~~Code.~~ 88917

~~(B)~~ The department of aging mental health shall ~~administer~~ 88918
implement the residential state supplement program under which the 88919
state supplements the supplemental security income payments 88920
received by aged, blind, or disabled adults under Title XVI of the 88921
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as 88922
amended. Residential state supplement payments shall be used for 88923
the provision of accommodations, supervision, and personal care 88924
services to supplemental security income recipients who the 88925
department determines are at risk of needing institutional care. 88926

(B) In implementing the program, the department shall 88927
designate one or more entities to be responsible for providing 88928
administrative services regarding the program. The department may 88929
designate an entity to be a residential state supplement 88930
administrative agency under this division either by entering into 88931
a contract with the entity to serve in that capacity or by 88932
otherwise delegating to the entity the responsibility to serve in 88933
that capacity. 88934

(C) For an individual to be eligible for residential state 88935
supplement payments, all of the following must be the case: 88936

(1) Except as provided by division (G) of this section, the 88937

individual must reside in one of the following: 88938

(a) An adult foster home certified under section ~~173.36~~ 88939
5119.692 of the Revised Code; 88940

(b) A home or facility, other than a nursing home or nursing 88941
home unit of a home for the aging, licensed by the department of 88942
health under Chapter 3721. ~~or 3722.~~ of the Revised Code ~~and~~ 88943
~~certified in accordance with standards established by the director~~ 88944
~~of aging under division (D)(2) of this section~~ or the department 88945
of mental health under sections 5119.70 to 5119.88 of the Revised 88946
Code; 88947

(c) A residential facility as defined in division 88948
(A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by 88949
the department of mental health ~~and certified in accordance with~~ 88950
~~standards established by the director of aging under division~~ 88951
~~(D)(2) of this section;~~ 88952

(d) An apartment or room used to provide community mental 88953
health housing services certified by the department of mental 88954
health under section 5119.611 of the Revised Code and approved by 88955
a board of alcohol, drug addiction, and mental health services 88956
under division (A)(14) of section 340.03 of the Revised Code ~~and~~ 88957
~~certified in accordance with standards established by the director~~ 88958
~~of aging under division (D)(2) of this section.~~ 88959

(2) ~~Effective July 1, 2000, a PASSPORT~~ A residential state 88960
supplement administrative agency must have determined that the 88961
environment in which the individual will be living while receiving 88962
the payments is appropriate for the individual's needs. If the 88963
individual is eligible for supplemental security income payments 88964
or social security disability insurance benefits because of a 88965
mental disability, the ~~PASSPORT~~ residential state supplement 88966
administrative agency shall refer the individual to a community 88967
mental health agency for the community mental health agency to 88968

issue in accordance with section 340.091 of the Revised Code a 88969
recommendation on whether the ~~PASSPORT~~ residential state 88970
supplement administrative agency should determine that the 88971
environment in which the individual will be living while receiving 88972
the payments is appropriate for the individual's needs. ~~Division~~ 88973
~~(C)(2) of this section does not apply to an individual receiving~~ 88974
~~residential state supplement payments on June 30, 2000, until the~~ 88975
~~individual's first eligibility redetermination after that date.~~ 88976

(3) The individual satisfies all eligibility requirements 88977
established by rules adopted under division (D) of this section. 88978

(D)~~(1)~~ The directors of ~~aging~~ mental health and job and 88979
family services shall adopt rules in accordance with section 88980
111.15 of the Revised Code as necessary to implement the 88981
residential state supplement program. 88982

To the extent permitted by Title XVI of the "Social Security 88983
Act," and any other provision of federal law, the director of job 88984
and family services ~~shall~~ may adopt rules establishing standards 88985
for adjusting the eligibility requirements concerning the level of 88986
impairment a person must have so that the amount appropriated for 88987
the program by the general assembly is adequate for the number of 88988
eligible individuals. The rules shall not limit the eligibility of 88989
disabled persons solely on a basis classifying disabilities as 88990
physical or mental. The director of job and family services also 88991
~~shall~~ may adopt rules that establish eligibility standards for 88992
aged, blind, or disabled individuals who reside in one of the 88993
homes or facilities specified in division (C)(1) of this section 88994
but who, because of their income, do not receive supplemental 88995
security income payments. The rules may provide that these 88996
individuals may include individuals who receive other types of 88997
benefits, including, social security disability insurance benefits 88998
provided under Title II of the "Social Security Act," 49 Stat. 620 88999
(1935), 42 U.S.C.A. 401, as amended. Notwithstanding division 89000

~~(B)~~(A) of this section, such payments may be made if funds are 89001
available for them. 89002

The director of ~~aging shall~~ mental health may adopt rules 89003
establishing the method to be used to determine the amount an 89004
eligible individual will receive under the program. The amount the 89005
general assembly appropriates for the program ~~shall~~ may be a 89006
factor included in the method that ~~department~~ director 89007
establishes. 89008

~~(2) The director of aging shall adopt rules in accordance 89009
with Chapter 119. of the Revised Code establishing standards for 89010
certification of living facilities described in division (C)(1) of 89011
this section. 89012~~

~~The directors of aging and mental health shall enter into an 89013
agreement to certify facilities that apply for certification and 89014
meet the standards established by the director of aging under this 89015
division. 89016~~

(E) The county department of job and family services of the 89017
county in which an applicant for the residential state supplement 89018
program resides shall determine whether the applicant meets income 89019
and resource requirements for the program. 89020

(F) The department of ~~aging~~ mental health shall maintain a 89021
waiting list of any individuals eligible for payments under this 89022
section but not receiving them because moneys appropriated to the 89023
department for the purposes of this section are insufficient to 89024
make payments to all eligible individuals. An individual may apply 89025
to be placed on the waiting list even though the individual does 89026
not reside in one of the homes or facilities specified in division 89027
(C)(1) of this section at the time of application. The director of 89028
~~aging~~ mental health, by rules adopted in accordance with Chapter 89029
119. of the Revised Code, ~~shall~~ may specify procedures and 89030
requirements for placing an individual on the waiting list and 89031

priorities for the order in which individuals placed on the 89032
waiting list are to begin to receive residential state supplement 89033
payments. The rules specifying priorities may give priority to 89034
individuals placed on the waiting list on or after July 1, 2006, 89035
who receive supplemental security income benefits under Title XVI 89036
of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 89037
1381, as amended. The rules shall not affect the place on the 89038
waiting list of any person who was on the list on July 1, 2006. 89039
The rules specifying priorities may also set additional priorities 89040
based on living arrangement, such as whether an individual resides 89041
in a facility listed in division (C)(1) of this section or has 89042
been admitted to a nursing facility. 89043

(G) An individual in a licensed or certified living 89044
arrangement receiving state supplementation on November 15, 1990, 89045
under former section 5101.531 of the Revised Code shall not become 89046
ineligible for payments under this section solely by reason of the 89047
individual's living arrangement as long as the individual remains 89048
in the living arrangement in which the individual resided on 89049
November 15, 1990. 89050

(H) The department of ~~aging~~ mental health shall notify each 89051
person denied approval for payments under this section of the 89052
person's right to a hearing. On request, the hearing shall be 89053
provided ~~by the department of job and family services~~ in 89054
accordance with ~~section 5101.35~~ Chapter 119. of the Revised Code. 89055

Sec. ~~173.351~~ 5119.691. (A) As used in this section: 89056

~~"Area agency on aging" has the same meaning as in section~~ 89057
~~173.14 of the Revised Code.~~ 89058

"Long-term care consultation program" means the program the 89059
department of aging is required to develop under section 173.42 of 89060
the Revised Code. 89061

"Long-term care consultation program administrator" or 89062
"administrator" means the department of aging or, if the 89063
department contracts with an area agency on aging or other entity 89064
to administer the long-term care consultation program for a 89065
particular area, that agency or entity. 89066

"Nursing facility" has the same meaning as in section 5111.20 89067
of the Revised Code. 89068

"Residential state supplement administrative agency" means an 89069
entity designated as such by the department of mental health under 89070
section 5119.69 of the Revised Code. 89071

"Residential state supplement program" means the program 89072
administered pursuant to section ~~173.35~~ 5119.69 of the Revised 89073
Code. 89074

(B) ~~Each month, each area agency on aging~~ On a periodic 89075
schedule determined by the department of mental health, each 89076
residential state supplement administrative agency shall determine 89077
whether individuals who reside in the area that the ~~area~~ agency ~~on~~ 89078
~~aging~~ serves and are on a waiting list for the residential state 89079
supplement program have been admitted to a nursing facility. If ~~an~~ 89080
~~area~~ a residential state supplement administrative agency on-aging 89081
determines that such an individual has been admitted to a nursing 89082
facility, the agency shall notify the long-term care consultation 89083
program administrator serving the area in which the individual 89084
resides about the determination. The administrator shall determine 89085
whether the residential state supplement program is appropriate 89086
for the individual and whether the individual would rather 89087
participate in the program than continue residing in the nursing 89088
facility. If the administrator determines that the residential 89089
state supplement program is appropriate for the individual and the 89090
individual would rather participate in the program than continue 89091
residing in the nursing facility, the administrator shall so 89092
notify the department of ~~aging~~ mental health. On receipt of the 89093

notice from the administrator, the department of ~~aging~~ mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division (F) of section ~~173.35~~ 5119.69 of the Revised Code. Each quarter, the department of ~~aging~~ mental health shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of individuals in the program pursuant to this section.

~~(C) Not later than the last day of each calendar year, the director of aging shall submit to the general assembly a report regarding the number of individuals enrolled in the residential state supplement program pursuant to this section and the costs incurred and savings achieved as a result of the enrollments.~~

Sec. ~~173.36~~ 5119.692. As used in this section, "adult foster home" means a residence, other than a ~~residence certified or residential facility licensed by the department of mental health under section 5119.22 of the Revised Code~~, in which accommodations and personal care services, as defined in section ~~3722.01~~ 5119.70 of the Revised Code, are provided to one or two adults who are unrelated to the owners of the residence.

The department of ~~aging~~ mental health shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the certification of adult foster homes. The department or its designee shall certify adult foster homes that apply for certification and meet the standards established by the department.

Sec. ~~3722.01~~ 5119.70. (A) As used in ~~this chapter~~ sections 5119.70 to 5119.88:

(1) "Owner" means the person who owns the business of and who

ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.

(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(3) "Adult" means an individual eighteen years of age or older.

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assistance with activities of daily living;

(ii) Assistance with self-administration of medication, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code;

(iii) Preparation of special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section for the facility to be

considered to be providing personal care services. 89154

(7) "Adult family home" means a residence or facility that 89155
provides accommodations and supervision to three to five unrelated 89156
adults, at least three of whom require personal care services. 89157

(8) "Adult group home" means a residence or facility that 89158
provides accommodations and supervision to six to sixteen 89159
unrelated adults, at least three of whom require personal care 89160
services. 89161

(9) "Adult care facility" means an adult family home or an 89162
adult group home. For the purposes of ~~this chapter~~ sections 89163
5119.70 to 5119.88 of the Revised Code, any residence, facility, 89164
institution, hotel, congregate housing project, or similar 89165
facility that provides accommodations and supervision to three to 89166
sixteen unrelated adults, at least three of whom require personal 89167
care services, is an adult care facility regardless of how the 89168
facility holds itself out to the public. "Adult care facility" 89169
does not include: 89170

(a) A facility operated by a hospice care program licensed 89171
under section 3712.04 of the Revised Code that is used exclusively 89172
for care of hospice patients; 89173

(b) A nursing home, residential care facility, or home for 89174
the aging as defined in section 3721.01 of the Revised Code; 89175

(c) An alcohol and drug addiction program as defined in 89176
section 3793.01 of the Revised Code; 89177

(d) A residential facility for the mentally ill licensed by 89178
the department of mental health under section 5119.22 of the 89179
Revised Code; 89180

(e) A facility licensed to provide methadone treatment under 89181
section 3793.11 of the Revised Code; 89182

(f) A residential facility licensed under section 5123.19 of 89183

the Revised Code or otherwise regulated by the department of 89184
developmental disabilities; 89185

(g) Any residence, institution, hotel, congregate housing 89186
project, or similar facility that provides personal care services 89187
to fewer than three residents or that provides, for any number of 89188
residents, only housing, housekeeping, laundry, meal preparation, 89189
social or recreational activities, maintenance, security, 89190
transportation, and similar services that are not personal care 89191
services or skilled nursing care; 89192

(h) Any facility that receives funding for operating costs 89193
from the department of development under any program established 89194
to provide emergency shelter housing or transitional housing for 89195
the homeless; 89196

(i) A terminal care facility for the homeless that has 89197
entered into an agreement with a hospice care program under 89198
section 3712.07 of the Revised Code; 89199

(j) A facility approved by the veterans administration under 89200
section 104(a) of the "Veterans Health Care Amendments of 1983," 89201
97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively 89202
for the placement and care of veterans. 89203

(10) ~~"Residents' rights advocate" means:~~ 89204

~~(a) An employee or representative of any state or local 89205
government entity that has a responsibility for residents of adult 89206
care facilities and has registered with the department of health 89207
under section 3701.07 of the Revised Code;~~ 89208

~~(b) An employee or representative, other than a manager or 89209
employee of an adult care facility or nursing home, of any private 89210
nonprofit corporation or association that qualifies for tax exempt 89211
status under section 501(a) of the "Internal Revenue Code of 89212
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 89213
registered with the department of health under section 3701.07 of 89214~~

~~the Revised Code, and whose purposes include educating and 89215
counseling residents, assisting residents in resolving problems 89216
and complaints concerning their care and treatment, and assisting 89217
them in securing adequate services. 89218~~

~~(11)~~ "Sponsor" means an adult relative, friend, or guardian 89219
of a resident of an adult care facility who has an interest in or 89220
responsibility for the resident's welfare. 89221

~~(12)~~(11) "Ombudsperson" means a "representative of the office 89222
of the state long-term care ombudsperson program" as defined in 89223
section 173.14 of the Revised Code. 89224

~~(13)~~(12) "Mental health agency" means a community mental 89225
health agency, as defined in section ~~5119.22~~ 340.01 of the Revised 89226
Code, under contract with an ADAMHS board pursuant to division 89227
(A)(8)(a) of section 340.03 of the Revised Code. 89228

~~(14)~~(13) "ADAMHS board" means a board of alcohol, drug 89229
addiction, and mental health services; 89230

~~(15)~~(14) "Mental health resident program participation 89231
agreement" means a written agreement between an adult care 89232
facility and the ADAMHS board serving the alcohol, drug addiction, 89233
and mental health service district in which the facility is 89234
located, under which the facility is authorized to admit residents 89235
who are receiving or are eligible for publicly funded mental 89236
health services. 89237

~~(16)~~(15) "~~PASSPORT~~ RSS administrative agency" means an entity 89238
~~under contract with the department of aging to provide that~~ 89239
provides administrative services regarding the ~~PASSPORT~~ 89240
residential state supplement program ~~created under section 173.40~~ 89241
~~of the Revised Code on behalf of the department of mental health,~~ 89242
either by having entered into a contract with the department to 89243
serve in that capacity or by having the department otherwise 89244
delegate to it the responsibility to serve in that capacity. 89245

(B) For purposes of ~~this chapter~~ sections 5119.70 to 5119.88 89246
of the Revised Code, personal care services or skilled nursing 89247
care shall be considered to be provided by a facility if they are 89248
provided by a person employed by or associated with the facility 89249
or by another person pursuant to an agreement to which neither the 89250
resident who receives the services nor the resident's sponsor is a 89251
party. 89252

(C) Nothing in division (A)(6) of this section shall be 89253
construed to permit personal care services to be imposed upon a 89254
resident who is capable of performing the activity in question 89255
without assistance. 89256

Sec. ~~3722.011~~ 5119.701. (A) All medication taken by residents 89257
of an adult care facility shall be self-administered, except that 89258
medication may be administered to a resident as part of the 89259
skilled nursing care provided in accordance with division (B) of 89260
section ~~3722.16~~ 5119.86 of the Revised Code. No person shall be 89261
admitted to or retained by an adult care facility unless the 89262
person is capable of self-administering the person's medication, 89263
as determined in writing by a physician, except that a person may 89264
be admitted to or retained by such a facility if the person's 89265
medication is administered as part of the skilled nursing care 89266
provided in accordance with division (B) of section ~~3722.16~~ 89267
5119.86 of the Revised Code. 89268

(B) Members of the staff of an adult care facility shall not 89269
administer medication to residents but may do any of the 89270
following: 89271

Remind a resident when to take medication and watch to ensure 89272
that the resident follows the directions on the container; 89273

Assist a resident in the self-administration of medication by 89274
taking the medication from the locked area where it is stored, in 89275
accordance with rules adopted ~~by the public health council~~ 89276

~~pursuant to this chapter~~ under section 5119.79 of the Revised 89277
Code, and handing it to the resident. If the resident is 89278
physically unable to open the container, a staff member may open 89279
the container for the resident. 89280

Assist a physically impaired but mentally alert resident, 89281
such as a resident with arthritis, cerebral palsy, or Parkinson's 89282
disease, in removing oral or topical medication from containers 89283
and in consuming or applying the medication, upon request by or 89284
with the consent of the resident. If a resident is physically 89285
unable to place a dose of medicine to the resident's mouth without 89286
spilling it, a staff member may place the dose in a container and 89287
place the container to the mouth of the resident. 89288

Sec. ~~3722.02~~ 5119.71. A person seeking a license to operate 89289
an adult care facility shall submit to the director of mental 89290
health an application on a form prescribed by the director and the 89291
following: 89292

(A) In the case of an adult group home seeking licensure as 89293
an adult care facility, evidence that the home has been inspected 89294
and approved by a local certified building department or by the 89295
division of labor in the department of commerce as meeting the 89296
applicable requirements of sections 3781.06 to 3781.18 and 3791.04 89297
of the Revised Code and any rules adopted under those sections and 89298
evidence that the home has been inspected by the state fire 89299
marshal or fire prevention officer of a municipal, township, or 89300
other legally constituted fire department approved by the state 89301
fire marshal and found to be in compliance with rules adopted 89302
under section 3737.83 of the Revised Code regarding fire 89303
prevention and safety in adult group homes; 89304

(B) Valid approvals of the facility's water and sewage 89305
systems issued by the responsible governmental entity, if 89306
applicable; 89307

(C) A statement of ownership containing the following information:	89308 89309
(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.	89310 89311 89312 89313 89314 89315
(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;	89316 89317 89318 89319
(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section 3722.01 <u>5119.70</u> of the Revised Code in which the owner has an ownership interest of five per cent or more;	89320 89321 89322 89323
(4) The identity of the manager of the adult care facility, if different from the owner;	89324 89325
(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section 3722.01 <u>5119.70</u> of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;	89326 89327 89328 89329 89330
(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;	89331 89332 89333 89334 89335
(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility	89336 89337 89338

described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 89339
of the Revised Code or the ability to operate a facility; 89340

(8) Any other information the director may require regarding 89341
the owner's ability to operate the facility. 89342

(D) If the facility is an adult group home, a balance sheet 89343
showing the assets and liabilities of the owner and a statement 89344
projecting revenues and expenses for the first twelve months of 89345
the facility's operation; 89346

(E) A statement containing the following information 89347
regarding admissions to the facility: 89348

(1) The intended bed capacity of the facility; 89349

(2) If the facility will admit persons referred by or 89350
receiving services from an ADAMHS board or a mental health agency, 89351
the total number of beds anticipated to be occupied as a result of 89352
those admissions. 89353

(F) A nonrefundable license application fee in an amount 89354
established in rules adopted ~~by the public health council pursuant~~ 89355
~~to this chapter~~ under section 5119.79 of the Revised Code. 89356

Sec. ~~3722.021~~ 5119.711. In determining the number of 89357
residents in a facility for the purpose of licensure ~~under this~~ 89358
~~chapter~~ as an adult care facility, the director of mental health 89359
shall consider all the individuals for whom the facility provides 89360
accommodations as one group unless either of the following is the 89361
case: 89362

(A) In addition to being an adult care facility, the facility 89363
is a nursing home licensed under Chapter 3721. of the Revised 89364
Code, a residential facility licensed under that chapter, or both. 89365
In that case, all the individuals in the part or unit licensed as 89366
a nursing home, residential care facility, or both, shall be 89367
considered as one group and all the individuals in the part or 89368

unit licensed as an adult care facility shall be considered as 89369
another group. 89370

(B) The facility maintains, in addition to an adult care 89371
facility, a separate and discrete part or unit that provides 89372
accommodations to individuals who do not receive supervision or 89373
personal care services from the adult care facility, in which case 89374
the individuals in the separate and discrete part or unit shall 89375
not be considered in determining the number of residents in the 89376
adult care facility if the separate and discrete part or unit is 89377
in compliance with the Ohio basic building code established by the 89378
board of building standards under Chapters 3781. and 3791. of the 89379
Revised Code and the adult care facility, to the extent of its 89380
authority, permits the director, on request, to inspect the 89381
separate and discrete part or unit and speak with the individuals 89382
residing there, if they consent, to determine whether the separate 89383
and discrete part or unit meets the requirements of this division. 89384

Sec. ~~3722.022~~ 5119.712. A person may not apply for a license 89385
to operate an adult care facility if the person is or has been the 89386
owner or manager of an adult care facility for which a license to 89387
operate was revoked or for which renewal of a license was refused 89388
for any reason other than nonpayment of the license renewal fee, 89389
unless both of the following conditions are met: 89390

(A) A period of not less than two years has elapsed since the 89391
date the director of mental health issued the order revoking or 89392
refusing to renew the facility's license. 89393

(B) The director's revocation or refusal to renew the license 89394
was not based on an act or omission at the facility that violated 89395
a resident's right to be free from abuse, neglect, or 89396
exploitation. 89397

Sec. ~~3722.03~~ 5119.72. (A) Any person may operate an adult 89398

family home licensed as an adult care facility as a permitted use 89399
in any residential district or zone, including any single-family 89400
residential district or zone of any political subdivision. Such 89401
adult family homes may be required to comply with area, height, 89402
yard, and architectural compatibility requirements that are 89403
uniformly imposed upon all single-family residences within the 89404
district or zone. 89405

(B) Any person may operate an adult group home licensed as an 89406
adult care facility as a permitted use in any multiple-family 89407
residential district or zone of any political subdivision, except 89408
that a political subdivision that has enacted a zoning ordinance 89409
or resolution establishing planned-unit development districts as 89410
defined in section 519.021 of the Revised Code may exclude adult 89411
group homes from such districts, and a political subdivision that 89412
has enacted a zoning ordinance or resolution may regulate adult 89413
group homes in multiple-family residential districts or zones as a 89414
conditionally permitted use or special exception, in either case, 89415
under reasonable and specific standards and conditions set out in 89416
the zoning ordinance or resolution to: 89417

(1) Require the architectural design and site layout of the 89418
home and the location, nature, and height of any walls, screens, 89419
and fences to be compatible with adjoining land uses and the 89420
residential character of the neighborhood; 89421

(2) Require compliance with yard, parking, and sign 89422
regulation. 89423

(C) This section does not affect any right of a political 89424
subdivision to permit a person to operate an adult group home 89425
licensed under this chapter in a single-family residential 89426
district or zone under conditions established by the political 89427
subdivision. 89428

(D)(1) Notwithstanding divisions (A) and (B) of this section 89429

and except as otherwise provided in division (D)(2) of this 89430
section, a political subdivision that has enacted a zoning 89431
ordinance or resolution may limit the excessive concentration of 89432
adult family homes and adult group homes required to be licensed 89433
as adult care facilities. 89434

(2) Nothing in division (D)(1) of this section authorizes a 89435
political subdivision to prevent or limit the continued existence 89436
and operation of adult family homes and adult group homes existing 89437
and operating on the effective date of this section and required 89438
to be licensed as adult care facilities. A political subdivision 89439
may consider the existence of such homes for the purpose of 89440
limiting the excessive concentration of adult family homes or 89441
adult group homes required to be licensed as adult care facilities 89442
that are not existing and operating on the effective date of this 89443
section. 89444

Sec. ~~3722.04~~ 5119.73. (A) The director of mental health shall 89445
inspect, license, and regulate adult care facilities. Except as 89446
otherwise provided in division (D) of this section, the director 89447
shall issue a license to an adult care facility that meets the 89448
requirements of section ~~3722.02~~ 5119.71 of the Revised Code and 89449
that the director determines to be in substantial compliance with 89450
the rules adopted ~~by the public health council~~ pursuant to ~~this~~ 89451
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code. The 89452
director shall consider the past record of the owner and manager 89453
and any individuals who are principal participants in an entity 89454
that is the owner or manager in operating facilities providing 89455
care to adults. The director may, in accordance with Chapter 119. 89456
of the Revised Code, deny a license if the past record indicates 89457
that the owner or manager is not suitable to own or manage an 89458
adult care facility. 89459

The license shall contain the name and address of the 89460

facility for which it was issued, the date of expiration of the 89461
license, and the maximum number of residents that may be 89462
accommodated by the facility. A license for an adult care facility 89463
shall be valid for a period of two years after the date of 89464
issuance. No single facility may be licensed to operate as more 89465
than one adult care facility. 89466

(B) The director shall renew a license for a two-year period 89467
if the facility continues to be in compliance with the 89468
requirements of this chapter and in substantial compliance with 89469
the rules adopted ~~under this chapter~~ pursuant to sections 5119.70 89470
to 5119.88 of the Revised Code. The owner shall submit a 89471
nonrefundable license renewal application fee in an amount 89472
established in rules adopted ~~by the public health council pursuant~~ 89473
~~to this chapter~~ under section 5119.79 of the Revised Code. Before 89474
the license of an adult group home is renewed, if any alterations 89475
have been made to the buildings, a certificate of occupancy for 89476
the facility shall have been issued by the division of labor in 89477
the department of commerce or a local certified building 89478
department. The facility shall have water and sewage system 89479
approvals, if required by law, and, in the case of an adult group 89480
home, documentation of continued compliance with the rules adopted 89481
by the state fire marshal under division (F) of section 3737.83 of 89482
the Revised Code. 89483

(C)(1) During each licensure period, the director shall make 89484
at least one unannounced inspection of an adult care facility in 89485
addition to inspecting the facility to determine whether a license 89486
should be issued or renewed, and may make additional unannounced 89487
inspections as the director considers necessary. Other inspections 89488
may be made at any time that the director considers appropriate. 89489
Inspections may be conducted as desk audits or on-site 89490
inspections. 89491

The director shall take all reasonable actions to avoid 89492

giving notice of an inspection by the manner in which the 89493
inspection is scheduled or performed. 89494

If an inspection is conducted to investigate an alleged 89495
violation of the requirements of ~~this chapter~~ sections 5119.70 to 89496
5119.88 of the Revised Code in a facility with residents referred 89497
by or receiving services from a mental health agency or ADAMHS 89498
board or a facility with residents receiving assistance under the 89499
residential state supplement program administered by the 89500
department of ~~aging~~ mental health pursuant to section ~~173.35~~ 89501
5119.69 of the Revised Code, the director ~~shall~~ may coordinate the 89502
inspection with the appropriate mental health agency, ADAMHS 89503
board, or ~~PASSPORT~~ residential state supplement administrative 89504
agency designated under section 5119.69 of the Revised Code. ~~As~~ 89505
~~the director considers appropriate, the~~ The director ~~shall~~ may 89506
conduct the inspection jointly with the mental health agency, 89507
ADAMHS board, or ~~PASSPORT~~ residential state supplement 89508
administrative agency. 89509

Not later than sixty days after the date of an inspection of 89510
a facility, the director shall send a report of the inspection to 89511
the regional long-term care ombudsperson ~~in whose region~~ 89512
representing the program in the area in which the facility is 89513
located. 89514

(2) The state fire marshal or fire prevention officer of a 89515
municipal, township, or other legally constituted fire department 89516
approved by the state fire marshal shall inspect an adult group 89517
home seeking a license or renewal ~~under this chapter~~ as an adult 89518
care facility prior to issuance of a license or renewal, at least 89519
once annually thereafter, and at any other time at the request of 89520
the director, to determine compliance with the rules adopted under 89521
division (F) of section 3737.83 of the Revised Code. 89522

(D) The director may waive any of the licensing requirements 89523
established by rule ~~adopted by the public health council~~ pursuant 89524

to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code 89525
upon written request of the facility. The director may grant a 89526
waiver if the director determines that the strict application of 89527
the licensing requirement would cause undue hardship to the 89528
facility and that granting the waiver would not jeopardize the 89529
health or safety of any resident. The director may provide a 89530
facility with an informal hearing concerning the denial of a 89531
waiver request, but the facility shall not be entitled to a 89532
hearing under Chapter 119. of the Revised Code unless the director 89533
takes an action that requires a hearing to be held under section 89534
~~3722.05~~ 5119.74 of the Revised Code. 89535

(E)(1) Not later than thirty days after each of the 89536
following, the owner of an adult care facility shall submit an 89537
inspection fee of twenty dollars for each bed for which the 89538
facility is licensed: 89539

(a) Issuance or renewal of a license; 89540

(b) The unannounced inspection required by division (C)(1) of 89541
this section that is in addition to the inspection conducted to 89542
determine whether a license should be issued or renewed; 89543

(c) If, during an inspection conducted in addition to the two 89544
inspections required by division (C)(1) of this section, the 89545
facility was found to be in violation of ~~this chapter~~ sections 89546
5119.70 to 5119.88 of the Revised Code or the rules adopted under 89547
~~it~~ those sections, receipt by the facility of the report of that 89548
investigation. 89549

(2) The director may revoke the license of any adult care 89550
facility that fails to submit the fee within the thirty-day 89551
period. 89552

(3) All inspection fees received by the director, all civil 89553
penalties assessed under section ~~3722.08~~ 5119.77 of the Revised 89554
Code, all fines imposed under section ~~3722.99~~ 5119.99 of the 89555

Revised Code, and all license application and renewal application 89556
fees received under division (F) of section ~~3722.02~~ 5119.71 of the 89557
Revised Code or under division (B) of this section ~~shall be~~ 89558
~~deposited into the general operations fund created in section~~ 89559
~~3701.83 of the Revised Code and shall be used only to pay the~~ 89560
costs of administering and enforcing the requirements of ~~this~~ 89561
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code and rules 89562
adopted under ~~it~~ those sections. 89563

(F)(1) An owner shall inform the director in writing of any 89564
changes in the information contained in the statement of ownership 89565
made pursuant to division (C) of section ~~3722.02~~ 5119.71 of the 89566
Revised Code or in the identity of the manager, not later than ten 89567
days after the change occurs. 89568

(2) An owner who sells or transfers an adult care facility 89569
shall be responsible and liable for the following: 89570

(a) Any civil penalties imposed against the facility under 89571
section ~~3722.08~~ 5119.77 of the Revised Code for violations that 89572
occur before the date of transfer of ownership or during any 89573
period in which the seller or the seller's agent operates the 89574
facility; 89575

(b) Any outstanding liability to the state, unless the buyer 89576
or transferee has agreed, as a condition of the sale or transfer, 89577
to accept the outstanding liabilities and to guarantee their 89578
payment, except that if the buyer or transferee fails to meet 89579
these obligations the seller or transferor shall remain 89580
responsible for the outstanding liability. 89581

(G) The director shall annually publish a list of licensed 89582
adult care facilities, facilities for which licenses have been 89583
revoked, facilities for which license renewal has been refused, 89584
any facilities under an order suspending admissions pursuant to 89585
section ~~3722.07~~ 5119.76 of the Revised Code, and any facilities 89586

that have been assessed a civil penalty pursuant to section 89587
~~3722.08~~ 5119.77 of the Revised Code. The director shall furnish 89588
information concerning the status of licensure of any facility to 89589
any person upon request. The director shall annually send a copy 89590
of the list to the department of job and family services, ~~to the~~ 89591
~~department of mental health,~~ and to the department of aging. 89592

Sec. ~~3722.041~~ 5119.731. (A) Sections 3781.06 to 3781.18 and 89593
3791.04 of the Revised Code do not apply to an adult family home 89594
for which application is made to the director of mental health for 89595
licensure as an adult care facility ~~under this chapter~~. Adult 89596
family homes shall not be required to submit evidence to the 89597
director ~~of health~~ that the home has been inspected by a local 89598
certified building department or the division of labor in the 89599
department of commerce or by the state fire marshal or a fire 89600
prevention officer under section ~~3722.02~~ 5119.71 of the Revised 89601
Code, but shall be inspected by the director ~~of health~~ to 89602
determine compliance with this section. An inspection made under 89603
this section may be made at the same time as an inspection made 89604
under section ~~3722.04~~ 5119.73 of the Revised Code. 89605

(B) The director shall not license or renew the license of an 89606
adult family home unless it meets the fire protection standards 89607
established by rules adopted ~~by the public health council pursuant~~ 89608
~~to this chapter~~ under section 5119.79 of the Revised Code. 89609

Sec. ~~3722.05~~ 5119.74. If an adult care facility fails to 89610
comply with any requirement of ~~this chapter~~ sections 5119.70 to 89611
5119.88 of the Revised Code or with any rule adopted ~~pursuant to~~ 89612
~~this chapter~~ under those sections, the director of mental health 89613
may do any one or all of the following: 89614

(A) In accordance with Chapter 119. of the Revised Code, 89615
deny, revoke, or refuse to renew the license of the facility; 89616

(B) Give the facility an opportunity to correct the violation, in accordance with section ~~3722.06~~ 5119.75 of the Revised Code;

(C) Issue an order suspending the admission of residents to the facility, in accordance with section ~~3722.07~~ 5119.76 of the Revised Code;

(D) Impose a civil penalty in accordance with section ~~3722.08~~ 5119.77 of the Revised Code;

(E) Petition the court of common pleas for injunctive relief in accordance with section ~~3722.09~~ 5119.78 of the Revised Code.

Sec. ~~3722.06~~ 5119.75. Except as otherwise provided in sections ~~3722.07~~ 5119.76 to ~~3722.09~~ 5119.78 of the Revised Code and except in cases of violations that jeopardize the health and safety of any of the residents, if the director of mental health determines that a licensed adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of rules adopted ~~pursuant to this chapter~~ under those sections, the director shall give the facility an opportunity to correct the violation. The director shall notify the facility of the violation and specify a reasonable time for making the corrections. Notice of the violation shall be in writing and shall include a citation to the statute or rule violated. The director shall state the action that the director will take if the corrections are not made within the specified period of time.

The facility shall submit to the director a plan of correction stating the actions that will be taken to correct the violation. The director shall conduct an inspection to determine whether the facility has corrected the violation in accordance with the plan of correction.

If the director determines that the facility has failed to

correct the violation in accordance with the plan of correction, 89647
the director may impose a penalty under section ~~3722.08~~ 5119.77 of 89648
the Revised Code. If the director determines that the license of 89649
the facility should be revoked or should not be renewed because 89650
the facility has failed to correct the violation within the time 89651
specified or because the violation jeopardizes the health or 89652
safety of any of the residents, the director shall revoke or 89653
refuse to renew the license in accordance with Chapter 119. of the 89654
Revised Code. 89655

Sec. ~~3722.07~~ 5119.76. (A) If the director of mental health 89656
determines that an adult care facility is in violation of ~~this~~ 89657
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of 89658
rules adopted ~~pursuant to it~~ under those sections, the director 89659
may immediately issue an order suspending the admission of 89660
residents to the facility. This order shall be effective 89661
immediately without prior hearing, and no resident shall be 89662
admitted to the facility until termination of the order. The 89663
director shall send a copy of the order to each organization known 89664
by the director to have placed residents in the facility and upon 89665
termination of the order shall send written notice of the 89666
termination to each of these organizations. Upon inquiry by any 89667
person about the licensure status of the facility, the director 89668
shall disclose the existence of an order of suspension. If the 89669
director discloses the existence of such an order to any person 89670
pursuant to this division, ~~he~~ the director shall also notify that 89671
person, and any other person upon inquiry, of any subsequent 89672
termination of the order of suspension. The facility shall post 89673
the notice provided for in division (B) of this section 89674
prominently and shall inform any person who inquires about 89675
residence or placement in the facility of the order. 89676

(B) The director shall give written notice of the order of 89677
suspension to the facility by certified mail, return receipt 89678

requested, or shall provide for delivery of the notice in person. 89679
If requested by the facility in a letter mailed or delivered not 89680
later than two working days after it has received the notice, the 89681
director shall hold a conference with representatives of the 89682
facility concerning the suspension. The conference shall be held 89683
not later than seven days after the director receives the request. 89684

The notice sent by the director shall contain all of the 89685
following: 89686

(1) A description of the violation; 89687

(2) A citation to the statute or rule violated; 89688

(3) A description of the corrections required for termination 89689
of the order of suspension; 89690

(4) Procedures for the facility to follow to request a 89691
conference on the order of suspension. 89692

(C) At the conference the director shall discuss with the 89693
representatives of the facility the violation cited in the notice 89694
provided for in division (B) of this section and shall advise the 89695
representatives in regard to correcting the violations. Not later 89696
than five days after the conference, the director shall issue 89697
another order either upholding or terminating the suspension. If 89698
the director issues an order upholding the suspension, the 89699
facility may request an adjudication hearing pursuant to Chapter 89700
119. of the Revised Code, but the notice and hearing under that 89701
chapter shall be provided after the order is issued, and the 89702
suspension shall remain in effect during the hearing process 89703
unless terminated by the director or until ninety days have 89704
elapsed after a timely request for an adjudication hearing is 89705
received by the director, whichever is sooner. 89706

Sec. ~~3722.08~~ 5119.77. (A) If the director of mental health 89707
determines that an adult care facility is in violation of ~~this~~ 89708

~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code or rules 89709
adopted under ~~it~~ those sections, the director may impose a civil 89710
penalty on the owner of the facility, pursuant to rules adopted ~~by~~ 89711
~~the public health council~~ under ~~this chapter~~ sections 5119.79 and 89712
5119.80 of the Revised Code. The director shall determine the 89713
classification and amount of the penalty by considering the 89714
following factors: 89715

(1) The gravity of the violation, the severity of the actual 89716
or potential harm, and the extent to which the provisions of this 89717
chapter or rules adopted under it were violated; 89718

(2) Actions taken by the owner or manager to correct the 89719
violation; 89720

(3) The number, if any, of previous violations by the adult 89721
care facility. 89722

(B) The director shall give written notice of the order 89723
imposing a civil penalty to the adult care facility by certified 89724
mail, return receipt requested, or shall provide for delivery of 89725
the notice in person. The notice shall specify the classification 89726
of the violation as determined by rules adopted ~~by the public~~ 89727
~~health council pursuant to this chapter~~ under section 5119.80 of 89728
the Revised Code, the amount of the penalty and the rate of 89729
interest, the action that is required to be taken to correct the 89730
violation, the time within which it is to be corrected as 89731
specified in division (C) of this section, and the procedures for 89732
the facility to follow to request a conference on the order 89733
imposing a civil penalty. If the facility requests a conference in 89734
a letter mailed or delivered not later than two working days after 89735
it has received the notice, the director shall hold a conference 89736
with representatives of the facility concerning the civil penalty. 89737
The conference shall be held not later than seven days after the 89738
director receives the request. The conference shall be conducted 89739

as prescribed in division (C) of section ~~3722.07~~ 5119.76 of the Revised Code. If the director issues an order upholding the civil penalty, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the order of the director shall be in effect during proceedings instituted pursuant to that chapter until a final adjudication is made.

(C) The director shall order that the condition or practice constituting a class I violation be abated or eliminated within twenty-four hours or any longer period that the director considers reasonable. The notice for a class II or a class III violation shall specify a time within which the violation is required to be corrected.

(D) If the facility does not request a conference or if, after a conference, it fails to take action to correct a violation in the time prescribed by the director, the director shall issue an order upholding the penalty, plus interest at the rate specified in section 1343.03 of the Revised Code for each day beyond the date set for payment of the penalty. The director may waive the interest payment for the period prior to the conference if the director concludes that the conference was necessitated by a legitimate dispute.

(E) The director may cancel or reduce the penalty for a class I violation if the facility corrects the violation within the time specified in the notice, except that the director shall impose the penalty even though the facility has corrected the violation if a resident suffers physical harm because of the violation or the facility has been cited previously for the same violation. The director may cancel the penalty for a class II or class III violation if the facility corrects the violation within the time specified in the notice and the facility has not been cited previously for the same violation. Each day of a violation of any class, after the date the director sets for abatement or

elimination, constitutes a separate and additional violation. 89772

(F) If an adult care facility fails to pay a penalty imposed 89773
under this section, the director may commence a civil action to 89774
collect the penalty. The license of an adult care facility that 89775
has failed to pay a penalty imposed under this section shall not 89776
be renewed until the penalty has been paid. 89777

(G) If a penalty is imposed under this section, a fine shall 89778
not be imposed under section ~~3722.99~~ 5119.99 of the Revised Code 89779
for the same violation. 89780

Sec. ~~3722.09~~ 5119.78. (A) If the director of mental health 89781
determines that the operation of an adult care facility 89782
jeopardizes the health or safety of any of the residents of the 89783
facility or if the director determines that an adult care facility 89784
is operating without a license, the director may petition the 89785
court of common pleas in the county in which the facility is 89786
located for appropriate injunctive relief against the facility. If 89787
injunctive relief is granted against a facility for operating 89788
without a license and the facility continues to operate without a 89789
license, the director shall refer the case to the attorney general 89790
for further action. 89791

(B) The court petitioned under division (A) of this section 89792
shall grant injunctive relief upon a showing that the operation of 89793
the facility jeopardizes the health or safety of any of the 89794
residents of the facility or that the facility is operating 89795
without a license. When the court grants injunctive relief in the 89796
case of a facility operating without a license, the court shall 89797
issue, at a minimum, an order enjoining the facility from 89798
admitting new residents to the facility and an order requiring the 89799
facility to assist ~~resident rights advocates~~ with the safe and 89800
orderly relocation of the facility's residents. 89801

~~Sec. 3722.10~~ 5119.79. (A) The ~~public health council shall~~ 89802
~~have the exclusive authority to adopt, and the council department~~ 89803
of mental health shall adopt, rules governing the licensing and 89804
operation of adult care facilities. The rules shall be adopted in 89805
accordance with Chapter 119. of the Revised Code ~~and shall.~~ 89806
Subject to any provision of sections 5119.70 to 5119.88 of the 89807
Revised Code for which rules are required to be adopted, the rules 89808
may specify all any of the following: 89809

(1) Procedures for the issuance, renewal, and revocation of 89810
licenses, for the granting and denial of waivers, and for the 89811
issuance and termination of orders of suspension of admission 89812
pursuant to section ~~3722.07~~ 5119.76 of the Revised Code; 89813

(2) The qualifications required for owners, managers, and 89814
employees of adult care facilities, including character, training, 89815
education, experience, and financial resources and the number of 89816
staff members required in a facility; 89817

(3) Adequate space, equipment, safety, and sanitation 89818
standards for the premises of adult care facilities, and fire 89819
protection standards for adult family homes as required by section 89820
~~3722.041~~ 5119.731 of the Revised Code; 89821

(4) The personal, social, dietary, and recreational services 89822
to be provided to each resident of adult care facilities; 89823

(5) Rights of residents of adult care facilities, in addition 89824
to the rights enumerated under section ~~3722.12~~ 5119.81 of the 89825
Revised Code, and procedures to protect and enforce the rights of 89826
these residents; 89827

(6) Provisions for keeping records of residents and for 89828
maintaining the confidentiality of the records as required by 89829
division (B) of section ~~3722.12~~ 5119.81 of the Revised Code. The 89830
provisions for maintaining the confidentiality of records shall, 89831

at the minimum, meet the requirements for maintaining the 89832
confidentiality of records under Title XIX of the "Social Security 89833
Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations 89834
promulgated thereunder. 89835

(7) Measures to be taken by adult care facilities relative to 89836
residents' medication, including policies and procedures 89837
concerning medication, storage of medication in a locked area, and 89838
disposal of medication and assistance with self-administration of 89839
medication, if the facility provides assistance; 89840

(8) Requirements for initial and periodic health assessments 89841
of prospective and current adult care facility residents by 89842
physicians or other health professionals to ensure that they do 89843
not require a level of care beyond that which is provided by the 89844
adult care facility, including assessment of their capacity to 89845
self-administer the medications prescribed for them; 89846

(9) Requirements relating to preparation of special diets; 89847

(10) The amount of the fees for new and renewal license 89848
applications made pursuant to sections ~~3722.02~~ 5119.71 and ~~3722.04~~ 89849
5119.73 of the Revised Code; 89850

(11) Measures to be taken by any employee of the state or any 89851
political subdivision of the state authorized by this chapter to 89852
enter an adult care facility to inspect the facility or for any 89853
other purpose, to ensure that the employee respects the privacy 89854
and dignity of residents of the facility, cooperates with 89855
residents of the facility and behaves in a congenial manner toward 89856
them, and protects the rights of residents; 89857

(12) How an owner or manager of an adult care facility is to 89858
comply with section ~~3722.18~~ 5119.88 of the Revised Code. ~~At a~~ 89859
~~minimum, the~~ The rules ~~shall~~ may establish the procedures an owner 89860
or manager is to follow under division (A) of section ~~3722.18~~ 89861
5119.88 of the Revised Code regarding referrals to the facility of 89862

prospective residents with mental illness or severe mental 89863
disability and effective arrangements for ongoing mental health 89864
services for such prospective residents. The procedures may 89865
provide for any of the following: 89866

(a) That the owner or manager and the ADAMHS board serving 89867
the alcohol, drug addiction, and mental health service district in 89868
which the facility is located sign a mental health resident 89869
program participation agreement, as developed by the director of 89870
mental health under section ~~5119.613~~ 5119.614 of the Revised Code; 89871

(b) That the owner or manager comply with the requirements of 89872
its mental health resident program participation agreement; 89873

(c) That the owner or manager and the mental health agencies 89874
and ADAMHS boards that refer such prospective residents to the 89875
facility develop and sign a mental health plan for ongoing mental 89876
health services for each such prospective resident; 89877

(d) Any other process established by the ~~public health~~ 89878
~~council in consultation with the director of health and~~ director 89879
of mental health regarding referrals and effective arrangements 89880
for ongoing mental health services for prospective residents with 89881
mental illness. 89882

(13) Any other rules necessary for the administration and 89883
enforcement of ~~this chapter~~ sections 5119.70 to 5119.88 of the 89884
Revised Code. 89885

~~(B) After consulting with relevant constituencies, the~~ 89886
~~director of mental health shall prepare and submit to the director~~ 89887
~~of health recommendations for the content of rules to be adopted~~ 89888
~~under division (A)(12) of this section.~~ 89889

~~(C)~~ The director of mental health shall advise adult care 89890
facilities regarding compliance with the requirements of ~~this~~ 89891
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code and with 89892
the rules adopted pursuant to ~~this chapter~~ those sections. 89893

~~(D)~~(C) Any duty or responsibility imposed upon the director 89894
of mental health by this chapter may be carried out by ~~an employee~~ 89895
~~of the department of health~~ persons designated by the director. 89896

~~(E)~~(D) Employees of the department of mental health may 89897
enter, for the purposes of investigation, any institution, 89898
residence, facility, or other structure which has been reported to 89899
the department as, or that the department has reasonable cause to 89900
believe is, operating as an adult care facility without a valid 89901
license. 89902

Sec. ~~3722.11~~ 5119.80. The ~~public health council~~ department of 89903
mental health shall, ~~not later than twelve months after the~~ 89904
~~effective date of this section,~~ adopt rules under Chapter 119. of 89905
the Revised Code that set guidelines for classifying violations of 89906
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or 89907
rules adopted under ~~it~~ those sections for the purpose of imposing 89908
civil penalties. The rules shall establish the following 89909
classifications: 89910

(A) Class I violations are conditions or occurrences that 89911
present an immediate and serious threat to the physical or 89912
emotional health, safety, or security of residents of an adult 89913
care facility. Whoever is determined to have committed a class I 89914
violation is subject to a civil penalty of not less than seven 89915
hundred dollars nor more than one thousand dollars for each 89916
violation. 89917

(B) Class II violations are conditions or occurrences, other 89918
than class I violations, that directly threaten the physical or 89919
emotional health, safety, or security of residents of an adult 89920
care facility. Whoever is determined to have committed a class II 89921
violation is subject to a civil penalty of not less than five 89922
hundred dollars nor more than seven hundred dollars for each 89923
violation. 89924

(C) Class III violations are conditions or occurrences, other than class I or class II violations, that indirectly or potentially threaten the physical or emotional health, safety, or security of residents of a facility. Whoever is determined to have committed a class III violation is subject to a civil penalty of not less than one hundred dollars nor more than five hundred dollars for each violation.

Sec. ~~3722.12~~ 5119.81. (A) As used in this section:

(1) "Abuse" means the unreasonable confinement or intimidation of a resident, or the infliction of injury or cruel punishment upon a resident, resulting in physical harm, pain, or mental anguish.

(2) "Exploitation" means the unlawful or improper utilization of an adult resident or ~~his~~ the resident's resources for personal or monetary benefit, profit, or gain.

(3) "Mechanical restraint" means any method of restricting a resident's freedom of movement, physical activity, or normal use of the resident's body, using an appliance or device manufactured for this purpose.

(4) "Neglect" means failure to provide a resident with the goods or services necessary to prevent physical harm, mental anguish, or mental illness.

~~(4)(5) "Physical restraint," includes, but is not limited to, the locked door of a room or any article, device, or garment that interferes with the free movement of the resident and that he is unable to remove easily~~ also known as "manual restraint," means any method of physically restricting a resident's freedom of movement, physical activity, or normal use of the resident's body without the use of a mechanical restraint.

(6) "Seclusion" means the involuntary confinement of a

<u>resident alone in a room in which the resident is physically</u>	89955
<u>prevented from leaving.</u>	89956
(B) The rights of a resident of an adult care facility	89957
include all of the following:	89958
(1) The right to a safe, healthy, clean, and decent living	89959
environment;	89960
(2) The right to be treated at all times with courtesy and	89961
respect, and with full recognition of personal dignity and	89962
individuality;	89963
(3) The right to practice a religion of his <u>the resident's</u>	89964
choice or to abstain from the practice of religion;	89965
(4) The right to manage personal financial affairs;	89966
(5) The right to retain and use personal clothing;	89967
(6) The right to ownership and reasonable use of personal	89968
property so as to maintain personal dignity and individuality;	89969
(7) The right to participate in activities within the	89970
facility and to use the common areas of the facility;	89971
(8) The right to engage in or refrain from engaging in	89972
activities of his <u>the resident's</u> own choosing within reason;	89973
(9) The right to private and unrestricted communications,	89974
including:	89975
(a) The right to receive, send, and mail sealed, unopened	89976
correspondence;	89977
(b) The right to reasonable access to a telephone for private	89978
communications;	89979
(c) The right to private visits at any reasonable hour.	89980
(10) The right to initiate and maintain contact with the	89981
community, including the right to participate in the activities of	89982
community groups at his <u>the resident's</u> initiative or at the	89983

initiative of community groups; 89984

(11) The right to state grievances to the owner or the 89985
manager of the facility, to any governmental agency, or to any 89986
other person without reprisal; 89987

(12) Prior to becoming a resident, the right to visit the 89988
facility alone or with ~~his~~ the prospective resident's sponsor; 89989

(13) The right to retain the services of any health or social 89990
services practitioner at ~~his~~ the resident's own expense; 89991

(14) The right to refuse medical treatment or services, or if 89992
the resident has been adjudicated incompetent pursuant to Chapter 89993
2111. of the Revised Code and has not been restored to legal 89994
capacity, the right to have ~~his~~ the resident's legal guardian make 89995
decisions about medical treatment and services for ~~him~~ the 89996
resident; 89997

(15) The right to be free from abuse, neglect, or 89998
exploitation; 89999

(16) The right to be free from seclusion and mechanical and 90000
physical restraints; 90001

(17) The right not to be deprived of any legal rights solely 90002
by reason of residence in an adult care facility; 90003

(18) The right to examine records maintained by the adult 90004
care facility concerning ~~him~~ the resident, upon request; 90005

(19) The right to confidential treatment of ~~his~~ the 90006
resident's personal records, and the right to approve or refuse 90007
the release of these records to any individual outside the 90008
facility, except upon transfer to another adult care facility or a 90009
nursing home, residential care facility, home for the aging, 90010
hospital, or other health care facility or provider, and except as 90011
required by law or rule or as required by a third-party payment 90012
contract; 90013

(20) The right to be informed in writing of the rates charged 90014
by the facility as well as any additional charges, and to receive 90015
thirty days notice in writing of any change in the rates and 90016
charges; 90017

(21) The right to have any significant change in ~~his~~ the 90018
resident's health reported to ~~his~~ the resident's sponsor; 90019

(22) The right to share a room with a spouse if both are 90020
residents of the facility. 90021

(C) A sponsor, the director of mental health, or the director 90022
of aging, ~~or a residents' rights advocate registered under section~~ 90023
~~3701.07 of the Revised Code~~ may assert on behalf of a resident any 90024
of the rights enumerated under this section, section ~~3722.14~~ 90025
5119.83 of the Revised Code, or rules adopted ~~by the public health~~ 90026
~~council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of 90027
the Revised Code. Any attempted waiver of these rights is void. No 90028
adult care facility or person associated with an adult care 90029
facility shall deny a resident any of these rights. 90030

(D) Any resident whose rights under this section or section 90031
~~3722.13~~ 5119.82 or ~~3722.14~~ 5119.83 of the Revised Code are 90032
violated has a cause of action against any person or facility 90033
committing the violation. ~~The action may be commenced by the~~ 90034
~~resident or by his sponsor on his behalf.~~ The court may award 90035
actual and punitive damages for violation of the rights. The court 90036
may award to the prevailing party reasonable attorney's fees 90037
limited to the work reasonably performed. 90038

Sec. ~~3722.13~~ 5119.82. (A) Each adult care facility shall 90039
establish a written residents' rights policy containing the text 90040
of sections ~~3722.12~~ 5119.81 and ~~3722.14~~ 5119.83 of the Revised 90041
Code and rules adopted by the ~~public health council~~ pursuant to 90042
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, a 90043
discussion of the rights and responsibilities of residents under 90044

~~that section~~ sections 5119.81 to 5119.83 of the Revised Code, and 90045
the text of any additional rule for residents promulgated by the 90046
facility. At the time of admission the manager shall give a copy 90047
of the residents' rights policy to the resident and the resident's 90048
sponsor, if any, and explain the contents of the policy to them. 90049
The facility shall establish procedures for facilitating the 90050
residents' exercise of their rights. 90051

(B) Each adult care facility shall post prominently within 90052
the facility a copy of the residents' rights listed in division 90053
(B) of section ~~3722.12~~ 5119.81 of the Revised Code and any 90054
additional residents' rights established by rules adopted ~~by the~~ 90055
~~public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 90056
5119.88 of the Revised Code, the addresses and telephone numbers 90057
of the state long-term care ombudsperson and the regional 90058
long-term care ombudsperson program for the area in which the 90059
facility is located, and the telephone number maintained by the 90060
department ~~of health~~ for accepting complaints. 90061

Sec. ~~3722.14~~ 5119.83. (A)(1) Except as provided in division 90062
(A)(2) of this section, an adult care facility may transfer or 90063
discharge a resident, in the absence of a request from the 90064
resident, only for the following reasons: 90065

(a) Charges for the resident's accommodations and services 90066
have not been paid within thirty days after the date on which they 90067
became due; 90068

(b) The mental, emotional, or physical condition of the 90069
resident requires a level of care that the facility is unable to 90070
provide; 90071

(c) The health, safety, or welfare of the resident or of 90072
another resident requires a transfer or discharge; 90073

(d) The facility's license has been revoked or renewal has 90074

been denied ~~pursuant to this chapter~~ by the director of mental health; 90075
90076

(e) The owner closes the facility; 90077

(f) The resident is relocated as the result of a court's 90078
order issued under section ~~3722.09~~ 5119.78 of the Revised Code as 90079
part of the injunctive relief granted against a facility that is 90080
operating without a license; 90081

(g) The resident is receiving publicly funded mental health 90082
services and the facility's mental health resident program 90083
participation agreement is terminated by the facility or ADAMHS 90084
board. 90085

(2) An adult family home may transfer or discharge a resident 90086
if transfer or discharge is required for the health, safety, or 90087
welfare of an individual who resides in the home but is not a 90088
resident for whom supervision or personal services are provided. 90089

(B)(1) The facility shall give a resident thirty days' 90090
advance notice, in writing, of a proposed transfer or discharge, 90091
except that if the transfer or discharge is for a reason given in 90092
divisions (A)(1)(b) to (g) or (A)(2) of this section and an 90093
emergency exists, the notice need not be given thirty days in 90094
advance. The facility shall state in the written notice the 90095
reasons for the proposed transfer or discharge. If the resident is 90096
entitled to a hearing as specified in division (B)(2) of this 90097
section, the written notice shall outline the procedure for the 90098
resident to follow in requesting a hearing. 90099

(2) A resident may request a hearing if a proposed transfer 90100
or discharge is based on reason given in ~~division~~ divisions 90101
(A)(1)(a) to (c) or (A)(2) of this section. If the resident seeks 90102
a hearing, the resident shall submit a request to the director of 90103
mental health not later than ten days after receiving the written 90104
notice. The director shall hold the hearing not later than ten 90105

days after receiving the request. A representative of the director 90106
shall preside over the hearing and shall issue a written 90107
recommendation of action to be taken by the director not later 90108
than three days after the hearing. The director shall issue an 90109
order regarding the transfer or discharge not later than two days 90110
after receipt of the recommendation. The order may prohibit or 90111
place conditions on the discharge or transfer. In the case of a 90112
transfer, the order may require that the transfer be to an 90113
institution or facility specified by the director. The hearing is 90114
not subject to section 121.22 of the Revised Code. The ~~public~~ 90115
~~health council~~ department of mental health shall adopt rules 90116
governing any additional procedures necessary for conducting the 90117
hearing. 90118

(C)(1) The owner of an adult care facility who is closing the 90119
facility shall inform the director ~~of health~~ in writing at least 90120
thirty days prior to the proposed date of closing. At the same 90121
time, the owner or manager shall inform each resident, the 90122
resident's guardian, the resident's sponsor, or any organization 90123
or agency acting on behalf of the resident, of the closing of the 90124
facility and the date of the closing. 90125

(2) Immediately upon receiving notice that a facility is to 90126
be closed, the director shall monitor the transfer of residents to 90127
other facilities and ensure that residents' rights are protected. 90128
The director shall notify the ombudsperson in the region in which 90129
the facility is located of the closing. 90130

(3) All charges shall be prorated as of the date on which the 90131
facility closes. If payments have been made in advance, the 90132
payments for services not rendered shall be refunded to the 90133
resident or the resident's guardian not later than seven days 90134
after the closing of the facility. 90135

(4) Immediately upon the closing of a facility, the owner 90136
shall surrender the license to the director, and the license shall 90137

be canceled. 90138

Sec. ~~3722.15~~ 5119.84. (A) The following may enter an adult care facility at any time: 90139
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(1) Employees designated by the director of mental health; 90141

(2) Employees designated by the director of aging; 90142

(3) Employees designated by the attorney general; 90143

(4) Employees designated by a county department of job and family services to implement sections 5101.60 to 5101.71 of the Revised Code; 90144
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(5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care ombudsperson program; 90147
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(6) ~~Employees of the department of mental health designated by the director of mental health;~~ 90150
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~~(7)~~ Employees of a mental health agency under any of the following circumstances: 90152
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(a) When the agency has a client residing in the facility; 90154

(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract; 90155
90156

(c) When there is a mental health resident program participation agreement between the facility and the ADAMHS board with which the agency is under contract. 90157
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~~(8)~~(7) Employees of an ADAMHS board under any of the following circumstances: 90160
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(a) When authorized by section 340.05 of the Revised Code; 90162

(b) When a resident of the facility is receiving mental health services provided by that ADAMHS board or another ADAMHS board pursuant to division (A)(8)(b) of section 340.03 of the 90163
90164
90165

Revised Code;	90166
(c) When a resident of the facility is receiving services from a mental health agency under contract with that ADAMHS board or another ADAMHS board;	90167 90168 90169
(d) When there is a mental health resident program participation agreement between the facility and that ADAMHS board.	90170 90171 90172
The employees specified in divisions (A)(1) to (8) (7) of this section shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of <u>mental</u> health shall release, without consent, any information obtained from the records of an adult care facility that reasonably would tend to identify a specific resident of the facility, except as ordered by a court of competent jurisdiction <u>or when the release is otherwise authorized by law.</u>	90173 90174 90175 90176 90177 90178 90179 90180 90181
(B) The following persons may enter any adult care facility during reasonable hours:	90182 90183
(1) A resident's sponsor;	90184
(2) Residents' rights advocates;	90185
(3) A resident's attorney;	90186
(4) (2) A minister, priest, rabbi, or other person ministering to a resident's religious needs;	90187 90188
(5) (3) A physician or other person providing health care services to a resident;	90189 90190
(6) (4) Employees authorized by county departments of job and family services and local boards of health or health departments to enter adult care facilities;	90191 90192 90193
(7) (5) A prospective resident and prospective resident's sponsor.	90194 90195

(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section.

Sec. ~~3722.151~~ 5119.85. (A) As used in this section:

(1) ~~"Adult care facility" has the same meaning as in section 3722.01 of the Revised Code.~~

~~(2)~~ "Applicant" means a person who is under final consideration for employment with an adult care facility in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

~~(3)~~(2) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of an adult care facility shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check

request is required under this division presents proof of having 90227
been a resident of this state for the five-year period, the chief 90228
administrator may request that the superintendent include 90229
information from the federal bureau of investigation in the 90230
criminal records check. 90231

(2) A person required by division (B)(1) of this section to 90232
request a criminal records check shall do both of the following: 90233

(a) Provide to each applicant for whom a criminal records 90234
check request is required under that division a copy of the form 90235
prescribed pursuant to division (C)(1) of section 109.572 of the 90236
Revised Code and a standard fingerprint impression sheet 90237
prescribed pursuant to division (C)(2) of that section, and obtain 90238
the completed form and impression sheet from the applicant; 90239

(b) Forward the completed form and impression sheet to the 90240
superintendent of the bureau of criminal identification and 90241
investigation. 90242

(3) An applicant provided the form and fingerprint impression 90243
sheet under division (B)(2)(a) of this section who fails to 90244
complete the form or provide fingerprint impressions shall not be 90245
employed in any position for which a criminal records check is 90246
required by this section. 90247

(C)(1) Except as provided in rules adopted by the ~~public~~ 90248
~~health council~~ department of mental health in accordance with 90249
division (F) of this section and subject to division (C)(2) of 90250
this section, no adult care facility shall employ a person in a 90251
position that involves providing direct care to an older adult if 90252
the person has been convicted of or pleaded guilty to any of the 90253
following: 90254

(a) A violation of section 2903.01, 2903.02, 2903.03, 90255
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 90256
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 90257

2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 90258
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 90259
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 90260
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 90261
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 90262
2925.22, 2925.23, or 3716.11 of the Revised Code. 90263

(b) A violation of an existing or former law of this state, 90264
any other state, or the United States that is substantially 90265
equivalent to any of the offenses listed in division (C)(1)(a) of 90266
this section. 90267

(2)(a) An adult care facility may employ conditionally an 90268
applicant for whom a criminal records check request is required 90269
under division (B) of this section prior to obtaining the results 90270
of a criminal records check regarding the individual, provided 90271
that the facility shall request a criminal records check regarding 90272
the individual in accordance with division (B)(1) of this section 90273
not later than five business days after the individual begins 90274
conditional employment. In the circumstances described in division 90275
(I)(2) of this section, an adult care facility may employ 90276
conditionally an applicant who has been referred to the adult care 90277
facility by an employment service that supplies full-time, 90278
part-time, or temporary staff for positions involving the direct 90279
care of older adults and for whom, pursuant to that division, a 90280
criminal records check is not required under division (B) of this 90281
section. 90282

(b) An adult care facility that employs an individual 90283
conditionally under authority of division (C)(2)(a) of this 90284
section shall terminate the individual's employment if the results 90285
of the criminal records check requested under division (B) of this 90286
section or described in division (I)(2) of this section, other 90287
than the results of any request for information from the federal 90288
bureau of investigation, are not obtained within the period ending 90289

thirty days after the date the request is made. Regardless of when 90290
the results of the criminal records check are obtained, if the 90291
results indicate that the individual has been convicted of or 90292
pleaded guilty to any of the offenses listed or described in 90293
division (C)(1) of this section, the facility shall terminate the 90294
individual's employment unless the facility chooses to employ the 90295
individual pursuant to division (F) of this section. Termination 90296
of employment under this division shall be considered just cause 90297
for discharge for purposes of division (D)(2) of section 4141.29 90298
of the Revised Code if the individual makes any attempt to deceive 90299
the facility about the individual's criminal record. 90300

(D)(1) Each adult care facility shall pay to the bureau of 90301
criminal identification and investigation the fee prescribed 90302
pursuant to division (C)(3) of section 109.572 of the Revised Code 90303
for each criminal records check conducted pursuant to a request 90304
made under division (B) of this section. 90305

(2) An adult care facility may charge an applicant a fee not 90306
exceeding the amount the facility pays under division (D)(1) of 90307
this section. A facility may collect a fee only if it notifies the 90308
person at the time of initial application for employment of the 90309
amount of the fee and that, unless the fee is paid, the person 90310
will not be considered for employment. 90311

(E) The report of any criminal records check conducted 90312
pursuant to a request made under this section is not a public 90313
record for the purposes of section 149.43 of the Revised Code and 90314
shall not be made available to any person other than the 90315
following: 90316

(1) The individual who is the subject of the criminal records 90317
check or the individual's representative; 90318

(2) The chief administrator of the facility requesting the 90319
criminal records check or the administrator's representative; 90320

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the adult care facility; 90321
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(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant; 90325
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(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section. 90329
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(F) The ~~public health council~~ department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which an adult care facility may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the council. 90331
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(G) The chief administrator of an adult care facility shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment. 90338
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(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who an adult care facility employs in a position that involves providing direct care to older adults, all of the following shall apply: 90345
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(1) If the facility employed the individual in good faith and reasonable reliance on the report of a criminal records check 90350
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requested under this section, the facility shall not be found 90352
negligent solely because of its reliance on the report, even if 90353
the information in the report is determined later to have been 90354
incomplete or inaccurate; 90355

(2) If the facility employed the individual in good faith on 90356
a conditional basis pursuant to division (C)(2) of this section, 90357
the facility shall not be found negligent solely because it 90358
employed the individual prior to receiving the report of a 90359
criminal records check requested under this section; 90360

(3) If the facility in good faith employed the individual 90361
according to the personal character standards established in rules 90362
adopted under division (F) of this section, the facility shall not 90363
be found negligent solely because the individual prior to being 90364
employed had been convicted of or pleaded guilty to an offense 90365
listed or described in division (C)(1) of this section. 90366

(I)(1) The chief administrator of an adult care facility is 90367
not required to request that the superintendent of the bureau of 90368
criminal identification and investigation conduct a criminal 90369
records check of an applicant if the applicant has been referred 90370
to the facility by an employment service that supplies full-time, 90371
part-time, or temporary staff for positions involving the direct 90372
care of older adults and both of the following apply: 90373

(a) The chief administrator receives from the employment 90374
service or the applicant a report of the results of a criminal 90375
records check regarding the applicant that has been conducted by 90376
the superintendent within the one-year period immediately 90377
preceding the applicant's referral; 90378

(b) The report of the criminal records check demonstrates 90379
that the person has not been convicted of or pleaded guilty to an 90380
offense listed or described in division (C)(1) of this section, or 90381
the report demonstrates that the person has been convicted of or 90382

pleaded guilty to one or more of those offenses, but the adult 90383
care facility chooses to employ the individual pursuant to 90384
division (F) of this section. 90385

(2) The chief administrator of an adult care facility is not 90386
required to request that the superintendent of the bureau of 90387
criminal identification and investigation conduct a criminal 90388
records check of an applicant and may employ the applicant 90389
conditionally as described in this division, if the applicant has 90390
been referred to the facility by an employment service that 90391
supplies full-time, part-time, or temporary staff for positions 90392
involving the direct care of older adults and if the chief 90393
administrator receives from the employment service or the 90394
applicant a letter from the employment service that is on the 90395
letterhead of the employment service, dated, and signed by a 90396
supervisor or another designated official of the employment 90397
service and that states that the employment service has requested 90398
the superintendent to conduct a criminal records check regarding 90399
the applicant, that the requested criminal records check will 90400
include a determination of whether the applicant has been 90401
convicted of or pleaded guilty to any offense listed or described 90402
in division (C)(1) of this section, that, as of the date set forth 90403
on the letter, the employment service had not received the results 90404
of the criminal records check, and that, when the employment 90405
service receives the results of the criminal records check, it 90406
promptly will send a copy of the results to the adult care 90407
facility. If an adult care facility employs an applicant 90408
conditionally in accordance with this division, the employment 90409
service, upon its receipt of the results of the criminal records 90410
check, promptly shall send a copy of the results to the adult care 90411
facility, and division (C)(2)(b) of this section applies regarding 90412
the conditional employment. 90413

Sec. ~~3722.16~~ 5119.86. (A) No person shall: 90414

- (1) Operate an adult care facility unless the facility is validly licensed by the director of mental health under section ~~3722.04~~ 5119.73 of the Revised Code; 90415
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- (2) Admit to an adult care facility more residents than the number authorized in the facility's license; 90418
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- (3) Admit a resident to an adult care facility after the director has issued an order pursuant to section ~~3722.07~~ 5119.76 of the Revised Code suspending admissions to the facility. 90420
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Violation of division (A)(3) of this section is cause for 90423
revocation of the facility's license. 90424
- (4) Interfere with any authorized inspection of an adult care facility conducted pursuant to section ~~3722.02~~ 5119.71 or ~~3722.04~~ 5119.73 of the Revised Code; 90425
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90427
- (5) Admit to an adult care facility a resident requiring publicly funded mental health services, unless both of the following conditions are met: 90428
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90430
- (a) The ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located is notified; 90431
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- (b) The facility and ADAMHS board have entered into a mental health resident program participation agreement by using the standardized form approved by the director of mental health under section ~~5119.613~~ 5119.614 of the Revised Code. 90434
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- (6) Violate any of the provisions of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or any of the rules adopted pursuant to ~~it~~ those sections. 90438
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90440
- (B) No adult care facility shall provide, or admit or retain any resident in need of, skilled nursing care unless all of the following conditions are met: 90441
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- (1) The care will be provided on a part-time, intermittent 90444

basis for not more than a total of one hundred twenty days in any 90445
twelve-month period. 90446

(2) The care will be provided by one or more of the 90447
following: 90448

(a) A home health agency certified under Title XVIII of the 90449
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 90450
amended; 90451

(b) A hospice care program licensed under Chapter 3712. of 90452
the Revised Code; 90453

(c) A nursing home licensed under Chapter 3721. of the 90454
Revised Code and owned and operated by the same person and located 90455
on the same site as the adult care facility; 90456

(d) A mental health agency or, pursuant to division (A)(8)(b) 90457
of section 340.03 of the Revised Code, an ADAMHS board. 90458

(3) Each individual employed by, under contract with, or 90459
otherwise used by any of the entities specified in division (B)(2) 90460
of this section to perform the skilled nursing care is authorized 90461
under the laws of this state to perform the care by being 90462
appropriately licensed, as specified in rules adopted under 90463
division (G) of this section. 90464

(4) The staff of the one or more entities providing the 90465
skilled nursing care does not train the adult care facility staff 90466
to provide the skilled nursing care; 90467

(5) The individual to whom the skilled nursing care is 90468
provided is suffering from a short-term illness; 90469

(6) If the skilled nursing care is to be provided by the 90470
nursing staff of a nursing home, all of the following are the 90471
case: 90472

(a) The adult care facility evaluates the individual 90473
receiving the skilled nursing care at least once every seven days 90474

to determine whether the individual should be transferred to a nursing home; 90475
90476

(b) The adult care facility meets at all times staffing requirements established by rules adopted under section ~~3722.10~~ 5119.79 of the Revised Code; 90477
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90479

(c) The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section 5111.26 of the Revised Code; 90480
90481
90482

(d) The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code; 90483
90484
90485

(e) The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code; 90486
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(f) The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code; 90492
90493
90494

(g) The nursing home meets the skilled nursing care needs of the adult care facility residents; 90495
90496

(h) Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner. 90497
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90499
90500

(7) No adult care facility staff shall provide skilled nursing care. 90501
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Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as 90503
90504

described in division (B) of this section is not a nursing home. 90505

(C) A home health agency or hospice care program that 90506
provides skilled nursing care pursuant to division (B) of this 90507
section may not be associated with the adult care facility unless 90508
the facility is part of a home for the aged as defined in section 90509
5701.13 of the Revised Code or the adult care facility is owned 90510
and operated by the same person and located on the same site as a 90511
nursing home licensed under Chapter 3721. of the Revised Code that 90512
is associated with the home health agency or hospice care program. 90513
In addition, the following requirements shall be met: 90514

(1) The adult care facility shall evaluate the individual 90515
receiving the skilled nursing care not less than once every seven 90516
days to determine whether the individual should be transferred to 90517
a nursing home; 90518

(2) If the costs of providing the skilled nursing care are 90519
included in a cost report filed pursuant to section 5111.26 of the 90520
Revised Code by the nursing home that is part of the same home for 90521
the aged, the home health agency or hospice care program shall not 90522
seek reimbursement for the care under the medical assistance 90523
program established under Chapter 5111. of the Revised Code. 90524

(D) No person knowingly shall place or recommend placement of 90525
any person in an adult care facility that is operating without a 90526
license. 90527

(E) No employee of a unit of local or state government, 90528
ADAMHS board, mental health agency, or ~~PASSPORT~~ RSS administrative 90529
agency shall place or recommend placement of any person in an 90530
adult care facility if the employee knows any of the following: 90531

(1) That the facility cannot meet the needs of the potential 90532
resident; 90533

(2) That placement of the resident would cause the facility 90534
to exceed its licensed capacity; 90535

(3) That an enforcement action initiated by the director of mental health is pending and may result in the revocation of or refusal to renew the facility's license; 90536
90537
90538

(4) That the potential resident is receiving or is eligible for publicly funded mental health services and the facility has not entered into a mental health resident program participation agreement. 90539
90540
90541
90542

(F) No person who has reason to believe that an adult care facility is operating without a license shall fail to report this information to the director of mental health. 90543
90544
90545

(G) In accordance with Chapter 119. of the Revised Code, the ~~public health council~~ department of mental health shall adopt rules for purposes of division (B) of this section that do all of the following: 90546
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90549

(1) Define a short-term illness for purposes of division (B)(5) of this section; 90550
90551

(2) Specify, consistent with rules pertaining to home health care adopted by the director of job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section; 90552
90553
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(3) Specify what constitutes being appropriately licensed for purposes of division (B)(3) of this section. 90559
90560

Sec. ~~3722.17~~ 5119.87. (A) Any person who believes that an adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of any of the rules ~~promulgated~~ adopted pursuant to ~~it~~ those sections may report the information to the director of mental health. The director shall 90561
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investigate each report made under this section or section ~~3722.16~~ 90566
5119.86 of the Revised Code and shall inform the facility of the 90567
results of the investigation. When investigating a report made 90568
pursuant to section 340.05 of the Revised Code, the director shall 90569
consult with the ADAMHS board that made the report. The director 90570
shall keep a record of the investigation and the action taken as a 90571
result of the investigation. 90572

The director shall not reveal, without consent, the identity 90573
of a person who makes a report under this section or division (G) 90574
of section ~~3722.16~~ 5119.86 of the Revised Code, the identity of a 90575
specific resident or residents referred to in such a report, or 90576
any other information that could reasonably be expected to reveal 90577
the identity of the person making the report or the resident or 90578
residents referred to in the report, except that the director may 90579
provide this information to a government agency responsible for 90580
enforcing laws applying to adult care facilities. 90581

(B) Any person who believes that a resident's rights under 90582
sections ~~3722.12~~ 5119.81 to ~~3722.15~~ 5119.84 of the Revised Code 90583
have been violated may report the information to the state 90584
long-term care ombudsperson, the regional long-term care 90585
ombudsperson program for the area in which the facility is 90586
located, or the director of mental health. If the person believes 90587
that the resident has mental illness or severe mental disability 90588
and is suffering abuse or neglect, the person may report the 90589
information to the ADAMHS board serving the alcohol, drug 90590
addiction, and mental health service district in which the adult 90591
care facility is located or a mental health agency under contract 90592
with the board in addition to or instead of the ombudsperson, 90593
regional program, or director. 90594

(C) Any person who makes a report pursuant to division (A) or 90595
(B) of this section or division (G) of section ~~3722.16~~ 5119.86 of 90596
the Revised Code or any person who participates in an 90597

administrative or judicial proceeding resulting from such a report 90598
is immune from any civil liability or criminal liability, other 90599
than perjury, that might otherwise be incurred or imposed as a 90600
result of these actions, unless the person has acted in bad faith 90601
or with malicious purpose. 90602

Sec. ~~3722.18~~ 5119.88. Before an adult care facility admits a 90603
prospective resident who the owner or manager of the facility 90604
knows has been assessed as having a mental illness or severe 90605
mental disability, the owner or manager is subject to both of the 90606
following: 90607

(A) If the prospective resident is referred to the facility 90608
by a mental health agency or ADAMHS board, the owner or manager 90609
shall follow procedures established in rules adopted under 90610
division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code 90611
regarding referrals and effective arrangements for ongoing mental 90612
health services. 90613

(B) If the prospective resident is not referred to the 90614
facility by a mental health agency or ADAMHS board, the owner or 90615
manager shall offer to assist the prospective resident in 90616
obtaining appropriate mental health services and document the 90617
offer of assistance in accordance with rules adopted under 90618
division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code. 90619

Sec. 5119.99. (A) Whoever violates section 5119.21 of the 90620
Revised Code is guilty of a misdemeanor of the first degree. 90621

(B) Whoever violates division (A)(1) of section 5119.86 of 90622
the Revised Code shall be fined two thousand dollars for a first 90623
offense; for each subsequent offense, such person shall be fined 90624
five thousand dollars. 90625

(C) Whoever violates division (C) of section 5119.81 or 90626
division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) 90627

of section 5119.86 of the Revised Code shall be fined five hundred 90628
dollars for a first offense; for each subsequent offense, such 90629
person shall be fined one thousand dollars. 90630

Sec. 5120.092. There is hereby created in the state treasury 90631
the adult and juvenile correctional facilities bond retirement 90632
fund. The fund shall receive proceeds derived from the sale of 90633
state adult or juvenile correctional facilities. Investment income 90634
with respect to moneys on deposit in the fund shall be retained by 90635
the fund. No investment of moneys in, or transfer of moneys from, 90636
the fund shall be made if the effect of the investment or transfer 90637
would be to adversely affect the exclusion from gross income of 90638
the interest payable on state bonds issued for state adult or 90639
juvenile correctional facilities that have been sold under 90640
authority of Section 753.10 or 753.30 of the act in which this 90641
section was enacted. To the extent necessary to maintain the 90642
exclusion from gross income of the interest payable on those 90643
bonds, moneys in the fund shall first be used to redeem or defease 90644
the outstanding portion of such bonds. To accomplish the 90645
redemption or defeasance, the director of budget and management, 90646
at the request of the Ohio building authority, may direct that 90647
moneys in the fund be transferred to the appropriate trustees 90648
under the applicable bond trust agreements. Upon receipt of both 90649
(i) one or more opinions of a nationally recognized bond counsel 90650
firm appointed by the Ohio building authority stating that the 90651
aforementioned bonds have been redeemed or defeased and that the 90652
transfer of such moneys will not adversely affect the exclusion 90653
from gross income of the interest payable on such bonds, and (ii) 90654
a certification by both the director of administrative services 90655
and the director of rehabilitation and correction stating either 90656
that all sales of state adult and juvenile correctional facilities 90657
contemplated by Section 753.10 or 753.30 of the act in which this 90658
section was enacted have been completed or that no further sales 90659

of any such facilities will be undertaken, the director of budget 90660
and management may direct that any moneys remaining in the fund 90661
after the redemption or defeasance of the aforementioned bonds 90662
shall be transferred to the general revenue fund. Upon completion 90663
of that transfer, the adult and juvenile correctional facilities 90664
bond retirement fund shall be abolished. 90665

Sec. 5120.135. (A) As used in this section, "laboratory 90666
services" includes the performance of medical laboratory analysis; 90667
professional laboratory and pathologist consultation; the 90668
procurement, storage, and distribution of laboratory supplies; and 90669
the performance of phlebotomy services. 90670

(B) The department of rehabilitation and correction ~~shall~~ may 90671
provide laboratory services to the departments of mental health, 90672
developmental disabilities, youth services, and rehabilitation and 90673
correction. The department of rehabilitation and correction may 90674
also provide laboratory services to other state, county, or 90675
municipal agencies and to private persons that request laboratory 90676
services if the department of rehabilitation and correction 90677
determines that the provision of laboratory services is in the 90678
public interest and considers it advisable to provide such 90679
services. The department of rehabilitation and correction may also 90680
provide laboratory services to agencies operated by the United 90681
States government and to public and private entities funded in 90682
whole or in part by the state if the director of rehabilitation 90683
and correction designates them as eligible to receive such 90684
services. 90685

The department of rehabilitation and correction shall provide 90686
laboratory services from a laboratory that complies with the 90687
standards for certification set by the United States department of 90688
health and human services under the "Clinical Laboratory 90689
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 90690

In addition, the laboratory shall maintain accreditation or certification with an appropriate accrediting or certifying organization as considered necessary by the recipients of its laboratory services and as authorized by the director of rehabilitation and correction.

(C) The cost of administering this section shall be determined by the department of rehabilitation and correction and shall be paid by entities that receive laboratory services to the department for deposit in the state treasury to the credit of the laboratory services fund, which is hereby created. The fund shall be used to pay the costs the department incurs in administering this section.

~~(D) If the department of rehabilitation and correction does not provide laboratory services under this section in a satisfactory manner to the department of developmental disabilities, youth services, or mental health, the director of developmental disabilities, youth services, or mental health shall attempt to resolve the matter of the unsatisfactory provision of services with the director of rehabilitation and correction. If, after this attempt, the provision of laboratory services continues to be unsatisfactory, the director of developmental disabilities, youth services, or mental health shall notify the director of rehabilitation and correction regarding the continued unsatisfactory provision of laboratory services. If, within thirty days after the director receives this notice, the department of rehabilitation and correction does not provide the specified laboratory services in a satisfactory manner, the director of developmental disabilities, youth services, or mental health shall notify the director of rehabilitation and correction of the notifying director's intent to cease obtaining laboratory services from the department of rehabilitation and correction. Following the end of a cancellation period of sixty days that begins on the~~

~~date of the notice, the department that sent the notice may obtain 90723
laboratory services from a provider other than the department of 90724
rehabilitation and correction, if the department that sent the 90725
notice certifies to the department of administrative services that 90726
the requirements of this division have been met. 90727~~

(E) Whenever a state agency fails to make a payment for 90728
laboratory services provided to it by the department of 90729
rehabilitation and correction under this section within thirty-one 90730
days after the date the payment was due, the office of budget and 90731
management may transfer moneys from that state agency to the 90732
department of rehabilitation and correction for deposit to the 90733
credit of the laboratory services fund. The amount transferred 90734
shall not exceed the amount of the overdue payments. Prior to 90735
making a transfer under this division, the office shall apply any 90736
credits the state agency has accumulated in payment for laboratory 90737
services provided under this section. 90738

Sec. 5120.17. (A) As used in this section: 90739

(1) "Mental illness" means a substantial disorder of thought, 90740
mood, perception, orientation, or memory that grossly impairs 90741
judgment, behavior, capacity to recognize reality, or ability to 90742
meet the ordinary demands of life. 90743

(2) "Mentally ill person subject to hospitalization" means a 90744
mentally ill person to whom any of the following applies because 90745
of the person's mental illness: 90746

(a) The person represents a substantial risk of physical harm 90747
to the person as manifested by evidence of threats of, or attempts 90748
at, suicide or serious self-inflicted bodily harm. 90749

(b) The person represents a substantial risk of physical harm 90750
to others as manifested by evidence of recent homicidal or other 90751
violent behavior, evidence of recent threats that place another in 90752

reasonable fear of violent behavior and serious physical harm, or 90753
other evidence of present dangerousness. 90754

(c) The person represents a substantial and immediate risk of 90755
serious physical impairment or injury to the person as manifested 90756
by evidence that the person is unable to provide for and is not 90757
providing for the person's basic physical needs because of the 90758
person's mental illness and that appropriate provision for those 90759
needs cannot be made immediately available in the correctional 90760
institution in which the inmate is currently housed. 90761

(d) The person would benefit from treatment in a hospital for 90762
the person's mental illness and is in need of treatment in a 90763
hospital as manifested by evidence of behavior that creates a 90764
grave and imminent risk to substantial rights of others or the 90765
person. 90766

(3) "Psychiatric hospital" means all or part of a facility 90767
that is operated and managed by the department of ~~rehabilitation~~ 90768
~~and correction, is designated as a psychiatric hospital~~ mental 90769
health to provide psychiatric hospitalization services in 90770
accordance with the requirements of this section pursuant to an 90771
agreement between the directors of rehabilitation and correction 90772
and mental health or, is licensed by the department of mental 90773
health pursuant to section 5119.20 of the Revised Code, as a 90774
psychiatric hospital and is ~~in substantial compliance with the~~ 90775
~~standards set by the joint commission on accreditation of~~ 90776
~~healthcare organizations~~ accredited by a healthcare accrediting 90777
organization approved by the department of mental health and the 90778
psychiatric hospital is any of the following: 90779

(a) Operated and managed by the department of rehabilitation 90780
and correction within a facility that is operated by the 90781
department of rehabilitation and correction; 90782

(b) Operated and managed by a contractor for the department 90783

of rehabilitation and correction within a facility that is 90784
operated by the department of rehabilitation and correction; 90785

(c) Operated and managed in the community by an entity that 90786
has contracted with the department of rehabilitation and 90787
correction to provide psychiatric hospitalization services in 90788
accordance with the requirements of this section. 90789

(4) "Inmate patient" means an inmate who is admitted to a 90790
psychiatric hospital. 90791

(5) "Admitted" to a psychiatric hospital means being accepted 90792
for and staying at least one night at the psychiatric hospital. 90793

(6) "Treatment plan" means a written statement of reasonable 90794
objectives and goals for an inmate patient that is based on the 90795
needs of the inmate patient and that is established by the 90796
treatment team, with the active participation of the inmate 90797
patient and with documentation of that participation. "Treatment 90798
plan" includes all of the following: 90799

(a) The specific criteria to be used in evaluating progress 90800
toward achieving the objectives and goals; 90801

(b) The services to be provided to the inmate patient during 90802
the inmate patient's hospitalization; 90803

(c) The services to be provided to the inmate patient after 90804
discharge from the hospital, including, but not limited to, 90805
housing and mental health services provided at the state 90806
correctional institution to which the inmate patient returns after 90807
discharge or community mental health services. 90808

(7) "Mentally retarded person subject to institutionalization 90809
by court order" has the same meaning as in section 5123.01 of the 90810
Revised Code. 90811

(8) "Emergency transfer" means the transfer of a mentally ill 90812
inmate to a psychiatric hospital when the inmate presents an 90813

immediate danger to self or others and requires hospital-level 90814
care. 90815

(9) "Uncontested transfer" means the transfer of a mentally 90816
ill inmate to a psychiatric hospital when the inmate has the 90817
mental capacity to, and has waived, the hearing required by 90818
division (B) of this section. 90819

(10)(a) "Independent decision-maker" means a person who is 90820
employed or retained by the department of rehabilitation and 90821
correction and is appointed by the chief or chief clinical officer 90822
of mental health services as a hospitalization hearing officer to 90823
conduct due process hearings. 90824

(b) An independent decision-maker who presides over any 90825
hearing or issues any order pursuant to this section shall be a 90826
psychiatrist, psychologist, or attorney, shall not be specifically 90827
associated with the institution in which the inmate who is the 90828
subject of the hearing or order resides at the time of the hearing 90829
or order, and previously shall not have had any treatment 90830
relationship with nor have represented in any legal proceeding the 90831
inmate who is the subject of the order. 90832

(B)(1) Except as provided in division (C) of this section, if 90833
the warden of a state correctional institution or the warden's 90834
designee believes that an inmate should be transferred from the 90835
institution to a psychiatric hospital, the department shall hold a 90836
hearing to determine whether the inmate is a mentally ill person 90837
subject to hospitalization. The department shall conduct the 90838
hearing at the state correctional institution in which the inmate 90839
is confined, and the department shall provide qualified 90840
independent assistance to the inmate for the hearing. An 90841
independent decision-maker provided by the department shall 90842
preside at the hearing and determine whether the inmate is a 90843
mentally ill person subject to hospitalization. 90844

(2) Except as provided in division (C) of this section, prior 90845
to the hearing held pursuant to division (B)(1) of this section, 90846
the warden or the warden's designee shall give written notice to 90847
the inmate that the department is considering transferring the 90848
inmate to a psychiatric hospital, that it will hold a hearing on 90849
the proposed transfer at which the inmate may be present, that at 90850
the hearing the inmate has the rights described in division (B)(3) 90851
of this section, and that the department will provide qualified 90852
independent assistance to the inmate with respect to the hearing. 90853
The department shall not hold the hearing until the inmate has 90854
received written notice of the proposed transfer and has had 90855
sufficient time to consult with the person appointed by the 90856
department to provide assistance to the inmate and to prepare for 90857
a presentation at the hearing. 90858

(3) At the hearing held pursuant to division (B)(1) of this 90859
section, the department shall disclose to the inmate the evidence 90860
that it relies upon for the transfer and shall give the inmate an 90861
opportunity to be heard. Unless the independent decision-maker 90862
finds good cause for not permitting it, the inmate may present 90863
documentary evidence and the testimony of witnesses at the hearing 90864
and may confront and cross-examine witnesses called by the 90865
department. 90866

(4) If the independent decision-maker does not find clear and 90867
convincing evidence that the inmate is a mentally ill person 90868
subject to hospitalization, the department shall not transfer the 90869
inmate to a psychiatric hospital but shall continue to confine the 90870
inmate in the same state correctional institution or in another 90871
state correctional institution that the department considers 90872
appropriate. If the independent decision-maker finds clear and 90873
convincing evidence that the inmate is a mentally ill person 90874
subject to hospitalization, the decision-maker shall order that 90875
the inmate be transported to a psychiatric hospital for 90876

observation and treatment for a period of not longer than thirty 90877
days. After the hearing, the independent decision-maker shall 90878
submit to the department a written decision that states one of the 90879
findings described in division (B)(4) of this section, the 90880
evidence that the decision-maker relied on in reaching that 90881
conclusion, and, if the decision is that the inmate should be 90882
transferred, the reasons for the transfer. 90883

(C)(1) The department may transfer an inmate to a psychiatric 90884
hospital under an emergency transfer order if the chief clinical 90885
officer of mental health services of the department or that 90886
officer's designee and either a psychiatrist employed or retained 90887
by the department or, in the absence of a psychiatrist, a 90888
psychologist employed or retained by the department determines 90889
that the inmate is mentally ill, presents an immediate danger to 90890
self or others, and requires hospital-level care. 90891

(2) The department may transfer an inmate to a psychiatric 90892
hospital under an uncontested transfer order if both of the 90893
following apply: 90894

(a) A psychiatrist employed or retained by the department 90895
determines all of the following apply: 90896

(i) The inmate has a mental illness or is a mentally ill 90897
person subject to hospitalization. 90898

(ii) The inmate requires hospital care to address the mental 90899
illness. 90900

(iii) The inmate has the mental capacity to make a reasoned 90901
choice regarding the inmate's transfer to a hospital. 90902

(b) The inmate agrees to a transfer to a hospital. 90903

(3) The written notice and the hearing required under 90904
divisions (B)(1) and (2) of this section are not required for an 90905
emergency transfer or uncontested transfer under division (C)(1) 90906

or (2) of this section. 90907

(4) After an emergency transfer under division (C)(1) of this 90908
section, the department shall hold a hearing for continued 90909
hospitalization within five working days after admission of the 90910
transferred inmate to the psychiatric hospital. The department 90911
shall hold subsequent hearings pursuant to division (F) of this 90912
section at the same intervals as required for inmate patients who 90913
are transported to a psychiatric hospital under division (B)(4) of 90914
this section. 90915

(5) After an uncontested transfer under division (C)(2) of 90916
this section, the inmate may withdraw consent to the transfer in 90917
writing at any time. Upon the inmate's withdrawal of consent, the 90918
hospital shall discharge the inmate, or, within five working days, 90919
the department shall hold a hearing for continued hospitalization. 90920
The department shall hold subsequent hearings pursuant to division 90921
(F) of this section at the same time intervals as required for 90922
inmate patients who are transported to a psychiatric hospital 90923
under division (B)(4) of this section. 90924

(D)(1) If an independent decision-maker, pursuant to division 90925
(B)(4) of this section, orders an inmate transported to a 90926
psychiatric hospital or if an inmate is transferred pursuant to 90927
division (C)(1) or (2) of this section, the staff of the 90928
psychiatric hospital shall examine the inmate patient when 90929
admitted to the psychiatric hospital as soon as practicable after 90930
the inmate patient arrives at the hospital and no later than 90931
twenty-four hours after the time of arrival. The attending 90932
physician responsible for the inmate patient's care shall give the 90933
inmate patient all information necessary to enable the patient to 90934
give a fully informed, intelligent, and knowing consent to the 90935
treatment the inmate patient will receive in the hospital. The 90936
attending physician shall tell the inmate patient the expected 90937
physical and medical consequences of any proposed treatment and 90938

shall give the inmate patient the opportunity to consult with 90939
another psychiatrist at the hospital and with the inmate advisor. 90940

(2) No inmate patient who is transported or transferred 90941
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 90942
psychiatric hospital ~~pursuant to division (B)(4) or (C)(1) or (2)~~ 90943
~~of this section and who is in the physical custody of~~ within a 90944
facility that is operated by the department of rehabilitation and 90945
correction shall be subjected to any of the following procedures: 90946

(a) Convulsive therapy; 90947

(b) Major aversive interventions; 90948

(c) Any unusually hazardous treatment procedures; 90949

(d) Psychosurgery. 90950

(E) ~~The warden of the psychiatric hospital or the warden's~~ 90951
~~designee~~ department of rehabilitation and correction shall ensure 90952
that an inmate patient hospitalized pursuant to this section 90953
receives or has all of the following: 90954

(1) Receives sufficient professional care within twenty days 90955
of admission to ensure that an evaluation of the inmate patient's 90956
current status, differential diagnosis, probable prognosis, and 90957
description of the current treatment plan have been formulated and 90958
are stated on the inmate patient's official chart; 90959

(2) Has a written treatment plan consistent with the 90960
evaluation, diagnosis, prognosis, and goals of treatment; 90961

(3) Receives treatment consistent with the treatment plan; 90962

(4) Receives periodic reevaluations of the treatment plan by 90963
the professional staff at intervals not to exceed thirty days; 90964

(5) Is provided with adequate medical treatment for physical 90965
disease or injury; 90966

(6) Receives humane care and treatment, including, without 90967

being limited to, the following: 90968

(a) Access to the facilities and personnel required by the 90969
treatment plan; 90970

(b) A humane psychological and physical environment; 90971

(c) The right to obtain current information concerning the 90972
treatment program, the expected outcomes of treatment, and the 90973
expectations for the inmate patient's participation in the 90974
treatment program in terms that the inmate patient reasonably can 90975
understand; 90976

(d) Opportunity for participation in programs designed to 90977
help the inmate patient acquire the skills needed to work toward 90978
discharge from the psychiatric hospital; 90979

(e) The right to be free from unnecessary or excessive 90980
medication and from unnecessary restraints or isolation; 90981

(f) All other rights afforded inmates in the custody of the 90982
department consistent with rules, policy, and procedure of the 90983
department. 90984

(F) The department shall hold a hearing for the continued 90985
hospitalization of an inmate patient who is transported or 90986
transferred to a psychiatric hospital pursuant to division (B)(4) 90987
or (C)(1) of this section prior to the expiration of the initial 90988
thirty-day period of hospitalization. The department shall hold 90989
any subsequent hearings, if necessary, not later than ninety days 90990
after the first thirty-day hearing and then not later than each 90991
one hundred and eighty days after the immediately prior hearing. 90992
An independent decision-maker shall conduct the hearings at the 90993
psychiatric hospital in which the inmate patient is confined. The 90994
inmate patient shall be afforded all of the rights set forth in 90995
this section for the hearing prior to transfer to the psychiatric 90996
hospital. The department may not waive a hearing for continued 90997
commitment. A hearing for continued commitment is mandatory for an 90998

inmate patient transported or transferred to a psychiatric 90999
hospital pursuant to division (B)(4) or (C)(1) of this section 91000
unless the inmate patient has the capacity to make a reasoned 91001
choice to execute a waiver and waives the hearing in writing. An 91002
inmate patient who is transferred to a psychiatric hospital 91003
pursuant to an uncontested transfer under division (C)(2) of this 91004
section and who has scheduled hearings after withdrawal of consent 91005
for hospitalization may waive any of the scheduled hearings if the 91006
inmate has the capacity to make a reasoned choice and executes a 91007
written waiver of the hearing. 91008

If upon completion of the hearing the independent 91009
decision-maker does not find by clear and convincing evidence that 91010
the inmate patient is a mentally ill person subject to 91011
hospitalization, the independent decision-maker shall order the 91012
inmate patient's discharge from the psychiatric hospital. If the 91013
independent decision-maker finds by clear and convincing evidence 91014
that the inmate patient is a mentally ill person subject to 91015
hospitalization, the independent decision-maker shall order that 91016
the inmate patient remain at the psychiatric hospital for 91017
continued hospitalization until the next required hearing. 91018

If at any time prior to the next required hearing for 91019
continued hospitalization, the medical director of the hospital or 91020
the attending physician determines that the treatment needs of the 91021
inmate patient could be met equally well in an available and 91022
appropriate less restrictive state correctional institution or 91023
unit, the medical director or attending physician may discharge 91024
the inmate to that facility. 91025

(G) An inmate patient is entitled to the credits toward the 91026
reduction of the inmate patient's stated prison term pursuant to 91027
Chapters 2967. and 5120. of the Revised Code under the same terms 91028
and conditions as if the inmate patient were in any other 91029
institution of the department of rehabilitation and correction. 91030

(H) The adult parole authority may place an inmate patient on parole or under post-release control directly from a psychiatric hospital. 91031
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(I) If an inmate patient who is a mentally ill person subject to hospitalization is to be released from a psychiatric hospital because of the expiration of the inmate patient's stated prison term, the ~~warden of the psychiatric hospital~~ director of rehabilitation and correction or the director's designee, at least fourteen days before the expiration date, may file an affidavit under section 5122.11 or 5123.71 of the Revised Code with the probate court in the county where the psychiatric hospital is located or the probate court in the county where the inmate will reside, alleging that the inmate patient is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, whichever is applicable. The proceedings in the probate court shall be conducted pursuant to Chapter 5122. or 5123. of the Revised Code except as modified by this division. 91034
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Upon the request of the inmate patient, the probate court shall grant the inmate patient an initial hearing under section 5122.141 of the Revised Code or a probable cause hearing under section 5123.75 of the Revised Code before the expiration of the stated prison term. After holding a full hearing, the probate court shall make a disposition authorized by section 5122.15 or 5123.76 of the Revised Code before the date of the expiration of the stated prison term. No inmate patient shall be held in the custody of the department of rehabilitation and correction past the date of the expiration of the inmate patient's stated prison term. 91049
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(J) The department of rehabilitation and correction shall set standards for treatment provided to inmate patients, ~~consistent where applicable with the standards set by the joint commission on~~ 91060
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~~accreditation of healthcare organizations.~~ 91063

(K) A certificate, application, record, or report that is 91064
made in compliance with this section and that directly or 91065
indirectly identifies an inmate or former inmate whose 91066
hospitalization has been sought under this section is 91067
confidential. No person shall disclose the contents of any 91068
certificate, application, record, or report of that nature or any 91069
other psychiatric or medical record or report regarding a mentally 91070
ill inmate unless one of the following applies: 91071

(1) The person identified, or the person's legal guardian, if 91072
any, consents to disclosure, and the chief clinical officer or 91073
designee of mental health services of the department of 91074
rehabilitation and correction determines that disclosure is in the 91075
best interests of the person. 91076

(2) Disclosure is required by a court order signed by a 91077
judge. 91078

(3) An inmate patient seeks access to the inmate patient's 91079
own psychiatric and medical records, unless access is specifically 91080
restricted in the treatment plan for clear treatment reasons. 91081

(4) Hospitals and other institutions and facilities within 91082
the department of rehabilitation and correction may exchange 91083
psychiatric records and other pertinent information with other 91084
hospitals, institutions, and facilities of the department, but the 91085
information that may be released about an inmate patient is 91086
limited to medication history, physical health status and history, 91087
summary of course of treatment in the hospital, summary of 91088
treatment needs, and a discharge summary, if any. 91089

(5) An inmate patient's family member who is involved in 91090
planning, providing, and monitoring services to the inmate patient 91091
may receive medication information, a summary of the inmate 91092
patient's diagnosis and prognosis, and a list of the services and 91093

personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure.

(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of mental health and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department of mental health has a current agreement for patient care or services to ensure continuity of care. Disclosure under this division is limited to records regarding a mentally ill inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any. No office, department, agency, or board shall disclose the records and other information unless one of the following applies:

(a) The mentally ill inmate is notified of the possible disclosure and consents to the disclosure.

(b) The mentally ill inmate is notified of the possible disclosure, an attempt to gain the consent of the inmate is made, and the office, department, agency, or board documents the attempt to gain consent, the inmate's objections, if any, and the reasons for disclosure in spite of the inmate's objections.

(7) Information may be disclosed to staff members designated by the director of rehabilitation and correction for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards.

The name of an inmate patient shall not be retained with the 91125
information obtained during the evaluations. 91126

(L) The director of rehabilitation and correction may adopt 91127
rules setting forth guidelines for the procedures required under 91128
divisions (B), (C)(1), and (C)(2) of this section. 91129

Sec. 5120.28. (A) The department of rehabilitation and 91130
correction, subject to the approval of the office of budget and 91131
management, shall fix the prices at which all labor and services 91132
performed, all agricultural products produced, and all articles 91133
manufactured in correctional and penal institutions shall be 91134
furnished to the state, the political subdivisions of the state, 91135
and the public institutions of the state and the political 91136
subdivisions, and to private persons. The prices shall be uniform 91137
to all and not higher than the usual market price for like labor, 91138
products, services, and articles. 91139

(B) Any money received by the department of rehabilitation 91140
and correction for labor and services performed ~~and~~, agricultural 91141
products produced, and articles manufactured in penal and 91142
correctional institutions shall be deposited into the 91143
institutional services ~~and agricultural~~ fund created pursuant to 91144
division (A) of section 5120.29 of the Revised Code and shall be 91145
used and accounted for as provided in that section and division 91146
(B) of section 5145.03 of the Revised Code. 91147

~~(C) Any money received by the department of rehabilitation 91148
and correction for articles manufactured in penal and correctional 91149
institutions shall be deposited into the Ohio penal industries 91150
manufacturing fund created pursuant to division (B) of section 91151
5120.29 of the Revised Code and shall be used and accounted for as 91152
provided in that section and division (B) of section 5145.03 of 91153
the Revised Code. 91154~~

Sec. 5120.29. (A) There is hereby created, in the state 91155
treasury, the institutional services ~~and agricultural~~ fund, which 91156
shall be used for the: 91157

(1) Purchase of material, supplies, and equipment and the 91158
erection and extension of buildings used in ~~service industries and~~ 91159
~~agriculture~~ services provided between institutions of the 91160
department of rehabilitation and correction; 91161

~~(2) Purchase of lands and buildings necessary to carry on or~~ 91162
~~extend the service industries and agriculture, upon the approval~~ 91163
~~of the governor;~~ 91164

~~(3)~~ Payment of compensation to employees necessary to carry 91165
on ~~the service industries and agriculture~~ institutional services; 91166

~~(4)~~(3) Payment of prisoners confined in state correctional 91167
institutions a portion of their earnings in accordance with rules 91168
adopted pursuant to section 5145.03 of the Revised Code. 91169

(B) There is hereby created, in the state treasury, the Ohio 91170
penal industries manufacturing fund, which shall be used for the: 91171

(1) Purchase of material, supplies, and equipment and the 91172
erection and extension of buildings used in manufacturing 91173
industries and agriculture; 91174

(2) Purchase of lands and buildings necessary to carry on or 91175
extend the manufacturing industries and agriculture upon the 91176
approval of the governor; 91177

(3) Payment of compensation to employees necessary to carry 91178
on the manufacturing industries and agriculture; 91179

(4) Payment of prisoners confined in state correctional 91180
institutions a portion of their earnings in accordance with rules 91181
adopted pursuant to section 5145.03 of the Revised Code. 91182

(C) The department of rehabilitation and correction shall, in 91183

accordance with rules adopted pursuant to section 5145.03 of the Revised Code and subject to any pledge made as provided in division (D) of this section, place to the credit of each prisoner ~~his~~ the prisoner's earnings and pay the earnings so credited to the prisoner or ~~his~~ the prisoner's family.

(D) Receipts credited to the funds created in divisions (A) and (B) of this section constitute available receipts as defined in section 152.09 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the Ohio building authority pursuant to Chapter 152. of the Revised Code to construct, reconstruct, or otherwise improve capital facilities useful to the department. The authority may, with the consent of the department, provide in the bond proceedings for a pledge of all or such portion of receipts credited to the funds as the authority determines. The authority may provide in the bond proceedings for the transfer of receipts credited to the funds to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges when due, and any such provision for the transfer of receipts shall be controlling notwithstanding any other provision of law pertaining to such receipts.

All receipts received by the treasurer of state on account of the department and required by the applicable bond proceedings to be deposited, transferred, or credited to the bond service fund or bond service reserve fund established by such bond proceedings shall be transferred by the treasurer of state to such fund, whether or not such fund is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings. The authority may covenant in the bond proceedings that so long as any obligations are outstanding to which receipts credited to the fund are pledged, the state and the

department shall neither reduce the prices charged pursuant to 91216
section 5120.28 of the Revised Code nor the level of manpower 91217
collectively devoted to the production of goods and services for 91218
which prices are set pursuant to section 5120.28 of the Revised 91219
Code, which covenant shall be controlling notwithstanding any 91220
other provision of law; provided, that no covenant shall require 91221
the general assembly to appropriate money derived from the levying 91222
of excises or taxes to purchase such goods and services or to pay 91223
rent or bond service charges. 91224

Sec. 5122.01. As used in this chapter and Chapter 5119. of 91225
the Revised Code: 91226

(A) "Mental illness" means a substantial disorder of thought, 91227
mood, perception, orientation, or memory that grossly impairs 91228
judgment, behavior, capacity to recognize reality, or ability to 91229
meet the ordinary demands of life. 91230

(B) "Mentally ill person subject to hospitalization by court 91231
order" means a mentally ill person who, because of the person's 91232
illness: 91233

(1) Represents a substantial risk of physical harm to self as 91234
manifested by evidence of threats of, or attempts at, suicide or 91235
serious self-inflicted bodily harm; 91236

(2) Represents a substantial risk of physical harm to others 91237
as manifested by evidence of recent homicidal or other violent 91238
behavior, evidence of recent threats that place another in 91239
reasonable fear of violent behavior and serious physical harm, or 91240
other evidence of present dangerousness; 91241

(3) Represents a substantial and immediate risk of serious 91242
physical impairment or injury to self as manifested by evidence 91243
that the person is unable to provide for and is not providing for 91244
the person's basic physical needs because of the person's mental 91245

illness and that appropriate provision for those needs cannot be 91246
made immediately available in the community; or 91247

(4) Would benefit from treatment in a hospital for the 91248
person's mental illness and is in need of such treatment as 91249
manifested by evidence of behavior that creates a grave and 91250
imminent risk to substantial rights of others or the person. 91251

(C)(1) "Patient" means, subject to division (C)(2) of this 91252
section, a person who is admitted either voluntarily or 91253
involuntarily to a hospital or other place under section 2945.39, 91254
2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a 91255
finding of not guilty by reason of insanity or incompetence to 91256
stand trial or under this chapter, who is under observation or 91257
receiving treatment in such place. 91258

(2) "Patient" does not include a person admitted to a 91259
hospital or other place under section 2945.39, 2945.40, 2945.401, 91260
or 2945.402 of the Revised Code to the extent that the reference 91261
in this chapter to patient, or the context in which the reference 91262
occurs, is in conflict with any provision of sections 2945.37 to 91263
2945.402 of the Revised Code. 91264

(D) "Licensed physician" means a person licensed under the 91265
laws of this state to practice medicine or a medical officer of 91266
the government of the United States while in this state in the 91267
performance of the person's official duties. 91268

(E) "Psychiatrist" means a licensed physician who has 91269
satisfactorily completed a residency training program in 91270
psychiatry, as approved by the residency review committee of the 91271
American medical association, the committee on post-graduate 91272
education of the American osteopathic association, or the American 91273
osteopathic board of neurology and psychiatry, or who on July 1, 91274
1989, has been recognized as a psychiatrist by the Ohio state 91275
medical association or the Ohio osteopathic association on the 91276

basis of formal training and five or more years of medical 91277
practice limited to psychiatry. 91278

(F) "Hospital" means a hospital or inpatient unit licensed by 91279
the department of mental health under section 5119.20 of the 91280
Revised Code, and any institution, hospital, or other place 91281
established, controlled, or supervised by the department under 91282
Chapter 5119. of the Revised Code. 91283

(G) "Public hospital" means a facility that is tax-supported 91284
and under the jurisdiction of the department of mental health. 91285

(H) "Community mental health agency" means ~~any an agency,~~ 91286
~~program, or facility with which a board of alcohol, drug~~ 91287
~~addiction, and mental health services contracts to provide the~~ 91288
that provides community mental health services ~~listed in that are~~ 91289
certified by the director of mental health under section ~~340.09~~ 91290
5119.611 of the Revised Code. 91291

(I) "Licensed clinical psychologist" means a person who holds 91292
a current valid psychologist license issued under section 4732.12 91293
or 4732.15 of the Revised Code, and in addition, meets either of 91294
the following criteria: 91295

(1) Meets the educational requirements set forth in division 91296
(B) of section 4732.10 of the Revised Code and has a minimum of 91297
two years' full-time professional experience, or the equivalent as 91298
determined by rule of the state board of psychology, at least one 91299
year of which shall be a predoctoral internship, in clinical 91300
psychological work in a public or private hospital or clinic or in 91301
private practice, diagnosing and treating problems of mental 91302
illness or mental retardation under the supervision of a 91303
psychologist who is licensed or who holds a diploma issued by the 91304
American board of professional psychology, or whose qualifications 91305
are substantially similar to those required for licensure by the 91306
state board of psychology when the supervision has occurred prior 91307

to enactment of laws governing the practice of psychology; 91308

(2) Meets the educational requirements set forth in division 91309
(B) of section 4732.15 of the Revised Code and has a minimum of 91310
four years' full-time professional experience, or the equivalent 91311
as determined by rule of the state board of psychology, in 91312
clinical psychological work in a public or private hospital or 91313
clinic or in private practice, diagnosing and treating problems of 91314
mental illness or mental retardation under supervision, as set 91315
forth in division (I)(1) of this section. 91316

(J) "Health officer" means any public health physician; 91317
public health nurse; or other person authorized by or designated 91318
by a city health district; a general health district; or a board 91319
of alcohol, drug addiction, and mental health services to perform 91320
the duties of a health officer under this chapter. 91321

(K) "Chief clinical officer" means the medical director of a 91322
hospital, or a community mental health agency, or a board of 91323
alcohol, drug addiction, and mental health services, or, if there 91324
is no medical director, the licensed physician responsible for the 91325
treatment a hospital or community mental health agency provides. 91326
The chief clinical officer may delegate to the attending physician 91327
responsible for a patient's care the duties imposed on the chief 91328
clinical officer by this chapter. Within a community mental health 91329
agency, the chief clinical officer shall be designated by the 91330
governing body of the agency and shall be a licensed physician or 91331
licensed clinical psychologist who supervises diagnostic and 91332
treatment services. A licensed physician or licensed clinical 91333
psychologist designated by the chief clinical officer may perform 91334
the duties and accept the responsibilities of the chief clinical 91335
officer in the chief clinical officer's absence. 91336

(L) "Working day" or "court day" means Monday, Tuesday, 91337
Wednesday, Thursday, and Friday, except when such day is a 91338
holiday. 91339

(M) "Indigent" means unable without deprivation of 91340
satisfaction of basic needs to provide for the payment of an 91341
attorney and other necessary expenses of legal representation, 91342
including expert testimony. 91343

(N) "Respondent" means the person whose detention, 91344
commitment, hospitalization, continued hospitalization or 91345
commitment, or discharge is being sought in any proceeding under 91346
this chapter. 91347

(O) ~~"Legal rights service" means the service established~~ 91348
~~under "Ohio protection and advocacy system" has the same meaning~~ 91349
as in section 5123.60 of the Revised Code. 91350

(P) "Independent expert evaluation" means an evaluation 91351
conducted by a licensed clinical psychologist, psychiatrist, or 91352
licensed physician who has been selected by the respondent or the 91353
respondent's counsel and who consents to conducting the 91354
evaluation. 91355

(Q) "Court" means the probate division of the court of common 91356
pleas. 91357

(R) "Expunge" means: 91358

(1) The removal and destruction of court files and records, 91359
originals and copies, and the deletion of all index references; 91360

(2) The reporting to the person of the nature and extent of 91361
any information about the person transmitted to any other person 91362
by the court; 91363

(3) Otherwise insuring that any examination of court files 91364
and records in question shall show no record whatever with respect 91365
to the person; 91366

(4) That all rights and privileges are restored, and that the 91367
person, the court, and any other person may properly reply that no 91368
such record exists, as to any matter expunged. 91369

(S) "Residence" means a person's physical presence in a 91370
county with intent to remain there, except that: 91371

(1) If a person is receiving a mental health service at a 91372
facility that includes nighttime sleeping accommodations, 91373
residence means that county in which the person maintained the 91374
person's primary place of residence at the time the person entered 91375
the facility; 91376

(2) If a person is committed pursuant to section 2945.38, 91377
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 91378
residence means the county where the criminal charges were filed. 91379

When the residence of a person is disputed, the matter of 91380
residence shall be referred to the department of mental health for 91381
investigation and determination. Residence shall not be a basis 91382
for a board's denying services to any person present in the 91383
board's service district, and the board shall provide services for 91384
a person whose residence is in dispute while residence is being 91385
determined and for a person in an emergency situation. 91386

(T) "Admission" to a hospital or other place means that a 91387
patient is accepted for and stays at least one night at the 91388
hospital or other place. 91389

(U) "Prosecutor" means the prosecuting attorney, village 91390
solicitor, city director of law, or similar chief legal officer 91391
who prosecuted a criminal case in which a person was found not 91392
guilty by reason of insanity, who would have had the authority to 91393
prosecute a criminal case against a person if the person had not 91394
been found incompetent to stand trial, or who prosecuted a case in 91395
which a person was found guilty. 91396

(V) "Treatment plan" means a written statement of reasonable 91397
objectives and goals for an individual established by the 91398
treatment team, with specific criteria to evaluate progress 91399
towards achieving those objectives. The active participation of 91400

the patient in establishing the objectives and goals shall be 91401
documented. The treatment plan shall be based on patient needs and 91402
include services to be provided to the patient while the patient 91403
is hospitalized and after the patient is discharged. The treatment 91404
plan shall address services to be provided upon discharge, 91405
including but not limited to housing, financial, and vocational 91406
services. 91407

(W) "Community control sanction" has the same meaning as in 91408
section 2929.01 of the Revised Code. 91409

(X) "Post-release control sanction" has the same meaning as 91410
in section 2967.01 of the Revised Code. 91411

Sec. 5122.02. (A) Except as provided in division (D) of this 91412
section, any person who is eighteen years of age or older and who 91413
is, appears to be, or believes self to be mentally ill may make 91414
written application for voluntary admission to the chief medical 91415
officer of a hospital. 91416

(B) Except as provided in division (D) of this section, the 91417
application also may be made on behalf of a minor by a parent, a 91418
guardian of the person, or the person with custody of the minor, 91419
and on behalf of an adult incompetent person by the guardian or 91420
the person with custody of the incompetent person. 91421

Any person whose admission is applied for under division (A) 91422
or (B) of this section may be admitted for observation, diagnosis, 91423
care, or treatment, in any hospital unless the chief clinical 91424
officer finds that hospitalization is inappropriate, and except 91425
that, in the case of a public hospital, no person shall be 91426
admitted without the authorization of the board of the person's 91427
county of residence. 91428

(C) If a minor or person adjudicated incompetent due to 91429
mental illness whose voluntary admission is applied for under 91430

division (B) of this section is admitted, the court shall 91431
determine, upon petition by ~~the legal rights service~~, private or 91432
otherwise appointed counsel, a relative, or one acting as next 91433
friend, whether the admission or continued hospitalization is in 91434
the best interest of the minor or incompetent. 91435

The chief clinical officer shall discharge any voluntary 91436
patient who has recovered or whose hospitalization the officer 91437
determines to be no longer advisable and may discharge any 91438
voluntary patient who refuses to accept treatment consistent with 91439
the written treatment plan required by section 5122.27 of the 91440
Revised Code. 91441

(D) A person who is found incompetent to stand trial or not 91442
guilty by reason of insanity and who is committed pursuant to 91443
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 91444
Code shall not voluntarily admit ~~himself or herself~~ the person or 91445
be voluntarily admitted to a hospital pursuant to this section 91446
until after the final termination of the commitment, as described 91447
in division (J) of section 2945.401 of the Revised Code. 91448

Sec. 5122.15. (A) Full hearings shall be conducted in a 91449
manner consistent with this chapter and with due process of law. 91450
The hearings shall be conducted by a judge of the probate court or 91451
a referee designated by a judge of the probate court and may be 91452
conducted in or out of the county in which the respondent is held. 91453
Any referee designated under this division shall be an attorney. 91454

(1) With the consent of the respondent, the following shall 91455
be made available to counsel for the respondent: 91456

(a) All relevant documents, information, and evidence in the 91457
custody or control of the state or prosecutor; 91458

(b) All relevant documents, information, and evidence in the 91459
custody or control of the hospital in which the respondent 91460

currently is held, or in which the respondent has been held 91461
pursuant to this chapter; 91462

(c) All relevant documents, information, and evidence in the 91463
custody or control of any hospital, facility, or person not 91464
included in division (A)(1)(a) or (b) of this section. 91465

(2) The respondent has the right to attend the hearing and to 91466
be represented by counsel of the respondent's choice. The right to 91467
attend the hearing may be waived only by the respondent or counsel 91468
for the respondent after consultation with the respondent. 91469

(3) If the respondent is not represented by counsel, is 91470
absent from the hearing, and has not validly waived the right to 91471
counsel, the court shall appoint counsel immediately to represent 91472
the respondent at the hearing, reserving the right to tax costs of 91473
appointed counsel to the respondent, unless it is shown that the 91474
respondent is indigent. If the court appoints counsel, or if the 91475
court determines that the evidence relevant to the respondent's 91476
absence does not justify the absence, the court shall continue the 91477
case. 91478

(4) The respondent shall be informed that the respondent may 91479
retain counsel and have independent expert evaluation. If the 91480
respondent is unable to obtain an attorney, the respondent shall 91481
be represented by court-appointed counsel. If the respondent is 91482
indigent, court-appointed counsel and independent expert 91483
evaluation shall be provided as an expense under section 5122.43 91484
of the Revised Code. 91485

(5) The hearing shall be closed to the public, unless counsel 91486
for the respondent, with the permission of the respondent, 91487
requests that the hearing be open to the public. 91488

(6) If the hearing is closed to the public, the court, for 91489
good cause shown, may admit persons who have a legitimate interest 91490
in the proceedings. If the respondent, the respondent's counsel, 91491

the designee of the director or of the chief clinical officer 91492
objects to the admission of any person, the court shall hear the 91493
objection and any opposing argument and shall rule upon the 91494
admission of the person to the hearing. 91495

(7) The affiant under section 5122.11 of the Revised Code 91496
shall be subject to subpoena by either party. 91497

(8) The court shall examine the sufficiency of all documents 91498
filed and shall inform the respondent, if present, and the 91499
respondent's counsel of the nature and content of the documents 91500
and the reason for which the respondent is being detained, or for 91501
which the respondent's placement is being sought. 91502

(9) The court shall receive only reliable, competent, and 91503
material evidence. 91504

(10) Unless proceedings are initiated pursuant to section 91505
5120.17 or 5139.08 of the Revised Code or proceedings are 91506
initiated regarding a resident of the service district of a board 91507
of alcohol, drug addiction, and mental health services that elects 91508
under division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised 91509
Code not to accept the amount allocated to it under ~~division~~ 91510
~~(B)(1)~~ of that section, an attorney that the board designates 91511
shall present the case demonstrating that the respondent is a 91512
mentally ill person subject to hospitalization by court order. The 91513
attorney shall offer evidence of the diagnosis, prognosis, record 91514
of treatment, if any, and less restrictive treatment plans, if 91515
any. In proceedings pursuant to section 5120.17 or 5139.08 of the 91516
Revised Code and in proceedings in which the respondent is a 91517
resident of a service district of a board that elects under 91518
division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised Code 91519
not to accept the amount allocated to it under ~~division (B)(1)~~ of 91520
that section, the attorney general shall designate an attorney who 91521
shall present the case demonstrating that the respondent is a 91522
mentally ill person subject to hospitalization by court order. The 91523

attorney shall offer evidence of the diagnosis, prognosis, record 91524
of treatment, if any, and less restrictive treatment plans, if 91525
any. 91526

(11) The respondent or the respondent's counsel has the right 91527
to subpoena witnesses and documents and to examine and 91528
cross-examine witnesses. 91529

(12) The respondent has the right, but shall not be 91530
compelled, to testify, and shall be so advised by the court. 91531

(13) On motion of the respondent or the respondent's counsel 91532
for good cause shown, or on the court's own motion, the court may 91533
order a continuance of the hearing. 91534

(14) If the respondent is represented by counsel and the 91535
respondent's counsel requests a transcript and record, or if the 91536
respondent is not represented by counsel, the court shall make and 91537
maintain a full transcript and record of the proceeding. If the 91538
respondent is indigent and the transcript and record is made, a 91539
copy shall be provided to the respondent upon request and be 91540
treated as an expense under section 5122.43 of the Revised Code. 91541

(15) To the extent not inconsistent with this chapter, the 91542
Rules of Civil Procedure are applicable. 91543

(B) Unless, upon completion of the hearing the court finds by 91544
clear and convincing evidence that the respondent is a mentally 91545
ill person subject to hospitalization by court order, it shall 91546
order the respondent's discharge immediately. 91547

(C) If, upon completion of the hearing, the court finds by 91548
clear and convincing evidence that the respondent is a mentally 91549
ill person subject to hospitalization by court order, the court 91550
shall order the respondent for a period not to exceed ninety days 91551
to any of the following: 91552

(1) A hospital operated by the department of mental health if 91553

the respondent is committed pursuant to section 5139.08 of the Revised Code; 91554
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(2) A nonpublic hospital; 91556

(3) The veterans' administration or other agency of the United States government; 91557
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(4) A board of alcohol, drug addiction, and mental health services or agency the board designates; 91559
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(5) Receive private psychiatric or psychological care and treatment; 91561
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(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent. 91563
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(D) Any order made pursuant to division (C)(2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent. 91565
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(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order shall so state. 91569
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(F) During such ninety-day period the hospital; facility; board of alcohol, drug addiction, and mental health services; agency the board designates; or person shall examine and treat the individual. If, at any time prior to the expiration of the ninety-day period, it is determined by the hospital, facility, board, agency, or person that the respondent's treatment needs 91578
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could be equally well met in an available and appropriate less restrictive environment, both of the following apply:

(1) The respondent shall be released from the care of the hospital, agency, facility, or person immediately and shall be referred to the court together with a report of the findings and recommendations of the hospital, agency, facility, or person; and

(2) The hospital, agency, facility, or person shall notify the respondent's counsel or the attorney designated by a board of alcohol, drug addiction, and mental health services or, if the respondent was committed to a board or an agency designated by the board, it shall place the respondent in the least restrictive environment available consistent with treatment goals and notify the court and the respondent's counsel of the placement.

The court shall dismiss the case or order placement in the least restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section, or for whom proceedings for hospitalization have been commenced pursuant to section 5122.11 of the Revised Code, may apply at any time for voluntary admission to the hospital, facility, agency that the board designates, or person to which the person was committed. Upon admission as a voluntary patient the chief clinical officer of the hospital, agency, or other facility, or the person immediately shall notify the court, the patient's counsel, and the attorney designated by the board, if the attorney has entered the proceedings, in writing of that fact, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit the person pursuant to this

section until after the final termination of the commitment, as 91615
described in division (J) of section 2945.401 of the Revised Code. 91616

(H) If, at the end of the first ninety-day period or any 91617
subsequent period of continued commitment, there has been no 91618
disposition of the case, either by discharge or voluntary 91619
admission, the hospital, facility, board, agency, or person shall 91620
discharge the patient immediately, unless at least ten days before 91621
the expiration of the period the attorney the board designates or 91622
the prosecutor files with the court an application for continued 91623
commitment. The application of the attorney or the prosecutor 91624
shall include a written report containing the diagnosis, 91625
prognosis, past treatment, a list of alternative treatment 91626
settings and plans, and identification of the treatment setting 91627
that is the least restrictive consistent with treatment needs. The 91628
attorney the board designates or the prosecutor shall file the 91629
written report at least three days prior to the full hearing. A 91630
copy of the application and written report shall be provided to 91631
the respondent's counsel immediately. 91632

The court shall hold a full hearing on applications for 91633
continued commitment at the expiration of the first ninety-day 91634
period and at least every two years after the expiration of the 91635
first ninety-day period. 91636

Hearings following any application for continued commitment 91637
are mandatory and may not be waived. 91638

Upon request of a person who is involuntarily committed under 91639
this section, or the person's counsel, that is made more than one 91640
hundred eighty days after the person's last full hearing, 91641
mandatory or requested, the court shall hold a full hearing on the 91642
person's continued commitment. Upon the application of a person 91643
involuntarily committed under this section, supported by an 91644
affidavit of a psychiatrist or licensed clinical psychologist, 91645
alleging that the person no longer is a mentally ill person 91646

subject to hospitalization by court order, the court for good 91647
cause shown may hold a full hearing on the person's continued 91648
commitment prior to the expiration of one hundred eighty days 91649
after the person's last full hearing. Section 5122.12 of the 91650
Revised Code applies to all hearings on continued commitment. 91651

If the court, after a hearing for continued commitment finds 91652
by clear and convincing evidence that the respondent is a mentally 91653
ill person subject to hospitalization by court order, the court 91654
may order continued commitment at places specified in division (C) 91655
of this section. 91656

(I) Unless the admission is pursuant to section 5120.17 or 91657
5139.08 of the Revised Code, the chief clinical officer of the 91658
hospital or agency admitting a respondent pursuant to a judicial 91659
proceeding, within ten working days of the admission, shall make a 91660
report of the admission to the board of alcohol, drug addiction, 91661
and mental health services serving the respondent's county of 91662
residence. 91663

(J) A referee appointed by the court may make all orders that 91664
a judge may make under this section and sections 5122.11 and 91665
5122.141 of the Revised Code, except an order of contempt of 91666
court. The orders of a referee take effect immediately. Within 91667
fourteen days of the making of an order by a referee, a party may 91668
file written objections to the order with the court. The filed 91669
objections shall be considered a motion, shall be specific, and 91670
shall state their grounds with particularity. Within ten days of 91671
the filing of the objections, a judge of the court shall hold a 91672
hearing on the objections and may hear and consider any testimony 91673
or other evidence relating to the respondent's mental condition. 91674
At the conclusion of the hearing, the judge may ratify, rescind, 91675
or modify the referee's order. 91676

(K) An order of the court under division (C), (H), or (J) of 91677
this section is a final order. 91678

(L) Before a board, or an agency the board designates, may place an unconsenting respondent in an inpatient setting from a less restrictive placement, the board or agency shall do all of the following:

(1) Determine that the respondent is in immediate need of treatment in an inpatient setting because the respondent represents a substantial risk of physical harm to the respondent or others if allowed to remain in a less restrictive setting;

(2) On the day of placement in the inpatient setting or on the next court day, file with the court a motion for transfer to an inpatient setting or communicate to the court by telephone that the required motion has been mailed;

(3) Ensure that every reasonable and appropriate effort is made to take the respondent to the inpatient setting in the least conspicuous manner possible;

(4) Immediately notify the board's designated attorney and the respondent's attorney.

At the respondent's request, the court shall hold a hearing on the motion and make a determination pursuant to division (E) of this section within five days of the placement.

(M) Before a board, or an agency the board designates, may move a respondent from one residential placement to another, the board or agency shall consult with the respondent about the placement. If the respondent objects to the placement, the proposed placement and the need for it shall be reviewed by a qualified mental health professional who otherwise is not involved in the treatment of the respondent.

Sec. 5122.21. (A) The chief clinical officer shall as frequently as practicable, and at least once every thirty days, examine or cause to be examined every patient, and, whenever the

chief clinical officer determines that the conditions justifying 91709
involuntary hospitalization or commitment no longer obtain, shall, 91710
~~except as provided in division (C) of this section,~~ discharge the 91711
patient not under indictment or conviction for crime and 91712
immediately make a report of the discharge to the department of 91713
mental health. The chief clinical officer may discharge a patient 91714
who is under an indictment, a sentence of imprisonment, a 91715
community control sanction, or a post-release control sanction or 91716
on parole ten days after written notice of intent to discharge the 91717
patient has been given by personal service or certified mail, 91718
return receipt requested, to the court having criminal 91719
jurisdiction over the patient. Except when the patient was found 91720
not guilty by reason of insanity and the defendant's commitment is 91721
pursuant to section 2945.40 of the Revised Code, the chief 91722
clinical officer has final authority to discharge a patient who is 91723
under an indictment, a sentence of imprisonment, a community 91724
control sanction, or a post-release control sanction or on parole. 91725

(B) After a finding pursuant to section 5122.15 of the 91726
Revised Code that a person is a mentally ill person subject to 91727
hospitalization by court order, the chief clinical officer of the 91728
hospital or agency to which the person is ordered or to which the 91729
person is transferred under section 5122.20 of the Revised Code, 91730
may, ~~except as provided in division (C) of this section,~~ grant a 91731
discharge without the consent or authorization of any court. 91732

Upon discharge, the chief clinical officer shall notify the 91733
court that caused the judicial hospitalization of the discharge 91734
from the hospital. 91735

Sec. 5122.27. The chief clinical officer of the hospital or 91736
~~his~~ the chief clinical officer's designee shall assure that all 91737
patients hospitalized or committed pursuant to this chapter shall: 91738

(A) Receive, within twenty days of their admission sufficient professional care to assure that an evaluation of current status, differential diagnosis, probable prognosis, and description of the current treatment plan is stated on the official chart;

(B) Have a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals which shall be provided, upon request of the patient or patient's counsel, to the patient's counsel and to any private physician or licensed clinical psychologist designated by the patient or ~~his~~ the patient's counsel or to the ~~legal rights service~~ Ohio protection and advocacy system;

(C) Receive treatment consistent with the treatment plan. The department of mental health shall set standards for treatment provided to such patients, consistent wherever possible with standards set by the joint commission on accreditation of healthcare organizations.

(D) Receive periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed ninety days;

(E) Be provided with adequate medical treatment for physical disease or injury;

(F) Receive humane care and treatment, including without limitation, the following:

(1) The least restrictive environment consistent with the treatment plan;

(2) The necessary facilities and personnel required by the treatment plan;

(3) A humane psychological and physical environment;

(4) The right to obtain current information concerning ~~his~~ the patient's treatment program and expectations in terms that ~~he~~ the patient can reasonably understand;

(5) Participation in programs designed to afford ~~him~~ the patient substantial opportunity to acquire skills to facilitate ~~his~~ return to the community or to terminate an involuntary commitment; 91769
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(6) The right to be free from unnecessary or excessive medication; 91773
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(7) Freedom from restraints or isolation unless it is stated in a written order by the chief clinical officer or ~~his~~ the chief clinical officer's designee, or the patient's individual physician or psychologist in a private or general hospital. 91775
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~~(G) Be notified of their rights under the law within twenty four hours of admission, according to rules established by the legal rights service.~~ 91779
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If the chief clinical officer of the hospital is unable to provide the treatment required by divisions (C), (E), and (F) of this section for any patient hospitalized pursuant to Chapter 5122. of the Revised Code, ~~he~~ the chief clinical officer shall immediately notify the patient, the court, the ~~legal rights service~~ Ohio protection and advocacy system, the director of mental health, and the patient's counsel and legal guardian, if known. If within ten days after receipt of such notification by the director, ~~he~~ the director is unable to effect a transfer of the patient, pursuant to section 5122.20 of the Revised Code, to a hospital, community mental health agency, or other medical facility where treatment is available, or has not received an order of the court to the contrary, the involuntary commitment of any patient hospitalized pursuant to Chapter 5122. of the Revised Code and defined as a mentally ill person subject to hospitalization by court order under division (B)(4) of section 5122.01 of the Revised Code shall automatically be terminated. 91782
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Sec. 5122.271. (A) Except as provided in divisions (C), (D), 91799

and (E) of this section, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for a patient's care shall provide all information, including expected physical and medical consequences, necessary to enable any patient of a hospital for the mentally ill to give a fully informed, intelligent, and knowing consent, the opportunity to consult with independent specialists and counsel, and the right to refuse consent for any of the following:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilizations;
- (5) Any unusually hazardous treatment procedures;
- (6) Psycho-surgery.

(B) No patient shall be subjected to any of the procedures listed in divisions (A)(4) to (6) of this section until both the patient's informed, intelligent, and knowing consent and the approval of the court have been obtained, except that court approval is not required for a legally competent and voluntary patient in a nonpublic hospital.

(C) If, after providing the information required under division (A) of this section to the patient, the chief clinical officer or attending physician concludes that a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the patient's natural or court-appointed guardian, who may give an informed, intelligent, and knowing written consent.

If a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this

section and has no guardian, the information, the recommendation 91830
of the chief clinical officer, and the concurring judgment of a 91831
licensed physician who is not a full-time employee of the state 91832
may be provided to the court in the county in which the hospital 91833
is located, which may approve the surgery. Before approving the 91834
surgery, the court shall notify the ~~legal rights service~~ Ohio 91835
protection and advocacy system created by section 5123.60 of the 91836
Revised Code, and shall notify the patient of the rights to 91837
consult with counsel, to have counsel appointed by the court if 91838
the patient is indigent, and to contest the recommendation of the 91839
chief clinical officer. 91840

(D) If, in a medical emergency, and after providing the 91841
information required under division (A) of this section to the 91842
patient, it is the judgment of one licensed physician that delay 91843
in obtaining surgery would create a grave danger to the health of 91844
the patient, it may be administered without the consent of the 91845
patient or the patient's guardian if the necessary information is 91846
provided to the patient's spouse or next of kin to enable that 91847
person to give informed, intelligent, and knowing written consent. 91848
If no spouse or next of kin can reasonably be contacted, or if the 91849
spouse or next of kin is contacted, but refuses to consent, the 91850
surgery may be performed upon the written authorization of the 91851
chief clinical officer or, in a nonpublic hospital, upon the 91852
written authorization of the attending physician responsible for 91853
the patient's care, and after the approval of the court has been 91854
obtained. However, if delay in obtaining court approval would 91855
create a grave danger to the life of the patient, the chief 91856
clinical officer or, in a nonpublic hospital, the attending 91857
physician responsible for the patient's care may authorize 91858
surgery, in writing, without court approval. If the surgery is 91859
authorized without court approval, the chief clinical officer or 91860
the attending physician who made the authorization and the 91861
physician who performed the surgery shall each execute an 91862

affidavit describing the circumstances constituting the emergency 91863
and warranting the surgery and the circumstances warranting their 91864
not obtaining prior court approval. The affidavit shall be filed 91865
with the court with which the request for prior approval would 91866
have been filed within five court days after the surgery, and a 91867
copy of the affidavit shall be placed in the patient's file and be 91868
given to the guardian, spouse, or next of kin of the patient, to 91869
the hospital at which the surgery was performed, and to the ~~legal~~ 91870
~~rights service created by~~ Ohio protection and advocacy system as 91871
defined in section 5123.60 of the Revised Code. 91872

(E) Major aversive interventions shall not be used unless a 91873
patient continues to engage in behavior destructive to self or 91874
others after other forms of therapy have been attempted. Major 91875
aversive interventions may be applied if approved by the director 91876
of mental health. ~~The director of the legal rights service created~~ 91877
~~by section 5123.60 of the Revised Code shall be notified of any~~ 91878
~~proposed major aversive intervention prior to review by the~~ 91879
~~director of mental health.~~ Major aversive interventions shall not 91880
be applied to a voluntary patient without the informed, 91881
intelligent, and knowing written consent of the patient or the 91882
patient's guardian. 91883

(F) Unless there is substantial risk of physical harm to self 91884
or others, or other than under division (D) of this section, this 91885
chapter does not authorize any form of compulsory medical, 91886
psychological, or psychiatric treatment of any patient who is 91887
being treated by spiritual means through prayer alone in 91888
accordance with a recognized religious method of healing without 91889
specific court authorization. 91890

(G) For purposes of this section, "convulsive therapy" does 91891
not include defibrillation. 91892

Sec. 5122.29. All patients hospitalized or committed pursuant 91893

to this chapter have the following rights: 91894

(A) The right to a written list of all rights enumerated in 91895
this chapter, to that person, ~~his~~ that person's legal guardian, 91896
and ~~his~~ that person's counsel. If the person is unable to read, 91897
the list shall be read and explained to ~~him~~ the person. 91898

(B) The right at all times to be treated with consideration 91899
and respect for ~~his~~ the patient's privacy and dignity, including 91900
without limitation, the following: 91901

(1) At the time a person is taken into custody for diagnosis, 91902
detention, or treatment under Chapter 5122. of the Revised Code, 91903
the person taking ~~him~~ that person into custody shall take 91904
reasonable precautions to preserve and safeguard the personal 91905
property in the possession of or on the premises occupied by that 91906
person; 91907

(2) A person who is committed, voluntarily or involuntarily, 91908
shall be given reasonable protection from assault or battery by 91909
any other person. 91910

(C) The right to communicate freely with and be visited at 91911
reasonable times by ~~his~~ the patient's private counsel or personnel 91912
of the ~~legal rights service~~ Ohio protection and advocacy system 91913
and, unless prior court restriction has been obtained, to 91914
communicate freely with and be visited at reasonable times by ~~his~~ 91915
the patient's personal physician or psychologist. 91916

(D) The right to communicate freely with others, unless 91917
specifically restricted in the patient's treatment plan for clear 91918
treatment reasons, including without limitation the following: 91919

(1) To receive visitors at reasonable times; 91920

(2) To have reasonable access to telephones to make and 91921
receive confidential calls, including a reasonable number of free 91922
calls if unable to pay for them and assistance in calling if 91923

requested and needed.	91924
(E) The right to have ready access to letter writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed.	91925 91926 91927 91928
(F) The right to the following personal privileges consistent with health and safety:	91929 91930
(1) To wear his <u>the patient's</u> own clothes and maintain his <u>the patient's</u> own personal effects;	91931 91932
(2) To be provided an adequate allowance for or allotment of neat, clean, and seasonable clothing if unable to provide his <u>the patient's</u> own;	91933 91934 91935
(3) To maintain his <u>the patient's</u> personal appearance according to his <u>the patient's</u> own personal taste, including head and body hair;	91936 91937 91938
(4) To keep and use personal possessions, including toilet articles;	91939 91940
(5) To have access to individual storage space for his <u>the patient's</u> private use;	91941 91942
(6) To keep and spend a reasonable sum of his <u>the patient's</u> own money for expenses and small purchases;	91943 91944
(7) To receive and possess reading materials without censorship, except when the materials create a clear and present danger to the safety of persons in the facility.	91945 91946 91947
(G) The right to reasonable privacy, including both periods of privacy and places of privacy.	91948 91949
(H) The right to free exercise of religious worship within the facility, including a right to services and sacred texts that are within the reasonable capacity of the facility to supply, provided that no patient shall be coerced into engaging in any	91950 91951 91952 91953

religious activities. 91954

(I) The right to social interaction with members of either 91955
sex, subject to adequate supervision, unless such social 91956
interaction is specifically withheld under a patient's written 91957
treatment plan for clear treatment reasons. 91958

As used in this section, "clear treatment reasons" means that 91959
permitting the patient to communicate freely with others will 91960
present a substantial risk of physical harm to the patient or 91961
others or will substantially preclude effective treatment of the 91962
patient. If a right provided under this section is restricted or 91963
withheld for clear treatment reasons, the patient's written 91964
treatment plan shall specify the treatment designed to eliminate 91965
the restriction or withholding of the right at the earliest 91966
possible time. 91967

Sec. 5122.31. (A) All certificates, applications, records, 91968
and reports made for the purpose of this chapter and sections 91969
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 91970
Code, other than court journal entries or court docket entries, 91971
and directly or indirectly identifying a patient or former patient 91972
or person whose hospitalization has been sought under this 91973
chapter, shall be kept confidential and shall not be disclosed by 91974
any person except: 91975

(1) If the person identified, or the person's legal guardian, 91976
if any, or if the person is a minor, the person's parent or legal 91977
guardian, consents, and if the disclosure is in the best interests 91978
of the person, as may be determined by the court for judicial 91979
records and by the chief clinical officer for medical records; 91980

(2) When disclosure is provided for in this chapter or 91981
section ~~5123.60~~ 5123.601 of the Revised Code; 91982

(3) That hospitals, boards of alcohol, drug addiction, and 91983

mental health services, and community mental health agencies may 91984
release necessary medical information to insurers and other 91985
third-party payers, including government entities responsible for 91986
processing and authorizing payment, to obtain payment for goods 91987
and services furnished to the patient; 91988

(4) Pursuant to a court order signed by a judge; 91989

(5) That a patient shall be granted access to the patient's 91990
own psychiatric and medical records, unless access specifically is 91991
restricted in a patient's treatment plan for clear treatment 91992
reasons; 91993

(6) That hospitals and other institutions and facilities 91994
within the department of mental health may exchange psychiatric 91995
records and other pertinent information with other hospitals, 91996
institutions, and facilities of the department, and with community 91997
mental health agencies and boards of alcohol, drug addiction, and 91998
mental health services with which the department has a current 91999
agreement for patient care or services. Records and information 92000
that may be released pursuant to this division shall be limited to 92001
medication history, physical health status and history, financial 92002
status, summary of course of treatment in the hospital, summary of 92003
treatment needs, and a discharge summary, if any. 92004

(7) That hospitals within the department, other institutions 92005
and facilities within the department, hospitals licensed by the 92006
department under section 5119.20 of the Revised Code, and 92007
community mental health agencies may exchange psychiatric records 92008
and other pertinent information with payers and other providers of 92009
treatment and health services if the purpose of the exchange is to 92010
facilitate continuity of care for a patient; 92011

(8) That a patient's family member who is involved in the 92012
provision, planning, and monitoring of services to the patient may 92013
receive medication information, a summary of the patient's 92014

diagnosis and prognosis, and a list of the services and personnel 92015
available to assist the patient and the patient's family, if the 92016
patient's treating physician determines that the disclosure would 92017
be in the best interests of the patient. No such disclosure shall 92018
be made unless the patient is notified first and receives the 92019
information and does not object to the disclosure. 92020

(9) That community mental health agencies may exchange 92021
psychiatric records and certain other information with the board 92022
of alcohol, drug addiction, and mental health services and other 92023
agencies in order to provide services to a person involuntarily 92024
committed to a board. Release of records under this division shall 92025
be limited to medication history, physical health status and 92026
history, financial status, summary of course of treatment, summary 92027
of treatment needs, and discharge summary, if any. 92028

(10) That information may be disclosed to the executor or the 92029
administrator of an estate of a deceased patient when the 92030
information is necessary to administer the estate; 92031

(11) That records in the possession of the Ohio historical 92032
society may be released to the closest living relative of a 92033
deceased patient upon request of that relative; 92034

(12) That information may be disclosed to staff members of 92035
the appropriate board or to staff members designated by the 92036
director of mental health for the purpose of evaluating the 92037
quality, effectiveness, and efficiency of services and determining 92038
if the services meet minimum standards. Information obtained 92039
during such evaluations shall not be retained with the name of any 92040
patient. 92041

(13) That records pertaining to the patient's diagnosis, 92042
course of treatment, treatment needs, and prognosis shall be 92043
disclosed and released to the appropriate prosecuting attorney if 92044
the patient was committed pursuant to section 2945.38, 2945.39, 92045

2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5122.32. (A) As used in this section: 92078

(1) "Quality assurance committee" means a committee that is 92079
appointed in the central office of the department of mental health 92080
by the director of mental health, a committee of a hospital or 92081
community setting program, a committee established pursuant to 92082
section 5119.47 of the Revised Code of the department of mental 92083
health appointed by the managing officer of the hospital or 92084
program, or a duly authorized subcommittee of a committee of that 92085
nature and that is designated to carry out quality assurance 92086
program activities. 92087

(2) "Quality assurance program" means a comprehensive program 92088
within the department of mental health to systematically review 92089
and improve the quality of medical and mental health services 92090
within the department and its hospitals and community setting 92091
programs, the safety and security of persons receiving medical and 92092
mental health services within the department and its hospitals and 92093
community setting programs, and the efficiency and effectiveness 92094
of the utilization of staff and resources in the delivery of 92095
medical and mental health services within the department and its 92096
hospitals and community setting programs. "Quality assurance 92097
program" includes the central office quality assurance committees, 92098
morbidity and mortality review committees, quality assurance 92099
programs of community setting programs, quality assurance 92100
committees of hospitals operated by the department of mental 92101
health, and the office of licensure and certification of the 92102
department. 92103

(3) "Quality assurance program activities" include collecting 92104
or compiling information and reports required by a quality 92105
assurance committee, receiving, reviewing, or implementing the 92106
recommendations made by a quality assurance committee, and 92107
credentialing, privileging, infection control, tissue review, peer 92108

review, utilization review including access to patient care 92109
records, patient care assessment records, and medical and mental 92110
health records, medical and mental health resource management, 92111
mortality and morbidity review, and identification and prevention 92112
of medical or mental health incidents and risks, whether performed 92113
by a quality assurance committee or by persons who are directed by 92114
a quality assurance committee. 92115

(4) "Quality assurance records" means the proceedings, 92116
discussion, records, findings, recommendations, evaluations, 92117
opinions, minutes, reports, and other documents or actions that 92118
emanate from quality assurance committees, quality assurance 92119
programs, or quality assurance program activities. "Quality 92120
assurance records" does not include aggregate statistical 92121
information that does not disclose the identity of persons 92122
receiving or providing medical or mental health services in 92123
department of mental health institutions. 92124

(B)(1) Except as provided in division (E) of this section, 92125
quality assurance records are confidential and are not public 92126
records under section 149.43 of the Revised Code, and shall be 92127
used only in the course of the proper functions of a quality 92128
assurance program. 92129

(2) Except as provided in division (E) of this section, no 92130
person who possesses or has access to quality assurance records 92131
and who knows that the records are quality assurance records shall 92132
willfully disclose the contents of the records to any person or 92133
entity. 92134

(C)(1) Except as provided in division (E) of this section, no 92135
quality assurance record shall be subject to discovery in, and is 92136
not admissible in evidence, in any judicial or administrative 92137
proceeding. 92138

(2) Except as provided in division (E) of this section, no 92139

member of a quality assurance committee or a person who is 92140
performing a function that is part of a quality assurance program 92141
shall be permitted or required to testify in a judicial or 92142
administrative proceeding with respect to quality assurance 92143
records or with respect to any finding, recommendation, 92144
evaluation, opinion, or other action taken by the committee, 92145
member, or person. 92146

(3) Information, documents, or records otherwise available 92147
from original sources are not to be construed as being unavailable 92148
for discovery or admission in evidence in a judicial or 92149
administrative proceeding merely because they were presented to a 92150
quality assurance committee. No person testifying before a quality 92151
assurance committee or person who is a member of a quality 92152
assurance committee shall be prevented from testifying as to 92153
matters within the person's knowledge, but the witness cannot be 92154
asked about the witness' testimony before the quality assurance 92155
committee or about an opinion formed by the person as a result of 92156
the quality assurance committee proceedings. 92157

(D)(1) A person who, without malice and in the reasonable 92158
belief that the information is warranted by the facts known to the 92159
person, provides information to a person engaged in quality 92160
assurance program activities is not liable for damages in a civil 92161
action for injury, death, or loss to person or property to any 92162
person as a result of providing the information. 92163

(2) A member of a quality assurance committee, a person 92164
engaged in quality assurance program activities, and an employee 92165
of the department of mental health shall not be liable in damages 92166
in a civil action for injury, death, or loss to person or property 92167
to any person for any acts, omissions, decisions, or other conduct 92168
within the scope of the functions of the quality assurance 92169
program. 92170

(3) Nothing in this section shall relieve any institution or 92171

individual from liability arising from the treatment of a patient. 92172

(E) Quality assurance records may be disclosed, and testimony 92173
may be provided concerning quality assurance records, only to the 92174
following persons or entities: 92175

(1) Persons who are employed or retained by the department of 92176
mental health and who have authority to evaluate or implement the 92177
recommendations of a state-operated hospital, community setting 92178
program, or central office quality assurance committee; 92179

(2) Public or private agencies or organizations if needed to 92180
perform a licensing or accreditation function related to 92181
department of mental health hospitals or community setting 92182
programs, or to perform monitoring of a hospital or program of 92183
that nature as required by law. 92184

(F) A disclosure of quality assurance records pursuant to 92185
division (E) of this section does not otherwise waive the 92186
confidential and privileged status of the disclosed quality 92187
assurance records. 92188

(G) Nothing in this section shall limit the access of the 92189
~~legal rights service~~ Ohio protection and advocacy system to 92190
records or personnel as ~~set forth in sections 5123.60 to 5123.604~~ 92191
required under section 5123.601 of the Revised Code. Nothing in 92192
this section shall limit the admissibility of documentary or 92193
testimonial evidence in an action brought by the ~~legal rights~~ 92194
~~service~~ Ohio protection and advocacy system in its own name or on 92195
behalf of a client. 92196

Sec. 5122.341. (A) As used in this section: 92197

(1) "Facility or agency" means, in the context of a person 92198
committed to the department of mental health under sections 92199
2945.37 to 2945.402 of the Revised Code, any entity in which the 92200
department of mental health places such a person. 92201

(2) "Person committed to the department" means a person committed to the department of mental health under sections 2945.37 to 2945.402 of the Revised Code.

(B) No member of a board of directors, or employee, of a facility or agency in which the department of mental health places a person committed to the department is liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or employee's employment relating to the commitment of, and services provided to, the person committed to the department, unless the action or inaction constitutes willful or wanton misconduct. A board member's or employee's action or inaction does not constitute willful or wanton misconduct if the board member or employee acted in good faith and reasonably under the circumstances and with the knowledge reasonably attributable to the board member or employee.

The immunity from liability conferred by this section is in addition to and not in limitation of any immunity conferred by any other section of the Revised Code or by judicial precedent.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a 92233
sequence of observations and examinations, of a person leading to 92234
conclusions and recommendations formulated jointly, with 92235
dissenting opinions if any, by a group of persons with special 92236
training and experience in the diagnosis and management of persons 92237
with mental retardation or a developmental disability, which group 92238
shall include individuals who are professionally qualified in the 92239
fields of medicine, psychology, and social work, together with 92240
such other specialists as the individual case may require. 92241

(D) "Education" means the process of formal training and 92242
instruction to facilitate the intellectual and emotional 92243
development of residents. 92244

(E) "Habilitation" means the process by which the staff of 92245
the institution assists the resident in acquiring and maintaining 92246
those life skills that enable the resident to cope more 92247
effectively with the demands of the resident's own person and of 92248
the resident's environment and in raising the level of the 92249
resident's physical, mental, social, and vocational efficiency. 92250
Habilitation includes but is not limited to programs of formal, 92251
structured education and training. 92252

(F) "Health officer" means any public health physician, 92253
public health nurse, or other person authorized or designated by a 92254
city or general health district. 92255

(G) "Home and community-based services" means medicaid-funded 92256
home and community-based services specified in division (B)(1) of 92257
section 5111.87 of the Revised Code provided under the medicaid 92258
waiver components the department of developmental disabilities 92259
administers pursuant to section 5111.871 of the Revised Code. 92260
However, home and community-based services provided under the 92261
medicaid waiver component known as the transitions developmental 92262
disabilities waiver are to be considered to be home and 92263
community-based services for the purposes of this chapter only to 92264

the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver. 92265
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(H) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony. 92267
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(I) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded. 92271
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(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties. 92276
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(K) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department. 92282
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(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 92286
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(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires. 92288
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(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period. 92292
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(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(Q) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.	92327
(4) It results in one of the following:	92328
(a) In the case of a person under three years of age, at least one developmental delay or an established risk;	92329 92330
(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;	92331 92332 92333
(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.	92334 92335 92336 92337 92338 92339 92340
(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.	92341 92342 92343 92344
(R) "Developmentally disabled person" means a person with a developmental disability.	92345 92346
(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.	92347 92348
(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance	92349 92350 92351 92352 92353 92354 92355 92356

area in which the person resides. No adult person coming into this 92357
state and having a spouse or minor children residing in another 92358
state shall obtain a legal settlement in this state as long as the 92359
spouse or minor children are receiving public assistance, care, or 92360
support at the expense of the other state or its subdivisions. For 92361
the purpose of determining the legal settlement of a person who is 92362
living in a public or private institution or in a home subject to 92363
licensing by the department of job and family services, the 92364
department of mental health, or the department of developmental 92365
disabilities, the residence of the person shall be considered as 92366
though the person were residing in the county in which the person 92367
was living prior to the person's entrance into the institution or 92368
home. Settlement once acquired shall continue until a person has 92369
been continuously absent from Ohio for a period of one year or has 92370
acquired a legal residence in another state. A woman who marries a 92371
man with legal settlement in any county immediately acquires the 92372
settlement of her husband. The legal settlement of a minor is that 92373
of the parents, surviving parent, sole parent, parent who is 92374
designated the residential parent and legal custodian by a court, 92375
other adult having permanent custody awarded by a court, or 92376
guardian of the person of the minor, provided that: 92377

(1) A minor female who marries shall be considered to have 92378
the legal settlement of her husband and, in the case of death of 92379
her husband or divorce, she shall not thereby lose her legal 92380
settlement obtained by the marriage. 92381

(2) A minor male who marries, establishes a home, and who has 92382
resided in this state for one year without receiving general 92383
assistance prior to July 17, 1995, under former Chapter 5113. of 92384
the Revised Code, financial assistance under Chapter 5115. of the 92385
Revised Code, or assistance from a private agency that maintains 92386
records of assistance given shall be considered to have obtained a 92387
legal settlement in this state. 92388

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(U)(1) "Resident" means, subject to division (R)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(W) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to

prosecute a criminal case against a person if the person had not 92420
been found incompetent to stand trial, or who prosecuted a case in 92421
which a person was found guilty. 92422

(Y) "Court" means the probate division of the court of common 92423
pleas. 92424

(Z) "Supported living" ~~has~~ and "residential services" have 92425
the same ~~meaning~~ meanings as in section 5126.01 of the Revised 92426
Code. 92427

Sec. 5123.0413. The department of developmental disabilities, 92428
in consultation with the department of job and family services, 92429
office of budget and management, and county boards of 92430
developmental disabilities, shall adopt rules in accordance with 92431
Chapter 119. of the Revised Code to establish both of the 92432
following in the event a county property tax levy for services for 92433
individuals with mental retardation or other developmental 92434
disability fails: 92435

(A) A method of paying for home and community-based services; 92436

(B) A method of reducing the number of individuals a county 92437
board would otherwise be required by section 5126.0512 of the 92438
Revised Code to ensure are enrolled in a ~~medicaid waiver component~~ 92439
~~under which~~ home and community-based services ~~are provided~~. 92440

Sec. 5123.0417. (A) The director of developmental 92441
disabilities shall establish one or more programs for individuals 92442
under ~~twenty-one~~ twenty-two years of age who have intensive 92443
behavioral needs, including such individuals with a primary 92444
diagnosis of autism spectrum disorder. The programs may include 92445
one or more medicaid waiver components that the director 92446
administers pursuant to section 5111.871 of the Revised Code. The 92447
programs may do one or more of the following: 92448

(1) Establish models that incorporate elements common to 92449

effective intervention programs and evidence-based practices in	92450
services for children with intensive behavioral needs;	92451
(2) Design a template for individualized education plans and	92452
individual service plans that provide consistent intervention	92453
programs and evidence-based practices for the care and treatment	92454
of children with intensive behavioral needs;	92455
(3) Disseminate best practice guidelines for use by families	92456
of children with intensive behavioral needs and professionals	92457
working with such families;	92458
(4) Develop a transition planning model for effectively	92459
mainstreaming school-age children with intensive behavioral needs	92460
to their public school district;	92461
(5) Contribute to the field of early and effective	92462
identification and intervention programs for children with	92463
intensive behavioral needs by providing financial support for	92464
scholarly research and publication of clinical findings.	92465
(B) The director of developmental disabilities shall	92466
collaborate with the director of job and family services and	92467
consult with the executive director of the Ohio center for autism	92468
and low incidence and university-based programs that specialize in	92469
services for individuals with developmental disabilities when	92470
establishing programs under this section.	92471
<u>Sec. 5123.0418. (A) In addition to other authority granted</u>	92472
<u>the director of developmental disabilities for use of funds</u>	92473
<u>appropriated to the department of developmental disabilities, the</u>	92474
<u>director may use such funds for the following purposes:</u>	92475
<u>(1) All of the following to assist persons with mental</u>	92476
<u>retardation or a developmental disability remain in the community</u>	92477
<u>and avoid institutionalization:</u>	92478
<u>(a) Behavioral and short-term interventions;</u>	92479

<u>(b) Residential services;</u>	92480
<u>(c) Supported living.</u>	92481
<u>(2) Respite care services;</u>	92482
<u>(3) Staff training to help the following personnel serve</u>	92483
<u>persons with mental retardation or a developmental disability in</u>	92484
<u>the community:</u>	92485
<u>(a) Employees of, and personnel under contract with, county</u>	92486
<u>boards of developmental disabilities;</u>	92487
<u>(b) Employees of providers of supported living;</u>	92488
<u>(c) Employees of providers of residential services;</u>	92489
<u>(d) Other personnel the director identifies.</u>	92490
<u>(B) The director may establish priorities for using funds for</u>	92491
<u>the purposes specified in division (A) of this section. The</u>	92492
<u>director shall use the funds in a manner consistent with the</u>	92493
<u>appropriations that authorize the director to use the funds and</u>	92494
<u>all other state and federal laws governing the use of the funds.</u>	92495
<u>Sec. 5123.0419.</u> <u>(A) The director of developmental</u>	92496
<u>disabilities may establish an interagency workgroup on autism. The</u>	92497
<u>purpose of the workgroup shall be to improve the coordination of</u>	92498
<u>the state's efforts to address the service needs of individuals</u>	92499
<u>with autism spectrum disorders and the families of those</u>	92500
<u>individuals. In fulfilling this purpose, the director may enter</u>	92501
<u>into interagency agreements with the government entities</u>	92502
<u>represented by the members of the workgroup. The agreements may</u>	92503
<u>specify any or all of the following:</u>	92504
<u>(1) The roles and responsibilities of government entities</u>	92505
<u>that enter into the agreements;</u>	92506
<u>(2) Procedures regarding the receipt, transfer, and</u>	92507
<u>expenditure of funds necessary to achieve the goals of the</u>	92508

workgroup; 92509

(3) The projects to be undertaken and activities to be 92510
performed by the government entities that enter into the 92511
agreements. 92512

(B) Money received from government entities represented by 92513
the members of the workgroup shall be deposited into the state 92514
treasury to the credit of the interagency workgroup on autism 92515
fund, which is hereby created in the state treasury. Money 92516
credited to the fund shall be used by the department of 92517
developmental disabilities solely to support the activities of the 92518
workgroup. 92519

Sec. 5123.0420. (A) The director of developmental 92520
disabilities may authorize the implementation of one or more 92521
innovative pilot projects that, in the judgment of the director, 92522
are likely to assist in promoting the objectives of this chapter 92523
or Chapter 5126. of the Revised Code. Subject to division (B) of 92524
this section and notwithstanding any provision of this chapter and 92525
Chapter 5126. of the Revised Code, the director's authorization 92526
may permit a pilot project to be implemented in a manner 92527
inconsistent with one or more provisions of this chapter, Chapter 92528
5126. of the Revised Code, or a rule adopted under either chapter. 92529
The director shall specify the period of time for which a pilot 92530
project is to be implemented. This period shall include a 92531
reasonable period of time for an evaluation of the pilot project's 92532
effectiveness. 92533

(B) The director may not authorize a pilot project to be 92534
implemented in a manner that would cause the state to be out of 92535
compliance with any requirements for a program funded in whole or 92536
in part with federal funds. 92537

Sec. 5123.051. (A) If the department of developmental 92538

disabilities determines pursuant to an audit conducted under 92539
section 5123.05 of the Revised Code ~~or a reconciliation conducted~~ 92540
~~under section 5123.18 of the Revised Code~~ that money is owed the 92541
state by a provider of a service or program, the department may 92542
enter into a payment agreement with the provider. The agreement 92543
shall include the following: 92544

(1) A schedule of installment payments whereby the money owed 92545
the state is to be paid in full within a period not to exceed one 92546
year; 92547

(2) A provision that the provider may pay the entire balance 92548
owed at any time during the term of the agreement; 92549

(3) A provision that if any installment is not paid in full 92550
within forty-five days after it is due, the entire balance owed is 92551
immediately due and payable; 92552

(4) Any other terms and conditions that are agreed to by the 92553
department and the provider. 92554

(B) The department may include a provision in a payment 92555
agreement that requires the provider to pay interest on the money 92556
owed the state. The department, in its discretion, shall determine 92557
whether to require the payment of interest and, if it so requires, 92558
the rate of interest. Neither the obligation to pay interest nor 92559
the rate of interest is subject to negotiation between the 92560
department and the provider. 92561

(C) If the provider fails to pay any installment in full 92562
within forty-five days after its due date, the department shall 92563
certify the entire balance owed to the attorney general for 92564
collection under section 131.02 of the Revised Code. The 92565
department may withhold funds from payments made to a provider 92566
under section 5123.18 of the Revised Code to satisfy a judgment 92567
secured by the attorney general. 92568

~~(D) The purchase of service fund is hereby created. Money~~ 92569

~~eredit~~ to the fund shall be used solely for purposes of section 92570
~~5123.05 of the Revised Code.~~ 92571

Sec. 5123.092. (A) There is hereby established at each 92572
institution and branch institution under the control of the 92573
department of developmental disabilities a citizen's advisory 92574
council consisting of thirteen members. At least seven of the 92575
members shall be persons who are not providers of mental 92576
retardation services. Each council shall include parents or other 92577
relatives of residents of institutions under the control of the 92578
department, community leaders, professional persons in relevant 92579
fields, and persons who have an interest in or knowledge of mental 92580
retardation. The managing officer of the institution shall be a 92581
nonvoting member of the council. 92582

(B) The director of developmental disabilities shall be the 92583
appointing authority for the voting members of each citizen's 92584
advisory council. Each time the term of a voting member expires, 92585
the remaining members of the council shall recommend to the 92586
director one or more persons to serve on the council. The director 92587
may accept a nominee of the council or reject the nominee or 92588
nominees. If the director rejects the nominee or nominees, the 92589
remaining members of the advisory council shall further recommend 92590
to the director one or more other persons to serve on the advisory 92591
council. This procedure shall continue until a member is appointed 92592
to the advisory council. 92593

Each advisory council shall elect from its appointed members 92594
a chairperson, vice-chairperson, and a secretary to serve for 92595
terms of one year. Advisory council officers shall not serve for 92596
more than two consecutive terms in the same office. A majority of 92597
the advisory council members constitutes a quorum. 92598

(C) Terms of office shall be for three years, each term 92599
ending on the same day of the same month of the year as did the 92600

term which it succeeds. No member shall serve more than two 92601
consecutive terms, except that any former member may be appointed 92602
if one year or longer has elapsed since the member served two 92603
consecutive terms. Each member shall hold office from the date of 92604
appointment until the end of the term for which the member was 92605
appointed. Any vacancy shall be filled in the same manner in which 92606
the original appointment was made, and the appointee to a vacancy 92607
in an unexpired term shall serve the balance of the term of the 92608
original appointee. Any member shall continue in office subsequent 92609
to the expiration date of the member's term until the member's 92610
successor takes office, or until a period of sixty days has 92611
elapsed, whichever occurs first. 92612

(D) Members shall be expected to attend all meetings of the 92613
advisory council. Unexcused absence from two successive regularly 92614
scheduled meetings shall be considered prima-facie evidence of 92615
intent not to continue as a member. The chairperson of the board 92616
shall, after a member has been absent for two successive regularly 92617
scheduled meetings, direct a letter to the member asking if the 92618
member wishes to remain in membership. If an affirmative reply is 92619
received, the member shall be retained as a member except that, 92620
if, after having expressed a desire to remain a member, the member 92621
then misses a third successive regularly scheduled meeting without 92622
being excused, the chairperson shall terminate the member's 92623
membership. 92624

(E) A citizen's advisory council shall meet six times 92625
annually, or more frequently if three council members request the 92626
chairperson to call a meeting. The council shall keep minutes of 92627
each meeting and shall submit them to the managing officer of the 92628
institution with which the council is associated, and the 92629
department of developmental disabilities, ~~and the legal rights~~ 92630
~~service.~~ 92631

(F) Members of citizen's advisory councils shall receive no 92632

compensation for their services, except that they shall be 92633
reimbursed for their actual and necessary expenses incurred in the 92634
performance of their official duties by the institution with which 92635
they are associated from funds allocated to it, provided that 92636
reimbursement for those expenses shall not exceed limits imposed 92637
upon the department of developmental disabilities by 92638
administrative rules regulating travel within this state. 92639

(G) The councils shall have reasonable access to all patient 92640
treatment and living areas and records of the institution, except 92641
those records of a strictly personal or confidential nature. The 92642
councils shall have access to a patient's personal records with 92643
the consent of the patient or the patient's legal guardian or, if 92644
the patient is a minor, with the consent of the parent or legal 92645
guardian of the patient. 92646

(H) As used in this section, "branch institution" means a 92647
facility that is located apart from an institution and is under 92648
the control of the managing officer of the institution. 92649

Sec. 5123.171. As used in this section, "respite care" means 92650
appropriate, short-term, temporary care provided to a mentally 92651
retarded or developmentally disabled person to sustain the family 92652
structure or to meet planned or emergency needs of the family. 92653

The department of developmental disabilities shall provide 92654
respite care services to persons with mental retardation or a 92655
developmental disability for the purpose of promoting 92656
self-sufficiency and normalization, preventing or reducing 92657
inappropriate institutional care, and furthering the unity of the 92658
family by enabling the family to meet the special needs of a 92659
mentally retarded or developmentally disabled person. 92660

In order to be eligible for respite care services under this 92661
section, the mentally retarded or developmentally disabled person 92662
must be in need of habilitation services as defined in section 92663

5126.01 of the Revised Code. 92664

Respite care may be provided in a facility licensed under 92665
section 5123.19 of the Revised Code or certified as an 92666
intermediate care facility for the mentally retarded under Title 92667
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 92668
301, as amended, or certified as a respite care home under section 92669
5126.05 of the Revised Code. 92670

The department shall develop a system for locating vacant 92671
beds that are available for respite care and for making 92672
information on vacant beds available to users of respite care 92673
services. Facilities certified as intermediate care facilities for 92674
the mentally retarded ~~and facilities holding contracts with the~~ 92675
~~department for the provision of residential services under section~~ 92676
~~5123.18 of the Revised Code~~ shall report vacant beds to the 92677
department but shall not be required to accept respite care 92678
clients. 92679

The director of developmental disabilities shall adopt, and 92680
may amend or rescind, rules in accordance with Chapter 119. of the 92681
Revised Code for both of the following: 92682

(A) Certification by county boards of developmental 92683
disabilities of respite care homes; 92684

(B) Provision of respite care services authorized by this 92685
section. Rules adopted under this division shall establish all of 92686
the following: 92687

(1) A formula for distributing funds appropriated for respite 92688
care services; 92689

(2) Standards for supervision, training and quality control 92690
in the provision of respite care services; 92691

(3) Eligibility criteria for emergency respite care services. 92692

Sec. 5123.18. (A) ~~As used in this section:~~ 92693

~~(1) "Contractor" means a person or government agency that enters into a contract with the department of developmental disabilities under this section.~~ 92694
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~~(2) "Government agency" means a state agency as defined in section 117.01 of the Revised Code or a similar agency of a political subdivision of the state.~~ 92697
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~~(3) "Residential services" means the services necessary for an individual with mental retardation or a developmental disability to live in the community, including room and board, clothing, transportation, personal care, habilitation, supervision, and any other services the department considers necessary for the individual to live in the community.~~ 92700
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~~(B)(1) The department of developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or developmental disabilities in need of residential services. Contracts for residential services shall be of the following types:~~ 92706
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~~(a) Companion home contracts — contracts under which the contractor is an individual, the individual is the primary caregiver, and the individual owns or leases and resides in the home in which the services are provided.~~ 92712
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~~(b) Agency operated companion home contracts — contracts under which the contractor subcontracts, for purposes of coordinating the provision of residential services, with one or more individuals who are primary caregivers and own or lease and reside in the homes in which the services are provided.~~ 92716
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~~(c) Community home contracts — contracts for residential services under which the contractor owns or operates a home that is used solely to provide residential services.~~ 92721
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~~(d) Combined agency operated companion home and community~~ 92724

~~home contracts.~~ 92725

~~(2) A companion home contract shall cover not more than one home. An agency operated companion home contract or a community home contract may cover more than one home.~~ 92726
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~~(C) Contracts shall be in writing and shall provide for payment to be made to the contractor at the times agreed to by the department and the contractor. Each contract shall specify the period during which it is valid, the amount to be paid for residential services, and the number of individuals for whom payment will be made. Contracts may be renewed.~~ 92729
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~~(D) services. To be eligible to enter into a contract with the department under this section, ~~the~~ a person or government agency entity and the home in which the residential services are provided must meet all applicable standards for licensing or certification by the appropriate government ~~agency~~ entity. In addition, if the residential facility is operated as a nonprofit entity, the members of the board of trustees or board of directors of the facility must not have a financial interest in or receive financial benefit from the facility, other than reimbursement for actual expenses incurred in attending board meetings.~~ 92735
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~~(E)(1) The department shall determine the payment amount assigned to an initial contract. To the extent that the department determines sufficient funds are available, the payment amount assigned to an initial contract shall be equal to the average amount assigned to contracts for other homes that are of the same type and size and serve individuals with similar needs, except that if an initial contract is the result of a change of contractor or ownership, the payment amount assigned to the contract shall be the lesser of the amount assigned to the previous contract or the contract's total adjusted predicted funding need calculated under division (I) of this section.~~ 92745
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~~(2) A renewed contract shall be assigned a payment amount in accordance with division (K) of this section.~~ 92756
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~~(3) When a contractor relocates a home to another site at which residential services are provided to the same individuals, the payment amount assigned to the contract for the new home shall be the payment amount assigned to the contract at the previous location.~~ 92758
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~~(F)(1) Annually, a contractor shall complete an assessment of each individual to whom the contractor provides residential services to predict the individual's need for routine direct services staff. The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the assessment instrument to be used by contractors to make assessments. Assessments shall be submitted to the department not later than the thirty first day of January of each year.~~ 92763
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~~A contractor shall submit a revised assessment for an individual if there is a substantial, long term change in the nature of the individual's needs. A contractor shall submit revised assessments for all individuals receiving residential services if there is a change in the composition of the home's residents.~~ 92771
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~~(2) Annually, a contractor shall submit a cost report to the department specifying the costs incurred in providing residential services during the immediately preceding calendar year. Only costs actually incurred by a contractor shall be reported on a cost report. Cost reports shall be prepared according to a uniform chart of accounts approved by the department and shall be submitted on forms prescribed by the department.~~ 92777
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~~(3) The department shall not renew the contract held by a contractor who fails to submit the assessments or cost reports required under this division.~~ 92784
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~~(4) The department shall adopt rules as necessary regarding the submission of assessments and cost reports under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(G) Prior to renewing a contract entered into under this section, the department shall compute the contract's total predicted funding need and total adjusted predicted funding need. The department shall also compute the contract's unmet funding need if the payment amount assigned to the contract is less than the total adjusted predicted funding need. The results of these calculations shall be used to determine the payment amount assigned to the renewed contract.~~

~~(H)(1) A contract's total predicted funding need is an amount equal to the sum of the predicted funding needs for the following cost categories:~~

- ~~(a) Routine direct services staff;~~
- ~~(b) Dietary, program supplies, and specialized staff;~~
- ~~(c) Facility and general services;~~
- ~~(d) Administration.~~

~~(2) Based on the assessments submitted by the contractor, the department shall compute the contract's predicted funding need for the routine direct services staff cost category by multiplying the number of direct services staff predicted to be necessary for the home by the sum of the following:~~

~~(a) Entry level wages paid during the immediately preceding cost reporting period to comparable staff employed by the county board of developmental disabilities of the county in which the home is located;~~

~~(b) Fringe benefits and payroll taxes as determined by the department using state civil service statistics from the same~~

~~period as the cost reporting period.~~ 92817

~~(3) The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the method to be used to compute the predicted funding need for the dietary, program supplies, and specialized staff cost category; the facility and general services cost category; and the administration cost category. The rules shall not establish a maximum amount that may be attributed to the dietary, program supplies, and specialized staff cost category. The rules shall establish a process for determining the combined maximum amount that may be attributed to the facility and general services cost category and the administration cost category.~~ 92818
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~~(I)(1) A contract's total adjusted predicted funding need is the contract's total predicted funding need with adjustments made for the following:~~ 92829
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~~(a) Inflation, as provided under division (I)(2) of this section;~~ 92832
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~~(b) The predicted cost of complying with new requirements established under federal or state law that were not taken into consideration when the total predicted funding need was computed;~~ 92834
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~~(c) Changes in needs based on revised assessments submitted by the contractor.~~ 92837
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~~(2) In adjusting the total predicted funding need for inflation, the department shall use either the consumer price index compound annual inflation rate calculated by the United States department of labor for all items or another index or measurement of inflation designated in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.~~ 92839
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~~When a contract is being renewed for the first time, and the contract is to begin on the first day of July, the inflation adjustment applied to the contract's total predicted funding need~~ 92845
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~~shall be the estimated rate of inflation for the calendar year in 92848
which the contract is renewed. If the consumer price index is 92849
being used, the department shall base its estimate on the rate of 92850
inflation calculated for the three month period ending the 92851
thirty first day of March of that calendar year. If another index 92852
or measurement is being used, the department shall base its 92853
estimate on the most recent calculations of the rate of inflation 92854
available under the index or measurement. Each year thereafter, 92855
the inflation adjustment shall be estimated in the same manner, 92856
except that if the estimated rate of inflation for a year is 92857
different from the actual rate of inflation for that year, the 92858
difference shall be added to or subtracted from the rate of 92859
inflation estimated for the next succeeding year. 92860~~

~~If a contract begins at any time other than July first, the 92861
inflation adjustment applied to the contract's total predicted 92862
funding need shall be determined by a method comparable to that 92863
used for contracts beginning July first. The department shall 92864
adopt rules in accordance with Chapter 119. of the Revised Code 92865
establishing the method to be used. 92866~~

~~(J) A contract's unmet funding need is the difference between 92867
the payment amount assigned to the contract and the total adjusted 92868
predicted funding need, if the payment amount assigned is less 92869
than the total adjusted predicted funding need. 92870~~

~~(K) The payment amount to be assigned to a contract being 92871
renewed shall be determined by comparing the total adjusted 92872
predicted funding need with the payment amount assigned to the 92873
current contract. 92874~~

~~(1) If the payment amount assigned to the current contract 92875
equals or exceeds the total adjusted predicted funding need, the 92876
payment amount assigned to the renewed contract shall be the same 92877
as that assigned to the current contract, unless a reduction is 92878
made pursuant to division (L) of this section. 92879~~

~~(2) If the payment amount assigned to the current contract is less than the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be increased if the department determines that funds are available for such increases. The amount of a contract's increase shall be the same percentage of the available funds that the contract's unmet funding need is of the total of the unmet funding need for all contracts.~~

~~(L) When renewing a contract provided for in division (B) of this section other than a companion home contract, the department may reduce the payment amount assigned to a renewed contract if the sum of the contractor's allowable reported costs and the maximum efficiency incentive is less than ninety one and one half per cent of the amount received pursuant to this section during the immediately preceding contract year.~~

~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a formula to be used in computing the maximum efficiency incentive, which shall be at least four per cent of the weighted average payment amount to be made to all contractors during the contract year. The maximum efficiency incentive shall be computed annually.~~

~~(M) The department may increase the payment amount assigned to a contract based on the contract's unmet funding need at times other than when the contract is renewed. The department may develop policies for determining priorities in making such increases.~~

~~(N)(1) In addition to the contracts provided for in division (B) of this section, the department may enter into the following contracts:~~

~~(a) A contract to pay the cost of beginning operation of a new home that is to be funded under a companion home contract, agency operated companion home contract, community home contract,~~

~~or combined agency operated companion home and community home
contract.~~ 92911
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~~(b) A contract to pay the cost associated with increasing the
number of individuals served by a home funded under a companion
home contract, agency operated companion home contract, community
home contract, or combined agency operated companion home and
community home contract.~~ 92913
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~~(2) The department shall adopt rules as necessary regarding
contracts entered into under this division. The rules shall be
adopted in accordance with Chapter 119. of the Revised Code.~~ 92918
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~~(O) Except for companion home contracts, the department shall
conduct a reconciliation of the amount earned under a contract and
the actual costs incurred by the contractor. An amount is
considered to have been earned for delivering a service at the
time the service is delivered. The department shall adopt rules in
accordance with Chapter 119. of the Revised Code establishing
procedures for conducting reconciliations.~~ 92921
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~~A reconciliation shall be based on the annual cost report
submitted by the contractor. If a reconciliation reveals that a
contractor owes money to the state, the amount owed shall be
collected in accordance with section 5123.051 of the Revised Code.~~ 92928
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~~When conducting reconciliations, the department shall review
all reported costs that may be affected by transactions required
to be reported under division (B)(3) of section 5123.172 of the
Revised Code. If the department determines that such transactions
have increased the cost reported by a contractor, the department
may disallow or adjust the cost allowable for payment. The
department shall adopt rules in accordance with Chapter 119. of
the Revised Code establishing standards for disallowances or
adjustments.~~ 92932
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~~(P) The department may audit the contracts it enters into~~ 92941

~~under this section. Audits may be conducted by the department or 92942
an entity with which the department contracts to perform the 92943
audits. The department shall adopt rules in accordance with 92944
Chapter 119. of the Revised Code establishing procedures for 92945
conducting audits. 92946~~

~~An audit may include the examination of a contractor's 92947
financial books and records, the costs incurred by a contractor in 92948
providing residential services, and any other relevant information 92949
specified by the department. An audit shall not be commenced more 92950
than four years after the expiration of the contract to be 92951
audited, except in cases where the department has reasonable cause 92952
to believe that a contractor has committed fraud. 92953~~

~~If an audit reveals that a contractor owes money to the 92954
state, the amount owed, subject to an adjudication hearing under 92955
this division, shall be collected in accordance with section 92956
5123.051 of the Revised Code. If an audit reveals that a 92957
reconciliation conducted under this section resulted in the 92958
contractor erroneously paying money to the state, the department 92959
shall refund the money to the contractor, or, in lieu of making a 92960
refund, the department may offset the erroneous payment against 92961
any money determined as a result of the audit to be owed by the 92962
contractor to the state. The department is not required to pay 92963
interest on any money refunded under this division. 92964~~

~~In conducting audits or making determinations of amounts owed 92965
by a contractor and amounts to be refunded or offset, the 92966
department shall not be bound by the results of reconciliations 92967
conducted under this section, except with regard to cases 92968
involving claims that have been certified pursuant to section 92969
5123.051 of the Revised Code to the attorney general for 92970
collection for which a full and final settlement has been reached 92971
or a final judgment has been made from which all rights of appeal 92972
have expired or been exhausted. 92973~~

~~Not later than ninety days after an audit's completion, the department shall provide the contractor a copy of a report of the audit. The report shall state the findings of the audit, including the amount of any money the contractor is determined to owe the state.~~

~~(Q) The department shall adopt rules specifying the amount that will be allowed under a reconciliation or audit for the cost incurred by a contractor for compensation of owners, administrators, and other personnel. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(R) Each contractor shall, for at least seven years, maintain fiscal records related to payments received pursuant to this section.~~

~~(S) The department may enter into shared funding agreements with other government agencies to fund contracts entered into under this section. The amount of each agency's share of the cost shall be determined through negotiations with the department. The department's share shall not exceed the amount it would have paid without entering into the shared funding agreement, nor shall it be reduced by any amounts contributed by the other parties to the agreement.~~

~~(T) Except as provided in section 5123.194 of the Revised Code, an individual who receives residential services pursuant to divisions (A) through (U) of this section and the individual's liable relatives or guardians shall pay support charges in accordance with Chapter 5121. of the Revised Code.~~

~~(U) The department may make reimbursements or payments for any of the following pursuant to rules adopted under this division:~~

~~(1) Unanticipated, nonrecurring costs associated with the health or habilitation of a person who resides in a home funded~~

~~under a contract provided for in division (B) of this section;~~ 93005

~~(2) The cost of staff development training for contractors if~~ 93006
~~the director of developmental disabilities has given prior~~ 93007
~~approval for the training;~~ 93008

~~(3) Fixed costs that the department, pursuant to the rules,~~ 93009
~~determines relate to the continued operation of a home funded~~ 93010
~~under a contract provided for in division (B) of this section when~~ 93011
~~a short term vacancy occurs and the contractor has diligently~~ 93012
~~attempted to fill the vacancy.~~ 93013

~~The department shall adopt rules in accordance with Chapter~~ 93014
~~119. of the Revised Code establishing standards for use in~~ 93015
~~determining which costs it may make payment or reimbursements for~~ 93016
~~under this division.~~ 93017

~~(V) In addition to the rules required or authorized to be~~ 93018
~~adopted under this section, the department may adopt any other~~ 93019
~~rules necessary to implement divisions (A) through (U) of this~~ 93020
~~section. The rules shall be adopted in accordance with Chapter~~ 93021
~~119. of the Revised Code.~~ 93022

~~(W) The department may delegate to county boards of~~ 93023
~~developmental disabilities its authority under this section to~~ 93024
~~negotiate and enter into contracts or subcontracts for residential~~ 93025
~~services. In the event that it elects to delegate its authority,~~ 93026
~~the department shall adopt rules in accordance with Chapter 119.~~ 93027
~~of the Revised Code for the boards' administration of the~~ 93028
~~contracts or subcontracts. In administering the contracts or~~ 93029
~~subcontracts, the boards shall be subject to all applicable~~ 93030
~~provisions of Chapter 5126. of the Revised Code and shall not be~~ 93031
~~subject to the provisions of divisions (A) to (V) of this section.~~ 93032

~~Subject to the department's rules, a board may require the~~ 93033
~~following to contribute to the cost of the residential services an~~ 93034
~~individual receives pursuant to this division: the individual or~~ 93035

~~the individual's estate, the individual's spouse, the individual's guardian, and, if the individual is under age eighteen, either or both of the individual's parents. Chapter 5121. of the Revised Code shall not apply to individuals or entities that are subject to making contributions under this division. In calculating contributions to be made under this division, a board, subject to the department's rules, may allow an amount to be kept for meeting the personal needs of the individual who receives residential services.~~

Sec. 5123.19. (A) As used in this section and in sections 5123.191, ~~5123.193~~, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the

person's guardian, which is not dedicated principally to the 93067
provision of residential services for mentally retarded or 93068
developmentally disabled persons, and for which no financial 93069
support is received for rendering such service from any 93070
governmental agency by a provider of residential services. 93071

(4) "Licensee" means the person or government agency that has 93072
applied for a license to operate a residential facility and to 93073
which the license was issued under this section. 93074

(5) "Related party" has the same meaning as in section 93075
5123.16 of the Revised Code except that "provider" as used in the 93076
definition of "related party" means a person or government entity 93077
that held or applied for a license to operate a residential 93078
facility, rather than a person or government entity certified to 93079
provide supported living. 93080

(B) Every person or government agency desiring to operate a 93081
residential facility shall apply for licensure of the facility to 93082
the director of developmental disabilities unless the residential 93083
facility is subject to section 3721.02, ~~3722.04~~ 5119.73, 5103.03, 93084
or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of 93085
the Revised Code, a nursing home that is certified as an 93086
intermediate care facility for the mentally retarded under Title 93087
XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 93088
1396, as amended, shall apply for licensure of the portion of the 93089
home that is certified as an intermediate care facility for the 93090
mentally retarded. 93091

(C) Subject to section 5123.196 of the Revised Code, the 93092
director of developmental disabilities shall license the operation 93093
of residential facilities. An initial license shall be issued for 93094
a period that does not exceed one year, unless the director denies 93095
the license under division (D) of this section. A license shall be 93096
renewed for a period that does not exceed three years, unless the 93097
director refuses to renew the license under division (D) of this 93098

section. The director, when issuing or renewing a license, shall 93099
specify the period for which the license is being issued or 93100
renewed. A license remains valid for the length of the licensing 93101
period specified by the director, unless the license is 93102
terminated, revoked, or voluntarily surrendered. 93103

(D) If it is determined that an applicant or licensee is not 93104
in compliance with a provision of this chapter that applies to 93105
residential facilities or the rules adopted under such a 93106
provision, the director may deny issuance of a license, refuse to 93107
renew a license, terminate a license, revoke a license, issue an 93108
order for the suspension of admissions to a facility, issue an 93109
order for the placement of a monitor at a facility, issue an order 93110
for the immediate removal of residents, or take any other action 93111
the director considers necessary consistent with the director's 93112
authority under this chapter regarding residential facilities. In 93113
the director's selection and administration of the sanction to be 93114
imposed, all of the following apply: 93115

(1) The director may deny, refuse to renew, or revoke a 93116
license, if the director determines that the applicant or licensee 93117
has demonstrated a pattern of serious noncompliance or that a 93118
violation creates a substantial risk to the health and safety of 93119
residents of a residential facility. 93120

(2) The director may terminate a license if more than twelve 93121
consecutive months have elapsed since the residential facility was 93122
last occupied by a resident or a notice required by division (K) 93123
of this section is not given. 93124

(3) The director may issue an order for the suspension of 93125
admissions to a facility for any violation that may result in 93126
sanctions under division (D)(1) of this section and for any other 93127
violation specified in rules adopted under division (H)(2) of this 93128
section. If the suspension of admissions is imposed for a 93129
violation that may result in sanctions under division (D)(1) of 93130

this section, the director may impose the suspension before 93131
providing an opportunity for an adjudication under Chapter 119. of 93132
the Revised Code. The director shall lift an order for the 93133
suspension of admissions when the director determines that the 93134
violation that formed the basis for the order has been corrected. 93135

(4) The director may order the placement of a monitor at a 93136
residential facility for any violation specified in rules adopted 93137
under division (H)(2) of this section. The director shall lift the 93138
order when the director determines that the violation that formed 93139
the basis for the order has been corrected. 93140

(5) If the director determines that two or more residential 93141
facilities owned or operated by the same person or government 93142
entity are not being operated in compliance with a provision of 93143
this chapter that applies to residential facilities or the rules 93144
adopted under such a provision, and the director's findings are 93145
based on the same or a substantially similar action, practice, 93146
circumstance, or incident that creates a substantial risk to the 93147
health and safety of the residents, the director shall conduct a 93148
survey as soon as practicable at each residential facility owned 93149
or operated by that person or government entity. The director may 93150
take any action authorized by this section with respect to any 93151
facility found to be operating in violation of a provision of this 93152
chapter that applies to residential facilities or the rules 93153
adopted under such a provision. 93154

(6) When the director initiates license revocation 93155
proceedings, no opportunity for submitting a plan of correction 93156
shall be given. The director shall notify the licensee by letter 93157
of the initiation of the proceedings. The letter shall list the 93158
deficiencies of the residential facility and inform the licensee 93159
that no plan of correction will be accepted. The director shall 93160
also send a copy of the letter to the county board of 93161
developmental disabilities. The county board shall send a copy of 93162

the letter to each of the following: 93163

(a) Each resident who receives services from the licensee; 93164

(b) The guardian of each resident who receives services from 93165
the licensee if the resident has a guardian; 93166

(c) The parent or guardian of each resident who receives 93167
services from the licensee if the resident is a minor. 93168

(7) Pursuant to rules which shall be adopted in accordance 93169
with Chapter 119. of the Revised Code, the director may order the 93170
immediate removal of residents from a residential facility 93171
whenever conditions at the facility present an immediate danger of 93172
physical or psychological harm to the residents. 93173

(8) In determining whether a residential facility is being 93174
operated in compliance with a provision of this chapter that 93175
applies to residential facilities or the rules adopted under such 93176
a provision, or whether conditions at a residential facility 93177
present an immediate danger of physical or psychological harm to 93178
the residents, the director may rely on information obtained by a 93179
county board of developmental disabilities or other governmental 93180
agencies. 93181

(9) In proceedings initiated to deny, refuse to renew, or 93182
revoke licenses, the director may deny, refuse to renew, or revoke 93183
a license regardless of whether some or all of the deficiencies 93184
that prompted the proceedings have been corrected at the time of 93185
the hearing. 93186

(E) The director shall establish a program under which public 93187
notification may be made when the director has initiated license 93188
revocation proceedings or has issued an order for the suspension 93189
of admissions, placement of a monitor, or removal of residents. 93190
The director shall adopt rules in accordance with Chapter 119. of 93191
the Revised Code to implement this division. The rules shall 93192
establish the procedures by which the public notification will be 93193

made and specify the circumstances for which the notification must 93194
be made. The rules shall require that public notification be made 93195
if the director has taken action against the facility in the 93196
eighteen-month period immediately preceding the director's latest 93197
action against the facility and the latest action is being taken 93198
for the same or a substantially similar violation of a provision 93199
of this chapter that applies to residential facilities or the 93200
rules adopted under such a provision. The rules shall specify a 93201
method for removing or amending the public notification if the 93202
director's action is found to have been unjustified or the 93203
violation at the residential facility has been corrected. 93204

(F)(1) Except as provided in division (F)(2) of this section, 93205
appeals from proceedings initiated to impose a sanction under 93206
division (D) of this section shall be conducted in accordance with 93207
Chapter 119. of the Revised Code. 93208

(2) Appeals from proceedings initiated to order the 93209
suspension of admissions to a facility shall be conducted in 93210
accordance with Chapter 119. of the Revised Code, unless the order 93211
was issued before providing an opportunity for an adjudication, in 93212
which case all of the following apply: 93213

(a) The licensee may request a hearing not later than ten 93214
days after receiving the notice specified in section 119.07 of the 93215
Revised Code. 93216

(b) If a timely request for a hearing that includes the 93217
licensee's current address is made, the hearing shall commence not 93218
later than thirty days after the department receives the request. 93219

(c) After commencing, the hearing shall continue 93220
uninterrupted, except for Saturdays, Sundays, and legal holidays, 93221
unless other interruptions are agreed to by the licensee and the 93222
director. 93223

(d) If the hearing is conducted by a hearing examiner, the 93224

hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

- (i) The close of the hearing;
- (ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;
- (iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the 93255
director shall adopt and may amend and rescind rules for licensing 93256
and regulating the operation of residential facilities, including 93257
intermediate care facilities for the mentally retarded. The rules 93258
for intermediate care facilities for the mentally retarded may 93259
differ from those for other residential facilities. The rules 93260
shall establish and specify the following: 93261

(1) Procedures and criteria for issuing and renewing 93262
licenses, including procedures and criteria for determining the 93263
length of the licensing period that the director must specify for 93264
each license when it is issued or renewed; 93265

(2) Procedures and criteria for denying, refusing to renew, 93266
terminating, and revoking licenses and for ordering the suspension 93267
of admissions to a facility, placement of a monitor at a facility, 93268
and the immediate removal of residents from a facility; 93269

(3) Fees for issuing and renewing licenses, which shall be 93270
deposited into the program fee fund created under section 5123.033 93271
of the Revised Code; 93272

(4) Procedures for surveying residential facilities; 93273

(5) Requirements for the training of residential facility 93274
personnel; 93275

(6) Classifications for the various types of residential 93276
facilities; 93277

(7) Certification procedures for licensees and management 93278
contractors that the director determines are necessary to ensure 93279
that they have the skills and qualifications to properly operate 93280
or manage residential facilities; 93281

(8) The maximum number of persons who may be served in a 93282
particular type of residential facility; 93283

(9) Uniform procedures for admission of persons to and 93284

transfers and discharges of persons from residential facilities; 93285

(10) Other standards for the operation of residential 93286
facilities and the services provided at residential facilities; 93287

(11) Procedures for waiving any provision of any rule adopted 93288
under this section. 93289

(I) Before issuing a license, the director of the department 93290
or the director's designee shall conduct a survey of the 93291
residential facility for which application is made. The director 93292
or the director's designee shall conduct a survey of each licensed 93293
residential facility at least once during the period the license 93294
is valid and may conduct additional inspections as needed. A 93295
survey includes but is not limited to an on-site examination and 93296
evaluation of the residential facility, its personnel, and the 93297
services provided there. 93298

In conducting surveys, the director or the director's 93299
designee shall be given access to the residential facility; all 93300
records, accounts, and any other documents related to the 93301
operation of the facility; the licensee; the residents of the 93302
facility; and all persons acting on behalf of, under the control 93303
of, or in connection with the licensee. The licensee and all 93304
persons on behalf of, under the control of, or in connection with 93305
the licensee shall cooperate with the director or the director's 93306
designee in conducting the survey. 93307

Following each survey, unless the director initiates a 93308
license revocation proceeding, the director or the director's 93309
designee shall provide the licensee with a report listing any 93310
deficiencies, specifying a timetable within which the licensee 93311
shall submit a plan of correction describing how the deficiencies 93312
will be corrected, and, when appropriate, specifying a timetable 93313
within which the licensee must correct the deficiencies. After a 93314
plan of correction is submitted, the director or the director's 93315

designee shall approve or disapprove the plan. A copy of the 93316
report and any approved plan of correction shall be provided to 93317
any person who requests it. 93318

The director shall initiate disciplinary action against any 93319
department employee who notifies or causes the notification to any 93320
unauthorized person of an unannounced survey of a residential 93321
facility by an authorized representative of the department. 93322

(J) In addition to any other information which may be 93323
required of applicants for a license pursuant to this section, the 93324
director shall require each applicant to provide a copy of an 93325
approved plan for a proposed residential facility pursuant to 93326
section 5123.042 of the Revised Code. This division does not apply 93327
to renewal of a license or to an applicant for an initial or 93328
modified license who meets the requirements of section 5123.193 or 93329
5123.197 of the Revised Code. 93330

(K) A licensee shall notify the owner of the building in 93331
which the licensee's residential facility is located of any 93332
significant change in the identity of the licensee or management 93333
contractor before the effective date of the change if the licensee 93334
is not the owner of the building. 93335

Pursuant to rules which shall be adopted in accordance with 93336
Chapter 119. of the Revised Code, the director may require 93337
notification to the department of any significant change in the 93338
ownership of a residential facility or in the identity of the 93339
licensee or management contractor. If the director determines that 93340
a significant change of ownership is proposed, the director shall 93341
consider the proposed change to be an application for development 93342
by a new operator pursuant to section 5123.042 of the Revised Code 93343
and shall advise the applicant within sixty days of the 93344
notification that the current license shall continue in effect or 93345
a new license will be required pursuant to this section. If the 93346
director requires a new license, the director shall permit the 93347

facility to continue to operate under the current license until 93348
the new license is issued, unless the current license is revoked, 93349
refused to be renewed, or terminated in accordance with Chapter 93350
119. of the Revised Code. 93351

(L) A county board of developmental disabilities, ~~the legal~~ 93352
~~rights service,~~ and any interested person may file complaints 93353
alleging violations of statute or department rule relating to 93354
residential facilities with the department. All complaints shall 93355
be in writing and shall state the facts constituting the basis of 93356
the allegation. The department shall not reveal the source of any 93357
complaint unless the complainant agrees in writing to waive the 93358
right to confidentiality or until so ordered by a court of 93359
competent jurisdiction. 93360

The department shall adopt rules in accordance with Chapter 93361
119. of the Revised Code establishing procedures for the receipt, 93362
referral, investigation, and disposition of complaints filed with 93363
the department under this division. 93364

(M) The department shall establish procedures for the 93365
notification of interested parties of the transfer or interim care 93366
of residents from residential facilities that are closing or are 93367
losing their license. 93368

(N) Before issuing a license under this section to a 93369
residential facility that will accommodate at any time more than 93370
one mentally retarded or developmentally disabled individual, the 93371
director shall, by first class mail, notify the following: 93372

(1) If the facility will be located in a municipal 93373
corporation, the clerk of the legislative authority of the 93374
municipal corporation; 93375

(2) If the facility will be located in unincorporated 93376
territory, the clerk of the appropriate board of county 93377
commissioners and the fiscal officer of the appropriate board of 93378

township trustees. 93379

The director shall not issue the license for ten days after 93380
mailing the notice, excluding Saturdays, Sundays, and legal 93381
holidays, in order to give the notified local officials time in 93382
which to comment on the proposed issuance. 93383

Any legislative authority of a municipal corporation, board 93384
of county commissioners, or board of township trustees that 93385
receives notice under this division of the proposed issuance of a 93386
license for a residential facility may comment on it in writing to 93387
the director within ten days after the director mailed the notice, 93388
excluding Saturdays, Sundays, and legal holidays. If the director 93389
receives written comments from any notified officials within the 93390
specified time, the director shall make written findings 93391
concerning the comments and the director's decision on the 93392
issuance of the license. If the director does not receive written 93393
comments from any notified local officials within the specified 93394
time, the director shall continue the process for issuance of the 93395
license. 93396

(O) Any person may operate a licensed residential facility 93397
that provides room and board, personal care, habilitation 93398
services, and supervision in a family setting for at least six but 93399
not more than eight persons with mental retardation or a 93400
developmental disability as a permitted use in any residential 93401
district or zone, including any single-family residential district 93402
or zone, of any political subdivision. These residential 93403
facilities may be required to comply with area, height, yard, and 93404
architectural compatibility requirements that are uniformly 93405
imposed upon all single-family residences within the district or 93406
zone. 93407

(P) Any person may operate a licensed residential facility 93408
that provides room and board, personal care, habilitation 93409
services, and supervision in a family setting for at least nine 93410

but not more than sixteen persons with mental retardation or a 93411
developmental disability as a permitted use in any multiple-family 93412
residential district or zone of any political subdivision, except 93413
that a political subdivision that has enacted a zoning ordinance 93414
or resolution establishing planned unit development districts may 93415
exclude these residential facilities from those districts, and a 93416
political subdivision that has enacted a zoning ordinance or 93417
resolution may regulate these residential facilities in 93418
multiple-family residential districts or zones as a conditionally 93419
permitted use or special exception, in either case, under 93420
reasonable and specific standards and conditions set out in the 93421
zoning ordinance or resolution to: 93422

(1) Require the architectural design and site layout of the 93423
residential facility and the location, nature, and height of any 93424
walls, screens, and fences to be compatible with adjoining land 93425
uses and the residential character of the neighborhood; 93426

(2) Require compliance with yard, parking, and sign 93427
regulation; 93428

(3) Limit excessive concentration of these residential 93429
facilities. 93430

(Q) This section does not prohibit a political subdivision 93431
from applying to residential facilities nondiscriminatory 93432
regulations requiring compliance with health, fire, and safety 93433
regulations and building standards and regulations. 93434

(R) Divisions (O) and (P) of this section are not applicable 93435
to municipal corporations that had in effect on June 15, 1977, an 93436
ordinance specifically permitting in residential zones licensed 93437
residential facilities by means of permitted uses, conditional 93438
uses, or special exception, so long as such ordinance remains in 93439
effect without any substantive modification. 93440

(S)(1) The director may issue an interim license to operate a 93441

residential facility to an applicant for a license under this 93442
section if either of the following is the case: 93443

(a) The director determines that an emergency exists 93444
requiring immediate placement of persons in a residential 93445
facility, that insufficient licensed beds are available, and that 93446
the residential facility is likely to receive a permanent license 93447
under this section within thirty days after issuance of the 93448
interim license. 93449

(b) The director determines that the issuance of an interim 93450
license is necessary to meet a temporary need for a residential 93451
facility. 93452

(2) To be eligible to receive an interim license, an 93453
applicant must meet the same criteria that must be met to receive 93454
a permanent license under this section, except for any differing 93455
procedures and time frames that may apply to issuance of a 93456
permanent license. 93457

(3) An interim license shall be valid for thirty days and may 93458
be renewed by the director for a period not to exceed one hundred 93459
fifty days. 93460

(4) The director shall adopt rules in accordance with Chapter 93461
119. of the Revised Code as the director considers necessary to 93462
administer the issuance of interim licenses. 93463

(T) Notwithstanding rules adopted pursuant to this section 93464
establishing the maximum number of persons who may be served in a 93465
particular type of residential facility, a residential facility 93466
shall be permitted to serve the same number of persons being 93467
served by the facility on the effective date of the rules or the 93468
number of persons for which the facility is authorized pursuant to 93469
a current application for a certificate of need with a letter of 93470
support from the department of developmental disabilities and 93471
which is in the review process prior to April 4, 1986. 93472

(U) The director or the director's designee may enter at any 93473
time, for purposes of investigation, any home, facility, or other 93474
structure that has been reported to the director or that the 93475
director has reasonable cause to believe is being operated as a 93476
residential facility without a license issued under this section. 93477

The director may petition the court of common pleas of the 93478
county in which an unlicensed residential facility is located for 93479
an order enjoining the person or governmental agency operating the 93480
facility from continuing to operate without a license. The court 93481
may grant the injunction on a showing that the person or 93482
governmental agency named in the petition is operating a 93483
residential facility without a license. The court may grant the 93484
injunction, regardless of whether the residential facility meets 93485
the requirements for receiving a license under this section. 93486

Sec. 5123.191. (A) The court of common pleas or a judge 93487
thereof in the judge's county, or the probate court, may appoint a 93488
receiver to take possession of and operate a residential facility 93489
licensed by the department of developmental disabilities, in 93490
causes pending in such courts respectively, when conditions 93491
existing at the facility present a substantial risk of physical or 93492
mental harm to residents and no other remedies at law are adequate 93493
to protect the health, safety, and welfare of the residents. 93494
Conditions at the facility that may present such risk of harm 93495
include, but are not limited to, instances when any of the 93496
following occur: 93497

(1) The residential facility is in violation of state or 93498
federal law or regulations. 93499

(2) The facility has had its license revoked or procedures 93500
for revocation have been initiated, or the facility is closing or 93501
intends to cease operations. 93502

(3) Arrangements for relocating residents need to be made. 93503

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility. 93504
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(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations. 93506
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(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of developmental disabilities of the filing. The court shall order the department to notify the ~~legal rights service~~, facility owner, facility operator, county board of developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition. 93509
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The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of developmental disabilities and appropriate persons of this action. 93516
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(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership. 93524
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(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing the facility into compliance with state or federal laws or regulations, the court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order 93528
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the appropriate authorities to expedite all inspections necessary 93535
for the issuance of licenses or the certification of a facility, 93536
and order a facility to be closed if it determines that reasonable 93537
efforts cannot bring the facility into substantial compliance with 93538
the law. 93539

(E) In establishing a receivership, the court shall set forth 93540
the powers and duties of the receiver. The court may generally 93541
authorize the receiver to do all that is prudent and necessary to 93542
safely and efficiently operate the residential facility within the 93543
requirements of state and federal law, but shall require the 93544
receiver to obtain court approval prior to making any single 93545
expenditure of more than five thousand dollars to correct 93546
deficiencies in the structure or furnishings of a facility. The 93547
court shall closely review the conduct of the receiver it has 93548
appointed and shall require regular and detailed reports. The 93549
receivership shall be reviewed at least every sixty days. 93550

(F) A receivership established pursuant to this section shall 93551
be terminated, following notification of the appropriate parties 93552
and a hearing, if the court determines either of the following: 93553

(1) The residential facility has been closed and the former 93554
residents have been relocated to an appropriate facility. 93555

(2) Circumstances no longer exist at the facility that 93556
present a substantial risk of physical or mental harm to 93557
residents, and there is no deficiency in the facility that is 93558
likely to create a future risk of harm. 93559

Notwithstanding division (F)(2) of this section, the court 93560
shall not terminate a receivership for a residential facility that 93561
has previously operated under another receivership unless the 93562
responsibility for the operation of the facility is transferred to 93563
an operator approved by the court and the department of 93564
developmental disabilities. 93565

(G) The department of developmental disabilities may, upon 93566
its own initiative or at the request of an owner, operator, or 93567
resident of a residential facility, or at the request of a 93568
resident's guardian or relative, or a county board of 93569
developmental disabilities, ~~or the legal rights service~~, petition 93570
the court to appoint a receiver to take possession of and operate 93571
a residential facility. When the department has been requested to 93572
file a petition by any of the parties listed above, it shall, 93573
within forty-eight hours of such request, either file such a 93574
petition or notify the requesting party of its decision not to 93575
file. If the department refuses to file, the requesting party may 93576
file a petition with the court requesting the appointment of a 93577
receiver to take possession of and operate a residential facility. 93578

Petitions filed pursuant to this division shall include the 93579
following: 93580

(1) A description of the specific conditions existing at the 93581
facility which present a substantial risk of physical or mental 93582
harm to residents; 93583

(2) A statement of the absence of other adequate remedies at 93584
law; 93585

(3) The number of individuals residing at the facility; 93586

(4) A statement that the facts have been brought to the 93587
attention of the owner or licensee and that conditions have not 93588
been remedied within a reasonable period of time or that the 93589
conditions, though remedied periodically, habitually exist at the 93590
facility as a pattern or practice; 93591

(5) The name and address of the person holding the license 93592
for the facility and the address of the department of 93593
developmental disabilities. 93594

The court may award to an operator appropriate costs and 93595
expenses, including reasonable attorney's fees, if it determines 93596

that a petitioner has initiated a proceeding in bad faith or 93597
merely for the purpose of harassing or embarrassing the operator. 93598

(H) Except for the department of developmental disabilities 93599
or a county board of developmental disabilities, no party or 93600
person interested in an action shall be appointed a receiver 93601
pursuant to this section. 93602

To assist the court in identifying persons qualified to be 93603
named as receivers, the director of developmental disabilities or 93604
the director's designee shall maintain a list of the names of such 93605
persons. The director shall, in accordance with Chapter 119. of 93606
the Revised Code, establish standards for evaluating persons 93607
desiring to be included on such a list. 93608

(I) Before a receiver enters upon the duties of that person, 93609
the receiver must be sworn to perform the duties of receiver 93610
faithfully, and, with surety approved by the court, judge, or 93611
clerk, execute a bond to such person, and in such sum as the court 93612
or judge directs, to the effect that such receiver will faithfully 93613
discharge the duties of receiver in the action, and obey the 93614
orders of the court therein. 93615

(J) Under the control of the appointing court, a receiver may 93616
bring and defend actions in the receiver's own name as receiver 93617
and take and keep possession of property. 93618

The court shall authorize the receiver to do the following: 93619

(1) Collect payment for all goods and services provided to 93620
the residents or others during the period of the receivership at 93621
the same rate as was charged by the licensee at the time the 93622
petition for receivership was filed, unless a different rate is 93623
set by the court; 93624

(2) Honor all leases, mortgages, and secured transactions 93625
governing all buildings, goods, and fixtures of which the receiver 93626
has taken possession and continues to use, subject to the 93627

following conditions: 93628

(a) In the case of a rental agreement, only to the extent of 93629
payments that are for the use of the property during the period of 93630
the receivership; 93631

(b) In the case of a purchase agreement only to the extent of 93632
payments that come due during the period of the receivership; 93633

~~(c) If the court determines that the cost of the lease, 93634
mortgage, or secured transaction was increased by a transaction 93635
required to be reported under division (B)(3) of section 5123.172 93636
of the Revised Code, only to the extent determined by the court to 93637
be the fair market value for use of the property during the period 93638
of the receivership. 93639~~

(3) If transfer of residents is necessary, provide for the 93640
orderly transfer of residents by doing the following: 93641

(a) Cooperating with all appropriate state and local agencies 93642
in carrying out the transfer of residents to alternative community 93643
placements; 93644

(b) Providing for the transportation of residents' belongings 93645
and records; 93646

(c) Helping to locate alternative placements and develop 93647
discharge plans; 93648

(d) Preparing residents for the trauma of discharge; 93649

(e) Permitting residents or guardians to participate in 93650
transfer or discharge planning except when an emergency exists and 93651
immediate transfer is necessary. 93652

(4) Make periodic reports on the status of the residential 93653
program to the appropriate state agency, county board of 93654
developmental disabilities, parents, guardians, and residents; 93655

(5) Compromise demands or claims; 93656

(6) Generally do such acts respecting the residential 93657
facility as the court authorizes. 93658

(K) Neither the receiver nor the department of developmental 93659
disabilities is liable for debts incurred by the owner or operator 93660
of a residential facility for which a receiver has been appointed. 93661

(L) The department of developmental disabilities may contract 93662
for the operation of a residential facility in receivership. The 93663
department shall establish the conditions of a contract. A 93664
~~condition may be the same as, similar to, or different from a~~ 93665
~~condition established by section 5123.18 of the Revised Code and~~ 93666
~~the rules adopted under that section for a contract entered into~~ 93667
~~under that section.~~ Notwithstanding any other provision of law, 93668
contracts that are necessary to carry out the powers and duties of 93669
the receiver need not be competitively bid. 93670

(M) The department of developmental disabilities, the 93671
department of job and family services, and the department of 93672
health shall provide technical assistance to any receiver 93673
appointed pursuant to this section. 93674

Sec. 5123.194. In the case of an individual who resides in a 93675
residential facility and is preparing to move into an independent 93676
living arrangement and the individual's liable relative, the 93677
department of developmental disabilities may waive the support 93678
collection requirements of sections 5121.04, and 5123.122, ~~and~~ 93679
~~5123.18~~ of the Revised Code for the purpose of allowing income or 93680
resources to be used to acquire items necessary for independent 93681
living. The department shall adopt rules in accordance with 93682
section 111.15 of the Revised Code to implement this section, 93683
including rules that establish the method the department shall use 93684
to determine when an individual is preparing to move into an 93685
independent living arrangement. 93686

Sec. 5123.35. (A) There is hereby created the Ohio 93687
developmental disabilities council, which shall serve as an 93688
advocate for all persons with developmental disabilities. The 93689
council shall act in accordance with the "Developmental 93690
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 93691
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 93692
members of the council in accordance with 42 U.S.C. 6024. 93693

(B) The Ohio developmental disabilities council shall develop 93694
the state plan required by federal law as a condition of receiving 93695
federal assistance under 42 U.S.C. 6021 to 6030. The department of 93696
developmental disabilities, as the state agency selected by the 93697
governor for purposes of receiving the federal assistance, shall 93698
receive, account for, and disburse funds based on the state plan 93699
and shall provide assurances and other administrative support 93700
services required as a condition of receiving the federal 93701
assistance. 93702

(C) The federal funds may be disbursed through grants to or 93703
contracts with persons and government agencies for the provision 93704
of necessary or useful goods and services for developmentally 93705
disabled persons. The Ohio developmental disabilities council may 93706
award the grants or enter into the contracts. 93707

(D) The Ohio developmental disabilities council may award 93708
grants to or enter into contracts with a member of the council or 93709
an entity that the member represents if all of the following 93710
apply: 93711

(1) The member serves on the council as a representative of 93712
one of the principal state agencies concerned with services for 93713
persons with developmental disabilities as specified in 42 U.S.C. 93714
6024(b)(3), a representative of a university affiliated program as 93715
defined in 42 U.S.C. 6001(18), or a representative of the ~~legal~~ 93716
~~rights service created under~~ Ohio protection and advocacy system, 93717

as defined in section 5123.60 of the Revised Code. 93718

(2) The council determines that the member or the entity the 93719
member represents is capable of providing the goods or services 93720
specified under the terms of the grant or contract. 93721

(3) The member has not taken part in any discussion or vote 93722
of the council related to awarding the grant or entering into the 93723
contract, including service as a member of a review panel 93724
established by the council to award grants or enter into contracts 93725
or to make recommendations with regard to awarding grants or 93726
entering into contracts. 93727

(E) A member of the Ohio developmental disabilities council 93728
is not in violation of Chapter 102. or section 2921.42 of the 93729
Revised Code with regard to receiving a grant or entering into a 93730
contract under this section if the requirements of division (D) of 93731
this section have been met. 93732

Sec. 5123.352. There is hereby created in the state treasury 93733
the community developmental disabilities trust fund. The director 93734
of developmental disabilities, not later than sixty days after the 93735
end of each fiscal year, shall certify to the director of budget 93736
and management the amount of all the unexpended, unencumbered 93737
balances of general revenue fund appropriations made to the 93738
department of developmental disabilities for the fiscal year, 93739
excluding appropriations for rental payments to the Ohio public 93740
facilities commission, and the amount of any other funds held by 93741
the department in excess of amounts necessary to meet the 93742
department's operating costs and obligations pursuant to this 93743
chapter and Chapter 5126. of the Revised Code. On receipt of the 93744
certification, the director of budget and management shall 93745
transfer cash to the trust fund in an amount up to, but not 93746
exceeding, the total of the amounts certified by the director of 93747
developmental disabilities, except in cases in which the transfer 93748

will involve more than twenty million dollars. In such cases, the 93749
director of budget and management shall notify the controlling 93750
board and must receive the board's approval of the transfer prior 93751
to making the transfer. 93752

All moneys in the trust fund shall be ~~distributed~~ used for 93753
purposes specified in ~~accordance with~~ section ~~5126.19~~ 5123.0418 of 93754
the Revised Code. 93755

Sec. 5123.45. (A) The department of developmental 93756
disabilities shall establish a program under which the department 93757
issues certificates to the following: 93758

(1) MR/DD personnel, for purposes of meeting the requirement 93759
of division (C)(1) of section 5123.42 of the Revised Code to 93760
obtain a certificate or certificates to administer prescribed 93761
medications, perform health-related activities, and perform tube 93762
feedings; 93763

(2) Registered nurses, for purposes of meeting the 93764
requirement of division (B)(1) of section 5123.441 of the Revised 93765
Code to obtain a certificate or certificates to provide the MR/DD 93766
personnel training courses developed under section 5123.43 of the 93767
Revised Code. 93768

(B)(1) Except as provided in division (B)(2) of this section, 93769
to receive a certificate issued under this section, MR/DD 93770
personnel and registered nurses shall successfully complete the 93771
applicable training course or courses and meet all other 93772
applicable requirements established in rules adopted pursuant to 93773
this section. The department shall issue the appropriate 93774
certificate or certificates to MR/DD personnel and registered 93775
nurses who meet the requirements for the certificate or 93776
certificates. 93777

(2) The department shall include provisions in the program 93778

for issuing certificates to ~~the following:~~ 93779

~~(a) MR/DD personnel and registered nurses who, on March 31, 2003, are authorized to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised Code were required to be included in the certificate program pursuant to division (B)(2) of this section as that division existed immediately before the effective date of this amendment. A ~~person~~ MR/DD personnel who ~~receives~~ receive a certificate under division (B)(2)(a) of this section shall not administer insulin until ~~the person has~~ they have been trained by a registered nurse who has received a certificate under this section that allows the registered nurse to provide training courses to MR/DD personnel in the administration of insulin-~~ 93780
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~~(b) Registered nurses who, on March 31, 2003, are authorized to train MR/DD personnel to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised Code. A registered nurse who receives a certificate under division (B)(2)(b) of this section shall not provide training courses to MR/DD personnel in the administration of insulin unless the registered nurse completes a course developed under section 5123.44 of the Revised Code that enables the registered nurse to receive a certificate to provide training courses to MR/DD personnel in the administration of insulin.~~ 93793
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(C) Certificates issued to MR/DD personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed. 93804
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To be eligible for renewal, MR/DD personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered 93807
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nurses, continuing nursing education completed in compliance with 93811
the license renewal requirements established under Chapter 4723. 93812
of the Revised Code may be counted toward meeting the continuing 93813
education requirements established in the rules adopted under 93814
division (D) of this section. 93815

(D) In accordance with section 5123.46 of the Revised Code, 93816
the department shall adopt rules that establish all of the 93817
following: 93818

(1) Requirements that MR/DD personnel and registered nurses 93819
must meet to be eligible to take a training course; 93820

(2) Standards that must be met to receive a certificate, 93821
including requirements pertaining to an applicant's criminal 93822
background; 93823

(3) Procedures to be followed in applying for a certificate 93824
and issuing a certificate; 93825

(4) Standards and procedures for renewing a certificate, 93826
including requirements for continuing education and, in the case 93827
of MR/DD personnel who administer prescribed medications, 93828
standards that require successful demonstration of proficiency in 93829
administering prescribed medications; 93830

(5) Standards and procedures for suspending or revoking a 93831
certificate; 93832

(6) Standards and procedures for suspending a certificate 93833
without a hearing pending the outcome of an investigation; 93834

(7) Any other standards or procedures the department 93835
considers necessary to administer the certification program. 93836

Sec. 5123.60. (A) As used in this section and section 93837
5123.601 of the Revised Code, "Ohio protection and advocacy 93838
system" means the nonprofit entity designated by the governor in 93839
accordance with H.B. 153 of the 129th general assembly to serve as 93840

the state's protection and advocacy system and client assistance 93841
program. 93842

(B) The Ohio protection and advocacy system shall provide 93843
both of the following: 93844

(1) Advocacy services for people with disabilities, as 93845
provided under section 101 of the "Developmental Disabilities 93846
Assistance and Bill of Rights Act of 2000," 114 Stat. 1678 (2000), 93847
42 U.S.C. 15001; 93848

(2) A client assistance program, as provided under section 93849
112 of the "Workforce Investment Act of 1998," 112 Stat. 1163 93850
(1998), 29 U.S.C. 732, as amended. 93851

(C) The Ohio protection and advocacy system may establish any 93852
guidelines necessary for its operation. 93853

Sec. ~~5123.60~~ 5123.601. (A) ~~A legal rights service is hereby~~ 93854
~~created and established to protect and advocate the rights of~~ 93855
~~mentally ill persons, mentally retarded persons, developmentally~~ 93856
~~disabled persons, and other disabled persons who may be~~ 93857
~~represented by the service pursuant to division (L) of this~~ 93858
~~section; to receive and act upon complaints concerning~~ 93859
~~institutional and hospital practices and conditions of~~ 93860
~~institutions for mentally retarded or developmentally disabled~~ 93861
~~persons and hospitals for the mentally ill; and to assure that all~~ 93862
~~persons detained, hospitalized, discharged, or institutionalized,~~ 93863
~~and all persons whose detention, hospitalization, discharge, or~~ 93864
~~institutionalization is sought or has been sought under this~~ 93865
~~chapter or Chapter 5122. of the Revised Code are fully informed of~~ 93866
~~their rights and adequately represented by counsel in proceedings~~ 93867
~~under this chapter or Chapter 5122. of the Revised Code and in any~~ 93868
~~proceedings to secure the rights of those persons. Notwithstanding~~ 93869
~~the definitions of "mentally retarded person" and "developmentally~~ 93870

~~disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.~~

~~(B)(1) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service.~~

~~(2) If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the person's case, such involvement shall cease.~~

~~(3) Persons described in divisions (A) and (B)(1) of this section who are represented by the legal rights service are clients of the legal rights service.~~

~~(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.~~

~~The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.~~

~~(D)(1) The legal rights service commission is hereby created~~

~~for the purposes of appointing an administrator of the legal rights service, advising the administrator, assisting the administrator in developing a budget, advising the administrator in establishing and annually reviewing a strategic plan, creating a procedure for filing and determination of grievances against the legal rights service, and establishing general policy guidelines, including guidelines for the commencement of litigation, for the legal rights service. The commission may adopt rules to carry these purposes into effect and may receive and act upon appeals of personnel decisions by the administrator.~~

~~(2) The commission shall consist of seven members. One member, who shall serve as chairperson, shall be appointed by the chief justice of the supreme court, three members shall be appointed by the speaker of the house of representatives, and three members shall be appointed by the president of the senate. At least two members shall have experience in the field of developmental disabilities, and at least two members shall have experience in the field of mental health. No member shall be a provider or related to a provider of services to mentally retarded, developmentally disabled, or mentally ill persons.~~

~~(3) Terms of office of the members of the commission shall be for three years, each term ending on the same day of the month of the year as did the term which it succeeds. Each member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.~~

~~All vacancies in the membership of the commission shall be filled in the manner prescribed for regular appointments to the commission and shall be limited to the unexpired terms.~~

~~(4) The commission shall meet at least four times each year. Members shall be reimbursed for their necessary and actual~~

~~expenses incurred in the performance of their official duties.~~ 93934

~~(5) The administrator of the legal rights service shall serve at the pleasure of the commission.~~ 93935
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~~The administrator shall be an attorney admitted to practice law in this state. The salary of the administrator shall be established in accordance with section 124.14 of the Revised Code.~~ 93937
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~~(E) The legal rights service shall be completely independent of the department of mental health and the department of developmental disabilities and, notwithstanding section 109.02 of the Revised Code, shall also be independent of the office of the attorney general. The administrator of the legal rights service Ohio protection and advocacy system, staff, and attorneys designated by the administrator system to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to all of the following:~~ 93940
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(1) During normal business hours and at other reasonable times, all records, except records of community residential facilities and records of contract agencies of county boards of developmental disabilities and boards of alcohol, drug addiction, and mental health services, relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the ~~legal rights service~~ Ohio protection and advocacy system, including those who may be represented pursuant to division ~~(E)~~(D) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; and any other entity providing 93950
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services to persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(L)~~(D) of this section; 93966
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(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(L)~~(D) of this section, any other entity that provides services to those persons; 93969
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(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities; 93974
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(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(L)~~(D) of this section. 93977
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(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract agency of a county board of developmental disabilities with one of the following consents: 93982
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(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent; 93986
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(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor; 93988
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(c) No consent, if the person is unable to consent for any reason, and the guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred: 93990
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(i) A complaint regarding the person has been received by the ~~legal rights~~ service Ohio protection and advocacy system; 93994
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(ii) The legal rights service <u>Ohio protection and advocacy system</u> has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.	93996 93997 93998
(F) The administrator of the legal rights service shall do the following:	93999 94000
(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;	94001 94002 94003
(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;	94004 94005 94006 94007
(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;	94008 94009 94010 94011
(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;	94012 94013
(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.	94014 94015 94016 94017 94018 94019 94020
(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;	94021 94022
(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of	94023 94024 94025

~~representatives, the director of mental health, and the director of developmental disabilities, and make the report available to the public;~~ 94026
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~~(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities.~~ 94029
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~~(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section.~~ 94032
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~~(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.~~ 94035
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~~(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the following have first occurred:~~ 94042
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~~(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;~~ 94047
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~~(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.~~ 94050
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~~(4)(B) All records received or maintained by the legal rights service Ohio protection and advocacy system in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service~~ 94052
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Ohio protection and advocacy system or, subject to any privilege, 94057
a guardian of the person or parent of the minor. ~~Subject to~~ 94058
~~division (G)(5) of this section, relationships~~ Relationships 94059
between personnel and the agents of the ~~legal rights service~~ Ohio 94060
protection and advocacy system and its clients shall be fiduciary 94061
relationships, and all communications shall be privileged as if 94062
between attorney and client. 94063

~~(5) Any person who has been represented by the legal rights 94064
service or who has applied for and been denied representation and 94065
who files a grievance with the service concerning the 94066
representation or application may appeal the decision of the 94067
service on the grievance to the commission. The person may appeal 94068
notwithstanding any objections of the person's legal guardian. The 94069
commission may examine any records relevant to the appeal and 94070
shall maintain the confidentiality of any records that are 94071
required to be kept confidential. 94072~~

~~(H)(C) The legal rights service, on the order of the 94073
administrator, with the approval by an affirmative vote of at 94074
least four members of the commission, Ohio protection and advocacy 94075
system may compel by subpoena the appearance and sworn testimony 94076
of any person the ~~administrator~~ Ohio protection and advocacy 94077
system reasonably believes may be able to provide information or 94078
to produce any documents, books, records, papers, or other 94079
information necessary to carry out its duties. On the refusal of 94080
any person to produce or authenticate any requested documents, the 94081
~~legal rights service~~ Ohio protection and advocacy system may apply 94082
to the Franklin county court of common pleas to compel the 94083
production or authentication of requested documents. If the court 94084
finds that failure to produce or authenticate any requested 94085
documents was improper, the court may hold the person in contempt 94086
as in the case of disobedience of the requirements of a subpoena 94087
issued from the court, or a refusal to testify in the court. 94088~~

~~(I) The legal rights service may conduct public hearings. 94089~~

~~(J) The legal rights service may request from any 94090
governmental agency any cooperation, assistance, services, or data 94091
that will enable it to perform its duties. 94092~~

~~(K) In any malpractice action filed against the administrator 94093
of the legal rights service, a member of the staff of the legal 94094
rights service, or an attorney designated by the administrator to 94095
perform legal services under division (E) of this section, the 94096
state shall, when the administrator, member, or attorney has acted 94097
in good faith and in the scope of employment, indemnify the 94098
administrator, member, or attorney for any judgment awarded or 94099
amount negotiated in settlement, and for any court costs or legal 94100
fees incurred in defense of the claim. 94101~~

~~This division does not limit or waive, and shall not be 94102
construed to limit or waive, any defense that is available to the 94103
legal rights service, its administrator or employees, persons 94104
under a personal services contract with it, or persons designated 94105
under division (E) of this section, including, but not limited to, 94106
any defense available under section 9.86 of the Revised Code. 94107~~

~~(L)(D) In addition to providing services to mentally ill, 94108
mentally retarded, or developmentally disabled persons, when a 94109
grant authorizing the provision of services to other individuals 94110
is accepted pursuant to division (F)(4) of this section by the 94111
Ohio protection and advocacy system, the legal rights service and 94112
its ombudsperson section Ohio protection and advocacy system may 94113
provide advocacy or ombudsperson services to those other 94114
individuals and exercise any other authority granted by this 94115
section or sections 5123.601 to 5123.604 of the Revised Code on 94116
behalf of those individuals. Determinations of whether an 94117
individual is eligible for services under this division shall be 94118
made by the legal rights service Ohio protection and advocacy 94119
system. 94120~~

Sec. 5123.61. (A) As used in this section:	94121
(1) "Law enforcement agency" means the state highway patrol,	94122
the police department of a municipal corporation, or a county	94123
sheriff.	94124
(2) "Abuse" has the same meaning as in section 5123.50 of the	94125
Revised Code, except that it includes a misappropriation, as	94126
defined in that section.	94127
(3) "Neglect" has the same meaning as in section 5123.50 of	94128
the Revised Code.	94129
(B) The department of developmental disabilities shall	94130
establish a registry office for the purpose of maintaining reports	94131
of abuse, neglect, and other major unusual incidents made to the	94132
department under this section and reports received from county	94133
boards of developmental disabilities under section 5126.31 of the	94134
Revised Code. The department shall establish committees to review	94135
reports of abuse, neglect, and other major unusual incidents.	94136
(C)(1) Any person listed in division (C)(2) of this section,	94137
having reason to believe that a person with mental retardation or	94138
a developmental disability has suffered or faces a substantial	94139
risk of suffering any wound, injury, disability, or condition of	94140
such a nature as to reasonably indicate abuse or neglect of that	94141
person, shall immediately report or cause reports to be made of	94142
such information to the entity specified in this division. Except	94143
as provided in section 5120.173 of the Revised Code or as	94144
otherwise provided in this division, the person making the report	94145
shall make it to a law enforcement agency or to the county board	94146
of developmental disabilities. If the report concerns a resident	94147
of a facility operated by the department of developmental	94148
disabilities the report shall be made either to a law enforcement	94149
agency or to the department. If the report concerns any act or	94150
omission of an employee of a county board of developmental	94151

disabilities, the report immediately shall be made to the 94152
department and to the county board. 94153

(2) All of the following persons are required to make a 94154
report under division (C)(1) of this section: 94155

(a) Any physician, including a hospital intern or resident, 94156
any dentist, podiatrist, chiropractor, practitioner of a limited 94157
branch of medicine as specified in section 4731.15 of the Revised 94158
Code, hospital administrator or employee of a hospital, nurse 94159
licensed under Chapter 4723. of the Revised Code, employee of an 94160
ambulatory health facility as defined in section 5101.61 of the 94161
Revised Code, employee of a home health agency, employee of an 94162
adult care facility licensed under Chapter 3722. of the Revised 94163
Code, or employee of a community mental health facility; 94164

(b) Any school teacher or school authority, social worker, 94165
psychologist, attorney, peace officer, coroner, or residents' 94166
rights advocate as defined in section 3721.10 of the Revised Code; 94167

(c) A superintendent, board member, or employee of a county 94168
board of developmental disabilities; an administrator, board 94169
member, or employee of a residential facility licensed under 94170
section 5123.19 of the Revised Code; an administrator, board 94171
member, or employee of any other public or private provider of 94172
services to a person with mental retardation or a developmental 94173
disability, or any MR/DD employee, as defined in section 5123.50 94174
of the Revised Code; 94175

(d) A member of a citizen's advisory council established at 94176
an institution or branch institution of the department of 94177
developmental disabilities under section 5123.092 of the Revised 94178
Code; 94179

(e) A clergyman who is employed in a position that includes 94180
providing specialized services to an individual with mental 94181
retardation or another developmental disability, while acting in 94182

an official or professional capacity in that position, or a person 94183
who is employed in a position that includes providing specialized 94184
services to an individual with mental retardation or another 94185
developmental disability and who, while acting in an official or 94186
professional capacity, renders spiritual treatment through prayer 94187
in accordance with the tenets of an organized religion. 94188

(3)(a) The reporting requirements of this division do not 94189
apply to ~~members of the legal rights service commission or to~~ 94190
employees of the ~~legal rights service~~ Ohio protection and advocacy 94191
system. 94192

(b) An attorney or physician is not required to make a report 94193
pursuant to division (C)(1) of this section concerning any 94194
communication the attorney or physician receives from a client or 94195
patient in an attorney-client or physician-patient relationship, 94196
if, in accordance with division (A) or (B) of section 2317.02 of 94197
the Revised Code, the attorney or physician could not testify with 94198
respect to that communication in a civil or criminal proceeding, 94199
except that the client or patient is deemed to have waived any 94200
testimonial privilege under division (A) or (B) of section 2317.02 94201
of the Revised Code with respect to that communication and the 94202
attorney or physician shall make a report pursuant to division 94203
(C)(1) of this section, if both of the following apply: 94204

(i) The client or patient, at the time of the communication, 94205
is a person with mental retardation or a developmental disability. 94206

(ii) The attorney or physician knows or suspects, as a result 94207
of the communication or any observations made during that 94208
communication, that the client or patient has suffered or faces a 94209
substantial risk of suffering any wound, injury, disability, or 94210
condition of a nature that reasonably indicates abuse or neglect 94211
of the client or patient. 94212

(4) Any person who fails to make a report required under 94213

division (C) of this section and who is an MR/DD employee, as 94214
defined in section 5123.50 of the Revised Code, shall be eligible 94215
to be included in the registry regarding misappropriation, abuse, 94216
neglect, or other specified misconduct by MR/DD employees 94217
established under section 5123.52 of the Revised Code. 94218

(D) The reports required under division (C) of this section 94219
shall be made forthwith by telephone or in person and shall be 94220
followed by a written report. The reports shall contain the 94221
following: 94222

(1) The names and addresses of the person with mental 94223
retardation or a developmental disability and the person's 94224
custodian, if known; 94225

(2) The age of the person with mental retardation or a 94226
developmental disability; 94227

(3) Any other information that would assist in the 94228
investigation of the report. 94229

(E) When a physician performing services as a member of the 94230
staff of a hospital or similar institution has reason to believe 94231
that a person with mental retardation or a developmental 94232
disability has suffered injury, abuse, or physical neglect, the 94233
physician shall notify the person in charge of the institution or 94234
that person's designated delegate, who shall make the necessary 94235
reports. 94236

(F) Any person having reasonable cause to believe that a 94237
person with mental retardation or a developmental disability has 94238
suffered or faces a substantial risk of suffering abuse or neglect 94239
may report or cause a report to be made of that belief to the 94240
entity specified in this division. Except as provided in section 94241
5120.173 of the Revised Code or as otherwise provided in this 94242
division, the person making the report shall make it to a law 94243
enforcement agency or the county board of developmental 94244

disabilities. If the person is a resident of a facility operated 94245
by the department of developmental disabilities, the report shall 94246
be made to a law enforcement agency or to the department. If the 94247
report concerns any act or omission of an employee of a county 94248
board of developmental disabilities, the report immediately shall 94249
be made to the department and to the county board. 94250

(G)(1) Upon the receipt of a report concerning the possible 94251
abuse or neglect of a person with mental retardation or a 94252
developmental disability, the law enforcement agency shall inform 94253
the county board of developmental disabilities or, if the person 94254
is a resident of a facility operated by the department of 94255
developmental disabilities, the director of the department or the 94256
director's designee. 94257

(2) On receipt of a report under this section that includes 94258
an allegation of action or inaction that may constitute a crime 94259
under federal law or the law of this state, the department of 94260
developmental disabilities shall notify the law enforcement 94261
agency. 94262

(3) When a county board of developmental disabilities 94263
receives a report under this section that includes an allegation 94264
of action or inaction that may constitute a crime under federal 94265
law or the law of this state, the superintendent of the board or 94266
an individual the superintendent designates under division (H) of 94267
this section shall notify the law enforcement agency. The 94268
superintendent or individual shall notify the department of 94269
developmental disabilities when it receives any report under this 94270
section. 94271

(4) When a county board of developmental disabilities 94272
receives a report under this section and believes that the degree 94273
of risk to the person is such that the report is an emergency, the 94274
superintendent of the board or an employee of the board the 94275
superintendent designates shall attempt a face-to-face contact 94276

with the person with mental retardation or a developmental 94277
disability who allegedly is the victim within one hour of the 94278
board's receipt of the report. 94279

(H) The superintendent of the board may designate an 94280
individual to be responsible for notifying the law enforcement 94281
agency and the department when the county board receives a report 94282
under this section. 94283

(I) An adult with mental retardation or a developmental 94284
disability about whom a report is made may be removed from the 94285
adult's place of residence only by law enforcement officers who 94286
consider that the adult's immediate removal is essential to 94287
protect the adult from further injury or abuse or in accordance 94288
with the order of a court made pursuant to section 5126.33 of the 94289
Revised Code. 94290

(J) A law enforcement agency shall investigate each report of 94291
abuse or neglect it receives under this section. In addition, the 94292
department, in cooperation with law enforcement officials, shall 94293
investigate each report regarding a resident of a facility 94294
operated by the department to determine the circumstances 94295
surrounding the injury, the cause of the injury, and the person 94296
responsible. The investigation shall be in accordance with the 94297
memorandum of understanding prepared under section 5126.058 of the 94298
Revised Code. The department shall determine, with the registry 94299
office which shall be maintained by the department, whether prior 94300
reports have been made concerning an adult with mental retardation 94301
or a developmental disability or other principals in the case. If 94302
the department finds that the report involves action or inaction 94303
that may constitute a crime under federal law or the law of this 94304
state, it shall submit a report of its investigation, in writing, 94305
to the law enforcement agency. If the person with mental 94306
retardation or a developmental disability is an adult, with the 94307
consent of the adult, the department shall provide such protective 94308

services as are necessary to protect the adult. The law 94309
enforcement agency shall make a written report of its findings to 94310
the department. 94311

If the person is an adult and is not a resident of a facility 94312
operated by the department, the county board of developmental 94313
disabilities shall review the report of abuse or neglect in 94314
accordance with sections 5126.30 to 5126.33 of the Revised Code 94315
and the law enforcement agency shall make the written report of 94316
its findings to the county board. 94317

(K) Any person or any hospital, institution, school, health 94318
department, or agency participating in the making of reports 94319
pursuant to this section, any person participating as a witness in 94320
an administrative or judicial proceeding resulting from the 94321
reports, or any person or governmental entity that discharges 94322
responsibilities under sections 5126.31 to 5126.33 of the Revised 94323
Code shall be immune from any civil or criminal liability that 94324
might otherwise be incurred or imposed as a result of such actions 94325
except liability for perjury, unless the person or governmental 94326
entity has acted in bad faith or with malicious purpose. 94327

(L) No employer or any person with the authority to do so 94328
shall discharge, demote, transfer, prepare a negative work 94329
performance evaluation, reduce pay or benefits, terminate work 94330
privileges, or take any other action detrimental to an employee or 94331
retaliate against an employee as a result of the employee's having 94332
made a report under this section. This division does not preclude 94333
an employer or person with authority from taking action with 94334
regard to an employee who has made a report under this section if 94335
there is another reasonable basis for the action. 94336

(M) Reports made under this section are not public records as 94337
defined in section 149.43 of the Revised Code. Information 94338
contained in the reports on request shall be made available to the 94339
person who is the subject of the report, to the person's legal 94340

counsel, and to agencies authorized to receive information in the 94341
report by the department or by a county board of developmental 94342
disabilities. 94343

(N) Notwithstanding section 4731.22 of the Revised Code, the 94344
physician-patient privilege shall not be a ground for excluding 94345
evidence regarding the injuries or physical neglect of a person 94346
with mental retardation or a developmental disability or the cause 94347
thereof in any judicial proceeding resulting from a report 94348
submitted pursuant to this section. 94349

Sec. 5123.63. Every state agency, county board of 94350
developmental disabilities, or political subdivision that provides 94351
services, either directly or through a contract, to persons with 94352
mental retardation or a developmental disability shall give each 94353
provider a copy of the list of rights contained in section 5123.62 94354
of the Revised Code. Each public and private provider of services 94355
shall carry out the requirements of this section in addition to 94356
any other posting or notification requirements imposed by local, 94357
state, or federal law or rules. 94358

The provider shall make copies of the list of rights and 94359
shall be responsible for an initial distribution of the list to 94360
each individual receiving services from the provider. If the 94361
individual is unable to read the list, the provider shall 94362
communicate the contents of the list to the individual to the 94363
extent practicable in a manner that the individual understands. 94364
The individual receiving services or the parent, guardian, or 94365
advocate of the individual shall sign an acknowledgement of 94366
receipt of a copy of the list of rights, and a copy of the signed 94367
acknowledgement shall be placed in the individual's file. The 94368
provider shall also be responsible for answering any questions and 94369
giving any explanations necessary to assist the individual to 94370
understand the rights enumerated. Instruction in these rights 94371

shall be documented. 94372

Each provider shall make available to all persons receiving 94373
services and all employees and visitors a copy of the list of 94374
rights and the addresses and telephone numbers of the ~~legal rights~~ 94375
~~service~~ Ohio protection and advocacy system, the department of 94376
developmental disabilities, and the county board of developmental 94377
disabilities of the county in which the provider provides 94378
services. 94379

Sec. 5123.64. (A) Every provider of services to persons with 94380
mental retardation or a developmental disability shall establish 94381
policies and programs to ensure that all staff members are 94382
familiar with the rights enumerated in section 5123.62 of the 94383
Revised Code and observe those rights in their contacts with 94384
persons receiving services. Any policy, procedure, or rule of the 94385
provider that conflicts with any of the rights enumerated shall be 94386
null and void. Every provider shall establish written procedures 94387
for resolving complaints of violations of those rights. A copy of 94388
the procedures shall be provided to any person receiving services 94389
or to any parent, guardian, or advocate of a person receiving 94390
services. 94391

(B) Any person with mental retardation or a developmental 94392
disability who believes that the person's rights as enumerated in 94393
section 5123.62 of the Revised Code have been violated may: 94394

(1) Bring the violation to the attention of the provider for 94395
resolution; 94396

(2) Report the violation to the department of developmental 94397
disabilities, the ~~ombuds~~~~person~~ ~~section of the legal rights service~~ 94398
Ohio protection and advocacy system, or the appropriate county 94399
board of developmental disabilities; 94400

(3) Take any other appropriate action to ensure compliance 94401

with sections ~~5123.60~~ 5123.61 to 5123.64 of the Revised Code, 94402
including the filing of a legal action to enforce rights or to 94403
recover damages for violation of rights. 94404

Sec. 5123.69. (A) Except as provided in division ~~(E)~~(D) of 94405
this section, any person who is eighteen years of age or older and 94406
who is or believes self to be mentally retarded may make written 94407
application to the managing officer of any institution for 94408
voluntary admission. Except as provided in division ~~(E)~~(D) of this 94409
section, the application may be made on behalf of a minor by a 94410
parent or guardian, and on behalf of an adult adjudicated mentally 94411
incompetent by a guardian. 94412

(B) The managing officer of an institution, with the 94413
concurrence of the chief program director, may admit a person 94414
applying pursuant to this section only after a comprehensive 94415
evaluation has been made of the person and only if the 94416
comprehensive evaluation concludes that the person is mentally 94417
retarded and would benefit significantly from admission. 94418

~~(C) If application for voluntary admission of a minor or of a 94419
person adjudicated mentally incompetent is made by the parent or 94420
guardian of the minor or by the guardian of an incompetent and the 94421
minor or incompetent is admitted, the probate division of the 94422
court of common pleas shall determine, upon petition by the legal 94423
rights service, whether the voluntary admission or continued 94424
institutionalization is in the best interest of the minor or 94425
incompetent. 94426~~

~~(D)~~ The managing officer shall discharge any voluntary 94427
resident if, in the judgment of the chief program director, the 94428
results of a comprehensive examination indicate that 94429
institutionalization no longer is advisable. In light of the 94430
results of the comprehensive evaluation, the managing officer also 94431
may discharge any voluntary resident if, in the judgment of the 94432

chief program director, the discharge would contribute to the most 94433
effective use of the institution in the habilitation and care of 94434
the mentally retarded. 94435

~~(E)~~(D) A person who is found incompetent to stand trial or 94436
not guilty by reason of insanity and who is committed pursuant to 94437
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 94438
Code shall not voluntarily commit self pursuant to this section 94439
until after the final termination of the commitment, as described 94440
in division (J) of section 2945.401 of the Revised Code. 94441

Sec. 5123.701. (A) Except as provided in division ~~(E)~~(D) of 94442
this section, any person in the community who is eighteen years of 94443
age or older and who is or believes self to be mentally retarded 94444
may make written application to the managing officer of any 94445
institution for temporary admission for short-term care. The 94446
application may be made on behalf of a minor by a parent or 94447
guardian, and on behalf of an adult adjudicated mentally 94448
incompetent by a guardian. 94449

(B) For purposes of this section, short-term care shall be 94450
defined to mean appropriate services provided to a person with 94451
mental retardation for no more than fourteen consecutive days and 94452
for no more than forty-two days in a fiscal year. When 94453
circumstances warrant, the fourteen-day period may be extended at 94454
the discretion of the managing officer. Short-term care is 94455
provided in a developmental center to meet the family's or 94456
caretaker's needs for separation from the person with mental 94457
retardation. 94458

(C) The managing officer of an institution, with the 94459
concurrence of the chief program director, may admit a person for 94460
short-term care only after a medical examination has been made of 94461
the person and only if the managing officer concludes that the 94462
person is mentally retarded. 94463

~~(D) If application for admission for short term care of a 94464
minor or of a person adjudicated mentally incompetent is made by 94465
the minor's parent or guardian or by the incompetent's guardian 94466
and the minor or incompetent is admitted, the probate division of 94467
the court of common pleas shall determine, upon petition by the 94468
legal rights service, whether the admission for short term care is 94469
in the best interest of the minor or the incompetent. 94470~~

~~(E)~~ A person who is found not guilty by reason of insanity 94471
shall not admit self to an institution for short-term care unless 94472
a hearing was held regarding the person pursuant to division (A) 94473
of section 2945.40 of the Revised Code and either of the following 94474
applies: 94475

(1) The person was found at the hearing not to be a mentally 94476
retarded person subject to institutionalization by court order; 94477

(2) The person was found at the hearing to be a mentally 94478
retarded person subject to institutionalization by court order, 94479
was involuntarily committed, and was finally discharged. 94480

~~(F)~~(E) The mentally retarded person, liable relatives, and 94481
guardians of mentally retarded persons admitted for respite care 94482
shall pay support charges in accordance with sections 5121.01 to 94483
5121.21 of the Revised Code. 94484

~~(G)~~(F) At the conclusion of each period of short-term care, 94485
the person shall return to the person's family or caretaker. Under 94486
no circumstances shall a person admitted for short-term care 94487
according to this section remain in the institution after the 94488
period of short-term care unless the person is admitted according 94489
to section 5123.70, sections 5123.71 to 5123.76, or section 94490
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 94491
Code. 94492

Sec. 5123.86. (A) Except as provided in divisions (C), (D), 94493

(E), and (F) of this section, the chief medical officer shall 94494
provide all information, including expected physical and medical 94495
consequences, necessary to enable any resident of an institution 94496
for the mentally retarded to give a fully informed, intelligent, 94497
and knowing consent if any of the following procedures are 94498
proposed: 94499

(1) Surgery; 94500

(2) Convulsive therapy; 94501

(3) Major aversive interventions; 94502

(4) Sterilization; 94503

(5) Experimental procedures; 94504

(6) Any unusual or hazardous treatment procedures. 94505

(B) No resident shall be subjected to any of the procedures 94506
listed in division (A)(4), (5), or (6) of this section without the 94507
resident's informed consent. 94508

(C) If a resident is physically or mentally unable to receive 94509
the information required for surgery under division (A)(1) of this 94510
section, or has been adjudicated incompetent, the information may 94511
be provided to the resident's natural or court-appointed guardian, 94512
including an agency providing guardianship services under contract 94513
with the department of developmental disabilities under sections 94514
5123.55 to 5123.59 of the Revised Code, who may give the informed, 94515
intelligent, and knowing written consent for surgery. Consent for 94516
surgery shall not be provided by a guardian who is an officer or 94517
employee of the department of mental health or the department of 94518
developmental disabilities. 94519

If a resident is physically or mentally unable to receive the 94520
information required for surgery under division (A)(1) of this 94521
section and has no guardian, then the information, the 94522
recommendation of the chief medical officer, and the concurring 94523

judgment of a licensed physician who is not a full-time employee 94524
of the state may be provided to the court in the county in which 94525
the institution is located, which may approve the surgery. Before 94526
approving the surgery, the court shall notify the ~~legal rights~~ 94527
~~service~~ Ohio protection and advocacy system created by section 94528
5123.60 of the Revised Code, and shall notify the resident of the 94529
resident's rights to consult with counsel, to have counsel 94530
appointed by the court if the resident is indigent, and to contest 94531
the recommendation of the chief medical officer. 94532

(D) If, in the judgment of two licensed physicians, delay in 94533
obtaining consent for surgery would create a grave danger to the 94534
health of a resident, emergency surgery may be performed without 94535
the consent of the resident if the necessary information is 94536
provided to the resident's guardian, including an agency providing 94537
guardianship services under contract with the department of 94538
developmental disabilities under sections 5123.55 to 5123.59 of 94539
the Revised Code, or to the resident's spouse or next of kin to 94540
enable that person or agency to give an informed, intelligent, and 94541
knowing written consent. 94542

If the guardian, spouse, or next of kin cannot be contacted 94543
through exercise of reasonable diligence, or if the guardian, 94544
spouse, or next of kin is contacted, but refuses to consent, then 94545
the emergency surgery may be performed upon the written 94546
authorization of the chief medical officer and after court 94547
approval has been obtained. However, if delay in obtaining court 94548
approval would create a grave danger to the life of the resident, 94549
the chief medical officer may authorize surgery, in writing, 94550
without court approval. If the surgery is authorized without court 94551
approval, the chief medical officer who made the authorization and 94552
the physician who performed the surgery shall each execute an 94553
affidavit describing the circumstances constituting the emergency 94554
and warranting the surgery and the circumstances warranting their 94555

not obtaining prior court approval. The affidavit shall be filed 94556
with the court with which the request for prior approval would 94557
have been filed within five court days after the surgery, and a 94558
copy of the affidavit shall be placed in the resident's file and 94559
shall be given to the guardian, spouse, or next of kin of the 94560
resident, to the hospital at which the surgery was performed, and 94561
to the ~~legal rights service~~ Ohio protection and advocacy system 94562
created by section 5123.60 of the Revised Code. 94563

(E)(1) If it is the judgment of two licensed physicians, as 94564
described in division (E)(2) of this section, that a medical 94565
emergency exists and delay in obtaining convulsive therapy creates 94566
a grave danger to the life of a resident who is both mentally 94567
retarded and mentally ill, convulsive therapy may be administered 94568
without the consent of the resident if the resident is physically 94569
or mentally unable to receive the information required for 94570
convulsive therapy and if the necessary information is provided to 94571
the resident's natural or court-appointed guardian, including an 94572
agency providing guardianship services under contract with the 94573
department of developmental disabilities under sections 5123.55 to 94574
5123.59 of the Revised Code, or to the resident's spouse or next 94575
of kin to enable that person or agency to give an informed, 94576
intelligent, and knowing written consent. If neither the 94577
resident's guardian, spouse, nor next of kin can be contacted 94578
through exercise of reasonable diligence, or if the guardian, 94579
spouse, or next of kin is contacted, but refuses to consent, then 94580
convulsive therapy may be performed upon the written authorization 94581
of the chief medical officer and after court approval has been 94582
obtained. 94583

(2) The two licensed physicians referred to in division 94584
(E)(1) of this section shall not be associated with each other in 94585
the practice of medicine or surgery by means of a partnership or 94586
corporate arrangement, other business arrangement, or employment. 94587

At least one of the physicians shall be a psychiatrist as defined 94588
in division (E) of section 5122.01 of the Revised Code. 94589

(F) Major aversive interventions shall not be used unless a 94590
resident continues to engage in behavior destructive to self or 94591
others after other forms of therapy have been attempted. ~~The~~ 94592
~~director of the legal rights service created by section 5123.60 of~~ 94593
~~the Revised Code shall be notified of any proposed major aversive~~ 94594
~~intervention.~~ Major aversive interventions shall not be applied to 94595
a voluntary resident without the informed, intelligent, and 94596
knowing written consent of the resident or the resident's 94597
guardian, including an agency providing guardianship services 94598
under contract with the department of developmental disabilities 94599
under sections 5123.55 to 5123.59 of the Revised Code. 94600

(G)(1) This chapter does not authorize any form of compulsory 94601
medical or psychiatric treatment of any resident who is being 94602
treated by spiritual means through prayer alone in accordance with 94603
a recognized religious method of healing. 94604

(2) For purposes of this section, "convulsive therapy" does 94605
not include defibrillation. 94606

Sec. 5123.99. (A) Whoever violates section 5123.16 or 5123.20 94607
of the Revised Code is guilty of a misdemeanor of the first 94608
degree. 94609

(B) Whoever violates division (C), (E), or (G)(3) of section 94610
5123.61 of the Revised Code is guilty of a misdemeanor of the 94611
fourth degree or, if the abuse or neglect constitutes a felony, a 94612
misdemeanor of the second degree. In addition to any other 94613
sanction or penalty authorized or required by law, if a person who 94614
is convicted of or pleads guilty to a violation of division (C), 94615
(E), or (G)(3) of section 5123.61 of the Revised Code is an MR/DD 94616
employee, as defined in section 5123.50 of the Revised Code, the 94617
offender shall be eligible to be included in the registry 94618

regarding misappropriation, abuse, neglect, or other specified 94619
misconduct by MR/DD employees established under section 5123.52 of 94620
the Revised Code. 94621

~~(C) Whoever violates division (A) of section 5123.604 of the 94622
Revised Code is guilty of a misdemeanor of the second degree. 94623~~

~~(D) Whoever violates division (B) of section 5123.604 of the 94624
Revised Code shall be fined not more than one thousand dollars. 94625
Each violation constitutes a separate offense. 94626~~

Sec. 5126.01. As used in this chapter: 94627

(A) As used in this division, "adult" means an individual who 94628
is eighteen years of age or over and not enrolled in a program or 94629
service under Chapter 3323. of the Revised Code and an individual 94630
sixteen or seventeen years of age who is eligible for adult 94631
services under rules adopted by the director of developmental 94632
disabilities pursuant to Chapter 119. of the Revised Code. 94633

(1) "Adult services" means services provided to an adult 94634
outside the home, except when they are provided within the home 94635
according to an individual's assessed needs and identified in an 94636
individual service plan, that support learning and assistance in 94637
the area of self-care, sensory and motor development, 94638
socialization, daily living skills, communication, community 94639
living, social skills, or vocational skills. 94640

(2) "Adult services" includes all of the following: 94641

(a) Adult day habilitation services; 94642

(b) Adult day care; 94643

(c) Prevocational services; 94644

(d) Sheltered employment; 94645

(e) Educational experiences and training obtained through 94646
entities and activities that are not expressly intended for 94647

individuals with mental retardation and developmental 94648
disabilities, including trade schools, vocational or technical 94649
schools, adult education, job exploration and sampling, unpaid 94650
work experience in the community, volunteer activities, and 94651
spectator sports; 94652

(f) Community employment services and supported employment 94653
services. 94654

(B)(1) "Adult day habilitation services" means adult services 94655
that do the following: 94656

(a) Provide access to and participation in typical activities 94657
and functions of community life that are desired and chosen by the 94658
general population, including such activities and functions as 94659
opportunities to experience and participate in community 94660
exploration, companionship with friends and peers, leisure 94661
activities, hobbies, maintaining family contacts, community 94662
events, and activities where individuals without disabilities are 94663
involved; 94664

(b) Provide supports or a combination of training and 94665
supports that afford an individual a wide variety of opportunities 94666
to facilitate and build relationships and social supports in the 94667
community. 94668

(2) "Adult day habilitation services" includes all of the 94669
following: 94670

(a) Personal care services needed to ensure an individual's 94671
ability to experience and participate in vocational services, 94672
educational services, community activities, and any other adult 94673
day habilitation services; 94674

(b) Skilled services provided while receiving adult day 94675
habilitation services, including such skilled services as behavior 94676
management intervention, occupational therapy, speech and language 94677
therapy, physical therapy, and nursing services; 94678

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment services" or "supported employment

services" means job training and other services related to 94709
employment outside a sheltered workshop. "Community employment 94710
services" or "supported employment services" include all of the 94711
following: 94712

(1) Job training resulting in the attainment of competitive 94713
work, supported work in a typical work environment, or 94714
self-employment; 94715

(2) Supervised work experience through an employer paid to 94716
provide the supervised work experience; 94717

(3) Ongoing work in a competitive work environment at a wage 94718
commensurate with workers without disabilities; 94719

(4) Ongoing supervision by an employer paid to provide the 94720
supervision. 94721

(E) As used in this division, "substantial functional 94722
limitation," "developmental delay," and "established risk" have 94723
the meanings established pursuant to section 5123.011 of the 94724
Revised Code. 94725

"Developmental disability" means a severe, chronic disability 94726
that is characterized by all of the following: 94727

(1) It is attributable to a mental or physical impairment or 94728
a combination of mental and physical impairments, other than a 94729
mental or physical impairment solely caused by mental illness as 94730
defined in division (A) of section 5122.01 of the Revised Code; 94731

(2) It is manifested before age twenty-two; 94732

(3) It is likely to continue indefinitely; 94733

(4) It results in one of the following: 94734

(a) In the case of a person under age three, at least one 94735
developmental delay or an established risk; 94736

(b) In the case of a person at least age three but under age 94737

six, at least two developmental delays or an established risk; 94738

(c) In the case of a person age six or older, a substantial 94739
functional limitation in at least three of the following areas of 94740
major life activity, as appropriate for the person's age: 94741
self-care, receptive and expressive language, learning, mobility, 94742
self-direction, capacity for independent living, and, if the 94743
person is at least age sixteen, capacity for economic 94744
self-sufficiency. 94745

(5) It causes the person to need a combination and sequence 94746
of special, interdisciplinary, or other type of care, treatment, 94747
or provision of services for an extended period of time that is 94748
individually planned and coordinated for the person. 94749

(F) "Early childhood services" means a planned program of 94750
habilitation designed to meet the needs of individuals with mental 94751
retardation or other developmental disabilities who have not 94752
attained compulsory school age. 94753

(G)(1) "Environmental modifications" means the physical 94754
adaptations to an individual's home, specified in the individual's 94755
service plan, that are necessary to ensure the individual's 94756
health, safety, and welfare or that enable the individual to 94757
function with greater independence in the home, and without which 94758
the individual would require institutionalization. 94759

(2) "Environmental modifications" includes such adaptations 94760
as installation of ramps and grab-bars, widening of doorways, 94761
modification of bathroom facilities, and installation of 94762
specialized electric and plumbing systems necessary to accommodate 94763
the individual's medical equipment and supplies. 94764

(3) "Environmental modifications" does not include physical 94765
adaptations or improvements to the home that are of general 94766
utility or not of direct medical or remedial benefit to the 94767
individual, including such adaptations or improvements as 94768

carpeting, roof repair, and central air conditioning. 94769

(H) "Family support services" means the services provided 94770
under a family support services program operated under section 94771
5126.11 of the Revised Code. 94772

(I) "Habilitation" means the process by which the staff of 94773
the facility or agency assists an individual with mental 94774
retardation or other developmental disability in acquiring and 94775
maintaining those life skills that enable the individual to cope 94776
more effectively with the demands of the individual's own person 94777
and environment, and in raising the level of the individual's 94778
personal, physical, mental, social, and vocational efficiency. 94779
Habilitation includes, but is not limited to, programs of formal, 94780
structured education and training. 94781

(J) "Home and community-based services" means medicaid-funded 94782
home and community-based services specified in division (B)(1) of 94783
section 5111.87 of the Revised Code and provided under the 94784
medicaid waiver components the department of developmental 94785
disabilities administers pursuant to section 5111.871 of the 94786
Revised Code. However, home and community-based services provided 94787
under the medicaid waiver component known as the transitions 94788
developmental disabilities waiver are to be considered to be home 94789
and community-based services for the purposes of this chapter only 94790
to the extent, if any, provided by the contract required by 94791
section 5111.871 of the Revised Code regarding the waiver. 94792

(K) "Immediate family" means parents, grandparents, brothers, 94793
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 94794
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 94795
daughters-in-law. 94796

(L) "Medicaid" has the same meaning as in section 5111.01 of 94797
the Revised Code. 94798

(M) "Medicaid case management services" means case management 94799

services provided to an individual with mental retardation or 94800
other developmental disability that the state medicaid plan 94801
requires. 94802

(N) "Mental retardation" means a mental impairment manifested 94803
during the developmental period characterized by significantly 94804
subaverage general intellectual functioning existing concurrently 94805
with deficiencies in the effectiveness or degree with which an 94806
individual meets the standards of personal independence and social 94807
responsibility expected of the individual's age and cultural 94808
group. 94809

(O) "Residential services" means services to individuals with 94810
mental retardation or other developmental disabilities to provide 94811
housing, food, clothing, habilitation, staff support, and related 94812
support services necessary for the health, safety, and welfare of 94813
the individuals and the advancement of their quality of life. 94814
"Residential services" includes program management, as described 94815
in section 5126.14 of the Revised Code. 94816

(P) "Resources" means available capital and other assets, 94817
including moneys received from the federal, state, and local 94818
governments, private grants, and donations; appropriately 94819
qualified personnel; and appropriate capital facilities and 94820
equipment. 94821

(Q) "Senior probate judge" means the current probate judge of 94822
a county who has served as probate judge of that county longer 94823
than any of the other current probate judges of that county. If a 94824
county has only one probate judge, "senior probate judge" means 94825
that probate judge. 94826

(R) "Service and support administration" means the duties 94827
performed by a service and support administrator pursuant to 94828
section 5126.15 of the Revised Code. 94829

(S)(1) "Specialized medical, adaptive, and assistive 94830

equipment, supplies, and supports" means equipment, supplies, and 94831
supports that enable an individual to increase the ability to 94832
perform activities of daily living or to perceive, control, or 94833
communicate within the environment. 94834

(2) "Specialized medical, adaptive, and assistive equipment, 94835
supplies, and supports" includes the following: 94836

(a) Eating utensils, adaptive feeding dishes, plate guards, 94837
mylatex straps, hand splints, reaches, feeder seats, adjustable 94838
pointer sticks, interpreter services, telecommunication devices 94839
for the deaf, computerized communications boards, other 94840
communication devices, support animals, veterinary care for 94841
support animals, adaptive beds, supine boards, prone boards, 94842
wedges, sand bags, sidelayers, bolsters, adaptive electrical 94843
switches, hand-held shower heads, air conditioners, humidifiers, 94844
emergency response systems, folding shopping carts, vehicle lifts, 94845
vehicle hand controls, other adaptations of vehicles for 94846
accessibility, and repair of the equipment received. 94847

(b) Nondisposable items not covered by medicaid that are 94848
intended to assist an individual in activities of daily living or 94849
instrumental activities of daily living. 94850

(T) "Supportive home services" means a range of services to 94851
families of individuals with mental retardation or other 94852
developmental disabilities to develop and maintain increased 94853
acceptance and understanding of such persons, increased ability of 94854
family members to teach the person, better coordination between 94855
school and home, skills in performing specific therapeutic and 94856
management techniques, and ability to cope with specific 94857
situations. 94858

(U)(1) "Supported living" means services provided for as long 94859
as twenty-four hours a day to an individual with mental 94860
retardation or other developmental disability through any public 94861

or private resources, including moneys from the individual, that 94862
enhance the individual's reputation in community life and advance 94863
the individual's quality of life by doing the following: 94864

(a) Providing the support necessary to enable an individual 94865
to live in a residence of the individual's choice, with any number 94866
of individuals who are not disabled, or with not more than three 94867
individuals with mental retardation and developmental disabilities 94868
unless the individuals are related by blood or marriage; 94869

(b) Encouraging the individual's participation in the 94870
community; 94871

(c) Promoting the individual's rights and autonomy; 94872

(d) Assisting the individual in acquiring, retaining, and 94873
improving the skills and competence necessary to live successfully 94874
in the individual's residence. 94875

(2) "Supported living" includes the provision of all of the 94876
following: 94877

(a) Housing, food, clothing, habilitation, staff support, 94878
professional services, and any related support services necessary 94879
to ensure the health, safety, and welfare of the individual 94880
receiving the services; 94881

(b) A combination of lifelong or extended-duration 94882
supervision, training, and other services essential to daily 94883
living, including assessment and evaluation and assistance with 94884
the cost of training materials, transportation, fees, and 94885
supplies; 94886

(c) Personal care services and homemaker services; 94887

(d) Household maintenance that does not include modifications 94888
to the physical structure of the residence; 94889

(e) Respite care services; 94890

(f) Program management, as described in section 5126.14 of 94891

the Revised Code. 94892

Sec. 5126.029. (A) Each county board of developmental 94893
disabilities shall hold an organizational meeting no later than 94894
the thirty-first day of January of each year and shall elect its 94895
officers, which shall include a president, vice-president, and 94896
recording secretary. After its annual organizational meeting, the 94897
board shall meet in such manner and at such times as prescribed by 94898
rules adopted by the board, but the board shall meet at least ~~ten~~ 94899
the following number of times annually in regularly scheduled 94900
sessions in accordance with section 121.22 of the Revised Code, 94901
not including in-service training sessions: 94902

(1) Unless division (A)(2) of this section applies to the 94903
board, ten; 94904

(2) If the board shares a superintendent or other 94905
administrative staff with one or more other boards of 94906
developmental disabilities, eight. A 94907

(B) A majority of the board constitutes a quorum. The board 94908
shall adopt rules for the conduct of its business and a record 94909
shall be kept of board proceedings, which shall be open for public 94910
inspection. 94911

Sec. 5126.04. (A) Each county board of developmental 94912
disabilities shall plan and set priorities based on available 94913
resources for the provision of facilities, programs, and other 94914
services to meet the needs of county residents who are individuals 94915
with mental retardation and other developmental disabilities, 94916
former residents of the county residing in state institutions or, 94917
before the effective date of this amendment, placed under purchase 94918
of service agreements under section 5123.18 of the Revised Code, 94919
and children subject to a determination made pursuant to section 94920
121.38 of the Revised Code. 94921

Each county board shall assess the facility and service needs 94922
of the individuals with mental retardation and other developmental 94923
disabilities who are residents of the county or former residents 94924
of the county residing in state institutions or, before the 94925
effective date of this amendment, placed under purchase of service 94926
agreements under section 5123.18 of the Revised Code. 94927

Each county board shall require individual habilitation or 94928
service plans for individuals with mental retardation and other 94929
developmental disabilities who are being served or who have been 94930
determined eligible for services and are awaiting the provision of 94931
services. Each board shall ensure that methods of having their 94932
service needs evaluated are available. 94933

(B)(1) If a foster child is in need of assessment for 94934
eligible services or is receiving services from a county board of 94935
developmental disabilities and that child is placed in a different 94936
county, the agency that placed the child, immediately upon 94937
placement, shall inform the county board in the new county all of 94938
the following: 94939

(a) That a foster child has been placed in that county; 94940

(b) The name and other identifying information of the foster 94941
child; 94942

(c) The name of the foster child's previous county of 94943
residence; 94944

(d) That the foster child was in need of assessment for 94945
eligible services or was receiving services from the county board 94946
of developmental disabilities in the previous county. 94947

(2) Upon receiving the notice described in division (B)(1) of 94948
this section or otherwise learning that the child was in need of 94949
assessment for eligible services or was receiving services from a 94950
county board of developmental disabilities in the previous county, 94951
the county board in the new county shall communicate with the 94952

county board of the previous county to determine how services for 94953
the foster child shall be provided in accordance with each board's 94954
plan and priorities as described in division (A) of this section. 94955

If the two county boards are unable to reach an agreement 94956
within ten days of the child's placement, the county board in the 94957
new county shall send notice to the Ohio department of 94958
developmental disabilities of the failure to agree. The department 94959
shall decide how services shall be provided for the foster child 94960
within ten days of receiving notice that the county boards could 94961
not reach an agreement. The department may decide that one, or 94962
both, of the county boards shall provide services. The services 94963
shall be provided in accordance with the board's plan and 94964
priorities as described in division (A) of this section. 94965

(C) The department of developmental disabilities may adopt 94966
rules in accordance with Chapter 119. of the Revised Code as 94967
necessary to implement this section. To the extent that rules 94968
adopted under this section apply to the identification and 94969
placement of children with disabilities under Chapter 3323. of the 94970
Revised Code, the rules shall be consistent with the standards and 94971
procedures established under sections 3323.03 to 3323.05 of the 94972
Revised Code. 94973

(D) The responsibility or authority of a county board to 94974
provide services under this chapter does not affect the 94975
responsibility of any other entity of state or local government to 94976
provide services to individuals with mental retardation and 94977
developmental disabilities. 94978

(E) On or before the first day of February prior to a school 94979
year, a county board of developmental disabilities may elect not 94980
to participate during that school year in the provision of or 94981
contracting for educational services for children ages six through 94982
twenty-one years of age, provided that on or before that date the 94983
board gives notice of this election to the superintendent of 94984

public instruction, each school district in the county, and the 94985
educational service center serving the county. If a board makes 94986
this election, it shall not have any responsibility for or 94987
authority to provide educational services that school year for 94988
children ages six through twenty-one years of age. If a board does 94989
not make an election for a school year in accordance with this 94990
division, the board shall be deemed to have elected to participate 94991
during that school year in the provision of or contracting for 94992
educational services for children ages six through twenty-one 94993
years of age. 94994

(F) If a county board of developmental disabilities elects to 94995
provide educational services during a school year to individuals 94996
six through twenty-one years of age who have multiple 94997
disabilities, the board may provide these services to individuals 94998
who are appropriately identified and determined eligible pursuant 94999
to Chapter 3323. of the Revised Code, and in accordance with 95000
applicable rules of the state board of education. The county board 95001
may also provide related services to individuals six through 95002
twenty-one years of age who have one or more disabling conditions, 95003
in accordance with section 3317.20 and Chapter 3323. of the 95004
Revised Code and applicable rules of the state board of education. 95005

Sec. 5126.042. ~~(A) As used in this section:~~ 95006

~~(1) "Emergency" means any situation that creates for an 95007
individual with mental retardation or developmental disabilities a 95008
risk of substantial self-harm or substantial harm to others if 95009
action is not taken within thirty days. An "emergency" may include 95010
one or more of the following situations:~~ 95011

~~(a) Loss of present residence for any reason, including legal 95012
action;~~ 95013

~~(b) Loss of present caretaker for any reason, including 95014
serious illness of the caretaker, change in the caretaker's 95015~~

~~status, or inability of the caretaker to perform effectively for the individual;~~ 95016
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~~(c) Abuse, neglect, or exploitation of the individual;~~ 95018

~~(d) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;~~ 95019
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~~(e) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.~~ 95021
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~~(2) "Service substitution list" means a service substitution list established by a county board of developmental disabilities before September 1, 2008, pursuant to division (B) of this section as this section existed on the day immediately before September 1, 2008.~~ 95024
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~~(B) If a Each county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services in accordance with rules the director of developmental disabilities shall adopt in accordance with Chapter 119. of the Revised Code. The board may establish priorities for making placements on its waiting lists according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of this section All of the following apply to the rules adopted under this section:~~ 95029
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~~(A) The rules may include standards for determining which individuals on a waiting list should have priority for a service for which the waiting list is established.~~ 95040
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~~(B) The rules shall include procedures to be followed to ensure that the due process rights of individuals on a waiting list are not violated.~~ 95043
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<u>(C) The following take precedence over the rules:</u>	95046
<u>(1) Medicaid rules and regulations;</u>	95047
<u>(2) Any specific requirements that may be contained within a</u>	95048
<u>medicaid state plan amendment or waiver program that a county</u>	95049
<u>board has authority to administer or with respect to which it has</u>	95050
<u>authority to provide services.</u>	95051
The individuals who may be placed on a waiting list include	95052
individuals with a need for services on an emergency basis and	95053
individuals who have requested services for which resources are	95054
not available.	95055
An individual placed on a county board's service substitution	95056
list before September 1, 2008, for the purpose of obtaining home	95057
and community based services shall be deemed to have been placed	95058
on the county board's waiting list for home and community based	95059
services on the date the individual made a request to the county	95060
board that the individual receive home and community based	95061
services instead of the services the individual received at the	95062
time the request for home and community based services was made to	95063
the county board.	95064
(C) A county board shall establish a separate waiting list	95065
for each of the following categories of services, and may	95066
establish separate waiting lists within the waiting lists:	95067
(1) Early childhood services;	95068
(2) Educational programs for preschool and school age	95069
children;	95070
(3) Adult services;	95071
(4) Service and support administration;	95072
(5) Residential services and supported living;	95073
(6) Transportation services;	95074

(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	95075
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(8) Family support services provided under section 5126.11 of the Revised Code.	95078
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(D) Except as provided in division (C) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:	95080
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(1) For the purpose of obtaining additional federal medicaid funds for home and community based services and medicaid case management services, do both of the following:	95085
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(a) Give an individual who is eligible for home and community based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community based services that include supported living, residential services, or family support services:	95088
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(i) Is twenty two years of age or older;	95094
(ii) Receives supported living or family support services.	95095
(b) Give an individual who is eligible for home and community based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community based services that include adult services:	95096
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(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community based services;	95101
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(ii) Receives adult services from the county board.	95104

~~(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:~~

~~(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;~~

~~(b) Is less than twenty two years of age and has at least one of the following service needs that are unusual in scope or intensity:~~

~~(i) Severe behavior problems for which a behavior support plan is needed;~~

~~(ii) An emotional disorder for which anti psychotic medication is needed;~~

~~(iii) A medical condition that leaves the individual dependent on life support medical technology;~~

~~(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;~~

~~(v) A condition the county board determines to be comparable in severity to any condition described in divisions (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.~~

~~(c) Is twenty two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community based services on an in home or out of home basis.~~

~~(E) Except as provided in division (C) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community based services, priority over any other individual on a waiting list established under division (C) of this section for home and community based services who does not meet these criteria.~~ 95135
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~~(F) If two or more individuals on a waiting list established under division (C) of this section for home and community based services have priority for the services pursuant to division (D)(1) or (2) or (E) of this section, a county board may use criteria specified in rules adopted under division (K)(2) of this section in determining the order in which the individuals with priority will be offered the services. Otherwise, the county board shall offer the home and community based services to such individuals in the order they are placed on the waiting list.~~ 95144
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~~(G) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status.~~ 95153
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~~(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division (K) of this section.~~ 95157
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~~Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's~~ 95161
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~~placement and position on each waiting list on which the individual is placed.~~ 95167
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~~At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.~~ 95169
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~~When a program or service for which there is a waiting list becomes available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to receive that program or service. If the reassessment demonstrates that the individual continues to need the program or service, the board shall offer the program or service to the individual. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists. The county board shall notify the individual of the individual's placement and position on the waiting list on which the individual is placed.~~ 95179
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~~(I) A child subject to a determination made pursuant to section 121.38 of the Revised Code who requires the home and community based services provided through a medicaid component that the department of developmental disabilities administers~~ 95195
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~~under section 5111.871 of the Revised Code shall receive services through that medicaid component. For all other services, a child subject to a determination made pursuant to section 121.38 of the Revised Code shall be treated as an emergency by the county boards and shall not be subject to a waiting list.~~

~~(J) Not later than the fifteenth day of March of each even numbered year, each county board shall prepare and submit to the director of developmental disabilities its recommendations for the funding of services for individuals with mental retardation and developmental disabilities and its proposals for reducing the waiting lists for services.~~

~~(K)(1) The department of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing waiting lists established under this section. The rules shall include procedures to be followed to ensure that the due process rights of individuals placed on waiting lists are not violated.~~

~~(2) As part of the rules adopted under this division, the department shall adopt rules establishing criteria a county board may use under division (F) of this section in determining the order in which individuals with priority for home and community based services will be offered the services. The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services.~~

~~(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:~~

~~(a) The number of years, which shall not exceed five, that
the priority category will be in effect;~~ 95231
95232

~~(b) The date that the priority category is to go into effect.~~ 95233

~~(L) The following shall take precedence over the applicable
provisions of this section:~~ 95234
95235

~~(1) Medicaid rules and regulations;~~ 95236

~~(2) Any specific requirements that may be contained within a
medicaid state plan amendment or waiver program that a county
board has authority to administer or with respect to which it has
authority to provide services, programs, or supports.~~ 95237
95238
95239
95240

Sec. 5126.05. (A) Subject to the rules established by the 95241
director of developmental disabilities pursuant to Chapter 119. of 95242
the Revised Code for programs and services offered pursuant to 95243
this chapter, and subject to the rules established by the state 95244
board of education pursuant to Chapter 119. of the Revised Code 95245
for programs and services offered pursuant to Chapter 3323. of the 95246
Revised Code, the county board of developmental disabilities 95247
shall: 95248

(1) Administer and operate facilities, programs, and services 95249
as provided by this chapter and Chapter 3323. of the Revised Code 95250
and establish policies for their administration and operation; 95251

(2) Coordinate, monitor, and evaluate existing services and 95252
facilities available to individuals with mental retardation and 95253
developmental disabilities; 95254

(3) Provide early childhood services, supportive home 95255
services, and adult services, according to the plan and priorities 95256
developed under section 5126.04 of the Revised Code; 95257

(4) Provide or contract for special education services 95258
pursuant to Chapters ~~3306.7~~ 3317. and 3323. of the Revised Code 95259
and ensure that related services, as defined in section 3323.01 of 95260

the Revised Code, are available according to the plan and 95261
priorities developed under section 5126.04 of the Revised Code; 95262

(5) Adopt a budget, authorize expenditures for the purposes 95263
specified in this chapter and do so in accordance with section 95264
319.16 of the Revised Code, approve attendance of board members 95265
and employees at professional meetings and approve expenditures 95266
for attendance, and exercise such powers and duties as are 95267
prescribed by the director; 95268

(6) Submit annual reports of its work and expenditures, 95269
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 95270
the director, the superintendent of public instruction, and the 95271
board of county commissioners at the close of the fiscal year and 95272
at such other times as may reasonably be requested; 95273

(7) Authorize all positions of employment, establish 95274
compensation, including but not limited to salary schedules and 95275
fringe benefits for all board employees, approve contracts of 95276
employment for management employees that are for a term of more 95277
than one year, employ legal counsel under section 309.10 of the 95278
Revised Code, and contract for employee benefits; 95279

(8) Provide service and support administration in accordance 95280
with section 5126.15 of the Revised Code; 95281

(9) Certify respite care homes pursuant to rules adopted 95282
under section 5123.171 of the Revised Code by the director of 95283
developmental disabilities. 95284

(B) To the extent that rules adopted under this section apply 95285
to the identification and placement of children with disabilities 95286
under Chapter 3323. of the Revised Code, they shall be consistent 95287
with the standards and procedures established under sections 95288
3323.03 to 3323.05 of the Revised Code. 95289

(C) Any county board may enter into contracts with other such 95290
boards and with public or private, nonprofit, or profit-making 95291

agencies or organizations of the same or another county, to 95292
provide the facilities, programs, and services authorized or 95293
required, upon such terms as may be agreeable, and in accordance 95294
with this chapter and Chapter 3323. of the Revised Code and rules 95295
adopted thereunder and in accordance with sections 307.86 and 95296
5126.071 of the Revised Code. 95297

(D) A county board may combine transportation for children 95298
and adults enrolled in programs and services offered under ~~section~~ 95299
~~5126.12~~ Chapter 5126. of the Revised Code with transportation for 95300
children enrolled in classes funded under section 3317.20 or units 95301
approved under section 3317.05 of the Revised Code. 95302

(E) A county board may purchase all necessary insurance 95303
policies, may purchase equipment and supplies through the 95304
department of administrative services or from other sources, and 95305
may enter into agreements with public agencies or nonprofit 95306
organizations for cooperative purchasing arrangements. 95307

(F) A county board may receive by gift, grant, devise, or 95308
bequest any moneys, lands, or property for the benefit of the 95309
purposes for which the board is established and hold, apply, and 95310
dispose of the moneys, lands, and property according to the terms 95311
of the gift, grant, devise, or bequest. All money received by 95312
gift, grant, bequest, or disposition of lands or property received 95313
by gift, grant, devise, or bequest shall be deposited in the 95314
county treasury to the credit of such board and shall be available 95315
for use by the board for purposes determined or stated by the 95316
donor or grantor, but may not be used for personal expenses of the 95317
board members. Any interest or earnings accruing from such gift, 95318
grant, devise, or bequest shall be treated in the same manner and 95319
subject to the same provisions as such gift, grant, devise, or 95320
bequest. 95321

(G) The board of county commissioners shall levy taxes and 95322
make appropriations sufficient to enable the county board of 95323

developmental disabilities to perform its functions and duties, 95324
and may utilize any available local, state, and federal funds for 95325
such purpose. 95326

Sec. 5126.054. (A) Each county board of developmental 95327
disabilities shall, by resolution, develop a three-calendar year 95328
plan that includes the following three components: 95329

(1) An assessment component that includes all of the 95330
following: 95331

(a) The number of individuals with mental retardation or 95332
other developmental disability residing in the county who need the 95333
level of care provided by an intermediate care facility for the 95334
mentally retarded, may seek home and community-based services, and 95335
are given priority on a waiting list established for the services 95336
pursuant to ~~division (D) of~~ section 5126.042 of the Revised Code; 95337
the service needs of those individuals; and the projected 95338
annualized cost for services; 95339

(b) The source of funds available to the county board to pay 95340
the nonfederal share of medicaid expenditures that the county 95341
board is required by sections 5126.059 and 5126.0510 of the 95342
Revised Code to pay; 95343

(c) Any other applicable information or conditions that the 95344
department of developmental disabilities requires as a condition 95345
of approving the component under section 5123.046 of the Revised 95346
Code. 95347

(2) A preliminary implementation component that specifies the 95348
number of individuals to be provided, during the first year that 95349
the plan is in effect, home and community-based services pursuant 95350
to the priority on a waiting list established under section 95351
5126.042 of the Revised Code given to them ~~under divisions (D)(1)~~ 95352
~~and (2) of~~ pursuant to rules adopted under that section 5126.042 95353

~~of the Revised Code~~ and the types of home and community-based 95354
services the individuals are to receive; 95355

(3) A component that provides for the implementation of 95356
medicaid case management services and home and community-based 95357
services for individuals who begin to receive the services on or 95358
after the date the plan is approved under section 5123.046 of the 95359
Revised Code. A county board shall include all of the following in 95360
the component: 95361

(a) If the department of developmental disabilities or 95362
department of job and family services requires, an agreement to 95363
pay the nonfederal share of medicaid expenditures that the county 95364
board is required by sections 5126.059 and 5126.0510 of the 95365
Revised Code to pay; 95366

(b) How the services are to be phased in over the period the 95367
plan covers, including how the county board will serve individuals 95368
who have priority on a waiting list established under ~~division (C)~~ 95369
~~of section 5126.042 who are given priority status under division~~ 95370
~~(D)(1) of that section of the Revised Code;~~ 95371

(c) Any agreement or commitment regarding the county board's 95372
funding of home and community-based services that the county board 95373
has with the department at the time the county board develops the 95374
component; 95375

(d) Assurances adequate to the department that the county 95376
board will comply with all of the following requirements: 95377

(i) To provide the types of home and community-based services 95378
specified in the preliminary implementation component required by 95379
division (A)(2) of this section to at least the number of 95380
individuals specified in that component; 95381

(ii) To use any additional funds the county board receives 95382
for the services to improve the county board's resource 95383
capabilities for supporting such services available in the county 95384

at the time the component is developed and to expand the services 95385
to accommodate the unmet need for those services in the county; 95386

(iii) To employ or contract with a business manager or enter 95387
into an agreement with another county board of developmental 95388
disabilities that employs or contracts with a business manager to 95389
have the business manager serve both county boards. No 95390
superintendent of a county board may serve as the county board's 95391
business manager. 95392

(iv) To employ or contract with a medicaid services manager 95393
or enter into an agreement with another county board of 95394
developmental disabilities that employs or contracts with a 95395
medicaid services manager to have the medicaid services manager 95396
serve both county boards. No superintendent of a county board may 95397
serve as the county board's medicaid services manager. 95398

(e) Programmatic and financial accountability measures and 95399
projected outcomes expected from the implementation of the plan; 95400

(f) Any other applicable information or conditions that the 95401
department requires as a condition of approving the component 95402
under section 5123.046 of the Revised Code. 95403

(B) A county board whose plan developed under division (A) of 95404
this section is approved by the department under section 5123.046 95405
of the Revised Code shall update and renew the plan in accordance 95406
with a schedule the department shall develop. 95407

Sec. 5126.0510. (A) Except as otherwise provided in an 95408
agreement entered into under section 5123.048 of the Revised Code 95409
and subject to divisions (B), (C), and (D) of this section, a 95410
county board of developmental disabilities shall pay the 95411
nonfederal share of medicaid expenditures for the following home 95412
and community-based services provided to an individual with mental 95413
retardation or other developmental disability who the county board 95414

determines under section 5126.041 of the Revised Code is eligible	95415
for county board services:	95416
(1) Home and community-based services provided by the county	95417
board to such an individual;	95418
(2) Home and community-based services provided by a provider	95419
other than the county board to such an individual who is enrolled	95420
as of June 30, 2007, in the medicaid waiver component under which	95421
the services are provided;	95422
(3) Home and community-based services provided by a provider	95423
other than the county board to such an individual who, pursuant to	95424
a request the county board makes, enrolls in the medicaid waiver	95425
component under which the services are provided after June 30,	95426
2007;	95427
(4) Home and community-based services provided by a provider	95428
other than the county board to such an individual for whom there	95429
is in effect an agreement entered into under division (E) of this	95430
section between the county board and director of developmental	95431
disabilities.	95432
(B) In the case of medicaid expenditures for home and	95433
community-based services for which division (A)(2) of this section	95434
requires a county board to pay the nonfederal share, the following	95435
shall apply to such services provided during fiscal year 2008	95436
under the individual options medicaid waiver component:	95437
(1) The county board shall pay no less than the total amount	95438
the county board paid as the nonfederal share for home and	95439
community-based services provided in fiscal year 2007 under the	95440
individual options medicaid waiver component;	95441
(2) The county board shall pay no more than the sum of the	95442
following:	95443
(a) The total amount the county board paid as the nonfederal	95444

share for home and community-based services provided in fiscal 95445
year 2007 under the individual options medicaid waiver component; 95446

(b) An amount equal to one per cent of the total amount the 95447
department of developmental disabilities and county board paid as 95448
the nonfederal share for home and community-based services 95449
provided in fiscal year 2007 under the individual options medicaid 95450
waiver component to individuals the county board determined under 95451
section 5126.041 of the Revised Code are eligible for county board 95452
services. 95453

(C) A county board is not required to pay the nonfederal 95454
share of home and community-based services provided after June 30, 95455
2008, that the county board is otherwise required by division 95456
(A)(2) of this section to pay if the department of developmental 95457
disabilities fails to comply with division (A) of section 95458
5123.0416 of the Revised Code. 95459

(D) A county board is not required to pay the nonfederal 95460
share of home and community-based services that the county board 95461
is otherwise required by division (A)(3) of this section to pay if 95462
both of the following apply: 95463

(1) The services are provided to an individual who enrolls in 95464
the medicaid waiver component under which the services are 95465
provided as the result of an order issued following a state 95466
hearing, administrative appeal, or appeal to a court of common 95467
pleas made under section 5101.35 of the Revised Code; 95468

(2) There are more individuals who are eligible for services 95469
from the county board enrolled in ~~the medicaid waiver component~~ 95470
home and community-based services than is required by section 95471
5126.0512 of the Revised Code. 95472

(E) A county board may enter into an agreement with the 95473
director of developmental disabilities under which the county 95474
board agrees to pay the nonfederal share of medicaid expenditures 95475

for one or more home and community-based services that the county board is not otherwise required by division (A)(1), (2), or (3) of this section to pay and that are provided to an individual the county board determines under section 5126.041 of the Revised Code is eligible for county board services. The agreement shall specify which home and community-based services the agreement covers. The county board shall pay the nonfederal share of medicaid expenditures for the home and community-based services that the agreement covers as long as the agreement is in effect.

Sec. 5126.0511. (A) A county board of developmental disabilities may use the following funds to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay:

(1) To the extent consistent with the levy that generated the taxes, the following taxes:

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code;

(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board.

(2) Funds that the department of developmental disabilities distributes to the county board under ~~sections 5126.11 and section 5126.18~~ of the Revised Code and for purposes of the family support services program established under section 5126.11 of the Revised Code;

(3) Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement;

(4) Funds that the department of developmental disabilities

distributes to the county board as subsidy payments; 95506

(5) In the case of medicaid expenditures for home and 95507
community-based services, funds allocated to or otherwise made 95508
available for the county board under section 5123.0416 of the 95509
Revised Code to pay the nonfederal share of such medicaid 95510
expenditures. 95511

(B) Each year, each county board shall adopt a resolution 95512
specifying the amount of funds it will use in the next year to pay 95513
the nonfederal share of the medicaid expenditures that the county 95514
board is required by sections 5126.059 and 5126.0510 of the 95515
Revised Code to pay. The amount specified shall be adequate to 95516
assure that the services for which the medicaid expenditures are 95517
made will be available in the county in a manner that conforms to 95518
all applicable state and federal laws. A county board shall state 95519
in its resolution that the payment of the nonfederal share 95520
represents an ongoing financial commitment of the county board. A 95521
county board shall adopt the resolution in time for the county 95522
auditor to make the determination required by division (C) of this 95523
section. 95524

(C) Each year, a county auditor shall determine whether the 95525
amount of funds a county board specifies in the resolution it 95526
adopts under division (B) of this section will be available in the 95527
following year for the county board to pay the nonfederal share of 95528
the medicaid expenditures that the county board is required by 95529
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 95530
county auditor shall make the determination not later than the 95531
last day of the year before the year in which the funds are to be 95532
used. 95533

Sec. 5126.0512. (A) ~~As used in this section, "medicaid waiver~~ 95534
~~component" means a medicaid waiver component as defined in section~~ 95535
~~5111.85 of the Revised Code under which home and community based~~ 95536

~~services are provided.~~ 95537

~~(B) Effective July 1, 2007, and except~~ Except as provided in 95538
rules adopted under section 5123.0413 of the Revised Code, each 95539
county board of developmental disabilities shall ensure, ~~for each~~ 95540
~~medicaid waiver component,~~ that the number of individuals eligible 95541
under section 5126.041 of the Revised Code for services from the 95542
county board who are enrolled in ~~a medicaid waiver component~~ home 95543
and community-based services is no less than the sum of the 95544
following: 95545

(1) The number of individuals eligible for services from the 95546
county board who are enrolled in ~~the medicaid waiver component~~ 95547
home and community-based services on June 30, 2007; 95548

(2) The number of ~~medicaid waiver component~~ home and 95549
community-based services slots the county board requested before 95550
July 1, 2007, that were assigned to the county board before that 95551
date but in which no individual was enrolled before that date. 95552

~~(C)(B)~~ An individual enrolled in ~~a medicaid waiver component~~ 95553
home and community-based services after March 1, 2007, due to an 95554
emergency reserve capacity waiver assignment shall not be counted 95555
in determining the number of individuals a county board must 95556
ensure under division ~~(B)(A)~~ of this section are enrolled in a 95557
~~medicaid waiver component~~ home and community-based services. 95558

~~(D)(C)~~ An individual who is enrolled in ~~a medicaid waiver~~ 95559
~~component~~ home and community-based services to comply with the 95560
terms of the consent order filed March 5, 2007, in *Martin v.* 95561
Strickland, Case No. 89-CV-00362, in the United States district 95562
court for the southern district of Ohio, eastern division, shall 95563
be excluded in determining whether a county board has complied 95564
with division ~~(B)(A)~~ of this section. 95565

~~(E)(D)~~ A county board shall make as many requests for 95566
individuals to be enrolled in ~~a medicaid waiver component~~ home and 95567

community-based services as necessary for the county board to 95568
comply with division ~~(B)~~(A) of this section. 95569

Sec. 5126.08. (A) The director of developmental disabilities 95570
shall adopt rules in accordance with Chapter 119. of the Revised 95571
Code for all programs and services offered by a county board of 95572
developmental disabilities. Such rules shall include, but are not 95573
limited to, the following: 95574

(1) Determination of what constitutes a program or service; 95575

(2) Standards to be followed by a board in administering, 95576
providing, arranging, or operating programs and services; 95577

(3) Standards for determining the nature and degree of mental 95578
retardation, including mild mental retardation, or developmental 95579
disability; 95580

(4) Standards for determining eligibility for programs and 95581
services under ~~sections 5126.042 and~~ section 5126.15 of the 95582
Revised Code; 95583

(5) Procedures for obtaining consent for the arrangement of 95584
services under section 5126.31 of the Revised Code and for 95585
obtaining signatures on individual service plans under that 95586
section; 95587

(6) Specification of the service and support administration 95588
to be provided by a county board and standards for resolving 95589
grievances in connection with service and support administration; 95590

~~(7) Standards for the provision of environmental 95591
modifications, including standards that require adherence to all 95592
applicable state and local building codes; 95593~~

~~(8) Standards for the provision of specialized medical, 95594
adaptive, and assistive equipment, supplies, and supports. 95595~~

(B) The director shall be the final authority in determining 95596

the nature and degree of mental retardation or developmental 95597
disability. 95598

Sec. 5126.11. (A) As used in this section, "respite care" 95599
means appropriate, short-term, temporary care that is provided to 95600
a mentally retarded or developmentally disabled person to sustain 95601
the family structure or to meet planned or emergency needs of the 95602
family. 95603

(B) Subject to rules adopted by the director of developmental 95604
disabilities, and subject to the availability of money from state 95605
and federal sources, the county board of developmental 95606
disabilities shall establish a family support services program. 95607
Under such a program, the board shall make payments to an 95608
individual with mental retardation or other developmental 95609
disability or the family of an individual with mental retardation 95610
or other developmental disability who desires to remain in and be 95611
supported in the family home. Payments shall be made for all or 95612
part of costs incurred or estimated to be incurred for services 95613
that would promote self-sufficiency and normalization, prevent or 95614
reduce inappropriate institutional care, and further the unity of 95615
the family by enabling the family to meet the special needs of the 95616
individual and to live as much like other families as possible. 95617
Payments may be made in the form of reimbursement for expenditures 95618
or in the form of vouchers to be used to purchase services. 95619

(C) Payment shall not be made under this section to an 95620
individual or the individual's family if the individual is living 95621
in a residential facility that is providing residential services 95622
under contract with the department of developmental disabilities 95623
or a county board. 95624

(D) Payments may be made for the following services: 95625

(1) Respite care, in or out of the home; 95626

(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a

determination of eligibility and approval of the service. The 95658
service need not be provided in the county served by the county 95659
board. After being determined eligible and receiving approval for 95660
the service, the individual or family may incur expenses for the 95661
service or use the vouchers received from the county board for the 95662
purchase of the service. 95663

If the county board refuses to approve a service, an appeal 95664
may be made in accordance with rules adopted by the department 95665
under this section. 95666

(G) To be reimbursed for expenses incurred for approved 95667
services, the individual or family shall submit to the county 95668
board a statement of the expenses incurred accompanied by any 95669
evidence required by the board. To redeem vouchers used to 95670
purchase approved services, the entity that provided the service 95671
shall submit to the county board evidence that the service was 95672
provided and a statement of the charges. The county board shall 95673
make reimbursements and redeem vouchers no later than forty-five 95674
days after it receives the statements and evidence required by 95675
this division. 95676

(H) A county board shall consider the following objectives in 95677
carrying out a family support services program: 95678

(1) Enabling individuals to return to their families from an 95679
institution under the jurisdiction of the department of 95680
developmental disabilities; 95681

(2) Enabling individuals found to be subject to 95682
institutionalization by court order under section 5123.76 of the 95683
Revised Code to remain with their families with the aid of 95684
payments provided under this section; 95685

(3) Providing services to eligible children and adults 95686
currently residing in the community; 95687

(4) Providing services to individuals with developmental 95688

disabilities who are not receiving other services from the board. 95689

(I) The director shall adopt, and may amend and rescind, 95690
rules for the implementation of family support services programs 95691
by county boards. Such rules shall include the following: 95692

(1) A payment schedule adjusted for income; 95693

(2) ~~A formula for distributing to county boards the money~~ 95694
~~appropriated for family support services;~~ 95695

~~(3)~~ Standards for supervision, training, and quality control 95696
in the provision of respite care services; 95697

~~(4)~~(3) Eligibility standards and procedures for providing 95698
temporary emergency respite care; 95699

~~(5)~~(4) Procedures for hearing and deciding appeals made under 95700
division (F) of this section; 95701

~~(6) Requirements to be followed by county boards regarding~~ 95702
~~reports submitted under division (K) of this section.~~ 95703

Rules adopted under ~~divisions~~ division (I)(1) ~~and (2)~~ of this 95704
section shall be adopted in accordance with section 111.15 of the 95705
Revised Code. Rules adopted under divisions (I)~~(3)~~(2) to ~~(6)~~(4) of 95706
this section shall be adopted in accordance with Chapter 119. of 95707
the Revised Code. 95708

(J) All individuals certified by the superintendent of the 95709
county board as eligible for temporary emergency respite care in 95710
accordance with rules adopted under this section shall be 95711
considered eligible for temporary emergency respite care for not 95712
more than five days to permit the determination of eligibility for 95713
family support services. The requirements of divisions (E) and (F) 95714
of this section do not apply to temporary emergency respite care. 95715

(K) ~~The department of developmental disabilities shall~~ 95716
~~distribute to county boards money appropriated for family support~~ 95717
~~services in quarterly installments of equal amounts. The~~ 95718

~~installments shall be made not later than the thirtieth day of 95719
September, the thirty first day of December, the thirty first day 95720
of March, and the thirtieth day of June. A county board shall use 95721
no more than seven per cent of the funds for administrative costs. 95722
Each county board shall submit reports to the department on 95723
payments made under this section. The reports shall be submitted 95724
at those times and in the manner specified in rules adopted under 95725
this section. 95726~~

~~(L) The county board shall not be required to make payments 95727
for family support services at a level that exceeds available 95728
state and federal funds for such payments. 95729~~

~~Sec. 5126.12. (A) As used in this section: 95730~~

~~(1) "Approved school age class" means a class operated by a 95731
county board of developmental disabilities and funded by the 95732
department of education under section 3317.20 of the Revised Code. 95733~~

~~(2) "Approved preschool unit" means a class or unit operated 95734
by a county board of developmental disabilities and approved under 95735
division (B) of section 3317.05 of the Revised Code. 95736~~

~~(3) "Active treatment" means a continuous treatment program, 95737
which includes aggressive, consistent implementation of a program 95738
of specialized and generic training, treatment, health services, 95739
and related services, that is directed toward the acquisition of 95740
behaviors necessary for an individual with mental retardation or 95741
other developmental disability to function with as much 95742
self-determination and independence as possible and toward the 95743
prevention of deceleration, regression, or loss of current optimal 95744
functional status. 95745~~

~~(4) "Eligible for active treatment" means that an individual 95746
with mental retardation or other developmental disability resides 95747
in an intermediate care facility for the mentally retarded 95748~~

~~certified under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended; resides in a state institution operated by the department of developmental disabilities; or is enrolled in home and community based services.~~

~~(5) "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services.~~

~~(B) Each On or before the last day of each April, each county board of developmental disabilities shall certify to the director of developmental disabilities all of the following:~~

~~(1) On or before the fifteenth day of October, the average daily membership for the first full week of programs and services during October receiving:~~

~~(a) Early childhood services provided pursuant to section 5126.05 of the Revised Code for children who are less than three years of age on the thirtieth day of September of the academic year;~~

~~(b) Special education for children with disabilities in approved school age classes;~~

~~(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:~~

~~(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment;~~

~~(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment;~~

~~(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment;~~

~~(iv) Persons participating in community employment services.~~

~~To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.~~

~~(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of developmental disabilities.~~

~~The membership in each such program and service in the county shall be reported on forms prescribed by the department of developmental disabilities.~~

~~The department of developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school-age classes shall be in accordance with rules adopted by the state board of education. The average daily membership figure shall be determined by dividing the amount representing the sum of the number of enrollees in each program or service in the week for which the certification is made by the number of days the program or service was offered in that week. No enrollee may be counted in average daily membership for more than one program or service.~~

~~(2) By the fifteenth day of December, the number of children enrolled in approved preschool units on the first day of December;~~

~~(3) On or before the thirtieth day of April, an itemized report of all of the county board's income and operating expenditures for the immediately preceding calendar year. The certification shall be provided in an itemized report prepared and submitted in the a format specified by the department of developmental disabilities;~~

~~(4) That each required certification and report is in accordance with rules established by the department of~~

~~developmental disabilities and the state board of education for~~ 95810
~~the operation and subsidization of the programs and services.~~ 95811

Sec. 5126.18. (A) As used in this section: 95812

(1) "Taxable value" means the taxable value of a county 95813
certified under division (B) of this section. 95814

(2) "Per-mill yield" means the quotient obtained by dividing 95815
the taxable value of a county by one thousand. 95816

(3) "Population" of a county means that shown by the federal 95817
census for a census year or, for a noncensus year, the population 95818
as estimated by the department of development. 95819

(4) "Six-year moving average" means the average of the 95820
per-mill yields of a county for the most recent six years. 95821

(5) "Yield per person" means the quotient obtained by 95822
dividing the six-year moving average of a county by the population 95823
of that county. 95824

(6) "Tax equity payments" means payments to county boards of 95825
developmental disabilities under this section or a prior version 95826
of this section from money appropriated by the general assembly to 95827
the department of developmental disabilities for that purpose. 95828

(7) "Eligible county" means a county determined under 95829
division (C) of this section to be eligible for tax equity 95830
payments for the two-year period for which that determination is 95831
made. 95832

(8) "Threshold county" means the county with the lowest yield 95833
per person that is determined not to be eligible to receive tax 95834
equity payments. 95835

(B) At the request of the director of developmental 95836
disabilities, the tax commissioner shall certify to the director 95837
the taxable value of property on each county's most recent tax 95838

list of real and public utility property. The director may request 95839
any other tax information necessary for the purposes of this 95840
section. 95841

(C) Beginning in 2011, on or before the thirty-first day of 95842
May of that year and of every second year thereafter, the director 95843
of developmental disabilities shall determine whether a county is 95844
eligible to receive tax equity payments for the ensuing two fiscal 95845
years as follows: 95846

(1) The director shall determine the six-year moving average, 95847
population, and yield per person of each county in the state, 95848
based on the most recent information available. 95849

(2) The director shall calculate a tax equity funding 95850
threshold by adding the population of the county with the lowest 95851
yield per person and the populations of individual counties in 95852
order from lowest yield per person to highest yield per person 95853
until the addition of the population of another county would 95854
increase the aggregate sum to over thirty per cent of the total 95855
state population. A county is eligible to receive tax equity 95856
payments for the two-year period if its population is included in 95857
the calculation of the threshold and the addition of its 95858
population does not increase such sum to over thirty per cent of 95859
the total state population. 95860

(D)(1) Except as provided in divisions (D)(2) and (3) of this 95861
section, beginning in fiscal year 2012 and for each fiscal year 95862
thereafter, the director shall make tax equity payments to each 95863
eligible county equal to the population of the county multiplied 95864
by the difference between the yield per person of the threshold 95865
county and the yield per person of the eligible county. For 95866
purposes of this division, the population and yield per person of 95867
a county equal the population and yield per person most recently 95868
determined for that county under division (C)(1) of this section. 95869
The payments shall be made in quarterly installments of equal 95870

amounts not later than the thirtieth day of September, the 95871
thirty-first day of December, the thirty-first day of March, and 95872
the thirtieth day of June of each fiscal year. 95873

(2) In fiscal year 2012, if the amount determined under 95874
division (D)(1) of this section for an eligible county is at least 95875
twenty thousand dollars greater than or twenty thousand dollars 95876
less than the amount of tax equity payments the county received in 95877
fiscal year 2011, the county's tax equity payments for fiscal 95878
years 2012 through 2014 shall equal the following: 95879

(a) For fiscal year 2012, one-fourth of the amount calculated 95880
for the eligible county under division (D)(1) of this section plus 95881
three-fourths of the amount of tax equity payments the county 95882
received in fiscal year 2011; 95883

(b) For fiscal year 2013, one-half of the amount calculated 95884
for the eligible county under division (D)(1) of this section plus 95885
one-half of the amount of tax equity payments the county received 95886
in fiscal year 2011; 95887

(c) For fiscal year 2014, three-fourths of the amount 95888
calculated for the eligible county under division (D)(1) of this 95889
section plus one-fourth of the amount of tax equity payments the 95890
county received in fiscal year 2011. 95891

(3) In any fiscal year, if the total amount of tax equity 95892
payments for all eligible counties as determined under divisions 95893
(D)(1) and (2) of this section is greater than the amount 95894
appropriated to the department of developmental disabilities for 95895
the purpose of making such payments in that fiscal year, the 95896
director shall reduce the payments to each eligible county board 95897
in equal proportion. If the total amount of tax equity payments as 95898
determined under that division is less than the amount 95899
appropriated to the department for that purpose, the director 95900
shall determine how to allocate the excess money after 95901

consultation with the Ohio association of county boards serving people with developmental disabilities. 95902
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(4) Tax equity payments shall be paid only to an eligible county board of developmental disabilities and not to a regional council established under section 5126.13 of the Revised Code or any other entity. 95904
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(E)(1) Except as provided in division (E)(2) of this section, a county board of developmental disabilities shall use tax equity payments solely to pay the nonfederal share of medicaid expenditures it is required to pay under sections 5126.059 and 5126.0510 of the Revised Code. Tax equity payments shall not be used to pay any salary or other compensation to county board personnel. 95908
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(2) Upon the written request of a county board, the director of developmental disabilities may authorize a county board to use tax equity payments for infrastructure improvements necessary to support medicaid waiver administration. 95915
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(3) The director may audit any county board receiving tax equity payments to ensure appropriate use of the payments in accordance with this section. If the director determines that a county board is using payments inappropriately, the director shall notify the county board in writing of the determination. Within thirty days after receiving the director's notification, the county board shall submit a written plan of correction to the director. The director may accept or reject the plan. If the director rejects the plan, the director may require the county board to repay all or a portion of the amount of tax equity payments used inappropriately. The director shall distribute any tax equity payments returned under this division to other eligible county boards in accordance with a plan developed by the director after consultation with the Ohio association of county boards serving people with developmental disabilities. 95919
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Sec. 5126.23. (A) As used in this section, "employee" means a 95934
management employee or superintendent of a county board of 95935
developmental disabilities. 95936

(B) An employee may be removed, suspended, or demoted in 95937
accordance with this section for violation of written rules set 95938
forth by the board or for incompetency, inefficiency, dishonesty, 95939
drunkenness, immoral conduct, insubordination, discourteous 95940
treatment of the public, neglect of duty, or other acts of 95941
misfeasance, malfeasance, or nonfeasance. 95942

(C) Prior to the removal, suspension, or demotion of an 95943
employee pursuant to this section, the employee shall be notified 95944
in writing of the charges against the employee. Except as 95945
otherwise provided in division (H) of this section, not later than 95946
thirty days after receiving such notification, a predisciplinary 95947
conference shall be held to provide the employee an opportunity to 95948
refute the charges against the employee. At least seventy-two 95949
hours prior to the conference, the employee shall be given a copy 95950
of the charges against the employee. 95951

If the removal, suspension, or demotion action is directed 95952
against a management employee, the conference shall be held by the 95953
superintendent or a person the superintendent designates, and the 95954
superintendent shall notify the management employee within fifteen 95955
days after the conference of the decision made with respect to the 95956
charges. If the removal, suspension, or demotion action is 95957
directed against a superintendent, the conference shall be held by 95958
the members of the board or their designees, and the board shall 95959
notify the superintendent within fifteen days after the conference 95960
of its decision with respect to the charges. 95961

(D) Within fifteen days after receiving notification of the 95962
results of the predisciplinary conference, an employee may file 95963
with the board a written demand for a hearing before the board or 95964

before a referee, and the board shall set a time for the hearing 95965
which shall be within thirty days from the date of receipt of the 95966
written demand, and the board shall give the employee at least 95967
twenty days notice in writing of the time and place of the 95968
hearing. 95969

(E) If a referee is demanded by an employee or a county 95970
board, the hearing shall be conducted by a referee selected in 95971
accordance with division (F) of this section; otherwise, it shall 95972
be conducted by a majority of the members of the board and shall 95973
be confined to the charges enumerated at the predisciplinary 95974
conference. 95975

(F) Referees for the hearings required by this section shall 95976
be selected from ~~the~~ a list of resident electors compiled from 95977
~~names compiled by the superintendent of public instruction~~ 95978
~~pursuant to section 3319.161 of the Revised Code~~ that the director 95979
of developmental disabilities shall solicit annually from the 95980
state bar association. Upon receipt of notice that a referee has 95981
been demanded by an employee or a county board, the ~~superintendent~~ 95982
~~of public instruction~~ director shall immediately designate three 95983
persons from such list, from whom the referee for the hearing 95984
shall be chosen, and the ~~superintendent of public instruction~~ 95985
director shall immediately notify the designees, the county board, 95986
and the employee. If within five days of receipt of the notice, 95987
the county board and employee are unable to agree upon one of the 95988
designees to serve as referee, the ~~superintendent of public~~ 95989
~~instruction~~ director shall appoint one of the designees to serve 95990
as referee. The appointment of the referee shall be entered in the 95991
minutes of the county board. The referee appointed shall be paid 95992
the referee's usual and customary fee for attending the hearing 95993
which shall be paid from the general fund of the county board of 95994
developmental disabilities. 95995

(G) The board shall provide for a complete stenographic 95996

record of the proceedings, and a copy of the record shall be 95997
furnished to the employee. 95998

Both parties may be present at the hearing, be represented by 95999
counsel, require witnesses to be under oath, cross-examine 96000
witnesses, take a record of the proceedings, and require the 96001
presence of witnesses in their behalf upon subpoena to be issued 96002
by the county board. If any person fails to comply with a 96003
subpoena, a judge of the court of common pleas of the county in 96004
which the person resides, upon application of any interested 96005
party, shall compel attendance of the person by attachment 96006
proceedings as for contempt. Any member of the board or the 96007
referee may administer oaths to witnesses. After a hearing by a 96008
referee, the referee shall file a report within ten days after the 96009
termination of the hearing. After consideration of the referee's 96010
report, the board, by a majority vote, may accept or reject the 96011
referee's recommendation. After a hearing by the board, the board, 96012
by majority vote, may enter its determination upon its minutes. If 96013
the decision, after hearing, is in favor of the employee, the 96014
charges and the record of the hearing shall be physically expunged 96015
from the minutes and, if the employee has suffered any loss of 96016
salary by reason of being suspended, the employee shall be paid 96017
the employee's full salary for the period of such suspension. 96018

Any employee affected by a determination of the board under 96019
this division may appeal to the court of common pleas of the 96020
county in which the board is located within thirty days after 96021
receipt of notice of the entry of such determination. The appeal 96022
shall be an original action in the court and shall be commenced by 96023
the filing of a complaint against the board, in which complaint 96024
the facts shall be alleged upon which the employee relies for a 96025
reversal or modification of such determination. Upon service or 96026
waiver of summons in that appeal, the board immediately shall 96027
transmit to the clerk of the court for filing a transcript of the 96028

original papers filed with the board, a certified copy of the 96029
minutes of the board into which the determination was entered, and 96030
a certified transcript of all evidence adduced at the hearing or 96031
hearings before the board or a certified transcript of all 96032
evidence adduced at the hearing or hearings before the referee, 96033
whereupon the cause shall be at issue without further pleading and 96034
shall be advanced and heard without delay. The court shall examine 96035
the transcript and record of the hearing and shall hold such 96036
additional hearings as it considers advisable, at which it may 96037
consider other evidence in addition to the transcript and record. 96038

Upon final hearing, the court shall grant or deny the relief 96039
prayed for in the complaint as may be proper in accordance with 96040
the evidence adduced in the hearing. Such an action is a special 96041
proceeding, and either the employee or the board may appeal from 96042
the decision of the court of common pleas pursuant to the Rules of 96043
Appellate Procedure and, to the extent not in conflict with those 96044
rules, Chapter 2505. of the Revised Code. 96045

(H) Notwithstanding divisions (C) to (G) of this section, a 96046
county board and an employee may agree to submit issues regarding 96047
the employee's removal, suspension, or demotion to binding 96048
arbitration. The terms of the submission, including the method of 96049
selecting the arbitrator or arbitrators and the responsibility for 96050
compensating the arbitrator, shall be provided for in the 96051
arbitration agreement. The arbitrator shall be selected within 96052
fifteen days of the execution of the agreement. Chapter 2711. of 96053
the Revised Code governs the arbitration proceedings. 96054

Sec. 5126.24. (A) As used in this section: 96055

(1) "License" means an educator license issued by the state 96056
board of education under section 3319.22 of the Revised Code or a 96057
certificate issued by the department of developmental 96058
disabilities. 96059

(2) "Teacher" means a person employed by a county board of developmental disabilities in a position that requires a license. 96060
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(3) "Nonteaching employee" means a person employed by a county board of developmental disabilities in a position that does not require a license. 96062
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~~(4) "Years of service" includes all service described in division (A) of section 3317.13 of the Revised Code.~~ 96065
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(B) Subject to rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of developmental disabilities shall annually adopt separate salary schedules for teachers and nonteaching employees. 96067
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(C) ~~The In adopting the teachers' salary schedule shall provide for increments based on training and years of service. The board may establish its own service requirements provided no teacher receives less than the salary the teacher would be paid under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of such section is given to each teacher.~~ 96072
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~~Each teacher who has completed training that would qualify the teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the fiscal officer of the board, satisfactory evidence of the completion of such additional training. The fiscal officer shall then immediately place the teacher, pursuant to this section, in the proper salary bracket in accordance with training and years of service. No teacher shall be paid less than the salary to which the teacher would be entitled under section 3317.13 of the Revised Code if the teacher were employed by a school district board of~~ 96081
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education, the board shall comply with sections 3317.14 and 3317.141 of the Revised Code in the same manner as a school district.

The superintendent of each county board, on or before the fifteenth day of October of each year, shall certify to the state board of education the name of each teacher employed, on an annual salary, in each special education program operated pursuant to section 3323.09 of the Revised Code during the first full school week of October. The superintendent further shall certify, for each teacher, the number of years of training completed at a recognized college, the degrees earned from a college recognized by the state board, the type of license held, the number of months employed by the board, the annual salary, and other information that the state board may request.

(D) The nonteaching employees' salary schedule established by the board shall be based on training, experience, and qualifications with initial salaries no less than salaries in effect on July 1, 1985. Each board shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching employees shall be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all nonteaching employees working for a particular board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October of each year the nonteaching employees' salary schedule and list of job classifications and salaries in effect on that date shall be filed by each board with the superintendent of public instruction. If such salary schedule and classification plan is not filed, the superintendent of public

instruction shall order the board to file such schedule and list 96123
forthwith. If this condition is not corrected within ten days 96124
after receipt of the order from the superintendent, no money shall 96125
be distributed to the ~~district~~ board under Chapter ~~3306~~ or 3317. 96126
of the Revised Code until the superintendent has satisfactory 96127
evidence of the board's full compliance with such order. 96128

Sec. 5126.33. (A) A county board of developmental 96129
disabilities may file a complaint with the probate court of the 96130
county in which an adult with mental retardation or a 96131
developmental disability resides for an order authorizing the 96132
board to arrange services described in division (C) of section 96133
5126.31 of the Revised Code for that adult if the adult is 96134
eligible to receive services or support under section 5126.041 of 96135
the Revised Code and the board has been unable to secure consent. 96136
The complaint shall include: 96137

(1) The name, age, and address of the adult; 96138

(2) Facts describing the nature of the abuse, neglect, or 96139
exploitation and supporting the board's belief that services are 96140
needed; 96141

(3) The types of services proposed by the board, as set forth 96142
in the protective service plan described in division (J) of 96143
section 5126.30 of the Revised Code and filed with the complaint; 96144

(4) Facts showing the board's attempts to obtain the consent 96145
of the adult or the adult's guardian to the services. 96146

(B) The board shall give the adult notice of the filing of 96147
the complaint and in simple and clear language shall inform the 96148
adult of the adult's rights in the hearing under division (C) of 96149
this section and explain the consequences of a court order. This 96150
notice shall be personally served upon all parties, and also shall 96151
be given to the adult's legal counsel, if any, ~~and the legal~~ 96152

~~rights service.~~ The notice shall be given at least twenty-four 96153
hours prior to the hearing, although the court may waive this 96154
requirement upon a showing that there is a substantial risk that 96155
the adult will suffer immediate physical harm in the twenty-four 96156
hour period and that the board has made reasonable attempts to 96157
give the notice required by this division. 96158

(C) Upon the filing of a complaint for an order under this 96159
section, the court shall hold a hearing at least twenty-four hours 96160
and no later than seventy-two hours after the notice under 96161
division (B) of this section has been given unless the court has 96162
waived the notice. All parties shall have the right to be present 96163
at the hearing, present evidence, and examine and cross-examine 96164
witnesses. The Ohio Rules of Evidence shall apply to a hearing 96165
conducted pursuant to this division. The adult shall be 96166
represented by counsel unless the court finds that the adult has 96167
made a voluntary, informed, and knowing waiver of the right to 96168
counsel. If the adult is indigent, the court shall appoint counsel 96169
to represent the adult. The board shall be represented by the 96170
county prosecutor or an attorney designated by the board. 96171

(D)(1) The court shall issue an order authorizing the board 96172
to arrange the protective services if it finds, on the basis of 96173
clear and convincing evidence, all of the following: 96174

(a) The adult has been abused, neglected, or exploited; 96175

(b) The adult is incapacitated; 96176

(c) There is a substantial risk to the adult of immediate 96177
physical harm or death; 96178

(d) The adult is in need of the services; 96179

(e) No person authorized by law or court order to give 96180
consent for the adult is available or willing to consent to the 96181
services. 96182

(2) The board shall develop a detailed protective service plan describing the services that the board will provide, or arrange for the provision of, to the adult to prevent further abuse, neglect, or exploitation. The board shall submit the plan to the court for approval. The protective service plan may be changed only by court order.

(3) In formulating the order, the court shall consider the individual protective service plan and shall specifically designate the services that are necessary to deal with the abuse, neglect, or exploitation or condition resulting from abuse, neglect, or exploitation and that are available locally, and authorize the board to arrange for these services only. The court shall limit the provision of these services to a period not exceeding six months, renewable for an additional six-month period on a showing by the board that continuation of the order is necessary.

(E) If the court finds that all other options for meeting the adult's needs have been exhausted, it may order that the adult be removed from the adult's place of residence and placed in another residential setting. Before issuing that order, the court shall consider the adult's choice of residence and shall determine that the new residential setting is the least restrictive alternative available for meeting the adult's needs and is a place where the adult can obtain the necessary requirements for daily living in safety. The court shall not order an adult to a hospital or public hospital as defined in section 5122.01 or a state institution as defined in section 5123.01 of the Revised Code.

(F) The court shall not authorize a change in an adult's placement ordered under division (E) of this section unless it finds compelling reasons to justify a change. The parties to whom notice was given in division (B) of this section shall be given notice of a proposed change at least five working days prior to

the change. 96215

(G) The adult, the board, or any other person who received 96216
notice of the petition may file a motion for modification of the 96217
court order at any time. 96218

(H) The county board shall pay court costs incurred in 96219
proceedings brought pursuant to this section. The adult shall not 96220
be required to pay for court-ordered services. 96221

(I)(1) After the filing of a complaint for an order under 96222
this section, the court, prior to the final disposition, may enter 96223
any temporary order that the court finds necessary to protect the 96224
adult with mental retardation or a developmental disability from 96225
abuse, neglect, or exploitation including, but not limited to, the 96226
following: 96227

(a) A temporary protection order; 96228

(b) An order requiring the evaluation of the adult; 96229

(c) An order requiring a party to vacate the adult's place of 96230
residence or legal settlement, provided that, subject to division 96231
(K)(1)(d) of this section, no operator of a residential facility 96232
licensed by the department may be removed under this division; 96233

(d) In the circumstances described in, and in accordance with 96234
the procedures set forth in, section 5123.191 of the Revised Code, 96235
an order of the type described in that section that appoints a 96236
receiver to take possession of and operate a residential facility 96237
licensed by the department. 96238

(2) The court may grant an ex parte order pursuant to this 96239
division on its own motion or if a party files a written motion or 96240
makes an oral motion requesting the issuance of the order and 96241
stating the reasons for it if it appears to the court that the 96242
best interest and the welfare of the adult require that the court 96243
issue the order immediately. The court, if acting on its own 96244

motion, or the person requesting the granting of an ex parte 96245
order, to the extent possible, shall give notice of its intent or 96246
of the request to all parties, the adult's legal counsel, if any, 96247
~~and the legal rights service.~~ If the court issues an ex parte 96248
order, the court shall hold a hearing to review the order within 96249
seventy-two hours after it is issued or before the end of the next 96250
day after the day on which it is issued, whichever occurs first. 96251
The court shall give written notice of the hearing to all parties 96252
to the action. 96253

Sec. 5126.41. The county board of developmental disabilities 96254
shall identify residents of the county for whom supported living 96255
is to be provided. Identification of the residents shall be made 96256
in accordance with the priorities set under section 5126.04 of the 96257
Revised Code and the waiting ~~list~~ ~~policies developed~~ lists 96258
established under section 5126.042 of the Revised Code. The board 96259
shall assist the residents in identifying their individual service 96260
needs. 96261

To arrange supported living for an individual, the board 96262
shall assist the individual in developing an individual service 96263
plan. In developing the plan, the individual shall choose a 96264
residence that is appropriate according to local standards; the 96265
individuals, if any, with whom the individual will live in the 96266
residence; the services the individual needs to live in the 96267
individual's residence of choice; and the providers from which the 96268
services will be received. The choices available to an individual 96269
shall be based on available resources. 96270

The board shall obtain the consent of the individual or the 96271
individual's guardian and the signature of the individual or 96272
guardian on the individual service plan. The county board shall 96273
ensure that the individual receives from the provider the services 96274
contracted for under section 5126.45 of the Revised Code. 96275

An individual service plan for supported living shall be 96276
effective for a period of time agreed to by the county board and 96277
the individual. In determinating that period, the county board and 96278
the individual shall consider the nature of the services to be 96279
provided and the manner in which they are customarily provided. 96280

Sec. 5126.42. (A) A county board of developmental 96281
disabilities shall establish an advisory council composed of board 96282
members or employees of the board, providers, individuals 96283
receiving supported living, and advocates for individuals 96284
receiving supported living to provide on-going communication among 96285
all persons concerned with supported living. 96286

(B) The board shall develop procedures for the resolution of 96287
grievances between the board and providers or between the board 96288
and an entity with which it has a shared funding agreement. 96289

(C) The board shall develop and implement a provider 96290
selection system. Each system shall enable an individual to choose 96291
to continue receiving supported living from the same providers, to 96292
select additional providers, or to choose alternative providers. 96293
Annually, the board shall review its provider selection system to 96294
determine whether it has been implemented in a manner that allows 96295
individuals fair and equitable access to providers. 96296

In developing a provider selection system, the county board 96297
shall create a pool of providers for individuals to use in 96298
choosing their providers of supported living. The pool shall be 96299
created by placing in the pool all providers on record with the 96300
board or by placing in the pool all providers approved by the 96301
board through soliciting requests for proposals for supported 96302
living contracts. In either case, only providers that are 96303
certified by the director of developmental disabilities may be 96304
placed in the pool. 96305

If the board places all providers on record in the pool, the 96306

board shall review the pool at least annually to determine whether 96307
each provider has continued interest in being a provider and has 96308
maintained its certification by the department. At any time, an 96309
interested and certified provider may make a request to the board 96310
that it be added to the pool, and the board shall add the provider 96311
to the pool not later than seven days after receiving the request. 96312

If the board solicits requests for proposals for inclusion of 96313
providers in the pool, the board shall develop standards for 96314
selecting the providers to be included. Requests for proposals 96315
shall be solicited at least annually. When requests are solicited, 96316
the board shall cause legal notices to be published ~~at least~~ once 96317
each week for two consecutive weeks in a newspaper with of general 96318
circulation within the county or as provided in section 7.16 of 96319
the Revised Code. The board's formal request for proposals shall 96320
include a description of any applicable contract terms, the 96321
standards that are used to select providers for inclusion in the 96322
pool, and the process the board uses to resolve disputes arising 96323
from the selection process. The board shall accept requests from 96324
any entity interested in being a provider of supported living for 96325
individuals served by the board. Requests shall be approved or 96326
denied according to the standards developed by the board. 96327
Providers that previously have been placed in the pool are not 96328
required to resubmit a request for proposal to be included in the 96329
pool, unless the board's standards have been changed. 96330

In assisting an individual in choosing a provider, the county 96331
board shall provide the individual with uniform and consistent 96332
information pertaining to each provider in the pool. An individual 96333
may choose to receive supported living from a provider that is not 96334
included in the pool, if the provider is certified by the director 96335
of developmental disabilities. 96336

Sec. 5139.11. The department of youth services shall do all 96337

of the following: 96338

(A) Through a program of education, promotion, and organization, form groups of local citizens and assist these groups in conducting activities aimed at the prevention and control of juvenile delinquency, making use of local people and resources for the following purposes: 96339

(1) Combatting local conditions known to contribute to juvenile delinquency; 96340

(2) Developing recreational and other programs for youth work; 96341

(3) Providing adult sponsors for delinquent children cases; 96342

(4) Dealing with other related problems of the locality. 96343

(B) Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of juvenile delinquency and the treatment of delinquent children; 96344

(C) Consult with the schools and courts of this state on the development of programs for the reduction and prevention of delinquency and the treatment of delinquents; 96345

(D) Cooperate with other agencies whose services deal with the care and treatment of delinquent children to the end that delinquent children who are state wards may be assisted whenever possible to a successful adjustment outside of institutional care; 96346

(E) Cooperate with other agencies in surveying, developing, and utilizing the recreational resources of a community as a means of combatting the problem of juvenile delinquency and effectuating rehabilitation; 96347

(F) Hold district and state conferences from time to time in order to acquaint the public with current problems of juvenile 96348

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delinquency and develop a sense of civic responsibility toward the 96367
prevention of juvenile delinquency; 96368

(G) Assemble and distribute information relating to juvenile 96369
delinquency and report on studies relating to community conditions 96370
that affect the problem of juvenile delinquency; 96371

(H) Assist any community within the state by conducting a 96372
comprehensive survey of the community's available public and 96373
private resources, and recommend methods of establishing a 96374
community program for combatting juvenile delinquency and crime, 96375
but no survey of that type shall be conducted unless local 96376
individuals and groups request it through their local authorities, 96377
and no request of that type shall be interpreted as binding the 96378
community to following the recommendations made as a result of the 96379
request; 96380

(I) Evaluate the rehabilitation of children committed to the 96381
department and prepare and submit periodic reports to the 96382
committing court for the following purposes: 96383

(1) Evaluating the effectiveness of institutional treatment; 96384

(2) Making recommendations for judicial release under section 96385
2152.22 of the Revised Code if appropriate and recommending 96386
conditions for judicial release; 96387

(3) Reviewing the placement of children and recommending 96388
alternative placements where appropriate. 96389

(J) Coordinate dates for hearings to be conducted under 96390
section 2152.22 of the Revised Code and assist in the transfer and 96391
release of children from institutionalization to the custody of 96392
the committing court; 96393

(K)(1) Coordinate and assist juvenile justice systems by 96394
doing the following: 96395

(a) Performing juvenile justice system planning in the state, 96396

including any planning that is required by any federal law;	96397
(b) Collecting, analyzing, and correlating information and data concerning the juvenile justice system in the state;	96398 96399
(c) Cooperating with and providing technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, and agencies, offices, and departments of the juvenile justice system in the state, and other appropriate organizations and persons;	96400 96401 96402 96403 96404 96405
(d) Encouraging and assisting agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the department;	96406 96407 96408 96409
(e) Administering within the state any juvenile justice acts and programs that the governor requires the department to administer;	96410 96411 96412
(f) Implementing the state comprehensive plans;	96413
(g) <u>Visiting and inspecting jails, detention facilities, correctional facilities, facilities that may hold juveniles involuntarily, or any other facility that may temporarily house juveniles on a voluntary or involuntary basis for the purpose of compliance pursuant to the "Juvenile Justice and Delinquency Prevention Act of 1974," 88 Stat. 1109, as amended;</u>	96414 96415 96416 96417 96418 96419
(h) Auditing grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the department;	96420 96421 96422
(h) (i) Monitoring or evaluating the performance of juvenile justice system projects and programs in the state that are financed in whole or in part by funds granted through the department;	96423 96424 96425 96426

~~(i)~~(j) Applying for, allocating, disbursing, and accounting 96427
for grants that are made available pursuant to federal juvenile 96428
justice acts, or made available from other federal, state, or 96429
private sources, to improve the criminal and juvenile justice 96430
systems in the state. All money from federal juvenile justice act 96431
grants shall, if the terms under which the money is received 96432
require that the money be deposited into an interest bearing fund 96433
or account, be deposited in the state treasury to the credit of 96434
the federal juvenile justice program purposes fund, which is 96435
hereby created. All investment earnings shall be credited to the 96436
fund. 96437

~~(j)~~(k) Contracting with federal, state, and local agencies, 96438
foundations, corporations, businesses, and persons when necessary 96439
to carry out the duties of the department; 96440

~~(k)~~(l) Overseeing the activities of metropolitan county 96441
criminal justice services agencies, administrative planning 96442
districts, and juvenile justice coordinating councils in the 96443
state; 96444

~~(l)~~(m) Advising the general assembly and governor on 96445
legislation and other significant matters that pertain to the 96446
improvement and reform of the juvenile justice system in the 96447
state; 96448

~~(m)~~(n) Preparing and recommending legislation to the general 96449
assembly and governor for the improvement of the juvenile justice 96450
system in the state; 96451

~~(n)~~(o) Assisting, advising, and making any reports that are 96452
required by the governor, attorney general, or general assembly; 96453

~~(o)~~(p) Adopting rules pursuant to Chapter 119. of the Revised 96454
Code. 96455

(2) Division (K)(1) of this section does not limit the 96456
discretion or authority of the attorney general with respect to 96457

crime victim assistance and criminal and juvenile justice programs. 96458
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(3) Nothing in division (K)(1) of this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency. 96460
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(4) The governor may appoint any advisory committees to assist the department that the governor considers appropriate or that are required under any state or federal law. 96463
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Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section. 96466
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(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction 96471
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projects; upon an order of the juvenile court and subject to 96489
appropriation by the board of county commissioners, shall be 96490
disbursed to the juvenile court for use in accordance with the 96491
applicable provisions of division (B)(2) of this section; shall 96492
not revert to the county general fund at the end of any fiscal 96493
year; and shall carry over in the felony delinquent care and 96494
custody fund from the end of any fiscal year to the next fiscal 96495
year. The maximum balance carry-over at the end of each respective 96496
fiscal year in the felony delinquent care and custody fund in any 96497
county from funds allocated to the county pursuant to sections 96498
5139.34 and 5139.41 of the Revised Code in the previous fiscal 96499
year shall not exceed an amount to be calculated as provided in 96500
the formula set forth in this division, unless that county has 96501
applied for and been granted an exemption by the director of youth 96502
services. Beginning June 30, 2008, the maximum balance carry-over 96503
at the end of each respective fiscal year shall be determined by 96504
the following formula: for fiscal year 2008, the maximum balance 96505
carry-over shall be one hundred per cent of the allocation for 96506
fiscal year 2007, to be applied in determining the fiscal year 96507
2009 allocation; for fiscal year 2009, it shall be fifty per cent 96508
of the allocation for fiscal year 2008, to be applied in 96509
determining the fiscal year 2010 allocation; for fiscal year 2010, 96510
it shall be twenty-five per cent of the allocation for fiscal year 96511
2009, to be applied in determining the fiscal year 2011 96512
allocation; and for each fiscal year subsequent to fiscal year 96513
2010, it shall be twenty-five per cent of the allocation for the 96514
immediately preceding fiscal year, to be applied in determining 96515
the allocation for the next immediate fiscal year. The department 96516
shall withhold from future payments to a county an amount equal to 96517
any moneys in the felony delinquent care and custody fund of the 96518
county that exceed the total maximum balance carry-over that 96519
applies for that county for the fiscal year in which the payments 96520
are being made and shall reallocate the withheld amount. The 96521

department shall adopt rules for the withholding and reallocation 96522
of moneys disbursed under sections 5139.34 and 5139.41 of the 96523
Revised Code and for the criteria and process for a county to 96524
obtain an exemption from the withholding requirement. The moneys 96525
disbursed to the juvenile court pursuant to division (B) of 96526
section 5139.41 of the Revised Code and deposited pursuant to this 96527
division in the felony delinquent care and custody fund shall be 96528
in addition to, and shall not be used to reduce, any usual annual 96529
increase in county funding that the juvenile court is eligible to 96530
receive or the current level of county funding of the juvenile 96531
court and of any programs or services for delinquent children, 96532
unruly children, or juvenile traffic offenders. 96533

(2)(a) A county and the juvenile court that serves the county 96534
shall use the moneys in its felony delinquent care and custody 96535
fund in accordance with rules that the department of youth 96536
services adopts pursuant to division (D) of section 5139.04 of the 96537
Revised Code and as follows: 96538

(i) The moneys in the fund that represent state subsidy funds 96539
granted to the county pursuant to section 5139.34 of the Revised 96540
Code shall be used to aid in the support of prevention, early 96541
intervention, diversion, treatment, and rehabilitation programs 96542
that are provided for alleged or adjudicated unruly children or 96543
delinquent children or for children who are at risk of becoming 96544
unruly children or delinquent children. The county shall not use 96545
for capital improvements more than fifteen per cent of the moneys 96546
in the fund that represent the applicable annual grant of those 96547
state subsidy funds. 96548

(ii) The moneys in the fund that were disbursed to the 96549
juvenile court pursuant to division (B) of section 5139.41 of the 96550
Revised Code and deposited pursuant to division (B)(1) of this 96551
section in the fund shall be used to provide programs and services 96552
for the training, treatment, or rehabilitation of felony 96553

delinquents that are alternatives to their commitment to the 96554
department, including, but not limited to, community residential 96555
programs, day treatment centers, services within the home, and 96556
electronic monitoring, and shall be used in connection with 96557
training, treatment, rehabilitation, early intervention, or other 96558
programs or services for any delinquent child, unruly child, or 96559
juvenile traffic offender who is under the jurisdiction of the 96560
juvenile court. 96561

The fund also may be used for prevention, early intervention, 96562
diversion, treatment, and rehabilitation programs that are 96563
provided for alleged or adjudicated unruly children, delinquent 96564
children, or juvenile traffic offenders or for children who are at 96565
risk of becoming unruly children, delinquent children, or juvenile 96566
traffic offenders. Consistent with division (B)(1) of this 96567
section, a county and the juvenile court of a county shall not use 96568
any of those moneys for capital construction projects. 96569

(iii) Moneys in the fund shall not be used to support 96570
programs or services that do not comply with federal juvenile 96571
justice and delinquency prevention core requirements or to support 96572
programs or services that research has shown to be ineffective. 96573
Moneys in the fund shall be prioritized to research-supported, 96574
outcome-based programs and services. 96575

(iv) The county and the juvenile court that serves the county 96576
may use moneys in the fund to provide out-of-home placement of 96577
children only in detention centers, community rehabilitation 96578
centers, or community corrections facilities approved by the 96579
department pursuant to standards adopted by the department, 96580
licensed by an authorized state agency, or accredited by the 96581
American correctional association or another national organization 96582
recognized by the department. 96583

(b) Each juvenile court shall comply with division (B)(3)(d) 96584
of this section as implemented by the department. If a juvenile 96585

court fails to comply with division (B)(3)(d) of this section, the 96586
department shall not be required to make any disbursements in 96587
accordance with division (C) or (D) of section 5139.41 or division 96588
(C)(2) of section 5139.34 of the Revised Code. 96589

(3) In accordance with rules adopted by the department 96590
pursuant to division (D) of section 5139.04 of the Revised Code, 96591
each juvenile court and the county served by that juvenile court 96592
shall do all of the following that apply: 96593

(a) The juvenile court shall prepare an annual grant 96594
agreement and application for funding that satisfies the 96595
requirements of this section and section 5139.34 of the Revised 96596
Code and that pertains to the use, upon an order of the juvenile 96597
court and subject to appropriation by the board of county 96598
commissioners, of the moneys in its felony delinquent care and 96599
custody fund for specified programs, care, and services as 96600
described in division (B)(2)(a) of this section, shall submit that 96601
agreement and application to the county family and children first 96602
council, the regional family and children first council, or the 96603
local intersystem services to children cluster as described in 96604
sections 121.37 and 121.38 of the Revised Code, whichever is 96605
applicable, and shall file that agreement and application with the 96606
department for its approval. The annual grant agreement and 96607
application for funding shall include a method of ensuring equal 96608
access for minority youth to the programs, care, and services 96609
specified in it. 96610

The department may approve an annual grant agreement and 96611
application for funding only if the juvenile court involved has 96612
complied with the preparation, submission, and filing requirements 96613
described in division (B)(3)(a) of this section. If the juvenile 96614
court complies with those requirements and the department approves 96615
that agreement and application, the juvenile court and the county 96616
served by the juvenile court may expend the state subsidy funds 96617

granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their submission, the department shall not disburse any payment of state

subsidy funds to which the county otherwise is entitled pursuant 96650
to section 5139.34 of the Revised Code and shall not disburse 96651
pursuant to division (B) of section 5139.41 of the Revised Code 96652
the applicable allocation, and the state subsidy funds and the 96653
remainder of the applicable allocation shall revert to the 96654
department. If a juvenile court states in a monthly statistical 96655
report that the juvenile court adjudicated within a state fiscal 96656
year five hundred or more children to be delinquent children for 96657
committing acts that would be felonies if committed by adults and 96658
if the department determines that the data in the report may be 96659
inaccurate, the juvenile court shall have an independent auditor 96660
or other qualified entity certify the accuracy of the data on a 96661
date determined by the department. 96662

(d) If the department requires the juvenile court and the 96663
county to participate in a fiscal monitoring program or another 96664
monitoring program that is conducted by the department to ensure 96665
compliance by the juvenile court and the county with division (B) 96666
of this section, the juvenile court and the county shall 96667
participate in the program and fully comply with any guidelines 96668
for the performance of audits adopted by the department pursuant 96669
to that program and all requests made by the department pursuant 96670
to that program for information necessary to reconcile fiscal 96671
accounting. If an audit that is performed pursuant to a fiscal 96672
monitoring program or another monitoring program described in this 96673
division determines that the juvenile court or the county used 96674
moneys in the county's felony delinquent care and custody fund for 96675
expenses that are not authorized under division (B) of this 96676
section, within forty-five days after the department notifies the 96677
county of the unauthorized expenditures, the county either shall 96678
repay the amount of the unauthorized expenditures from the county 96679
general revenue fund to the state's general revenue fund or shall 96680
file a written appeal with the department. If an appeal is timely 96681
filed, the director of the department shall render a decision on 96682

the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision.

(C) The determination of which county a reduction of the care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who do not qualify as public safety beds. The determination of which county a reduction of the care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the allocation shall be charged against the county that recommitted the youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services for care and custody in an institution or a community corrections

facility when the juvenile court determines that the commitment is 96714
appropriate. 96715

Sec. 5310.35. The board of county commissioners shall conduct 96716
the public hearing required by section 5310.33 of the Revised Code 96717
in accordance with this section. 96718

(A)(1) The board shall prepare a notice of the hearing that 96719
includes each of the following: 96720

(a) A statement that the board is considering abolishing land 96721
registration in the county, that abolition would require the 96722
deregistration of all registered land in the county, and that 96723
after abolition all land in the county would have to be dealt with 96724
as nonregistered land; 96725

(b) A statement that the board seeks evidence with regard to 96726
the matters listed in section 5310.34 of the Revised Code; 96727

(c) The date, time, and place of the hearing, which shall be 96728
not earlier than two nor later than three months after the 96729
resolution to consider the merits of abolishing land registration 96730
was adopted by the board; 96731

(d) A statement that any person affected by the proposed 96732
abolition of land registration may appear at the hearing and 96733
present evidence as provided in division (B) of this section. 96734

(2) The board shall serve the notice by both of the following 96735
means: 96736

(a) Ordinary mail, evidenced by a certificate of mailing, 96737
addressed to each person from whom a receipt or signature card, 96738
giving residence and post-office address, has been taken by the 96739
county recorder under section 5309.30 or 5309.50 of the Revised 96740
Code, and to each person who has filed an affidavit with the 96741
county recorder under section 5309.72 of the Revised Code. The 96742
county recorder, within one month after the adoption of a 96743

resolution to consider the merits of abolishing land registration 96744
in the county, shall provide the board with the names and 96745
respective addresses of the persons who are entitled to notice 96746
under this division. 96747

If a notice is returned with an endorsement showing failure 96748
of delivery, the board is under no further obligation to directly 96749
serve the notice upon the addressee. The board shall preserve the 96750
returned notice in the records pertaining to its consideration of 96751
the merits of abolishing land registration in the county. 96752

(b) Publication twice a week for two consecutive weeks in a 96753
newspaper of general circulation in the county or as provided in 96754
section 7.16 of the Revised Code. Publication of the notice shall 96755
be completed at least one month prior to the date set for the 96756
hearing. 96757

(B) At the date, time, and place specified in the notice, the 96758
board shall conduct a hearing, which may be adjourned from day to 96759
day until complete, at which any person affected by the proposed 96760
abolition of land registration may appear in person, by ~~his~~ 96761
attorney, or both, and present evidence, orally or in writing, 96762
with regard to the costs and benefits of maintaining land 96763
registration in the county. Any person who presents evidence may 96764
also present evidence refuting any evidence offered in opposition 96765
to ~~his~~ the person's evidence. 96766

The board shall cause a stenographic record to be made of the 96767
hearing. The president of the board, or a member ~~he~~ the president 96768
designates, shall preside at the hearing. 96769

Sec. 5501.84. (A) There is hereby created the transportation 96770
public-private partnership legislative oversight committee 96771
consisting of six members as follows: 96772

(1) Three members of the senate, no more than two of whom 96773

shall be members of the same political party, one of whom shall be the chairperson of the committee dealing primarily with highway matters, one of whom shall be appointed by the president of the senate, and one of whom shall be appointed by the minority leader of the senate.

The president of the senate shall make the president of the senate's appointment to the committee first, followed by the minority leader of the senate, and they shall make their appointments in such a manner that their two appointees represent districts that are located in different areas of the state.

(2) Three members of the house of representatives, no more than two of whom shall be members of the same political party, one of whom shall be the chairperson of the house of representatives committee dealing primarily with highway matters, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the minority leader of the house of representatives.

The speaker of the house of representatives shall make the speaker of the house of representatives' appointment to the committee first, followed by the minority leader of the house of representatives, and they shall make their appointments in such a manner that their two appointees represent districts that are located in different areas of the state.

The chairperson of the house of representatives committee shall serve as the chairperson of the committee for the year 2012. Thereafter, the chair annually shall alternate between, first, the chairperson of the senate committee and then the chairperson of the house of representatives committee.

(B) Each member of the committee who is a member of the general assembly shall serve a term of the remainder of the general assembly during which the member is appointed or is

serving as chairperson of the specified senate or house committee. 96805
In the event of the death or resignation of a committee member who 96806
is a member of the general assembly, or in the event that a member 96807
ceases to be a senator or representative, or in the event that the 96808
chairperson of the senate committee dealing primarily with highway 96809
matters or the chairperson of the house of representatives 96810
committee dealing primarily with highway matters ceases to hold 96811
that position, the vacancy shall be filled through an appointment 96812
by the president of the senate or the speaker of the house of 96813
representatives or minority leader of the senate or house of 96814
representatives, as applicable. Any member appointed to fill a 96815
vacancy occurring prior to the end of the term for which the 96816
member's predecessor was appointed shall hold office for the 96817
remainder of the term or for a shorter period of time as 96818
determined by the president of the senate or the speaker of the 96819
house of representatives. A member of the committee is eligible 96820
for reappointment. 96821

(C) The committee shall meet at least quarterly and may meet 96822
at the call of its chairperson, or upon the written request to the 96823
chairperson of not fewer than four members of the committee. 96824
Meetings shall be held at sites that are determined solely by the 96825
chairperson of the committee. At each meeting, the Ohio department 96826
of transportation shall make a report to the committee on 96827
public-private partnership matters, including but not limited to 96828
financial and budgetary matters and proposed and ongoing bids, 96829
maintenance, repair, and operational projects. 96830

The committee, by the affirmative vote of at least four of 96831
its members, may submit written recommendations to the director of 96832
transportation, the president of the senate, the speaker of the 96833
house of representatives, and the minority leader of each house 96834
describing public-private partnership matters subject to further 96835
legislative review. 96836

(D) The members of the committee who are members of the general assembly shall serve without compensation, but shall be reimbursed by the department for their actual and necessary expenses incurred in the discharge of their official duties as committee members. Serving as a member of the committee does not constitute grounds for resignation from the senate or house of representatives under section 101.26 of the Revised Code.

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Sec. 5505.04. (A)(1) The general administration and management of the state highway patrol retirement system and the making effective of this chapter are hereby vested in the state highway patrol retirement board. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out this chapter.

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The board shall consist of the following members:

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(a) The superintendent of the state highway patrol;

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(b) Two retirant members who reside in this state;

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(c) Five employee-members;

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(d) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and who shall have the following qualifications:

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(i) The member is a resident of this state.

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(ii) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of

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assets. 96867

(iii) The member has direct experience in the management, 96868
analysis, supervision, or investment of assets. 96869

(iv) The member is not currently employed by the state or a 96870
political subdivision of the state. 96871

(e) Two investment expert members, who shall be appointed to 96872
four-year terms. One investment expert member shall be appointed 96873
by the governor, and one investment expert member shall be jointly 96874
appointed by the speaker of the house of representatives and the 96875
president of the senate. Each investment expert member shall have 96876
the following qualifications: 96877

(i) Each investment expert member shall be a resident of this 96878
state. 96879

(ii) Within the three years immediately preceding the 96880
appointment, each investment expert member shall not have been 96881
employed by the public employees retirement system, police and 96882
fire pension fund, state teachers retirement system, school 96883
employees retirement system, or state highway patrol retirement 96884
system or by any person, partnership, or corporation that has 96885
provided to one of those retirement systems services of a 96886
financial or investment nature, including the management, 96887
analysis, supervision, or investment of assets. 96888

(iii) Each investment expert member shall have direct 96889
experience in the management, analysis, supervision, or investment 96890
of assets. 96891

(2) The board shall annually elect a chairperson and 96892
vice-chairperson from among its members. The vice-chairperson 96893
shall act as chairperson in the absence of the chairperson. A 96894
majority of the members of the board shall constitute a quorum and 96895
any action taken shall be approved by a majority of the members of 96896
the board. The board shall meet not less than once each year, upon 96897

sufficient notice to the members. All meetings of the board shall 96898
be open to the public except executive sessions as set forth in 96899
division (G) of section 121.22 of the Revised Code, and any 96900
portions of any sessions discussing medical records or the degree 96901
of disability of a member excluded from public inspection by this 96902
section. 96903

(3) Any investment expert member appointed to fill a vacancy 96904
occurring prior to the expiration of the term for which the 96905
member's predecessor was appointed holds office until the end of 96906
such term. The member continues in office subsequent to the 96907
expiration date of the member's term until the member's successor 96908
takes office, or until a period of sixty days has elapsed, 96909
whichever occurs first. 96910

(B) The attorney general shall prescribe procedures for the 96911
adoption of rules authorized under this chapter, consistent with 96912
the provision of section 111.15 of the Revised Code under which 96913
all rules shall be filed in order to be effective. Such procedures 96914
shall establish methods by which notice of proposed rules are 96915
given to interested parties and rules adopted by the board 96916
published and otherwise made available. When it files a rule with 96917
the joint committee on agency rule review pursuant to section 96918
111.15 of the Revised Code, the board shall submit to the Ohio 96919
retirement study council a copy of the full text of the rule, and 96920
if applicable, a copy of the rule summary and fiscal analysis 96921
required by division (B) of section 127.18 of the Revised Code. 96922

(C)(1) As used in this division, "personal history record" 96923
means information maintained by the board on an individual who is 96924
a member, former member, retirant, or beneficiary that includes 96925
the address, telephone number, social security number, record of 96926
contributions, correspondence with the system, and other 96927
information the board determines to be confidential. 96928

(2) The records of the board shall be open to public 96929

inspection, except for the following which shall be excluded: the 96930
member's, former member's, retirant's, or beneficiary's personal 96931
history record and the amount of a monthly allowance or benefit 96932
paid to a retirant, beneficiary, or survivor, except with the 96933
written authorization of the individual concerned. All medical 96934
reports and recommendations are privileged except that copies of 96935
such medical reports or recommendations shall be made available to 96936
the individual's personal physician, attorney, or authorized agent 96937
upon written release received from such individual or such 96938
individual's agent, or when necessary for the proper 96939
administration of the fund to the board-assigned physician. 96940

(D) Notwithstanding the exceptions to public inspection in 96941
division (C)(2) of this section, the board may furnish the 96942
following information: 96943

(1) If a member, former member, or retirant is subject to an 96944
order issued under section 2907.15 of the Revised Code or an order 96945
issued under division (A) or (B) of section 2929.192 of the 96946
Revised Code or is convicted of or pleads guilty to a violation of 96947
section 2921.41 of the Revised Code, on written request of a 96948
prosecutor as defined in section 2935.01 of the Revised Code, the 96949
board shall furnish to the prosecutor the information requested 96950
from the individual's personal history record. 96951

(2) Pursuant to a court order issued under Chapters 3119., 96952
3121., and 3123. of the Revised Code, the board shall furnish to a 96953
court or child support enforcement agency the information required 96954
under those chapters. 96955

(3) At the written request of any nonprofit organization or 96956
association providing services to retirement system members, 96957
retirants, or beneficiaries, the board shall provide to the 96958
organization or association a list of the names and addresses of 96959
members, former members, retirants, or beneficiaries if the 96960
organization or association agrees to use such information solely 96961

in accordance with its stated purpose of providing services to 96962
such individuals and not for the benefit of other persons, 96963
organizations, or associations. The costs of compiling, copying, 96964
and mailing the list shall be paid by such entity. 96965

(4) Within fourteen days after receiving from the director of 96966
job and family services a list of the names and social security 96967
numbers of recipients of public assistance pursuant to section 96968
5101.181 of the Revised Code, the board shall inform the auditor 96969
of state of the name, current or most recent employer address, and 96970
social security number of each member whose name and social 96971
security number are the same as those of a person whose name or 96972
social security number was submitted by the director. The board 96973
and its employees, except for purposes of furnishing the auditor 96974
of state with information required by this section, shall preserve 96975
the confidentiality of recipients of public assistance in 96976
compliance with ~~division (A)~~ of section 5101.181 of the Revised 96977
Code. 96978

(5) The system shall comply with orders issued under section 96979
3105.87 of the Revised Code. 96980

On the written request of an alternate payee, as defined in 96981
section 3105.80 of the Revised Code, the system shall furnish to 96982
the alternate payee information on the amount and status of any 96983
amounts payable to the alternate payee under an order issued under 96984
section 3105.171 or 3105.65 of the Revised Code. 96985

(6) At the request of any person, the board shall make 96986
available to the person copies of all documents, including 96987
resumes, in the board's possession regarding filling a vacancy of 96988
an employee member or retirant member of the board. The person who 96989
made the request shall pay the cost of compiling, copying, and 96990
mailing the documents. The information described in this division 96991
is a public record. 96992

(E) A statement that contains information obtained from the system's records that is certified and signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 5540.03. (A) A transportation improvement district may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal;

(3) Sue and be sued in its own name, plead and be impleaded, provided any actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at its principal office with the secretary-treasurer;

(4) Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease projects;

(5) Issue either or both of the following for the purpose of providing funds to pay the costs of any project or part thereof:

(a) Transportation improvement district revenue bonds;

(b) Bonds pursuant to Section 13 of Article VIII, Ohio Constitution;

(6) Maintain such funds as it considers necessary;

(7) Direct its agents or employees, when properly identified in writing and after at least five days' written notice, to enter upon lands within its jurisdiction to make surveys and

examinations preliminary to the location and construction of 97022
projects for the district, without liability of the district or 97023
its agents or employees except for actual damage done; 97024

(8) Make and enter into all contracts and agreements 97025
necessary or incidental to the performance of its functions and 97026
the execution of its powers under this chapter; 97027

(9) Employ or retain or contract for the services of 97028
consulting engineers, superintendents, managers, and such other 97029
engineers, construction and accounting experts, financial 97030
advisers, trustees, marketing, remarketing, and administrative 97031
agents, attorneys, and other employees, independent contractors, 97032
or agents as are necessary in its judgment and fix their 97033
compensation, provided all such expenses shall be payable solely 97034
from the proceeds of bonds or from revenues; 97035

(10) Receive and accept from the federal or any state or 97036
local government, including, but not limited to, any agency, 97037
entity, or instrumentality of any of the foregoing, loans and 97038
grants for or in aid of the construction, maintenance, or repair 97039
of any project, and receive and accept aid or contributions from 97040
any source or person of money, property, labor, or other things of 97041
value, to be held, used, and applied only for the purposes for 97042
which such loans, grants, and contributions are made. Nothing in 97043
division (A)(10) of this section shall be construed as imposing 97044
any liability on this state for any loan received by a 97045
transportation improvement district from a third party unless this 97046
state has entered into an agreement to accept such liability. 97047

(11) Acquire, hold, and dispose of property in the exercise 97048
of its powers and the performance of its duties under this 97049
chapter; 97050

(12) Establish and collect tolls or user charges for its 97051
projects; 97052

(13) Do all acts necessary and proper to carry out the powers 97053
expressly granted in this chapter. 97054

(B) Chapters 123., 124., 125., 153., and 4115., and sections 97055
9.331, ~~9.332~~, ~~9.333~~, to 9.335 and 307.86 of the Revised Code do 97056
not apply to contracts or projects of a transportation improvement 97057
district. 97058

Sec. 5540.031. (A) The board of trustees of a transportation 97059
improvement district may provide for the construction, 97060
reconstruction, improvement, alteration, or repair of any road, 97061
highway, public place, building, or other infrastructure and levy 97062
special assessments, if the board determines that the public 97063
improvement will benefit the area where it will be constructed, 97064
reconstructed, improved, altered, or repaired. However, if the 97065
improvement is proposed for territory in a political subdivision 97066
located outside the district's territory, the legislative 97067
authority of that political subdivision shall approve the 97068
undertaking of the improvement within the political subdivision. 97069

(B) If any improvements are made under this section, 97070
contracts for the improvement may provide that the improvement may 97071
be owned by the district or by the person or corporation supplying 97072
it to the district under a lease. 97073

(C) If the board of trustees of a district proposes an 97074
improvement described in division (A) of this section, the board 97075
shall conduct a hearing on the proposed improvement. The board 97076
shall indicate by metes and bounds the area in which the public 97077
improvement will be made and the area that will benefit from the 97078
improvement. 97079

(D) The board of trustees shall fix a day for a hearing on 97080
the proposed improvement. The secretary-treasurer of the board 97081
shall deliver, to each owner of a parcel of land or a lot that the 97082
board identifies as benefiting from the proposed improvement, a 97083

notice that sets forth the substance of the proposed improvement 97084
and the time and place of the hearing on it. At least fifteen days 97085
before the date set for the hearing, a copy of the notice shall be 97086
served upon the owner or left at ~~his~~ the owner's usual place of 97087
residence, or, if the owner is a corporation, upon an officer or 97088
agent of the corporation. On or before the day of the hearing, the 97089
person serving notice of the hearing shall make return thereon, 97090
under oath, of the time and manner of service, and shall file the 97091
notice with the secretary-treasurer of the board. 97092

At least fifteen days before the day set for the hearing on 97093
the proposed improvement, the secretary-treasurer shall give 97094
notice to each nonresident owner of a lot or parcel of land in the 97095
area to be benefited by the improvement, by publication once in a 97096
newspaper ~~published and~~ of general circulation in the one or more 97097
counties in which this area is located. The publication of the 97098
notice shall be verified by affidavit of the printer or other 97099
person having knowledge of the publication and shall be filed with 97100
the secretary-treasurer of the district on or before the date of 97101
the hearing. 97102

(E) At the time and place specified in the notice for a 97103
hearing on the proposed improvement, the board of trustees of the 97104
district shall meet and hear any and all testimony provided by any 97105
of the parties affected by the proposed improvement and by any 97106
other persons competent to testify. The board or its 97107
representatives shall inspect, by an actual viewing, the area to 97108
be benefited by the proposed improvement. The board shall 97109
determine the necessity of the proposed improvement and may find 97110
that the proposed improvement will result in general as well as 97111
special benefits. The board may adjourn from time to time and to 97112
such places as it considers necessary. 97113

(F)(1) The board may award contracts or enter into a lease 97114
agreement for the construction, reconstruction, improvement, 97115

alteration, or repair of any improvement described in division (A) 97116
of this section and may issue notes, bonds, revenue anticipatory 97117
instruments, or other obligations, as authorized by this chapter, 97118
to finance the improvements. 97119

(2) All or a part of the costs and expenses of providing for 97120
the construction, reconstruction, improvement, alteration, or 97121
repair of any improvement described in division (F)(1) of this 97122
section may be paid from a fund into which may be paid special 97123
assessments levied under this section against the lots and parcels 97124
of land in the area to be benefited by the improvement, if the 97125
board finds that the improvement will result in general or special 97126
benefits to the benefited area. These special assessments shall be 97127
levied not more than one time on the same lot or parcel of land. 97128
Such costs and expenses may also be paid from the treasury of the 97129
district or from other available sources in amounts the board 97130
finds appropriate. 97131

(3) The board shall levy special assessments at an amount not 97132
to exceed ten per cent of the assessable value of the lot or 97133
parcel of land being assessed. The board shall determine the 97134
assessable value of a lot or parcel of land in the following 97135
manner: the board shall first determine the fair market value of 97136
the lot or parcel being assessed in the calendar year in which the 97137
area to be benefited by the public improvement is first designated 97138
and then multiply this amount by the average rate of appreciation 97139
in value of the lot or parcel since that calendar year. The 97140
assessable value of the lot or parcel is the current fair market 97141
value of the lot or parcel minus the amount calculated in the 97142
manner described in the immediately preceding sentence. The board 97143
may adjust the assessable value of a lot or parcel of land to 97144
reflect a sale of the lot or parcel that indicates an appreciation 97145
in its value that exceeds its average rate of appreciation in 97146
value. 97147

(4) Special assessments levied by the board may be paid in full in a lump sum or may be paid and collected in equal semiannual installments, equal in number to twice the number of years for which the lease of the improvement is made or twice the number of years that the note, bond, instrument, or obligation that the assessments are pledged to pay requires. The assessments shall be paid and collected in the same manner and at the same time as real property taxes are paid and collected, and assessments in the amount of fifty dollars or less shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable. Complaints regarding assessments may be made to the county board of revision in the same manner as complaints relating to the valuation and assessment of real property.

Credits against assessments shall be granted equal to the value of any construction, reconstruction, improvement, alteration, or repair that an owner of a parcel of land or lot makes to an improvement pursuant to an agreement between the owner and the district.

(5) After the levy of a special assessment, the board, at any time during any year in which an installment of the assessment becomes due, may pay out of other available funds of the district, including any state or federal funds available to the district, the full amount of the price of the contract that the special assessments are pledged to pay for that year or any other portion of the remaining obligation. The board shall be the sole determiner of the definition, extent, and allocation of the benefit resulting from an improvement that the board authorizes under this section.

(G)(1) The board shall certify to the appropriate county auditor the boundaries of the area that is benefited by any public improvement the board authorizes under this section and, when the

board so requests, the auditor shall apportion the valuation of 97180
any lot or parcel of land lying partly within and partly outside 97181
the area so benefited. 97182

(2) The board by resolution shall assess against the lots and 97183
parcels of land located in the area that is benefited by a public 97184
improvement such portion of the costs of completing the public 97185
improvement as the board determines, for the period that may be 97186
necessary to pay the note, bond, instrument, or obligation issued 97187
to pay for the improvement and the proceedings in relation to it, 97188
and shall certify these costs to the appropriate county auditor. 97189

(3) Except for assessments that have been paid in full in a 97190
lump sum, the county auditor shall annually place upon the tax 97191
duplicate, for collection in semiannual installments, the two 97192
installments of the assessment for that year, which shall be paid 97193
and collected at the same time and in the same manner as real 97194
property taxes. The collected assessments shall be paid to the 97195
treasury of the district and the board of the district shall use 97196
the assessments for any purpose authorized by this chapter. 97197

Sec. 5540.05. The board of trustees of a district may acquire 97198
real property in fee simple in the name of the district in 97199
connection with, but in excess of that needed for, a project by 97200
any method other than appropriation and hold the property for such 97201
period of time as the board determines. All right, title, and 97202
interest of the district in the property may be sold at public 97203
auction or otherwise, as the board considers in the best interests 97204
of the district; but in no event shall the property be sold for 97205
less than two-thirds of its appraised value. Sale at public 97206
auction shall be undertaken only after the board advertises the 97207
sale in a newspaper of general circulation in the district for ~~at~~ 97208
~~least~~ two weeks or as provided in section 7.16 of the Revised 97209
Code, prior to the date set for the sale. 97210

Sec. 5543.10. (A) The county engineer, upon the order of the board of county commissioners or board of township trustees, shall construct sidewalks, curbs, or gutters of suitable materials, along or connecting the public highways, outside any municipal corporation, upon the petition of a majority of the abutting property owners. The expense of the construction of these improvements may be paid by the county or township, or by the county or township and abutting property owners in such proportion as determined by the board of county commissioners or board of township trustees. The board of county commissioners or board of township trustees may assess part or all of the cost of these improvements against the abutting property owners, in proportion to benefits accruing to their property.

The board of county commissioners or board of township trustees, by unanimous vote, may order the construction, repair, or maintenance of sidewalks, curbs, and gutters along or connecting the public highways, outside a municipal corporation, without a petition for that construction, repair, or maintenance, and may assess none, all, or any part of the cost against abutting property owners, provided that notice is given by publication for three successive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code, stating the intention of the board of county commissioners or board of township trustees to construct, repair, or maintain the specified improvements and fixing a date for a hearing on them. As part of a sidewalk improvement, the board may include the repair or reconstruction of a driveway within the sidewalk easement. As part of a curb improvement, the board may include construction or repair of a driveway apron.

Notice to all abutting property owners shall be given by two publications in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, at least ten

days prior to the date fixed in the notice for the making of 97243
assessments. The notice shall state the time and place when 97244
abutting property owners will be given an opportunity to be heard 97245
with reference to assessments. The board of county commissioners 97246
or board of township trustees shall determine whether assessments 97247
shall be paid in one or more installments. 97248

(B) The county engineer may trim or remove any and all trees, 97249
shrubs, and other vegetation growing in or encroaching onto the 97250
right-of-way of the easement of a public sidewalk along or 97251
connecting the public highways and maintained by the county, and 97252
the board of township trustees may trim or remove any and all 97253
trees, shrubs, and other vegetation growing in or encroaching onto 97254
the right-of-way of the easement of a public sidewalk along or 97255
connecting the public highways and maintained by the township, as 97256
is necessary in the engineer's or board's judgment to facilitate 97257
the right of the public to improvement and maintenance of, and 97258
uninterrupted travel on, public sidewalks in the county or 97259
township. 97260

Sec. 5552.06. (A) A board of county commissioners or a board 97261
of township trustees may adopt access management regulations or 97262
any amendments to those regulations after holding at least two 97263
public hearings at regular or special sessions of the board. The 97264
board shall consider the county engineer's proposed regulations 97265
prepared under division (B) of section 5552.04 or 5552.05 of the 97266
Revised Code and all comments on those regulations. The board, in 97267
its discretion, may, but need not, adopt any or all of those 97268
proposed regulations. After the public hearings, the board may 97269
decide not to adopt any access management regulations. 97270

The board shall publish notice of the public hearings in a 97271
newspaper of general circulation in the county or township, as 97272
applicable, once a week for ~~at least~~ two weeks or as provided in 97273

section 7.16 of the Revised Code, immediately preceding the 97274
hearings. The notice shall include the time, date, and place of 97275
each hearing. Copies of any proposed regulations or amendments 97276
shall be made available to the public at the board's office and, 97277
if the county engineer administers or is proposed to administer a 97278
point of access permit, in the engineer's office. 97279

(B) In addition to the notice required by division (A) of 97280
this section, not less than thirty days before holding a public 97281
hearing, a board of county commissioners shall send a copy of the 97282
county engineer's proposed regulations, a copy of the advisory 97283
committee's recommendations, and a request for written comments to 97284
the board of township trustees of each township in the county, the 97285
department of transportation district deputy director for the 97286
district in which the county is located, a representative of the 97287
metropolitan planning organization, where applicable, and at least 97288
the local professional associations representing the following 97289
professions: 97290

- (1) Homebuilders; 97291
- (2) Realtors; 97292
- (3) Professional surveyors; 97293
- (4) Attorneys; 97294
- (5) Professional engineers. 97295

(C) In addition to the notice required by division (A) of 97296
this section, a board of township trustees shall send a copy of 97297
the county engineer's proposed regulations, a copy of the advisory 97298
committee's recommendations, and a request for written comments, 97299
not less than thirty days before holding a public hearing, to the 97300
department of transportation district deputy director for the 97301
district in which the township is located, a representative of the 97302
metropolitan planning organization, where applicable, and at least 97303
the local professional associations representing the professions 97304

listed in division (B) of this section. 97305

Sec. 5553.05. (A) In the resolution required by section 97306
5553.04 of the Revised Code, the board of county commissioners 97307
shall fix a date when it will view the proposed improvement, and 97308
also a date for a final hearing thereon. 97309

The board shall give notice of the time and place for both 97310
such view and hearing by publication once a week for two 97311
consecutive weeks in a newspaper ~~published and having~~ of general 97312
circulation in the county where such improvement is located, ~~but~~ 97313
~~if there is no such newspaper published in said county, then in a~~ 97314
~~newspaper having general circulation in said county~~ or as provided 97315
in section 7.16 of the Revised Code. Such notice, in addition to 97316
the date and place of such view and place and time of the final 97317
hearing, shall state briefly the character of such improvement. 97318

(B) If the board adopts a resolution to vacate a public road 97319
as provided in section 5553.04 of the Revised Code, or if a 97320
petition to vacate a public road is filed, the board shall, in 97321
addition to the notice of the time and place for hearing 97322
prescribed in division (A) of this section, send written notice of 97323
the hearing by first class mail at least twenty days before the 97324
date of the public hearing to owners of property abutting upon 97325
that portion of the road to be vacated, and to the director of 97326
natural resources. Such notice shall be mailed to the addresses of 97327
such owners appearing on the county auditor's current tax list or 97328
the treasurer's mailing list, and such other list or lists that 97329
may be specified by the board. The failure of the delivery of such 97330
notice does not invalidate any such vacating of the road 97331
authorized in the resolution. 97332

Sec. 5553.19. The county engineer shall view and survey the 97333
road as provided in section 5553.18 of the Revised Code, and shall 97334

make a return of the survey and plat of the road to the board of 97335
county commissioners. Upon the filing of the report of the 97336
engineer, the board shall give notice of the filing of such report 97337
by publication as provided in section 7.16 of the Revised Code or 97338
once each week for three consecutive weeks in a newspaper 97339
~~published and having~~ of general circulation in the county in which 97340
such road is situated, ~~but if there is no such newspaper published~~ 97341
~~in said county, then in a newspaper having general circulation in~~ 97342
~~said county.~~ Such notice shall state the date and time of the 97343
hearing upon the report of the engineer. If exceptions or 97344
objections are made, the board shall hear them, and it may approve 97345
or reject said report. If the report of the engineer is approved, 97346
the board shall cause such report to be recorded together with the 97347
survey and plat of such road. 97348

Sec. 5553.23. If a person through whose land a public road 97349
has been established, which is under the jurisdiction of the board 97350
of county commissioners, desires to turn or change or relocate 97351
such road or any part thereof through any part of ~~his~~ the person's 97352
land, ~~he~~ the person may file a petition with the board of county 97353
commissioners setting forth briefly the particular change ~~he~~ 97354
~~desires~~ desired. Upon the receipt of such petition, the board 97355
shall give notice by publication once not later than two weeks 97356
prior to the date for the hearing on such petition in ~~some a~~ 97357
newspaper ~~published and~~ of general circulation in said county, ~~but~~ 97358
~~if there is no such newspaper published in said county, then in a~~ 97359
~~newspaper having general circulation in said county,~~ stating that 97360
such petition has been filed and setting forth the change desired 97361
in such road and the date and place for the hearing on said 97362
petition. If a public road was once established for public 97363
convenience through private lands, but has not been improved by 97364
public funds and for more than twenty-one years has not been used, 97365
the owner of such land may petition the board to vacate the road 97366

in accordance with proceedings under sections 5553.04 to 5553.11 97367
of the Revised Code. 97368

A person through whose land a trail right of way has been 97369
preserved under section 5553.044 of the Revised Code may file a 97370
petition to turn or change the route of the trail right of way in 97371
the manner provided in this section, and such petition shall be 97372
acted upon in the manner set forth in sections 5553.23 to 5553.31 97373
of the Revised Code. Notice of the hearing in such case shall also 97374
be made by first class mail to the director of natural resources. 97375
If the board turns or changes the route of the trail right of way, 97376
it shall furnish the director with a full and accurate description 97377
or map of the change. 97378

Sec. 5553.42. The board of county commissioners shall give 97379
notice to the owners of lands through which the proposed road will 97380
pass of the filing of the petition provided for in section 5553.41 97381
of the Revised Code and the date and place of the hearing thereon. 97382
Such notice shall be served on such owners personally, or by 97383
leaving a copy of such notice at the usual place of residence of 97384
such owners at least five days before the date of the hearing on 97385
said petition. Proof of service of such notice shall be made by 97386
affidavit of the person serving such notice. If any of such owners 97387
are nonresidents of the county, the board shall give notice to 97388
such nonresidents by publication once each week for two 97389
consecutive weeks in a newspaper ~~published and having~~ of general 97390
circulation ~~within in~~ in the county, ~~but if there is no such~~ 97391
~~newspaper published in said county, then in a newspaper having~~ 97392
~~general circulation in said county~~ or as provided in section 7.16 97393
of the Revised Code. A copy of the newspaper containing such 97394
notice shall be mailed by the county auditor to each nonresident 97395
whose post-office address is known to such auditor. Such notice 97396
shall state the time and place of the hearing on claims for 97397
compensation and damages. 97398

Sec. 5555.07. The county engineer shall prepare and file with 97399
the board of county commissioners, by the time fixed therefor by 97400
the board, copies of the surveys, plans, profiles, cross sections, 97401
estimates of costs, and specifications for the improvement and 97402
estimated assessments upon lands benefited thereby. Thereupon such 97403
board shall file such copies in its office for the inspection and 97404
examination of all persons interested. Except in a case involving 97405
the improvement of a public road in which no land or property is 97406
taken or assessed, the board shall publish in a newspaper 97407
~~published and~~ of general circulation in the county, ~~or if no~~ 97408
~~newspaper is published in the county then in a newspaper having~~ 97409
~~general circulation in the county,~~ for the period of two weeks or 97410
as provided in section 7.16 of the Revised Code, notice that a 97411
resolution has been adopted providing for said improvement, and 97412
that copies of the surveys, plans, profiles, cross sections, 97413
estimates, and specifications, together with estimated assessments 97414
upon the lands benefited by such improvement for the proportion of 97415
the cost thereof to be assessed therefor, are on file in the 97416
office of the board for the inspection of persons interested 97417
therein. Such notice shall state the time and place for hearing 97418
objections to said improvement and to such estimated assessments. 97419
In a case involving the improvement of a public road in which no 97420
land or property is taken or assessed, the board shall publish the 97421
notice required by this section once a week for two consecutive 97422
weeks or as provided in section 7.16 of the Revised Code. 97423

97424
At such hearing the board may order said surveys, plans, 97425
profiles, cross sections, estimates, and specifications to be 97426
changed or modified and shall make such adjustments of the 97427
estimated assessments as seem just to it. Thereupon the board may 97428
approve such surveys, plans, profiles, cross sections, 97429
specifications, and estimates and approve and confirm estimated 97430

assessments as made by the engineer or as modified and changed by 97431
the board. Such assessments when so approved and confirmed shall 97432
be certified to the county auditor of the county and shall 97433
thereupon become a lien upon the land charged therewith. The board 97434
may declare against said improvement. 97435

Sec. 5555.27. As soon as the county engineer has transmitted 97436
to the several boards of county commissioners copies of ~~his~~ the 97437
engineer's surveys, plans, profiles, cross sections, estimates, 97438
and specifications for the improvement, the joint board of county 97439
commissioners shall, except in cases of reconstruction or repair 97440
of roads where no lands or property are taken, fix a time and 97441
place for hearing objections to said improvement. The joint board 97442
shall thereupon, except in cases of reconstruction or repair of 97443
roads where no lands or property are taken, publish in a newspaper 97444
~~published and~~ of general circulation within each interested 97445
county, ~~or if there is no such newspaper published in such county~~ 97446
~~then in a newspaper having general circulation in such county,~~ 97447
once a week for two consecutive weeks or as provided in section 97448
7.16 of the Revised Code, a notice that such improvement is to be 97449
made and that copies of the surveys, plans, profiles, cross 97450
sections, estimates, and specifications therefor are on file in 97451
the office of the board of each interested county for the 97452
inspection and examination of all persons interested therein. Such 97453
notice shall also state the time and place for hearing objections 97454
to said improvement. Proceedings for the appropriation of land 97455
needed for such improvement shall be maintained in accordance with 97456
sections 163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 97457

Sec. 5555.42. A board of county commissioners desiring to 97458
construct a county road improvement, and finding that no equitable 97459
method of apportioning the compensation, damages, and expenses 97460
thereof is provided by section 5555.41 of the Revised Code, or 97461

finding that an equitable assessment cannot be made by the use of 97462
any of the several assessment areas authorized by said section, 97463
may order the county engineer to make a tentative plan for such 97464
improvement and an approximate estimate of the cost. Such board 97465
may thereupon file an application in the court of common pleas 97466
describing the improvement in question, and a copy of the 97467
tentative plan and approximate estimate of cost shall be attached 97468
to such application. The board shall set forth in such application 97469
that the compensation, damages, and expenses of the improvement 97470
cannot be equitably apportioned under any of the several plans 97471
provided by said section or that such compensation, damages, and 97472
expenses cannot be equitably assessed by the use of any one of the 97473
several assessment areas authorized by said section, or that both 97474
such conditions exist, and it shall set forth a method of 97475
apportioning the compensation, damages, and expenses and a 97476
definite description of the area against which it desires to 97477
assess any part of such compensation, damages, and expenses. The 97478
application shall contain a prayer requesting authority from such 97479
court to construct the improvement and apportion the compensation, 97480
damages, and expenses according to the plan suggested by such 97481
board and to assess the designated portion of the cost against the 97482
real estate within the area described in the petition. 97483

Notice of the filing and pendency of such application shall 97484
be given once a week for four consecutive weeks by publication in 97485
~~two newspapers published and of general circulation in the county,~~ 97486
~~or if there are no such newspapers then in two newspapers a~~ 97487
newspaper of general circulation in such county or as provided in 97488
section 7.16 of the Revised Code. Such notice shall describe the 97489
route and termini of the improvement and set forth the estimated 97490
cost and the proposed method of apportionment and assessment area. 97491
After such notice has been given, the court or a judge thereof 97492
shall fix a time for a hearing on such application, and, at the 97493
time fixed, the court or a judge thereof shall hear such 97494

application and all evidence offered by the board or any taxpayer 97495
of the county for or against the proposed plan of apportionment 97496
and for or against the use of the suggested assessment area. If 97497
the court finds that the suggested plan of apportionment and the 97498
area against which special assessments are to be made are fair and 97499
just, that the cost of the improvement will not be excessive in 97500
view of the benefits conferred, and that all the real estate 97501
within the suggested assessment area will be benefited by the 97502
construction of the improvement upon the plan suggested and by the 97503
use of the method of apportionment set forth in said application, 97504
such court may authorize the board to proceed upon the suggested 97505
plan and to apportion the compensation, damages, and expenses in 97506
the manner set forth in the application and to assess against the 97507
real estate within the assessment area designated in the 97508
application, according to the benefits, that portion of the cost 97509
to be specially assessed; otherwise the court shall dismiss the 97510
application and the board may not proceed with the improvement. 97511
The court may modify the suggested plan of apportionment or the 97512
suggested assessment area and grant the prayer of the application 97513
subject to such modifications as it determines are just and 97514
proper. The board in its application may set up any division of 97515
cost which it thinks proper among the county, the owners of lands 97516
to be specially assessed, and any municipal corporation within 97517
which such projected improvement is situated in whole or in part, 97518
but no portion of the cost may be apportioned to a municipal 97519
corporation without the consent of such municipal corporation 97520
evidenced by an ordinance or resolution of its legislative 97521
authority. 97522

When the prayer of any such application is granted by the 97523
court or a judge thereof and the plan of apportionment and area of 97524
assessment is approved by such court, either as set forth in the 97525
application or as modified by the court, the board may proceed 97526
with the construction of the improvement and use the method of 97527

apportionment and the assessment area authorized by the court. In 97528
such event, the board may levy taxes and issue bonds in the manner 97529
provided by law with respect to improvements, the compensation, 97530
damages, and expenses of which are apportioned and paid as 97531
provided in section 5555.41 of the Revised Code, and all 97532
proceedings in connection with such improvement shall be conducted 97533
in accordance with sections 5555.01 to 5555.83 of the Revised 97534
Code, except as provided in this section. The special assessments 97535
shall be made by the board against the real estate within the 97536
assessment area authorized by the court, but no assessment against 97537
any lot or parcel of real estate shall exceed the actual benefits 97538
conferred thereon by the construction of the improvement. This 97539
section also applies to improvements of sections of a state 97540
highway within counties having a tax duplicate of real and 97541
personal property in excess of three hundred million dollars, and 97542
with respect to which the board desires to co-operate with the 97543
department of transportation. 97544

Sec. 5559.06. Upon the completion of the surveys, plans, 97545
profiles, cross sections, estimates, and specifications for an 97546
improvement under section 5559.02 of the Revised Code by the 97547
county engineer, ~~he~~ the engineer shall transmit to the board of 97548
county commissioners copies of such surveys, plans, profiles, 97549
cross sections, estimates, and specifications. The board shall 97550
then publish, in a newspaper ~~published and~~ of general circulation 97551
within the county, ~~and if there is no such newspaper published in~~ 97552
~~the county then in one having general circulation in such county,~~ 97553
once a week for two consecutive weeks or as provided in section 97554
7.16 of the Revised Code, a notice that such improvement is to be 97555
made and that copies of the surveys, plans, profiles, cross 97556
sections, estimates, and specifications for it are on file in the 97557
office of the board for the inspection and examination of all 97558
persons interested. Such notice shall also state the time and 97559

place for hearing objections to the improvement. 97560

In the event that land or property is to be taken for such 97561
improvement, such taking shall be in accordance with sections 97562
163.01 to 163.22, ~~inclusive~~, of the Revised Code. 97563

Sec. 5559.10. As soon as all questions of compensation and 97564
damages have been determined in a road improvement case, the 97565
county engineer shall make, upon actual view, an estimated 97566
assessment upon the real estate to be charged therewith, of the 97567
compensation, damages, and costs of an improvement as provided by 97568
section 5559.02 of the Revised Code. Such estimated assessment 97569
shall be according to the benefit which will result to the real 97570
estate. In making such assessment the engineer may take into 97571
consideration any previous special assessments made upon the real 97572
estate for road improvements. The schedule of such assessments 97573
shall be filed in the office of the board of county commissioners 97574
for the inspection of the persons interested. Before adopting the 97575
assessment, the board shall publish, once each week for two 97576
consecutive weeks, in ~~some a newspaper published and~~ of general 97577
circulation in the county or as provided in section 7.16 of the 97578
Revised Code, ~~but if there is no such newspaper then in one having~~ 97579
~~general circulation in the county~~, notice that such assessment has 97580
been made, is on file in the office of the board, and the date 97581
when objections will be heard to such assessment. If any owner of 97582
property affected thereby desires, ~~he~~ the owner may file ~~his~~ 97583
objections to said assessments, in writing, with the board before 97584
the time for hearing. If any objections are filed the board shall 97585
hear them and act as an equalizing board. It may change such 97586
assessments if, in its opinion, any change is necessary to make 97587
them just and equitable, and the board shall approve and confirm 97588
such assessments as reported by the engineer or modified by it. 97589
Such assessments, when so approved and confirmed, shall be a lien 97590
on the land chargeable therewith. 97591

Sec. 5559.12. After the board of county commissioners has 97592
decided to proceed with an improvement as provided by section 97593
5559.02 of the Revised Code, it shall advertise for bids once, not 97594
later than two weeks prior to the date fixed for the letting of 97595
the contract, in a newspaper ~~published and~~ of general circulation 97596
in the county, ~~but if there is no such newspaper then in one~~ 97597
~~having general circulation in such county.~~ Such notice shall state 97598
that copies of the surveys, plans, profiles, cross sections, 97599
estimates, and specifications for such improvement are on file in 97600
the office of the board, and the time within which bids will be 97601
received. The board shall award the contract to the lowest 97602
responsible bidder. 97603

The contract shall be let upon the basis of lump sum bids, 97604
unless the board orders that it be let upon the basis of unit 97605
price bids, in which event it shall be let upon such basis. The 97606
bids received shall be opened at the time stated in the notice. 97607
The board may reject all bids. 97608

Sec. 5561.04. The board of county commissioners, desiring to 97609
proceed under sections 4957.06 and 5561.01 to 5561.15 of the 97610
Revised Code, shall, after receipt of the certificate of necessity 97611
and expediency from the director of transportation, as provided in 97612
section 5561.03 of the Revised Code, hold a public hearing as to 97613
the expediency of constructing such improvement, notice of which 97614
shall be given by publication in ~~two newspapers published and a~~ 97615
newspaper of general circulation in the county, ~~if such there be,~~ 97616
~~otherwise in two newspapers of general circulation in such county,~~ 97617
for two weeks prior to the date set for such hearing or as 97618
provided in section 7.16 of the Revised Code, and shall be served 97619
upon the railroad or interurban railway companies in the manner 97620
for the service of summons in civil actions, not less than twenty 97621
days prior to the date of such hearing. 97622

The board, after such hearing and for the purpose of making 97623
or causing such an improvement to be made, may, by resolution 97624
adopted by unanimous vote, require the railroad company, in 97625
co-operation with the county engineer or any engineer designated 97626
by the board, to prepare and submit to the board within six 97627
months, unless longer time is mutually agreed upon in writing, 97628
plans and specifications for such improvements, specifying the 97629
number, character, and location of all piers and supports which 97630
are to be permanently placed in any road or highway, specifying 97631
the grades to be established for the roads and the height, 97632
character, and estimated cost of any viaduct or way above or below 97633
any railroad track, and the change of grade required to be made of 97634
such tracks including side tracks and switches. But in changing 97635
the grade of any railroad, no grade shall be required in excess of 97636
that adopted by the railroad company for its construction work on 97637
that division or part of the railroad on which the improvement is 97638
to be made, without the consent of the railroad company, nor shall 97639
the railroad company's tracks be required to be placed below 97640
high-water mark. 97641

Such resolution shall be published in the same manner as 97642
resolutions of the legislative authority of a municipal 97643
corporation declaring the necessity of a contemplated public 97644
improvement, and shall be served by the sheriff upon the railroad 97645
or interurban railway companies in the manner provided for the 97646
service of summons in civil actions. If the proposed public 97647
improvement is to be made within a municipal corporation, notice 97648
of the passage of the same shall be served upon the municipal 97649
corporation by delivering to the clerk of the village or 97650
legislative authority of a city a true copy thereof. 97651

If, at the expiration of six months from the passage of such 97652
resolution, the railroad company has refused or failed to 97653
co-operate in the preparation of such plans and specifications, or 97654

if the county engineer or engineer designated by the board and the 97655
railroad company fail to agree upon the plans and specification of 97656
such improvement, then either the railroad company or the county 97657
may submit the matter of determining the method by which the 97658
improvement shall be made to the court of common pleas of such 97659
county. Either the county or company, after the expiration of six 97660
months from the passage of the resolution, may apply to such court 97661
by petition, accompanied by the necessary plans prepared by the 97662
county or railroad company, covering the grade crossing proposed 97663
to be abolished. Such plans must show the grades to be established 97664
for such roads or highways, the changes to be made in the location 97665
of roads or highways, the height, character, and estimated cost of 97666
any viaduct or way above or below the railroad tracks, the number, 97667
character, and location of piers, abutments, or supports to be 97668
permanently located in the roads or highways, and the change of 97669
grade to be made in any railroad tracks, including sidetracks and 97670
switches. 97671

Sec. 5561.08. Notice of the passage of a resolution for a 97672
grade crossing improvement shall be served by the sheriff of the 97673
county, upon the owner of each piece of property which will be 97674
affected by any change of grade, in the manner provided for the 97675
service of summons in civil actions. If any of such owners are 97676
nonresidents of the county, or if it appears from the return that 97677
they cannot be found, the notice shall be published for at least 97678
two weeks in ~~an English language~~ a newspaper published of general 97679
circulation in such the county or as provided in section 7.16 of 97680
the Revised Code. Notice shall be completed at least twenty days 97681
before any work is done on such improvement, and the sheriff's 97682
return shall be prima-facie evidence of the facts recited therein. 97683

Section 727.18 of the Revised Code shall apply to the notice 97684
provided for in this section, and to all claims for damages by 97685
reason of such improvement. Such claims shall be filed with the 97686

county auditor within the time, and rights thereunder shall pass 97687
to vendees, as provided in such section. After the expiration of 97688
the time provided for the filing of claims, the board of county 97689
commissioners, when claims have been filed within the time 97690
limited, shall determine, by resolution, whether such claims are 97691
to be judicially inquired into before commencing or after the 97692
completion of the proposed improvement. Thereupon, the county 97693
prosecutor shall make application for a jury, to the court of 97694
common pleas, or probate court of the county, before commencing or 97695
after the completion of the improvement, as the board determines, 97696
and all proceedings upon such application shall be governed by the 97697
laws relating to similar applications provided for in cases of 97698
city improvements. 97699

Sec. 5571.011. If a person through whose land a public road 97700
has been established which is under the jurisdiction of a board of 97701
township trustees, desires to turn or change or relocate such road 97702
or any part thereof through any part of ~~his~~ the person's land, ~~he~~ 97703
the person may file a petition with such board of township 97704
trustees setting forth briefly the particular change ~~he desires~~ 97705
desired. Upon receipt of such petition, the board of township 97706
trustees shall give notice by publication once, not later than two 97707
weeks prior to the date which such board shall fix for a hearing 97708
on such petition, in a newspaper ~~published or~~ of general 97709
circulation in said township, stating that such petition has been 97710
filed and setting forth the change desired in such road and the 97711
date and place of such hearing. 97712

Upon receipt of such a petition the board of township 97713
trustees shall cause a competent engineer to make a survey of the 97714
ground over which the road is proposed to be changed, and to make 97715
a report in writing, together with a plat and survey of the 97716
proposed change and ~~his~~ the engineer's opinion as to its advantage 97717
or disadvantage. The report of such engineer shall be filed with 97718

the board prior to the hearing of such petition. 97719

At the hearing had on the petition the board of township trustees may hear evidence for or against changing the road, and if the board is satisfied that the proposed change will not cause serious injury or disadvantage to the public, it may make a finding of such fact in its journal and authorize the petitioner to change such road in conformity with the prayer of the petition. The board may grant the change as prayed for in the petition, or it may order such change of the route of such road as will, in its judgment, be for the best interest of the public. 97720
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Upon receiving satisfactory evidence that the road has been changed as authorized by it, and opened to the legal width and improved as required by it, the board of township trustees shall declare such new road a public highway and cause a record thereof to be made and at the same time vacate so much of the old road as is rendered unnecessary by the new road. The person petitioning for such change shall in all cases pay all costs and expenses in connection with the proceeding, as found and determined by the board, and the expense of making such change, including the cost of relocation of any conduits, cables, wires, towers, poles or other equipment or appliances of any public utility, located on, over or under such road. The petitioner shall, on the filing of the petition for such change, give bond to the satisfaction of the board in such amount as it determines to secure payment of the costs of the proceeding and to cover the expense of making the change asked for by the petition. 97729
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Sec. 5573.02. Upon the completion of the surveys, plans, profiles, cross sections, estimates, and specifications for a road improvement by the county engineer, ~~he~~ the engineer shall transmit to the board of township trustees copies of the same. Except in cases of reconstruction or repair of roads, where no land or 97745
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property is taken, the board shall then cause to be published in a newspaper, ~~published in the county and~~ of general circulation within the township, ~~but if no such paper is published in the county then in one having general circulation in such township,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for it are on file with the board for the inspection and examination of all persons interested.

In the event that land or property is to be taken for such improvement, proceedings shall be had in accordance with sections 163.01 to 163.22, ~~inclusive,~~ of the Revised Code.

Sec. 5573.10. As soon as all questions of compensation and damages have been determined for any road improvement, the county engineer shall make, upon actual view, an estimated assessment, upon the real estate to be charged, of such part of the compensation, damages, and costs of such improvement as is to be specially assessed. Such assessment shall be according to the benefits which will result to the real estate. In making such assessment the engineer may take into consideration any previous special assessment made upon such real estate for road improvements.

The schedule for such assessments shall be filed with the board of township trustees for the inspection of the persons interested. Before adopting the estimated assessment, the board shall publish once each week for two consecutive weeks, in ~~some a~~ newspaper ~~published in the county and~~ of general circulation within such township, ~~but if there is no such paper published in said county then in one having general circulation in such township~~ or as provided in section 7.16 of the Revised Code,

notice that such assessment has been made and is on file with the 97781
board, and the date when objections will be heard to such 97782
assessment. 97783

If any owner of property affected desires to make objections, 97784
~~he~~ the owner may file ~~his~~ objections to such assessments, in 97785
writing, with the board, before the time of such hearing. If any 97786
objections are filed the board shall hear them and act as an 97787
equalizing board, and may change assessments if, in its opinion, 97788
any changes are necessary to make them just and equitable. The 97789
board shall approve and confirm assessments as reported by the 97790
engineer or modified by the board. Such assessments, when approved 97791
and confirmed, shall be a lien on the land chargeable therewith. 97792

Sec. 5575.01. (A) In the maintenance and repair of roads, the 97793
board of township trustees may proceed either by contract or force 97794
account, but, unless the exemption specified in division (C) of 97795
this section applies, if the board wishes to proceed by force 97796
account, it first shall cause the county engineer to complete the 97797
force account assessment form developed by the auditor of state 97798
under section 117.16 of the Revised Code. Except as otherwise 97799
provided in sections 505.08 and 505.101 of the Revised Code, when 97800
the board proceeds by contract, the contract shall, if the amount 97801
involved exceeds forty-five thousand dollars, be let by the board 97802
to the lowest responsible bidder after advertisement for bids 97803
once, not later than two weeks, prior to the date fixed for the 97804
letting of the contract, in a newspaper ~~published in the county~~ 97805
~~and~~ of general circulation within the township ~~or, if no newspaper~~ 97806
~~is published in the county, in a newspaper having general~~ 97807
~~circulation in the township.~~ If the amount involved is forty-five 97808
thousand dollars or less, a contract may be let without 97809
competitive bidding, or the work may be done by force account. 97810
Such a contract shall be performed under the supervision of a 97811
member of the board or the township road superintendent. 97812

(B) Before undertaking the construction or reconstruction of a township road, the board shall cause to be made by the county engineer an estimate of the cost of the work, which estimate shall include labor, material, freight, fuel, hauling, use of machinery and equipment, and all other items of cost. If the board finds it in the best interest of the public, it may, in lieu of constructing the road by contract, proceed to construct the road by force account. Except as otherwise provided under sections 505.08 and 505.101 of the Revised Code, where the total ~~estimate~~ estimated cost of the work exceeds fifteen thousand dollars per mile, the board shall invite and receive competitive bids for furnishing all the labor, materials, and equipment and doing the work, as provided in section 5575.02 of the Revised Code, and shall consider and reject them before ordering the work done by force account. When such bids are received, considered, and rejected, and the work is done by force account, the work shall be performed in compliance with the plans and specifications upon which the bids were based.

(C) Force account assessment forms are not required under division (A) of this section for road maintenance or repair projects of less than fifteen thousand dollars, or under division (B) of this section for road construction or reconstruction projects of less than five thousand dollars per mile.

(D) All force account work under this section shall be done under the direction of a member of the board or the township road superintendent.

Sec. 5575.02. After the board of township trustees has decided to proceed with a road improvement, it shall advertise for bids once, not later than two weeks prior to the date fixed for the letting of contracts, in a newspaper ~~published in the county~~ and of general circulation within ~~such~~ the township, ~~but if there~~

~~is no such paper published in the county then in one having~~ 97844
~~general circulation in the township.~~ Such notice shall state that 97845
copies of the surveys, plans, profiles, cross sections, estimates, 97846
and specifications for such improvement are on file with the 97847
board, and the time within which bids will be received. The board 97848
may let the work as a whole or in convenient sections, as it 97849
determines. The contract shall be awarded to the lowest and best 97850
bidder who meets the requirements of section 153.54 of the Revised 97851
Code, and shall be let upon the basis of lump sum bids, unless the 97852
board orders that it be let upon the basis of unit price bids, in 97853
which event it shall be let upon such basis. 97854

Sec. 5591.15. All resolutions and notices provided for in 97855
sections 5591.03 to 5591.17 of the Revised Code, shall be 97856
published in a newspaper ~~published in and~~ of general circulation 97857
in the county where the improvement provided in such sections is 97858
to be made, and such publication shall be complete when published 97859
once a week, on the same day of the week, for two consecutive 97860
weeks or as provided in section 7.16 of the Revised Code. 97861

Sec. 5593.08. The bridge commission of any county or city 97862
may: 97863

(A) Adopt bylaws for the regulation of its affairs and the 97864
conduct of its business; 97865

(B) Adopt an official seal, which shall not be the seal of 97866
Ohio; 97867

(C) Maintain a principal office and suboffices at such places 97868
within the county or city as it designates; 97869

(D) Sue and be sued in its own name, and plead and be 97870
impleaded. Any actions against a bridge commission shall be 97871
brought in the court of common pleas of the county in which the 97872
principal office of the commission is located, or in the court of 97873

common pleas of the county in which the cause of action arose, 97874
when such county is located within this state. All summonses, 97875
exceptions, and notices of every kind shall be served on the 97876
commission by leaving a copy thereof at the principal office with 97877
the secretary-treasurer or the person in charge. 97878

(E) Construct, acquire by purchase or condemnation, improve, 97879
maintain, repair, police, and operate any bridge, and establish 97880
rules for the use of any such bridge; 97881

(F) Issue bridge revenue bonds of the county or city, payable 97882
solely from revenues, as provided in sections 5593.10 and 5593.16 97883
of the Revised Code, for the purpose of paying any part of the 97884
cost of any bridge or bridges; 97885

(G) Fix and revise from time to time and charge and collect 97886
tolls for transit over each bridge constructed or acquired by it; 97887

(H) Acquire, hold, and dispose of real and personal property 97888
in the exercise of its powers and the performance of its duties 97889
under this chapter; 97890

(I) Acquire, in the name of the county or city, as the case 97891
may be, by purchase or otherwise, on such terms and in such manner 97892
as it determines proper, or by the exercise of the right of 97893
condemnation in the manner provided by sections 163.01 to 163.22 97894
of the Revised Code, any bridge, land, rights, easements, 97895
franchises, and other property necessary or convenient for the 97896
construction of a bridge or the improvement or efficient operation 97897
of any property acquired or constructed under this chapter, or for 97898
securing right-of-way leading to any such bridge or its approach 97899
facilities; 97900

(J) Make and enter into all contracts and agreements 97901
necessary or incidental to the performance of its duties and the 97902
execution of its powers under this chapter: 97903

(1) When the cost under any such contract or agreement, other 97904

than compensation for personal services, involves an expenditure 97905
of more than ten thousand dollars, the commission shall make a 97906
written contract with the lowest and best bidder after 97907
advertisement for not less than two consecutive weeks, or as 97908
provided in section 7.16 of the Revised Code, in a newspaper of 97909
general circulation in Franklin county, and in such other 97910
publications as the commission determines, which notice shall 97911
state the general character of the work and the general character 97912
of the materials to be furnished, the place where plans and 97913
specifications therefor may be examined, and the time and place of 97914
receiving bids. 97915

(2) Each bid for a contract for the construction, demolition, 97916
alteration, repair, or reconstruction of an improvement shall 97917
contain the full name of every person interested in it and meets 97918
the requirements of section 153.54 of the Revised Code. 97919

(3) Each bid for a contract except as provided in division 97920
(J)(2) of this section shall contain the full name of every person 97921
or company interested in it and shall be accompanied by a bond or 97922
certified check on a solvent bank, in such amount as the 97923
commission determines sufficient, that if the bid is accepted a 97924
contract will be entered into and the performance of its proposal 97925
secured. 97926

(4) The commission may reject any and all bids. 97927

(5) A bond with good and sufficient surety, approved by the 97928
commission, shall be required of every contractor awarded a 97929
contract except as provided in division (J)(2) of this section, in 97930
an amount equal to at least fifty per cent of the contract price, 97931
conditioned upon the faithful performance of the contract. 97932

(K) Employ consulting engineers, superintendents, managers, 97933
engineers, construction and accounting experts, attorneys, and 97934
other employees and agents as are necessary in its judgment, and 97935

fix their compensation. All such expenses are payable solely from 97936
the proceeds of bridge revenue bonds issued under this chapter, or 97937
from revenues. 97938

(L) Receive and accept from any federal agency, subject to 97939
the approval of the board of county commissioners or the 97940
legislative authority of the city, as the case may be, grants for 97941
or in aid of the construction, acquisition, improvement, or 97942
operation of any bridge, and receive and accept aid or 97943
contributions from any source of money, property, labor, or other 97944
things of value, to be held, used, and applied only for the 97945
purposes for which such grants and contributions are made; 97946

(M) Provide coverage for its employees under sections 4123.01 97947
to 4123.94 and 4141.01 to 4141.46 of the Revised Code; 97948

(N) Do all acts necessary or proper to carry out the powers 97949
expressly granted in this chapter. 97950

Sec. 5701.13. (A) As used in this section: 97951

(1) "Nursing home" means a nursing home or a home for the 97952
aging, as those terms are defined in section 3721.01 of the 97953
Revised Code, that is issued a license pursuant to section 3721.02 97954
of the Revised Code. 97955

(2) "Residential care facility" means a residential care 97956
facility, as defined in section 3721.01 of the Revised Code, that 97957
is issued a license pursuant to section 3721.02 of the Revised 97958
Code. 97959

(3) "Adult care facility" means an adult care facility as 97960
defined in section ~~3722.04~~ 5119.70 of the Revised Code that is 97961
issued a license pursuant to section ~~3722.04~~ 5119.73 of the 97962
Revised Code. 97963

(B) As used in Title LVII of the Revised Code, and for the 97964
purpose of other sections of the Revised Code that refer 97965

specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is a nursing home, residential care facility, or adult care facility.

(b) It is owned by a corporation, unincorporated association, or trust of a charitable, religious, or fraternal nature, which is organized and operated not for profit, which is not formed for the pecuniary gain or profit of, and whose net earnings or any part of whose net earnings is not distributable to, its members, trustees, officers, or other private persons, and which is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1.

(c) It is open to the public without regard to race, color, or national origin.

(d) It does not pay, directly or indirectly, compensation for services rendered, interest on debts incurred, or purchase price for land, building, equipment, supplies, or other goods or chattels, which compensation, interest, or purchase price is unreasonably high.

(e) It provides services for the life of each resident without regard to the resident's ability to continue payment for the full cost of the services.

(2) A place of residence that satisfies divisions (B)(1)(b), (d), and (e) of this section; that satisfies the definition of "nursing home," or "residential care facility," or "adult care facility" under section 3721.01 of the Revised Code or 3722.01 the definition of "adult care facility" under section 5119.70 of the Revised Code regardless of whether it is licensed as such a home or facility; and that is provided at no charge to individuals on

account of their service without compensation to a charitable, 97997
religious, fraternal, or educational institution, which 97998
individuals are aged or infirm and are members of the corporation, 97999
association, or trust that owns the place of residence. For the 98000
purposes of division (B)(2) of this section, "compensation" does 98001
not include furnishing room and board, clothing, health care, or 98002
other necessities, or stipends or other de minimis payments to 98003
defray the cost thereof. 98004

Exemption from taxation shall be accorded, on proper 98005
application, only to those homes or parts of homes which meet the 98006
standards and provide the services specified in this section. 98007

Nothing in this section shall be construed as preventing a 98008
home from requiring a resident with financial need to apply for 98009
any applicable financial assistance or requiring a home to retain 98010
a resident who willfully refuses to pay for services for which the 98011
resident has contracted even though the resident has sufficient 98012
resources to do so. 98013

(C)(1) If a corporation, unincorporated association, or trust 98014
described in division (B)(1)(b) of this section is granted a 98015
certificate of need pursuant to section 3702.52 of the Revised 98016
Code to construct, add to, or otherwise modify a nursing home, or 98017
is given approval pursuant to section 3791.04 of the Revised Code 98018
to construct, add to, or otherwise modify a residential care 98019
facility or adult care facility and if the corporation, 98020
association, or trust submits an affidavit to the tax commissioner 98021
stating that, commencing on the date of licensure and continuing 98022
thereafter, the home or facility will be operated in accordance 98023
with the requirements of divisions (B)(1)(a) to (e) of this 98024
section, the corporation, association, or trust shall be 98025
considered to be operating a "home for the aged" within the 98026
meaning of division (B)(1) of this section, beginning on the first 98027
day of January of the year in which such certificate is granted or 98028

approval is given. 98029

(2) If a corporation, association, or trust is considered to 98030
be operating a "home for the aged" pursuant to division (C)(1) of 98031
this section, the corporation, association, or trust shall notify 98032
the tax commissioner in writing upon the occurrence of any of the 98033
following events: 98034

(a) The corporation, association, or trust no longer intends 98035
to complete the construction of, addition to, or modification of 98036
the home or facility, to obtain the appropriate license for the 98037
home or facility, or to commence operation of the home or facility 98038
in accordance with the requirements of divisions (B)(1)(a) to (e) 98039
of this section; 98040

(b) The certificate of approval referred to in division 98041
(C)(1) of this section expires, is revoked, or is otherwise 98042
terminated prior to the completion of the construction of, 98043
addition to, or modification of the home or facility; 98044

(c) The license to operate the home or facility is not 98045
granted by the director of health within one year following 98046
completion of the construction of, addition to, or modification of 98047
the home or facility; 98048

(d) The license to operate the home or facility is not 98049
granted by the director of health within four years following the 98050
date upon which the certificate or approval referred to in 98051
division (C)(1) of this section was granted or given; 98052

(e) The home or facility is granted a license to operate as a 98053
nursing home, residential care facility, or adult care facility. 98054

(3) Upon the occurrence of any of the events referred to in 98055
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 98056
corporation, association, or trust shall no longer be considered 98057
to be operating a "home for the aged" pursuant to division (C)(1) 98058
of this section, except that the tax commissioner, for good cause 98059

shown and to the extent the commissioner considers appropriate, 98060
may extend the time period specified in division (C)(2)(c) or (d) 98061
of this section, or both. Nothing in division (C)(3) of this 98062
section shall be construed to prevent a nursing home, residential 98063
care facility, or adult care facility from qualifying as a "home 98064
for the aged" if, upon proper application made pursuant to 98065
division (B) of this section, it is found to meet the requirements 98066
of divisions (A) and (B) of this section. 98067

Sec. 5703.05. All powers, duties, and functions of the 98068
department of taxation are vested in and shall be performed by the 98069
tax commissioner, which powers, duties, and functions shall 98070
include, but shall not be limited to, the following: 98071

(A) Prescribing all blank forms which the department is 98072
authorized to prescribe, and to provide such forms and distribute 98073
the same as required by law and the rules of the department. ~~The~~ 98074
~~tax commissioner shall include a mail in registration form~~ 98075
~~prescribed in section 3503.14 of the Revised Code within the~~ 98076
~~return and instructions for the tax levied in odd numbered years~~ 98077
~~under section 5747.02 of the Revised Code, beginning with the tax~~ 98078
~~levied for 1995. The secretary of state shall bear all costs for~~ 98079
~~the inclusion of the mail in registration form. That form shall be~~ 98080
~~addressed for return to the office of the secretary of state.~~ 98081

(B) Exercising the authority provided by law, including 98082
orders from bankruptcy courts, relative to remitting or refunding 98083
taxes or assessments, including penalties and interest thereon, 98084
illegally or erroneously assessed or collected, or for any other 98085
reason overpaid, and in addition, the commissioner may on written 98086
application of any person, firm, or corporation claiming to have 98087
overpaid to the treasurer of state at any time within five years 98088
prior to the making of such application any tax payable under any 98089
law which the department of taxation is required to administer 98090

which does not contain any provision for refund, or on the 98091
commissioner's own motion investigate the facts and make in 98092
triplicate a written statement of the commissioner's findings, 98093
and, if the commissioner finds that there has been an overpayment, 98094
issue in triplicate a certificate of abatement payable to the 98095
taxpayer, the taxpayer's assigns, or legal representative which 98096
shows the amount of the overpayment and the kind of tax overpaid. 98097
One copy of such statement shall be entered on the journal of the 98098
commissioner, one shall be certified to the attorney general, and 98099
one certified copy shall be delivered to the taxpayer. All copies 98100
of the certificate of abatement shall be transmitted to the 98101
attorney general, and if the attorney general finds it to be 98102
correct the attorney general shall so certify on each copy, and 98103
deliver one copy to the taxpayer, one copy to the commissioner, 98104
and the third copy to the treasurer of state. Except as provided 98105
in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's 98106
copy of any certificates of abatement may be tendered by the payee 98107
or transferee thereof to the treasurer of state as payment, to the 98108
extent of the amount thereof, of any tax payable to the treasurer 98109
of state. 98110

(C) Exercising the authority provided by law relative to 98111
consenting to the compromise and settlement of tax claims; 98112

(D) Exercising the authority provided by law relative to the 98113
use of alternative tax bases by taxpayers in the making of 98114
personal property tax returns; 98115

(E) Exercising the authority provided by law relative to 98116
authorizing the prepayment of taxes on retail sales of tangible 98117
personal property or on the storage, use, or consumption of 98118
personal property, and waiving the collection of such taxes from 98119
the consumers; 98120

(F) Exercising the authority provided by law to revoke 98121
licenses; 98122

(G) Maintaining a continuous study of the practical operation 98123
of all taxation and revenue laws of the state, the manner in which 98124
and extent to which such laws provide revenues for the support of 98125
the state and its political subdivisions, the probable effect upon 98126
such revenue of possible changes in existing laws, and the 98127
possible enactment of measures providing for other forms of 98128
taxation. For this purpose the commissioner may establish and 98129
maintain a division of research and statistics, and may appoint 98130
necessary employees who shall be in the unclassified civil 98131
service; the results of such study shall be available to the 98132
members of the general assembly and the public. 98133

(H) Making all tax assessments, valuations, findings, 98134
determinations, computations, and orders the department of 98135
taxation is by law authorized and required to make and, pursuant 98136
to time limitations provided by law, on the commissioner's own 98137
motion, reviewing, redetermining, or correcting any tax 98138
assessments, valuations, findings, determinations, computations, 98139
or orders the commissioner has made, but the commissioner shall 98140
not review, redetermine, or correct any tax assessment, valuation, 98141
finding, determination, computation, or order which the 98142
commissioner has made as to which an appeal or application for 98143
rehearing, review, redetermination, or correction has been filed 98144
with the board of tax appeals, unless such appeal or application 98145
is withdrawn by the appellant or applicant or dismissed; 98146

(I) Appointing not more than five deputy tax commissioners, 98147
who, under such regulations as the rules of the department of 98148
taxation prescribe, may act for the commissioner in the 98149
performance of such duties as the commissioner prescribes in the 98150
administration of the laws which the commissioner is authorized 98151
and required to administer, and who shall serve in the 98152
unclassified civil service at the pleasure of the commissioner, 98153
but if a person who holds a position in the classified service is 98154

appointed, it shall not affect the civil service status of such 98155
person. The commissioner may designate not more than two of the 98156
deputy commissioners to act as commissioner in case of the 98157
absence, disability, or recusal of the commissioner or vacancy in 98158
the office of commissioner. The commissioner may adopt rules 98159
relating to the order of precedence of such designated deputy 98160
commissioners and to their assumption and administration of the 98161
office of commissioner. 98162

(J) Appointing and prescribing the duties of all other 98163
employees of the department of taxation necessary in the 98164
performance of the work of the department which the tax 98165
commissioner is by law authorized and required to perform, and 98166
creating such divisions or sections of employees as, in the 98167
commissioner's judgment, is proper; 98168

(K) Organizing the work of the department, which the 98169
commissioner is by law authorized and required to perform, so 98170
that, in the commissioner's judgment, an efficient and economical 98171
administration of the laws will result; 98172

(L) Maintaining a journal, which is open to public 98173
inspection, in which the tax commissioner shall keep a record of 98174
all final determinations of the commissioner; 98175

(M) Adopting and promulgating, in the manner provided by 98176
section 5703.14 of the Revised Code, all rules of the department, 98177
including rules for the administration of sections 3517.16, 98178
3517.17, and 5747.081 of the Revised Code; 98179

(N) Destroying any or all returns or assessment certificates 98180
in the manner authorized by law; 98181

(O) Adopting rules, in accordance with division (B) of 98182
section 325.31 of the Revised Code, governing the expenditure of 98183
moneys from the real estate assessment fund under that division. 98184

Sec. 5703.059. (A) The tax commissioner may adopt rules requiring returns, including any accompanying schedule or statement, for any of the following taxes to be filed electronically using the Ohio business gateway as defined in section 718.051 of the Revised Code, filed telephonically using the system known as the Ohio telefile system, or filed by any other electronic means prescribed by the commissioner: 98185
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(1) Employer income tax withholding under Chapter 5747. of the Revised Code; 98192
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(2) Motor fuel tax under Chapter 5735. of the Revised Code; 98194

(3) Cigarette and tobacco product tax under Chapter 5743. of the Revised Code; 98195
98196

(4) Severance tax under Chapter 5749. of the Revised Code. 98197

(B) The tax commissioner may adopt rules requiring any payment of tax shown on such a return to be due to be made electronically in a manner approved by the commissioner. 98198
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98200

(C) A rule adopted under this section does not apply to returns or reports filed or payments made before six months after the effective date of the rule. The commissioner shall publicize any new electronic filing requirement on the department's web site. The commissioner shall educate the public of the requirement through seminars, workshops, conferences, or other outreach activities. 98201
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(D) Any person required to file returns and make payments electronically under rules adopted under this section may apply to the commissioner, on a form prescribed by the commissioner, to be excused from that requirement. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or reports or make the payments required under this section by nonelectronic means. 98208
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Sec. 5703.37. (A)(1) Except as provided in division (B) of 98215
this section, whenever service of a notice or order is required in 98216
the manner provided in this section, a copy of the notice or order 98217
shall be served upon the person affected thereby either by 98218
personal service ~~or~~, by certified mail, or by a delivery service 98219
authorized under section 5703.056 of the Revised Code that 98220
notifies the tax commissioner of the date of delivery. 98221

(2) With the permission of the person affected by the notice 98222
or order, the commissioner may enter into a written agreement to 98223
deliver a notice or order by alternative means as provided in this 98224
section, including, but not limited to, delivery by secure 98225
electronic mail. Delivery by such means satisfies the requirements 98226
for delivery under this section. 98227

(B)(1)(a) If certified mail is returned because of an 98228
undeliverable address, the commissioner shall first utilize 98229
reasonable means to ascertain a new last known address, including 98230
the use of a change of address service offered by the United 98231
States postal service. If, after using reasonable means, the 98232
commissioner is unable to ascertain a new last known address, the 98233
assessment is final for purposes of section 131.02 of the Revised 98234
Code sixty days after the notice or order sent by certified mail 98235
is first returned to the commissioner, and the commissioner shall 98236
certify the notice or order, if applicable, to the attorney 98237
general for collection under section 131.02 of the Revised Code. 98238

(b) Notwithstanding certification to the attorney general 98239
under division (B)(1)(a) of this section, once the commissioner or 98240
attorney general, or the designee of either, makes an initial 98241
contact with the person to whom the notice or order is directed, 98242
the person may protest an assessment by filing a petition for 98243
reassessment within sixty days after the initial contact. The 98244
certification of an assessment under division (B)(1)(a) of this 98245

section is prima-facie evidence that delivery is complete and that 98246
the notice or order is served. 98247

(2) If mailing of a notice or order by certified mail is 98248
returned for some cause other than an undeliverable address, the 98249
tax commissioner shall resend the notice or order by ordinary 98250
mail. The notice or order shall show the date the commissioner 98251
sends the notice or order and include the following statement: 98252

"This notice or order is deemed to be served on the addressee 98253
under applicable law ten days from the date this notice or order 98254
was mailed by the commissioner as shown on the notice or order, 98255
and all periods within which an appeal may be filed apply from and 98256
after that date." 98257

Unless the mailing is returned because of an undeliverable 98258
address, the mailing of that information is prima-facie evidence 98259
that delivery of the notice or order was completed ten days after 98260
the commissioner sent the notice or order by ordinary mail and 98261
that the notice or order was served. 98262

If the ordinary mail is subsequently returned because of an 98263
undeliverable address, the commissioner shall proceed under 98264
division (B)(1)(a) of this section. A person may challenge the 98265
presumption of delivery and service under this division in 98266
accordance with division (C) of this section. 98267

(C)(1) A person disputing the presumption of delivery and 98268
service under division (B) of this section bears the burden of 98269
proving by a preponderance of the evidence that the address to 98270
which the notice or order was sent was not an address with which 98271
the person was associated at the time the commissioner originally 98272
mailed the notice or order by certified mail. For the purposes of 98273
this section, a person is associated with an address at the time 98274
the commissioner originally mailed the notice or order if, at that 98275
time, the person was residing, receiving legal documents, or 98276

conducting business at the address; or if, before that time, the 98277
person had conducted business at the address and, when the notice 98278
or order was mailed, the person's agent or the person's affiliate 98279
was conducting business at the address. For the purposes of this 98280
section, a person's affiliate is any other person that, at the 98281
time the notice or order was mailed, owned or controlled at least 98282
twenty per cent, as determined by voting rights, of the 98283
addressee's business. 98284

(2) If the person elects to protest an assessment certified 98285
to the attorney general for collection, the person must do so 98286
within sixty days after the attorney general's initial contact 98287
with the person. The attorney general may enter into a compromise 98288
with the person under sections 131.02 and 5703.06 of the Revised 98289
Code if the person does not file a petition for reassessment with 98290
the tax commissioner. 98291

(D) Nothing in this section prohibits the tax commissioner or 98292
the commissioner's designee from delivering a notice or order by 98293
personal service. 98294

(E) Collection actions taken pursuant to section 131.02 of 98295
the Revised Code upon any assessment being challenged under 98296
division (B)(1)(b) of this section shall be stayed upon the 98297
pendency of an appeal under this section. If a petition for 98298
reassessment is filed pursuant to this section on a claim that has 98299
been certified to the attorney general for collection, the claim 98300
shall be uncertified. 98301

(F) As used in this section: 98302

(1) "Last known address" means the address the department has 98303
at the time the document is originally sent by certified mail, or 98304
any address the department can ascertain using reasonable means 98305
such as the use of a change of address service offered by the 98306
United States postal service. 98307

(2) "Undeliverable address" means an address to which the United States postal service is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5705.14. No transfer shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as follows:

(A) The unexpended balance in a bond fund that is no longer needed for the purpose for which such fund was created shall be transferred to the sinking fund or bond retirement fund from which such bonds are payable.

(B) The unexpended balance in any specific permanent improvement fund, other than a bond fund, after the payment of all obligations incurred in the acquisition of such improvement, shall be transferred to the sinking fund or bond retirement fund of the subdivision; provided that if such money is not required to meet the obligations payable from such funds, it may be transferred to a special fund for the acquisition of permanent improvements, or, with the approval of the court of common pleas of the county in which such subdivision is located, to the general fund of the subdivision.

(C) The (1) Except as provided in division (C)(2) of this section, the unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest, and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred, in the case of the sinking fund, to the bond retirement fund, and in the case of the bond retirement fund, to the sinking fund; provided that if such transfer is impossible by reason of the nonexistence of the fund to receive the transfer, such unexpended balance, with the approval of the court of common pleas of the county in which

such division is located, may be transferred to any other fund of 98339
the subdivision. 98340

(2) Money in a bond fund or bond retirement fund of a city, 98341
local, exempted village, cooperative education, or joint 98342
vocational school district may be transferred to a specific 98343
permanent improvement fund provided that the county budget 98344
commission of the county in which the school district is located 98345
approves the transfer upon its determination that the money 98346
transferred will not be required to meet the obligations payable 98347
from the bond fund or bond retirement fund. In arriving at such a 98348
determination, the county budget commission shall consider the 98349
balance of the bond fund or bond retirement fund, the outstanding 98350
obligations payable from the fund, and the sources and timing of 98351
the fund's revenue. 98352

(D) The unexpended balance in any special fund, other than an 98353
improvement fund, existing in accordance with division (D), (F), 98354
or (G) of section 5705.09 or section 5705.12 of the Revised Code, 98355
may be transferred to the general fund or to the sinking fund or 98356
bond retirement fund after the termination of the activity, 98357
service, or other undertaking for which such special fund existed, 98358
but only after the payment of all obligations incurred and payable 98359
from such special fund. 98360

(E) Money may be transferred from the general fund to any 98361
other fund of the subdivision. 98362

(F) Moneys retained or received by a county under section 98363
4501.04 or division (A)(3) of section 5735.27 of the Revised Code 98364
may be transferred from the fund into which they were deposited to 98365
the sinking fund or bond retirement fund from which any principal, 98366
interest, or charges for which such moneys may be used is payable. 98367

(G) Moneys retained or received by a municipal corporation 98368
under section 4501.04 or division (A)(1) or (2) of section 5735.27 98369

of the Revised Code may be transferred from the fund into which 98370
they were deposited to the sinking fund or bond retirement fund 98371
from which any principal, interest, or charges for which such 98372
moneys may be used is payable. 98373

(H)(1) Money may be transferred from the county developmental 98374
disabilities general fund to the county developmental disabilities 98375
capital fund established under section 5705.091 of the Revised 98376
Code or to any other fund created for the purposes of the county 98377
board of developmental disabilities, so long as money in the fund 98378
to which the money is transferred can be spent for the particular 98379
purpose of the transferred money. The county board of 98380
developmental disabilities may request, by resolution, that the 98381
board of county commissioners make the transfer. The county board 98382
of developmental disabilities shall transmit a certified copy of 98383
the resolution to the board of county commissioners. Upon 98384
receiving the resolution, the board of county commissioners may 98385
make the transfer. Money transferred to a fund shall be credited 98386
to an account appropriate to its particular purpose. 98387

(2) An unexpended balance in an account in the county 98388
developmental disabilities capital fund or any other fund created 98389
for the purposes of the county board of developmental disabilities 98390
may be transferred back to the county developmental disabilities 98391
general fund. The transfer may be made if the unexpended balance 98392
is no longer needed for its particular purpose and all outstanding 98393
obligations have been paid. Money transferred back to the county 98394
developmental disabilities general fund shall be credited to an 98395
account for current expenses within that fund. The county board of 98396
developmental disabilities may request, by resolution, that the 98397
board of county commissioners make the transfer. The county board 98398
of developmental disabilities shall transmit a certified copy of 98399
the resolution to the board of county commissioners. Upon 98400
receiving the resolution, the board of county commissioners may 98401

make the transfer. 98402

(I) Money may be transferred from the public assistance fund 98403
established under section 5101.161 of the Revised Code to the 98404
children services fund established under section 5101.144 of the 98405
Revised Code, so long as the money to be transferred from the 98406
public assistance fund may be spent for the purposes for which 98407
money in the children services fund may be used. 98408

Except in the case of transfer pursuant to division (E) of 98409
this section, transfers authorized by this section shall only be 98410
made by resolution of the taxing authority passed with the 98411
affirmative vote of two-thirds of the members. 98412

Sec. 5705.16. A resolution of the taxing authority of any 98413
political subdivision shall be passed by a majority of all the 98414
members thereof, declaring the necessity for the transfer of funds 98415
authorized by section 5705.15 of the Revised Code, and such taxing 98416
authority shall prepare a petition addressed to the court of 98417
common pleas of the county in which the funds are held. The 98418
petition shall set forth the name and amount of the fund, the fund 98419
to which it is desired to be transferred, a copy of such 98420
resolution with a full statement of the proceedings pertaining to 98421
its passage, and the reason or necessity for the transfer. A 98422
duplicate copy of said petition shall be forwarded to the tax 98423
commissioner for ~~his~~ the commissioner's examination and approval. 98424

If the petition is disapproved by the commissioner, it shall 98425
be returned within ten days of its receipt to the officers who 98426
submitted it, with a memorandum of the commissioner's objections. 98427
This disapproval shall not prejudice a later application for 98428
approval. If the petition is approved by the commissioner, it 98429
shall be forwarded within ten days of its receipt to the clerk of 98430
the court of common pleas of the county to whose court of common 98431
pleas the petition is addressed, marked with the approval of the 98432

commissioner. If the commissioner approves the petition, ~~he~~ the 98433
commissioner shall notify immediately the officers who submitted 98434
the petition, who then may file the petition in the court to which 98435
it is addressed. 98436

The petitioner shall give notice of the filing, object, and 98437
prayer of the petition, and of the time when it will be heard. The 98438
notice shall be given by one publication in ~~two newspapers having~~ 98439
a newspaper of general circulation in the territory to be affected 98440
by such transfer of funds, ~~preference being given to newspapers~~ 98441
~~published within the territory~~. If there ~~are~~ is no such ~~newspapers~~ 98442
newspaper, the notice shall be posted in ten conspicuous places 98443
within the territory for ~~the~~ a period of four weeks. 98444

The petition may be heard at the time stated in the notice, 98445
or as soon thereafter as convenient for the court. Any person who 98446
objects to the prayer of such petition shall file ~~his~~ the person's 98447
objections in such cause on or before the time fixed in the notice 98448
for hearing, and ~~he~~ that person shall be entitled to be heard. 98449

If, upon hearing, the court finds that the notice has been 98450
given as required by this section, that the petition states 98451
sufficient facts, that there are good reasons, or that a necessity 98452
exists, for the transfer, and that no injury will result 98453
therefrom, it shall grant the prayer of the petition and order the 98454
petitioners to make such transfer. 98455

A copy of the findings, orders, and judgments of the court 98456
shall be certified by the clerk and entered on the records of the 98457
petitioning officers or board, and thereupon the petitioners may 98458
make the transfer of funds as directed by the court. All costs of 98459
such proceedings shall be paid by the petitioners, except that if 98460
objections are filed the court may order such objectors to pay all 98461
or a portion of the costs. 98462

Sec. 5705.191. The taxing authority of any subdivision, other 98463

than the board of education of a school district or the taxing 98464
authority of a county school financing district, by a vote of 98465
two-thirds of all its members, may declare by resolution that the 98466
amount of taxes that may be raised within the ten-mill limitation 98467
by levies on the current tax duplicate will be insufficient to 98468
provide an adequate amount for the necessary requirements of the 98469
subdivision, and that it is necessary to levy a tax in excess of 98470
such limitation for any of the purposes in section 5705.19 of the 98471
Revised Code, or to supplement the general fund for the purpose of 98472
making appropriations for one or more of the following purposes: 98473
public assistance, human or social services, relief, welfare, 98474
hospitalization, health, and support of general hospitals, and 98475
that the question of such additional tax levy shall be submitted 98476
to the electors of the subdivision at a general, primary, or 98477
special election to be held at a time therein specified. Such 98478
resolution shall not include a levy on the current tax list and 98479
duplicate unless such election is to be held at or prior to the 98480
general election day of the current tax year. Such resolution 98481
shall conform to the requirements of section 5705.19 of the 98482
Revised Code, except that a levy to supplement the general fund 98483
for the purposes of public assistance, human or social services, 98484
relief, welfare, hospitalization, health, or the support of 98485
general or tuberculosis hospitals may not be for a longer period 98486
than ten years. All other levies under this section may not be for 98487
a longer period than five years unless a longer period is 98488
permitted by section 5705.19 of the Revised Code, and the 98489
resolution shall specify the date of holding such election, which 98490
shall not be earlier than ninety days after the adoption and 98491
certification of such resolution. The resolution shall go into 98492
immediate effect upon its passage and no publication of the same 98493
is necessary other than that provided for in the notice of 98494
election. A copy of such resolution, immediately after its 98495
passage, shall be certified to the board of elections of the 98496

proper county or counties in the manner provided by section 98497
5705.25 of the Revised Code, and such section shall govern the 98498
arrangements for the submission of such question and other matters 98499
with respect to such election, to which section 5705.25 of the 98500
Revised Code refers, excepting that such election shall be held on 98501
the date specified in the resolution, which shall be consistent 98502
with the requirements of section 3501.01 of the Revised Code, 98503
provided that only one special election for the submission of such 98504
question may be held in any one calendar year and provided that a 98505
special election may be held upon the same day a primary election 98506
is held. Publication of notice of that election shall be made in 98507
~~one or more newspapers~~ a newspaper of general circulation in the 98508
county once a week for two consecutive weeks, or as provided in 98509
section 7.16 of the Revised Code, prior to the election, ~~and, if,~~ 98510
If the board of elections operates and maintains a web site, the 98511
board of elections shall post notice of the election on its web 98512
site for thirty days prior to the election. 98513

If a majority of the electors voting on the question vote in 98514
favor thereof, the taxing authority of the subdivision may make 98515
the necessary levy within such subdivision at the additional rate 98516
or at any lesser rate outside the ten-mill limitation on the tax 98517
list and duplicate for the purpose stated in the resolution. Such 98518
tax levy shall be included in the next annual tax budget that is 98519
certified to the county budget commission. 98520

After the approval of such a levy by the electors, the taxing 98521
authority of the subdivision may anticipate a fraction of the 98522
proceeds of such levy and issue anticipation notes. In the case of 98523
a continuing levy that is not levied for the purpose of current 98524
expenses, notes may be issued at any time after approval of the 98525
levy in an amount not more than fifty per cent of the total 98526
estimated proceeds of the levy for the succeeding ten years, less 98527
an amount equal to the fraction of the proceeds of the levy 98528

previously anticipated by the issuance of anticipation notes. In 98529
the case of a levy for a fixed period that is not for the purpose 98530
of current expenses, notes may be issued at any time after 98531
approval of the levy in an amount not more than fifty per cent of 98532
the total estimated proceeds of the levy throughout the remaining 98533
life of the levy, less an amount equal to the fraction of the 98534
proceeds of the levy previously anticipated by the issuance of 98535
anticipation notes. In the case of a levy for current expenses, 98536
notes may be issued after the approval of the levy by the electors 98537
and prior to the time when the first tax collection from the levy 98538
can be made. Such notes may be issued in an amount not more than 98539
fifty per cent of the total estimated proceeds of the levy 98540
throughout the term of the levy in the case of a levy for a fixed 98541
period, or fifty per cent of the total estimated proceeds for the 98542
first ten years of the levy in the case of a continuing levy. 98543

No anticipation notes that increase the net indebtedness of a 98544
county may be issued without the prior consent of the board of 98545
county commissioners of that county. The notes shall be issued as 98546
provided in section 133.24 of the Revised Code, shall have 98547
principal payments during each year after the year of their 98548
issuance over a period not exceeding the life of the levy 98549
anticipated, and may have a principal payment in the year of their 98550
issuance. 98551

"Taxing authority" and "subdivision" have the same meanings 98552
as in section 5705.01 of the Revised Code. 98553

This section is supplemental to and not in derogation of 98554
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 98555

Sec. 5705.194. The board of education of any city, local, 98556
exempted village, cooperative education, or joint vocational 98557
school district at any time may declare by resolution that the 98558
revenue that will be raised by all tax levies which the district 98559

is authorized to impose, when combined with state and federal 98560
revenues, will be insufficient to provide for the emergency 98561
requirements of the school district or to avoid an operating 98562
deficit, and that it is therefore necessary to levy an additional 98563
tax in excess of the ten-mill limitation. The resolution shall be 98564
confined to a single purpose and shall specify that purpose. If 98565
the levy is proposed to renew all or a portion of the proceeds 98566
derived from one or more existing levies imposed pursuant to this 98567
section, it shall be called a renewal levy and shall be so 98568
designated on the ballot. If two or more existing levies are to be 98569
included in a single renewal levy but are not scheduled to expire 98570
in the same year, the resolution shall specify that the existing 98571
levies to be renewed shall not be levied after the year preceding 98572
the year in which the renewal levy is first imposed. 98573
Notwithstanding the original purpose of any one or more existing 98574
levies that are to be in any single renewal levy, the purpose of 98575
the renewal levy may be either to avoid an operating deficit or to 98576
provide for the emergency requirements of the school district. The 98577
resolution shall further specify the amount of money it is 98578
necessary to raise for the specified purpose for each calendar 98579
year the millage is to be imposed; if a renewal levy, whether the 98580
levy is to renew all, or a portion of, the proceeds derived from 98581
one or more existing levies; and the number of years in which the 98582
millage is to be in effect, which may include a levy upon the 98583
current year's tax list. The number of years may be any number not 98584
exceeding ten. 98585

The question shall be submitted at a special election on a 98586
date specified in the resolution. The date shall not be earlier 98587
than eighty days after the adoption and certification of the 98588
resolution to the county auditor and shall be consistent with the 98589
requirements of section 3501.01 of the Revised Code. A resolution 98590
for a renewal levy shall not be placed on the ballot unless the 98591
question is submitted on a date on which a special election may be 98592

held under division (D) of section 3501.01 of the Revised Code, 98593
except for the first Tuesday after the first Monday in February 98594
and August, during the last year the levy to be renewed may be 98595
extended on the real and public utility property tax list and 98596
duplicate, or at any election held in the ensuing year, except 98597
that if the resolution proposes renewing two or more existing 98598
levies, the question shall be submitted on the date of the general 98599
or primary election held during the last year at least one of the 98600
levies to be renewed may be extended on that list and duplicate, 98601
or at any election held during the ensuing year. For purposes of 98602
this section, a levy shall be considered to be an "existing levy" 98603
through the year following the last year it can be placed on the 98604
real and public utility property tax list and duplicate. 98605

The submission of questions to the electors under this 98606
section is subject to the limitation on the number of election 98607
dates established by section 5705.214 of the Revised Code. 98608

The resolution shall go into immediate effect upon its 98609
passage, and no publication of the resolution shall be necessary 98610
other than that provided for in the notice of election. A copy of 98611
the resolution shall immediately after its passing be certified to 98612
the county auditor of the proper county. Section 5705.195 of the 98613
Revised Code shall govern the arrangements for the submission of 98614
questions to the electors under this section and other matters 98615
concerning the election. Publication of notice of the election 98616
shall be made in one ~~or more newspapers~~ newspaper of general 98617
circulation in the county once a week for two consecutive weeks, 98618
or as provided in section 7.16 of the Revised Code, prior to the 98619
election, ~~and, if.~~ If the board of elections operates and 98620
maintains a web site, the board of elections shall post notice of 98621
the election on its web site for thirty days prior to the 98622
election. If a majority of the electors voting on the question 98623
submitted in an election vote in favor of the levy, the board of 98624

education of the school district may make the additional levy 98625
necessary to raise the amount specified in the resolution for the 98626
purpose stated in the resolution. The tax levy shall be included 98627
in the next tax budget that is certified to the county budget 98628
commission. 98629

After the approval of the levy and prior to the time when the 98630
first tax collection from the levy can be made, the board of 98631
education may anticipate a fraction of the proceeds of the levy 98632
and issue anticipation notes in an amount not exceeding the total 98633
estimated proceeds of the levy to be collected during the first 98634
year of the levy. 98635

The notes shall be issued as provided in section 133.24 of 98636
the Revised Code, shall have principal payments during each year 98637
after the year of their issuance over a period not to exceed five 98638
years, and may have principal payment in the year of their 98639
issuance. 98640

Sec. 5705.196. The election provided for in section 5705.194 98641
of the Revised Code shall be held at the regular places for voting 98642
in the district, and shall be conducted, canvassed, and certified 98643
in the same manner as regular elections in the district for the 98644
election of county officers, provided that in any such election in 98645
which only part of the electors of a precinct are qualified to 98646
vote, the board of elections may assign voters in such part to an 98647
adjoining precinct. Such an assignment may be made to an adjoining 98648
precinct in another county with the consent and approval of the 98649
board of elections of such other county. Notice of the election 98650
shall be published in one ~~or more newspapers~~ newspaper of general 98651
circulation in the district once a week for two consecutive weeks 98652
or as provided in section 7.16 of the Revised Code, prior to the 98653
election, ~~and, if.~~ If the board of elections operates and 98654
maintains a web site, the board of elections shall post notice of 98655

the election on its web site for thirty days prior to the 98656
election. Such notice shall state the annual proceeds of the 98657
proposed levy, the purpose for which such proceeds are to be used, 98658
the number of years during which the levy shall run, and the 98659
estimated average additional tax rate expressed in dollars and 98660
cents for each one hundred dollars of valuation as well as in 98661
mills for each one dollar of valuation, outside the limitation 98662
imposed by Section 2 of Article XII, Ohio Constitution, as 98663
certified by the county auditor. 98664

Sec. 5705.21. (A) At any time, the board of education of any 98665
city, local, exempted village, cooperative education, or joint 98666
vocational school district, by a vote of two-thirds of all its 98667
members, may declare by resolution that the amount of taxes which 98668
may be raised within the ten-mill limitation by levies on the 98669
current tax duplicate will be insufficient to provide an adequate 98670
amount for the necessary requirements of the school district, that 98671
it is necessary to levy a tax in excess of such limitation for one 98672
of the purposes specified in division (A), (D), (F), (H), or (DD) 98673
of section 5705.19 of the Revised Code, for general permanent 98674
improvements, for the purpose of operating a cultural center, or 98675
for the purpose of providing education technology, and that the 98676
question of such additional tax levy shall be submitted to the 98677
electors of the school district at a special election on a day to 98678
be specified in the resolution. 98679

As used in this section, "cultural center" means a 98680
freestanding building, separate from a public school building, 98681
that is open to the public for educational, musical, artistic, and 98682
cultural purposes; "education technology" means, but is not 98683
limited to, computer hardware, equipment, materials, and 98684
accessories, equipment used for two-way audio or video, and 98685
software; and "general permanent improvements" means permanent 98686
improvements without regard to the limitation of division (F) of 98687

section 5705.19 of the Revised Code that the improvements be a 98688
specific improvement or a class of improvements that may be 98689
included in a single bond issue. 98690

The submission of questions to the electors under this 98691
section is subject to the limitation on the number of election 98692
dates established by section 5705.214 of the Revised Code. 98693

(B) Such resolution shall be confined to a single purpose and 98694
shall specify the amount of the increase in rate that it is 98695
necessary to levy, the purpose of the levy, and the number of 98696
years during which the increase in rate shall be in effect. The 98697
number of years may be any number not exceeding five or, if the 98698
levy is for current expenses of the district or for general 98699
permanent improvements, for a continuing period of time. The 98700
resolution shall specify the date of holding such election, which 98701
shall not be earlier than ninety days after the adoption and 98702
certification of the resolution and which shall be consistent with 98703
the requirements of section 3501.01 of the Revised Code. 98704

The resolution may propose to renew one or more existing 98705
levies imposed under this section or to increase or decrease a 98706
single levy imposed under this section. If the board of education 98707
imposes one or more existing levies for the purpose specified in 98708
division (F) of section 5705.19 of the Revised Code, the 98709
resolution may propose to renew one or more of those existing 98710
levies, or to increase or decrease a single such existing levy, 98711
for the purpose of general permanent improvements. If the 98712
resolution proposes to renew two or more existing levies, the 98713
levies shall be levied for the same purpose. The resolution shall 98714
identify those levies and the rates at which they are levied. The 98715
resolution also shall specify that the existing levies shall not 98716
be extended on the tax lists after the year preceding the year in 98717
which the renewal levy is first imposed, regardless of the years 98718
for which those levies originally were authorized to be levied. 98719

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code, and that section shall govern the arrangements for the submission of such question and other matters concerning such election, to which that section refers, except that such election shall be held on the date specified in the resolution. Publication of notice of that election shall be made in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(C)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the

levy to be collected during the first year of the levy. 98753

(2) After the approval of a levy for general permanent 98754
improvements for a specified number of years, or for permanent 98755
improvements having the purpose specified in division (F) of 98756
section 5705.19 of the Revised Code, the board of education may 98757
anticipate a fraction of the proceeds of the levy and issue 98758
anticipation notes in a principal amount not exceeding fifty per 98759
cent of the total estimated proceeds of the levy remaining to be 98760
collected in each year over a period of five years after the 98761
issuance of the notes. 98762

The notes shall be issued as provided in section 133.24 of 98763
the Revised Code, shall have principal payments during each year 98764
after the year of their issuance over a period not to exceed five 98765
years, and may have a principal payment in the year of their 98766
issuance. 98767

(3) After approval of a levy for general permanent 98768
improvements for a continuing period of time, the board of 98769
education may anticipate a fraction of the proceeds of the levy 98770
and issue anticipation notes in a principal amount not exceeding 98771
fifty per cent of the total estimated proceeds of the levy to be 98772
collected in each year over a specified period of years, not 98773
exceeding ten, after the issuance of the notes. 98774

The notes shall be issued as provided in section 133.24 of 98775
the Revised Code, shall have principal payments during each year 98776
after the year of their issuance over a period not to exceed ten 98777
years, and may have a principal payment in the year of their 98778
issuance. 98779

Sec. 5705.211. (A) As used in this section: 98780

(1) "Adjusted charge-off increase" for a tax year means two 98781
and two-tenths per cent of the cumulative carryover property value 98782

~~increase. If the cumulative carryover property value increase is 98783
computed on the basis of a school district's recognized valuation 98784
for a fiscal year before fiscal year 2014, the adjusted charge-off 98785
increase shall be adjusted to account for the greater charge-off 98786
rates prescribed for such fiscal years under sections 3317.022 and 98787
3306.13 of the Revised Code. 98788~~

(2) "Cumulative carryover property value increase" means the 98789
sum of the increases in carryover value certified under division 98790
(B)(2) of section 3317.015 of the Revised Code and included in a 98791
school district's total taxable value in the computation of 98792
recognized valuation under division (B) of that section for all 98793
fiscal years from the fiscal year that ends in the first tax year 98794
a levy under this section is extended on the tax list of real and 98795
public utility property until and including the fiscal year that 98796
ends in the current tax year. 98797

(3) "Taxes charged and payable" means the taxes charged and 98798
payable from a tax levy extended on the real and public utility 98799
property tax list and the general list of personal property before 98800
any reduction under section 319.302, 323.152, or 323.158 of the 98801
Revised Code. 98802

(B) The board of education of a city, local, or exempted 98803
village school district may adopt a resolution proposing the levy 98804
of a tax in excess of the ten-mill limitation for the purpose of 98805
paying the current operating expenses of the district. If the 98806
resolution is approved as provided in division (D) of this 98807
section, the tax may be levied at such a rate each tax year that 98808
the total taxes charged and payable from the levy equals the 98809
adjusted charge-off increase for the tax year or equals a lesser 98810
amount as prescribed under division (C) of this section. The tax 98811
may be levied for a continuing period of time or for a specific 98812
number of years, but not fewer than five years, as provided in the 98813
resolution. The tax may not be placed on the tax list for a tax 98814

year beginning before the first day of January following adoption 98815
of the resolution. A board of education may not adopt a resolution 98816
under this section proposing to levy a tax under this section 98817
concurrently with any other tax levied by the board under this 98818
section. 98819

(C) After the first year a tax is levied under this section, 98820
the rate of the tax in any year shall not exceed the rate, 98821
estimated by the county auditor, that would cause the sums levied 98822
from the tax against carryover property to exceed one hundred four 98823
per cent of the sums levied from the tax against carryover 98824
property in the preceding year. A board of education imposing a 98825
tax under this section may specify in the resolution imposing the 98826
tax that the percentage shall be less than one hundred four per 98827
cent, but the percentage shall not be less than one hundred per 98828
cent. At any time after a resolution adopted under this section is 98829
approved by a majority of electors as provided in division (D) of 98830
this section, the board of education, by resolution, may decrease 98831
the percentage specified in the resolution levying the tax. 98832

(D) A resolution adopted under this section shall state that 98833
the purpose of the tax is to pay current operating expenses of the 98834
district, and shall specify the first year in which the tax is to 98835
be levied, the number of years the tax will be levied or that it 98836
will be levied for a continuing period of time, and the election 98837
at which the question of the tax is to appear on the ballot, which 98838
shall be a general or special election consistent with the 98839
requirements of section 3501.01 of the Revised Code. If the board 98840
of education specifies a percentage less than one hundred four per 98841
cent pursuant to division (C) of this section, the percentage 98842
shall be specified in the resolution. 98843

Upon adoption of the resolution, the board of education may 98844
certify a copy of the resolution to the proper county board of 98845
elections. The copy of the resolution shall be certified to the 98846

board of elections not later than ninety days before the day of 98847
the election at which the question of the tax is to appear on the 98848
ballot. Upon receiving a timely certified copy of such a 98849
resolution, the board of elections shall make the necessary 98850
arrangements for the submission of the question to the electors of 98851
the school district, and the election shall be conducted, 98852
canvassed, and certified in the same manner as regular elections 98853
in the school district for the election of members of the board of 98854
education. Notice of the election shall be published in ~~one or~~ 98855
~~more newspapers~~ a newspaper of general circulation in the school 98856
district once per week for four consecutive weeks or as provided 98857
in section 7.16 of the Revised Code. The notice shall state that 98858
the purpose of the tax is for the current operating expenses of 98859
the school district, the first year the tax is to be levied, the 98860
number of years the tax is to be levied or that it is to be levied 98861
for a continuing period of time, that the tax is to be levied each 98862
year in an amount estimated to offset decreases in state base cost 98863
funding caused by appreciation in real estate values, and that the 98864
estimated additional tax in any year shall not exceed the previous 98865
year's by more than four per cent, or a lesser percentage 98866
specified in the resolution levying the tax, except for increases 98867
caused by the addition of new taxable property. 98868

The question shall be submitted as a separate proposition but 98869
may be printed on the same ballot with any other proposition 98870
submitted at the same election other than the election of 98871
officers. 98872

The form of the ballot shall be substantially as follows: 98873

"An additional tax for the benefit of (name of school 98874
district) for the purpose of paying the current operating expenses 98875
of the district, for (number of years or for continuing 98876
period of time), at a rate sufficient to offset any reduction in 98877
basic state funding caused by appreciation in real estate values? 98878

This levy will permit variable annual growth in revenue up to 98879
 (amount specified by school district) per cent for the 98880
 duration of the levy. 98881

	For the tax levy	"
	Against the tax levy	

98882
 98883
 98884
 98885

If a majority of the electors of the school district voting 98886
 on the question vote in favor of the question, the board of 98887
 elections shall certify the results of the election to the board 98888
 of education and to the tax commissioner immediately after the 98889
 canvass. 98890

(E) When preparing any estimate of the contemplated receipts 98891
 from a tax levied pursuant to this section for the purposes of 98892
 sections 5705.28 to 5705.40 of the Revised Code, and in preparing 98893
 to certify the tax under section 5705.34 of the Revised Code, a 98894
 board of education authorized to levy such a tax shall use 98895
 information supplied by the department of education to determine 98896
 the adjusted charge-off increase for the tax year for which that 98897
 certification is made. If the board levied a tax under this 98898
 section in the preceding tax year, the sum to be certified for 98899
 collection from the tax shall not exceed the sum that would exceed 98900
 the limitation imposed under division (C) of this section. At the 98901
 request of the board of education or the treasurer of the school 98902
 district, the county auditor shall assist the board of education 98903
 in determining the rate or sum that may be levied under this 98904
 section. 98905

The board of education shall certify the sum authorized to be 98906
 levied to the county auditor, and, for the purpose of the county 98907
 auditor determining the rate at which the tax is to be levied in 98908
 the tax year, the sum so certified shall be the sum to be raised 98909

by the tax unless the sum exceeds the limitation imposed by 98910
division (C) of this section. A tax levied pursuant to this 98911
section shall not be levied at a rate in excess of the rate 98912
estimated by the county auditor to produce the sum certified by 98913
the board of education before the reductions under sections 98914
319.302, 323.152, and 323.158 of the Revised Code. Notwithstanding 98915
section 5705.34 of the Revised Code, a board of education 98916
authorized to levy a tax under this section shall certify the tax 98917
to the county auditor before the first day of October of the tax 98918
year in which the tax is to be levied, or at a later date as 98919
approved by the tax commissioner. 98920

Sec. 5705.218. (A) The board of education of a city, local, 98921
or exempted village school district, at any time by a vote of 98922
two-thirds of all its members, may declare by resolution that it 98923
may be necessary for the school district to issue general 98924
obligation bonds for permanent improvements. The resolution shall 98925
state all of the following: 98926

(1) The necessity and purpose of the bond issue; 98927

(2) The date of the special election at which the question 98928
shall be submitted to the electors; 98929

(3) The amount, approximate date, estimated rate of interest, 98930
and maximum number of years over which the principal of the bonds 98931
may be paid; 98932

(4) The necessity of levying a tax outside the ten-mill 98933
limitation to pay debt charges on the bonds and any anticipatory 98934
securities. 98935

On adoption of the resolution, the board shall certify a copy 98936
of it to the county auditor. The county auditor promptly shall 98937
estimate and certify to the board the average annual property tax 98938
rate required throughout the stated maturity of the bonds to pay 98939

debt charges on the bonds, in the same manner as under division 98940
(C) of section 133.18 of the Revised Code. 98941

(B) After receiving the county auditor's certification under 98942
division (A) of this section, the board of education of the city, 98943
local, or exempted village school district, by a vote of 98944
two-thirds of all its members, may declare by resolution that the 98945
amount of taxes that can be raised within the ten-mill limitation 98946
will be insufficient to provide an adequate amount for the present 98947
and future requirements of the school district; that it is 98948
necessary to issue general obligation bonds of the school district 98949
for permanent improvements and to levy an additional tax in excess 98950
of the ten-mill limitation to pay debt charges on the bonds and 98951
any anticipatory securities; that it is necessary for a specified 98952
number of years or for a continuing period of time to levy 98953
additional taxes in excess of the ten-mill limitation to provide 98954
funds for the acquisition, construction, enlargement, renovation, 98955
and financing of permanent improvements or to pay for current 98956
operating expenses, or both; and that the question of the bonds 98957
and taxes shall be submitted to the electors of the school 98958
district at a special election, which shall not be earlier than 98959
ninety days after certification of the resolution to the board of 98960
elections, and the date of which shall be consistent with section 98961
3501.01 of the Revised Code. The resolution shall specify all of 98962
the following: 98963

(1) The county auditor's estimate of the average annual 98964
property tax rate required throughout the stated maturity of the 98965
bonds to pay debt charges on the bonds; 98966

(2) The proposed rate of the tax, if any, for current 98967
operating expenses, the first year the tax will be levied, and the 98968
number of years it will be levied, or that it will be levied for a 98969
continuing period of time; 98970

(3) The proposed rate of the tax, if any, for permanent 98971

improvements, the first year the tax will be levied, and the 98972
number of years it will be levied, or that it will be levied for a 98973
continuing period of time. 98974

The resolution shall apportion the annual rate of the tax 98975
between current operating expenses and permanent improvements, if 98976
both taxes are proposed. The apportionment may but need not be the 98977
same for each year of the tax, but the respective portions of the 98978
rate actually levied each year for current operating expenses and 98979
permanent improvements shall be limited by the apportionment. The 98980
resolution shall go into immediate effect upon its passage, and no 98981
publication of it is necessary other than that provided in the 98982
notice of election. The board of education shall certify a copy of 98983
the resolution, along with copies of the auditor's estimate and 98984
its resolution under division (A) of this section, to the board of 98985
elections immediately after its adoption. 98986

(C) The board of elections shall make the arrangements for 98987
the submission of the question to the electors of the school 98988
district, and the election shall be conducted, canvassed, and 98989
certified in the same manner as regular elections in the district 98990
for the election of county officers. The resolution shall be put 98991
before the electors as one ballot question, with a favorable vote 98992
indicating approval of the bond issue, the levy to pay debt 98993
charges on the bonds and any anticipatory securities, the current 98994
operating expenses levy, and the permanent improvements levy, if 98995
either or both levies are proposed. The board of elections shall 98996
publish notice of the election in ~~one or more newspapers~~ a 98997
newspaper of general circulation in the school district once a 98998
week for two consecutive weeks, or as provided in section 7.16 of 98999
the Revised Code, prior to the election, ~~and, if~~. If a board of 99000
elections operates and maintains a web site, that board also shall 99001
post notice of the election on its web site for thirty days prior 99002
to the election. The notice of election shall state all of the 99003

following:	99004
(1) The principal amount of the proposed bond issue;	99005
(2) The permanent improvements for which the bonds are to be issued;	99006 99007
(3) The maximum number of years over which the principal of the bonds may be paid;	99008 99009
(4) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;	99010 99011 99012
(5) The proposed rate of the additional tax, if any, for current operating expenses;	99013 99014
(6) The number of years the current operating expenses tax will be in effect, or that it will be in effect for a continuing period of time;	99015 99016 99017
(7) The proposed rate of the additional tax, if any, for permanent improvements;	99018 99019
(8) The number of years the permanent improvements tax will be in effect, or that it will be in effect for a continuing period of time;	99020 99021 99022
(9) The time and place of the special election.	99023
(D) The form of the ballot for an election under this section is as follows:	99024 99025
"Shall the school district be authorized to do the following:	99026 99027
(1) Issue bonds for the purpose of in the principal amount of \$....., to be repaid annually over a maximum period of years, and levy a property tax outside the ten-mill limitation, estimated by the county auditor to average over the bond repayment period mills for each one dollar of	99028 99029 99030 99031 99032

tax valuation, which amounts to (rate expressed in cents or 99033
dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of 99034
tax valuation, to pay the annual debt charges on the bonds, and to 99035
pay debt charges on any notes issued in anticipation of those 99036
bonds?" 99037

If either a levy for permanent improvements or a levy for 99038
current operating expenses is proposed, or both are proposed, the 99039
ballot also shall contain the following language, as appropriate: 99040

"(2) Levy an additional property tax to provide funds for the 99041
acquisition, construction, enlargement, renovation, and financing 99042
of permanent improvements at a rate not exceeding mills 99043
for each one dollar of tax valuation, which amounts to 99044
(rate expressed in cents or dollars and cents) for each \$100 of 99045
tax valuation, for (number of years of the levy, or a 99046
continuing period of time)? 99047

(3) Levy an additional property tax to pay current operating 99048
expenses at a rate not exceeding mills for each one dollar 99049
of tax valuation, which amounts to (rate expressed in 99050
cents or dollars and cents) for each \$100 of tax valuation, for 99051
..... (number of years of the levy, or a continuing period of 99052
time)? 99053

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)

"

(E) The board of elections promptly shall certify the results 99054
of the election to the tax commissioner and the county auditor of 99055
the county in which the school district is located. If a majority 99056
of the electors voting on the question vote for it, the board of 99057
education may proceed with issuance of the bonds and with the levy 99058
and collection of the property tax or taxes at the additional rate 99059
99060
99061
99062
99063

or any lesser rate in excess of the ten-mill limitation. Any 99064
securities issued by the board of education under this section are 99065
Chapter 133. securities, as that term is defined in section 133.01 99066
of the Revised Code. 99067

(F)(1) After the approval of a tax for current operating 99068
expenses under this section and prior to the time the first 99069
collection and distribution from the levy can be made, the board 99070
of education may anticipate a fraction of the proceeds of such 99071
levy and issue anticipation notes in a principal amount not 99072
exceeding fifty per cent of the total estimated proceeds of the 99073
tax to be collected during the first year of the levy. 99074

(2) After the approval of a tax under this section for 99075
permanent improvements having a specific purpose, the board of 99076
education may anticipate a fraction of the proceeds of such tax 99077
and issue anticipation notes in a principal amount not exceeding 99078
fifty per cent of the total estimated proceeds of the tax 99079
remaining to be collected in each year over a period of five years 99080
after issuance of the notes. 99081

(3) After the approval of a tax for general, on-going 99082
permanent improvements under this section, the board of education 99083
may anticipate a fraction of the proceeds of such tax and issue 99084
anticipation notes in a principal amount not exceeding fifty per 99085
cent of the total estimated proceeds of the tax to be collected in 99086
each year over a specified period of years, not exceeding ten, 99087
after issuance of the notes. 99088

Anticipation notes under this section shall be issued as 99089
provided in section 133.24 of the Revised Code. Notes issued under 99090
division (F)(1) or (2) of this section shall have principal 99091
payments during each year after the year of their issuance over a 99092
period not to exceed five years, and may have a principal payment 99093
in the year of their issuance. Notes issued under division (F)(3) 99094
of this section shall have principal payments during each year 99095

after the year of their issuance over a period not to exceed ten 99096
years, and may have a principal payment in the year of their 99097
issuance. 99098

(G) A tax for current operating expenses or for permanent 99099
improvements levied under this section for a specified number of 99100
years may be renewed or replaced in the same manner as a tax for 99101
current operating expenses or for permanent improvements levied 99102
under section 5705.21 of the Revised Code. A tax for current 99103
operating expenses or for permanent improvements levied under this 99104
section for a continuing period of time may be decreased in 99105
accordance with section 5705.261 of the Revised Code. 99106

(H) The submission of a question to the electors under this 99107
section is subject to the limitation on the number of elections 99108
that can be held in a year under section 5705.214 of the Revised 99109
Code. 99110

(I) A school district board of education proposing a ballot 99111
measure under this section to generate local resources for a 99112
project under the school building assistance expedited local 99113
partnership program under section 3318.36 of the Revised Code may 99114
combine the questions under division (D) of this section with a 99115
question for the levy of a property tax to generate moneys for 99116
maintenance of the classroom facilities acquired under that 99117
project as prescribed in section 3318.361 of the Revised Code. 99118

Sec. 5705.25. (A) A copy of any resolution adopted as 99119
provided in section 5705.19 or 5705.2111 of the Revised Code shall 99120
be certified by the taxing authority to the board of elections of 99121
the proper county not less than ninety days before the general 99122
election in any year, and the board shall submit the proposal to 99123
the electors of the subdivision at the succeeding November 99124
election. Except as otherwise provided in this division, a 99125
resolution to renew an existing levy, regardless of the section of 99126

the Revised Code under which the tax was imposed, shall not be placed on the ballot unless the question is submitted at the general election held during the last year the tax to be renewed or replaced may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year. The limitation of the foregoing sentence does not apply to a resolution to renew and increase or to renew part of an existing levy that was imposed under section 5705.191 of the Revised Code to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: for public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals. The limitation of the second preceding sentence also does not apply to a resolution that proposes to renew two or more existing levies imposed under section 5705.21 of the Revised Code, in which case the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on that tax list and duplicate.

The board shall make the necessary arrangements for the submission of such questions to the electors of such subdivision, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for

thirty days prior to the election. The notice shall state the 99160
purpose, the proposed increase in rate expressed in dollars and 99161
cents for each one hundred dollars of valuation as well as in 99162
mills for each one dollar of valuation, the number of years during 99163
which the increase will be in effect, the first month and year in 99164
which the tax will be levied, and the time and place of the 99165
election. 99166

(B) The form of the ballots cast at an election held pursuant 99167
to division (A) of this section shall be as follows: 99168

"An additional tax for the benefit of (name of subdivision or 99169
public library) for the purpose of (purpose stated in 99170
the resolution) at a rate not exceeding mills 99171
for each one dollar of valuation, which amounts to (rate expressed 99172
in dollars and cents) for each one hundred dollars of 99173
valuation, for (life of indebtedness or number of years the 99174
levy is to run). 99175

	For the Tax Levy	
	Against the Tax Levy	"

99176
99177
99178
99179

(C) If the levy is to be in effect for a continuing period of 99180
time, the notice of election and the form of ballot shall so state 99181
instead of setting forth a specified number of years for the levy. 99182

If the tax is to be placed on the current tax list, the form 99183
of the ballot shall be modified by adding, after the statement of 99184
the number of years the levy is to run, the phrase ", commencing 99185
in (first year the tax is to be levied), first due in 99186
calendar year (first calendar year in which the tax 99187
shall be due)." 99188

If the levy submitted is a proposal to renew, increase, or 99189
decrease an existing levy, the form of the ballot specified in 99190

division (B) of this section may be changed by substituting for 99191
the words "An additional" at the beginning of the form, the words 99192
"A renewal of a" in case of a proposal to renew an existing levy 99193
in the same amount; the words "A renewal of mills and an 99194
increase of mills to constitute a" in the case of an 99195
increase; or the words "A renewal of part of an existing levy, 99196
being a reduction of mills, to constitute a" in the case of 99197
a decrease in the proposed levy. 99198

If the levy submitted is a proposal to renew two or more 99199
existing levies imposed under section 5705.21 of the Revised Code, 99200
the form of the ballot specified in division (B) of this section 99201
shall be modified by substituting for the words "an additional 99202
tax" the words "a renewal of(insert the number of levies to 99203
be renewed) existing taxes." 99204

The question covered by such resolution shall be submitted as 99205
a separate proposition but may be printed on the same ballot with 99206
any other proposition submitted at the same election, other than 99207
the election of officers. More than one such question may be 99208
submitted at the same election. 99209

(D) A levy voted in excess of the ten-mill limitation under 99210
this section shall be certified to the tax commissioner. In the 99211
first year of the levy, it shall be extended on the tax lists 99212
after the February settlement succeeding the election. If the 99213
additional tax is to be placed upon the tax list of the current 99214
year, as specified in the resolution providing for its submission, 99215
the result of the election shall be certified immediately after 99216
the canvass by the board of elections to the taxing authority, who 99217
shall make the necessary levy and certify it to the county 99218
auditor, who shall extend it on the tax lists for collection. 99219
After the first year, the tax levy shall be included in the annual 99220
tax budget that is certified to the county budget commission. 99221

Sec. 5705.251. (A) A copy of a resolution adopted under 99222
section 5705.212 or 5705.213 of the Revised Code shall be 99223
certified by the board of education to the board of elections of 99224
the proper county not less than ninety days before the date of the 99225
election specified in the resolution, and the board of elections 99226
shall submit the proposal to the electors of the school district 99227
at a special election to be held on that date. The board of 99228
elections shall make the necessary arrangements for the submission 99229
of the question or questions to the electors of the school 99230
district, and the election shall be conducted, canvassed, and 99231
certified in the same manner as regular elections in the school 99232
district for the election of county officers. Notice of the 99233
election shall be published in a newspaper of general circulation 99234
in the subdivision once a week for two consecutive weeks, or as 99235
provided in section 7.16 of the Revised Code, prior to the 99236
election, ~~and, if.~~ If the board of elections operates and 99237
maintains a web site, the board of elections shall post notice of 99238
the election on its web site for thirty days prior to the 99239
election. 99240

(1) In the case of a resolution adopted under section 99241
5705.212 of the Revised Code, the notice shall state separately, 99242
for each tax being proposed, the purpose; the proposed increase in 99243
rate, expressed in dollars and cents for each one hundred dollars 99244
of valuation as well as in mills for each one dollar of valuation; 99245
the number of years during which the increase will be in effect; 99246
and the first calendar year in which the tax will be due. For an 99247
election on the question of a renewal levy, the notice shall state 99248
the purpose; the proposed rate, expressed in dollars and cents for 99249
each one hundred dollars of valuation as well as in mills for each 99250
one dollar of valuation; and the number of years the tax will be 99251
in effect. 99252

(2) In the case of a resolution adopted under section 99253

5705.213 of the Revised Code, the notice shall state the purpose; 99254
the amount proposed to be raised by the tax in the first year it 99255
is levied; the estimated average additional tax rate for the first 99256
year it is proposed to be levied, expressed in mills for each one 99257
dollar of valuation and in dollars and cents for each one hundred 99258
dollars of valuation; the number of years during which the 99259
increase will be in effect; and the first calendar year in which 99260
the tax will be due. The notice also shall state the amount by 99261
which the amount to be raised by the tax may be increased in each 99262
year after the first year. The amount of the allowable increase 99263
may be expressed in terms of a dollar increase over, or a 99264
percentage of, the amount raised by the tax in the immediately 99265
preceding year. For an election on the question of a renewal levy, 99266
the notice shall state the purpose; the amount proposed to be 99267
raised by the tax; the estimated tax rate, expressed in mills for 99268
each one dollar of valuation and in dollars and cents for each one 99269
hundred dollars of valuation; and the number of years the tax will 99270
be in effect. 99271

In any case, the notice also shall state the time and place 99272
of the election. 99273

(B) The form of the ballot in an election on taxes proposed 99274
under section 5705.212 of the Revised Code shall be as follows: 99275

"Shall the school district be authorized to levy 99276
taxes for current expenses, the aggregate rate of which may 99277
increase in (number) increment(s) of not more than 99278
mill(s) for each dollar of valuation, from an original rate of 99279
..... mill(s) for each dollar of valuation, which amounts to 99280
..... (rate expressed in dollars and cents) for each one hundred 99281
dollars of valuation, to a maximum rate of mill(s) for each 99282
dollar of valuation, which amounts to (rate expressed in 99283
dollars and cents) for each one hundred dollars of valuation? The 99284
original tax is first proposed to be levied in (the first 99285

year of the tax), and the incremental tax in (the first 99286
year of the increment) (if more than one incremental tax is 99287
proposed in the resolution, the first year that each incremental 99288
tax is proposed to be levied shall be stated in the preceding 99289
format, and the increments shall be referred to as the first, 99290
second, third, or fourth increment, depending on their number). 99291
The aggregate rate of tax so authorized will (insert 99292
either, "expire with the original rate of tax which shall be in 99293
effect for years" or "be in effect for a continuing period 99294
of time"). 99295

	FOR THE TAX LEVIES
	AGAINST THE TAX LEVIES

"

The form of the ballot in an election on the question of a 99300
renewal levy under section 5705.212 of the Revised Code shall be 99301
as follows: 99302

"Shall the school district be authorized to renew a 99303
tax for current expenses at a rate not exceeding mills 99304
for each dollar of valuation, which amounts to (rate 99305
expressed in dollars and cents) for each one hundred dollars of 99306
valuation, for (number of years the levy shall be in 99307
effect, or a continuing period of time)? 99308

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

If the tax is to be placed on the current tax list, the form 99313
of the ballot shall be modified by adding, after the statement of 99314
the number of years the levy is to be in effect, the phrase ", 99315
commencing in (first year the tax is to be levied), 99316

first due in calendar year (first calendar year in 99317
 which the tax shall be due)." 99318

(C) The form of the ballot in an election on a tax proposed 99319
 under section 5705.213 of the Revised Code shall be as follows: 99320

"Shall the school district be authorized to levy the 99321
 following tax for current expenses? The tax will first be levied 99322
 in (year) to raise (dollars). In the (number 99323
 of years) following years, the tax will increase by not more than 99324
 (per cent or dollar amount of increase) each year, so that, 99325
 during (last year of the tax), the tax will raise 99326
 approximately (dollars). The county auditor estimates that 99327
 the rate of the tax per dollar of valuation will be 99328
 mill(s), which amounts to \$. per one hundred dollars of 99329
 valuation, both during (first year of the tax) and 99330
 mill(s), which amounts to \$. per one hundred dollars of 99331
 valuation, during (last year of the tax). The tax will not 99332
 be levied after (year). 99333

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

The form of the ballot in an election on the question of a 99338
 renewal levy under section 5705.213 of the Revised Code shall be 99339
 as follows: 99340

"Shall the school district be authorized to renew a 99341
 tax for current expenses which will raise (dollars), 99342
 estimated by the county auditor to be mills for each 99343
 dollar of valuation, which amounts to (rate expressed in 99344
 dollars and cents) for each one hundred dollars of valuation? The 99345
 tax shall be in effect for (the number of years the levy 99346
 shall be in effect, or a continuing period of time). 99347

	FOR THE TAX LEVY	
	AGAINST THE TAX LEVY	"

99348

99349

99350

99351

If the tax is to be placed on the current tax list, the form 99352
of the ballot shall be modified by adding, after the statement of 99353
the number of years the levy is to be in effect, the phrase ", 99354
commencing in (first year the tax is to be levied), 99355
first due in calendar year (first calendar year in 99356
which the tax shall be due)." 99357

(D) The question covered by a resolution adopted under 99358
section 5705.212 or 5705.213 of the Revised Code shall be 99359
submitted as a separate question, but may be printed on the same 99360
ballot with any other question submitted at the same election, 99361
other than the election of officers. More than one question may be 99362
submitted at the same election. 99363

(E) Taxes voted in excess of the ten-mill limitation under 99364
division (B) or (C) of this section shall be certified to the tax 99365
commissioner. If an additional tax is to be placed upon the tax 99366
list of the current year, as specified in the resolution providing 99367
for its submission, the result of the election shall be certified 99368
immediately after the canvass by the board of elections to the 99369
board of education. The board of education immediately shall make 99370
the necessary levy and certify it to the county auditor, who shall 99371
extend it on the tax list for collection. After the first year, 99372
the levy shall be included in the annual tax budget that is 99373
certified to the county budget commission. 99374

Sec. 5705.261. The question of decrease of an increased rate 99375
of levy approved for a continuing period of time by the voters of 99376
a subdivision may be initiated by the filing of a petition with 99377
the board of elections of the proper county not less than ninety 99378

days before the general election in any year requesting that an 99379
election be held on such question. Such petition shall state the 99380
amount of the proposed decrease in the rate of levy and shall be 99381
signed by qualified electors residing in the subdivision equal in 99382
number to at least ten per cent of the total number of votes cast 99383
in the subdivision for the office of governor at the most recent 99384
general election for that office. Only one such petition may be 99385
filed during each five-year period following the election at which 99386
the voters approved the increased rate for a continuing period of 99387
time. 99388

After determination by it that such petition is valid, the 99389
board of elections shall submit the question to the electors of 99390
the district at the succeeding general election. The election 99391
shall be conducted, canvassed, and certified in the same manner as 99392
regular elections in such subdivision for county offices. Notice 99393
of the election shall be published in a newspaper of general 99394
circulation in the district once a week for two consecutive weeks, 99395
or as provided in section 7.16 of the Revised Code, prior to the 99396
election, ~~and, if~~. If the board of elections operates and 99397
maintains a web site, the board of elections shall post notice of 99398
the election on its web site for thirty days prior to the 99399
election. The notice shall state the purpose, the amount of the 99400
proposed decrease in rate, and the time and place of the election. 99401
The form of the ballot cast at such election shall be prescribed 99402
by the secretary of state. The question covered by such petition 99403
shall be submitted as a separate proposition but it may be printed 99404
on the same ballot with any other propositions submitted at the 99405
same election other than the election of officers. If a majority 99406
of the qualified electors voting on the question of a decrease at 99407
such election approve the proposed decrease in rate, the result of 99408
the election shall be certified immediately after the canvass by 99409
the board of elections to the subdivision's taxing authority, 99410
which shall thereupon, after the current year, cease to levy such 99411

increased rate or levy such tax at such reduced rate upon the 99412
duplicate of the subdivision. If notes have been issued in 99413
anticipation of the collection of such levy, the taxing authority 99414
shall continue to levy and collect under authority of the election 99415
authorizing the original levy such amounts as will be sufficient 99416
to pay the principal of and interest on such anticipation notes as 99417
the same fall due. 99418

Sec. 5705.314. If the board of education of a city, local, or 99419
exempted village school district proposes to change its levy 99420
within the ten-mill limitation in a manner that will result in an 99421
increase in the amount of real property taxes levied by the board 99422
in the tax year the change takes effect, the board shall hold a 99423
public hearing solely on the proposal before adopting a resolution 99424
to implement the proposal. The board shall publish notice of the 99425
hearing in a newspaper of general circulation in the school 99426
district once a week for two consecutive weeks or as provided in 99427
section 7.16 of the Revised Code. The second publication shall be 99428
not less than ten nor more than thirty days before the date of the 99429
hearing. ~~The,~~ and the notice shall include the date, time, place, 99430
and subject of the hearing, and a statement that the change 99431
proposed by the board may result in an increase in the amount of 99432
real property taxes levied by the board. At the time the board 99433
submits the notice for publication, the board shall send a copy of 99434
the notice to the auditor of the county where the school district 99435
is located or, if the school district is located in more than one 99436
county, to the auditor of each of those counties. 99437

Sec. 5705.392. (A) A board of county commissioners may adopt 99438
as a part of its annual appropriation measure a spending plan, or 99439
in the case of an amended appropriation measure, an amended 99440
spending plan, setting forth a quarterly schedule of expenses and 99441
expenditures of all appropriations for the fiscal year from the 99442

county general fund. The spending plan shall be classified to set 99443
forth separately a quarterly schedule of expenses and expenditures 99444
for each office, department, and division, and within each, the 99445
amount appropriated for personal services. Each office, 99446
department, and division shall be limited in its expenses and 99447
expenditures of moneys appropriated from the general fund during 99448
any quarter by the schedule established in the spending plan. The 99449
schedule established in the spending plan shall serve as a 99450
limitation during a quarter on the making of contracts and giving 99451
of orders involving the expenditure of money during that quarter 99452
for purposes of division (D) of section 5705.41 of the Revised 99453
Code. 99454

(B)(1) A board of county commissioners, by resolution, may 99455
adopt a spending plan or an amended spending plan setting forth 99456
separately a quarterly schedule of expenses and expenditures of 99457
appropriations from any county fund, for the second half of a 99458
fiscal year and any subsequent fiscal year, for any county office, 99459
department, or division that has spent or encumbered more than 99460
six-tenths of the amount appropriated for personal services and 99461
payrolls during the first half of any fiscal year. 99462

(2) During any fiscal year, a board of county commissioners, 99463
by resolution, may adopt a spending plan or an amended spending 99464
plan setting forth separately a quarterly schedule of expenses and 99465
expenditures of appropriations from any county fund, for any 99466
county office, department, or division that, during the previous 99467
fiscal year, spent one hundred five per cent or more of the total 99468
amount appropriated by the board in its annual appropriation 99469
measure required by section 5705.38 of the Revised Code. The 99470
spending plan or amended spending plan shall remain in effect 99471
three fiscal years, or until the county officer of the office for 99472
which the plan was adopted is no longer in office, including terms 99473
of office to which the county officer is re-elected, whichever is 99474

later. 99475

(3) At least thirty days before adopting a resolution under 99476
division (B)(1) or (2) of this section, the board of county 99477
commissioners shall provide written notice to each county office, 99478
department, or division for which it intends to adopt a spending 99479
plan or an amended spending plan. The notice shall be sent by 99480
regular first class mail or provided by personal service, and 99481
shall include a copy of the proposed spending plan or proposed 99482
amended spending plan. The county office, department, or division 99483
may meet with the board at any regular session of the board to 99484
comment on the notice, or to express concerns or ask questions 99485
about the proposed spending plan or proposed amended spending 99486
plan. 99487

Sec. 5705.412. (A) As used in this section, "qualifying 99488
contract" means any agreement for the expenditure of money under 99489
which aggregate payments from the funds included in the school 99490
district's five-year forecast under section 5705.391 of the 99491
Revised Code will exceed the lesser of the following amounts: 99492

(1) Five hundred thousand dollars; 99493

(2) One per cent of the total revenue to be credited in the 99494
current fiscal year to the district's general fund, as specified 99495
in the district's most recent certificate of estimated resources 99496
certified under section 5705.36 of the Revised Code. 99497

(B)(1) Notwithstanding section 5705.41 of the Revised Code, 99498
no school district shall adopt any appropriation measure, make any 99499
qualifying contract, or increase during any school year any wage 99500
or salary schedule unless there is attached thereto a certificate, 99501
signed as required by this section, that the school district has 99502
in effect the authorization to levy taxes including the renewal or 99503
replacement of existing levies which, when combined with the 99504
estimated revenue from all other sources available to the district 99505

at the time of certification, are sufficient to provide the 99506
operating revenues necessary to enable the district to maintain 99507
all personnel and programs for all the days set forth in its 99508
adopted school calendars for the current fiscal year and for a 99509
number of days in succeeding fiscal years equal to the number of 99510
days instruction was held or is scheduled for the current fiscal 99511
year, as follows: 99512

~~(1)~~(a) A certificate attached to an appropriation measure 99513
under this section shall cover only the fiscal year in which the 99514
appropriation measure is effective and shall not consider the 99515
renewal or replacement of an existing levy as the authority to 99516
levy taxes that are subject to appropriation in the current fiscal 99517
year unless the renewal or replacement levy has been approved by 99518
the electors and is subject to appropriation in the current fiscal 99519
year. 99520

~~(2)~~(b) A certificate attached, in accordance with this 99521
section, to any qualifying contract shall cover the term of the 99522
contract. 99523

~~(3)~~(c) A certificate attached under this section to a wage or 99524
salary schedule shall cover the term of the schedule. 99525

If the board of education has not adopted a school calendar 99526
for the school year beginning on the first day of the fiscal year 99527
in which a certificate is required, the certificate attached to an 99528
appropriation measure shall include the number of days on which 99529
instruction was held in the preceding fiscal year and other 99530
certificates required under this section shall include that number 99531
of days for the fiscal year in which the certificate is required 99532
and any succeeding fiscal years that the certificate must cover. 99533

The certificate shall be signed by the treasurer and 99534
president of the board of education and the superintendent of the 99535
school district, unless the district is in a state of fiscal 99536

emergency declared under Chapter 3316. of the Revised Code. In 99537
that case, the certificate shall be signed by a member of the 99538
district's financial planning and supervision commission who is 99539
designated by the commission for this purpose. 99540

(2) In lieu of the certificate required under division (B) of 99541
this section, an alternative certificate stating the following may 99542
be attached: 99543

(a) The contract is a multi-year contract for materials, 99544
equipment, or nonpayroll services essential to the education 99545
program of the district; 99546

(b) The multi-year contract demonstrates savings over the 99547
duration of the contract as compared to costs that otherwise would 99548
have been demonstrated in a single year contract, and the terms 99549
will allow the district to reduce the deficit it is currently 99550
facing in future years as demonstrated in its five-year forecast 99551
adopted in accordance with section 5705.391 of the Revised Code. 99552

The certificate shall be signed by the treasurer and 99553
president of the board of education and the superintendent of the 99554
school district, unless the district is in a state of fiscal 99555
emergency declared under Chapter 3316. of the Revised Code. In 99556
that case, the certificate shall be signed by a member of the 99557
district's financial planning and supervision commission who is 99558
designated by the commission for this purpose. 99559

(C) Every qualifying contract made or wage or salary schedule 99560
adopted or put into effect without such a certificate shall be 99561
void, and no payment of any amount due thereon shall be made. 99562

(D) The department of education and the auditor of state 99563
jointly shall adopt rules governing the methods by which 99564
treasurers, presidents of boards of education, superintendents, 99565
and members of financial planning and supervision commissions 99566
shall estimate revenue and determine whether such revenue is 99567

sufficient to provide necessary operating revenue for the purpose 99568
of making certifications required by this section. 99569

(E) The auditor of state shall be responsible for determining 99570
whether school districts are in compliance with this section. At 99571
the time a school district is audited pursuant to section 117.11 99572
of the Revised Code, the auditor of state shall review each 99573
certificate issued under this section since the district's last 99574
audit, and the appropriation measure, contract, or wage and salary 99575
schedule to which such certificate was attached. If the auditor of 99576
state determines that a school district has not complied with this 99577
section with respect to any qualifying contract or wage or salary 99578
schedule, the auditor of state shall notify the prosecuting 99579
attorney for the county, the city director of law, or other chief 99580
law officer of the school district. That officer may file a civil 99581
action in any court of appropriate jurisdiction to seek a 99582
declaration that the contract or wage or salary schedule is void, 99583
to recover for the school district from the payee the amount of 99584
payments already made under it, or both, except that the officer 99585
shall not seek to recover payments made under any collective 99586
bargaining agreement entered into under Chapter 4117. of the 99587
Revised Code. If the officer does not file such an action within 99588
one hundred twenty days after receiving notice of noncompliance 99589
from the auditor of state, any taxpayer may institute the action 99590
in the taxpayer's own name on behalf of the school district. 99591

(F) This section does not apply to any contract or increase 99592
in any wage or salary schedule that is necessary in order to 99593
enable a board of education to comply with division (B) of section 99594
3317.13 of the Revised Code, provided the contract or increase 99595
does not exceed the amount required to be paid to be in compliance 99596
with such division. 99597

(G) Any officer, employee, or other person who expends or 99598
authorizes the expenditure of any public funds or authorizes or 99599

executes any contract or schedule contrary to this section, 99600
expends or authorizes the expenditure of any public funds on the 99601
void contract or schedule, or issues a certificate under this 99602
section which contains any false statements is liable to the 99603
school district for the full amount paid from the district's funds 99604
on the contract or schedule. The officer, employee, or other 99605
person is jointly and severally liable in person and upon any 99606
official bond that the officer, employee, or other person has 99607
given to the school district to the extent of any payments on the 99608
void claim, not to exceed ten thousand dollars. However, no 99609
officer, employee, or other person shall be liable for a mistaken 99610
estimate of available resources made in good faith and based upon 99611
reasonable grounds. If an officer, employee, or other person is 99612
found to have complied with rules jointly adopted by the 99613
department of education and the auditor of state under this 99614
section governing methods by which revenue shall be estimated and 99615
determined sufficient to provide necessary operating revenue for 99616
the purpose of making certifications required by this section, the 99617
officer, employee, or other person shall not be liable under this 99618
section if the estimates and determinations made according to 99619
those rules do not, in fact, conform with actual revenue. The 99620
prosecuting attorney of the county, the city director of law, or 99621
other chief law officer of the district shall enforce this 99622
liability by civil action brought in any court of appropriate 99623
jurisdiction in the name of and on behalf of the school district. 99624
If the prosecuting attorney, city director of law, or other chief 99625
law officer of the district fails, upon the written request of any 99626
taxpayer, to institute action for the enforcement of the 99627
liability, the attorney general, or the taxpayer in the taxpayer's 99628
own name, may institute the action on behalf of the subdivision. 99629

(H) This section does not require the attachment of an 99630
additional certificate beyond that required by section 5705.41 of 99631
the Revised Code for current payrolls of, or contracts of 99632

employment with, any employees or officers of the school district. 99633

This section does not require the attachment of a certificate 99634
to a temporary appropriation measure if all of the following 99635
apply: 99636

(1) The amount appropriated does not exceed twenty-five per 99637
cent of the total amount from all sources available for 99638
expenditure from any fund during the preceding fiscal year; 99639

(2) The measure will not be in effect on or after the 99640
thirtieth day following the earliest date on which the district 99641
may pass an annual appropriation measure; 99642

(3) An amended official certificate of estimated resources 99643
for the current year, if required, has not been certified to the 99644
board of education under division (B) of section 5705.36 of the 99645
Revised Code. 99646

Sec. 5705.71. (A) The electors of a county may initiate the 99647
question of a tax levy for support of senior citizens services or 99648
facilities by the filing of a petition with the board of elections 99649
of that county not less than ninety days before the date of any 99650
primary or general election requesting that an election be held on 99651
such question. The petition shall be signed by at least ten per 99652
cent of the qualified electors residing in the county and voting 99653
for the office of governor at the last general election. 99654

(B) The petition shall state the purpose for which the senior 99655
citizens tax levy is being proposed, shall specify the amount of 99656
the proposed increase in rate, the period of time during which the 99657
increase is to be in effect, and whether the levy is to be imposed 99658
in the current year. The number of years may be any number not 99659
exceeding five, except that when the additional rate is for the 99660
payment of debt charges the increased rate shall be for the life 99661
of the indebtedness. 99662

(C) After determination by it that such petition is valid, 99663
the board of elections shall submit the question to the electors 99664
of the county at the succeeding primary or general election. 99665

(D) The election shall be conducted, canvassed, and certified 99666
in the same manner as regular elections in such county for county 99667
offices. Notice of the election shall be published in a newspaper 99668
of general circulation in the county once a week for two 99669
consecutive weeks, or as provided in section 7.16 of the Revised 99670
Code, prior to the election, ~~and, if.~~ If the board of elections 99671
operates and maintains a web site, the board of elections shall 99672
post notice of the election on its web site for thirty days prior 99673
to the election. The notice shall state the purpose, the amount of 99674
the proposed increase in rate, and the time and place of the 99675
election. 99676

(E) The form of the ballot cast at such election shall be 99677
prescribed by the secretary of state. If the tax is to be placed 99678
on the tax list of the current tax year, the form of the ballot 99679
shall include a statement to that effect and shall indicate the 99680
first calendar year the tax will be due. The question covered by 99681
such petition shall be submitted as a separate proposition but it 99682
may be printed on the same ballot with any other propositions 99683
submitted at the same election other than the election of 99684
officers. 99685

(F) If a majority of electors voting on the question vote in 99686
favor of the levy, the board of county commissioners shall levy a 99687
tax, for the period and the purpose stated within the petition. If 99688
the tax is to be placed upon the tax list of the current year, as 99689
specified in the petition, the result of the election shall be 99690
certified immediately after the canvass by the board of elections 99691
to the board of county commissioners, which shall forthwith make 99692
the necessary levy and certify it to the county auditor, who shall 99693
extend it on the tax list for collection. After the first year, 99694

the tax levy shall be included in the annual tax budget that is 99695
certified to the county budget commission. 99696

Sec. 5707.031. As used in this section, "qualifying dealer in 99697
intangibles" ~~has the same meaning as "qualifying dealer" in~~ 99698
~~section 5725.24 of the Revised Code~~ means a dealer in intangibles 99699
that is a qualifying dealer in intangibles as defined in section 99700
5733.45 of the Revised Code or a member of a qualifying controlled 99701
group, as defined in section 5733.04 of the Revised Code, of which 99702
an insurance company also is a member on the first day of January 99703
of the year in and for which the tax imposed by section 5707.03 of 99704
the Revised Code is required to be paid by the dealer. 99705

Upon the issuance of a tax credit certificate by the Ohio 99706
venture capital authority under section 150.07 of the Revised 99707
Code, a refundable credit may be claimed against the tax imposed 99708
on a qualifying dealer in intangibles under section 5707.03 and 99709
Chapter 5725. of the Revised Code. The credit shall be claimed on 99710
a return due under section 5725.14 of the Revised Code after the 99711
certificate is issued by the authority. 99712

Sec. 5709.07. (A) The following property shall be exempt from 99713
taxation: 99714

(1) Public schoolhouses, the books and furniture in them, and 99715
the ground attached to them necessary for the proper occupancy, 99716
use, and enjoyment of the schoolhouses, ~~and not leased or~~ 99717
~~otherwise used with a view to profit;~~ 99718

(2) Houses used exclusively for public worship, the books and 99719
furniture in them, and the ground attached to them that is not 99720
leased or otherwise used with a view to profit and that is 99721
necessary for their proper occupancy, use, and enjoyment; 99722

(3) Real property owned and operated by a church that is used 99723
primarily for church retreats or church camping, and that is not 99724

used as a permanent residence. Real property exempted under 99725
division (A)(3) of this section may be made available by the 99726
church on a limited basis to charitable and educational 99727
institutions if the property is not leased or otherwise made 99728
available with a view to profit. 99729

(4) Public colleges and academies and all buildings connected 99730
with them, and all lands connected with public institutions of 99731
learning, not used with a view to profit, including those 99732
buildings and lands that satisfy all of the following: 99733

(a) The buildings are used for housing for full-time students 99734
or housing-related facilities for students, faculty, or employees 99735
of a state university, or for other purposes related to the state 99736
university's educational purpose, and the lands are underneath the 99737
buildings or are used for common space, walkways, and green spaces 99738
for the state university's students, faculty, or employees. As 99739
used in this division, "housing-related facilities" includes both 99740
parking facilities related to the buildings and common buildings 99741
made available to students, faculty, or employees of a state 99742
university. The leasing of space in housing-related facilities 99743
shall not be considered an activity with a view to profit for 99744
purposes of division (A)(4) of this section. 99745

(b) The buildings and lands are supervised or otherwise under 99746
the control, directly or indirectly, of an organization that is 99747
exempt from federal income taxation under section 501(c)(3) of the 99748
Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as 99749
amended, and the state university has entered into a qualifying 99750
joint use agreement with the organization that entitles the 99751
students, faculty, or employees of the state university to use the 99752
lands or buildings; 99753

(c) The state university has agreed, under the terms of the 99754
qualifying joint use agreement with the organization described in 99755
division (A)(4)(b) of this section, that the state university, to 99756

the extent applicable under the agreement, will make payments to 99757
the organization in amounts sufficient to maintain agreed-upon 99758
debt service coverage ratios on bonds related to the lands or 99759
buildings. 99760

(B) This section shall not extend to leasehold estates or 99761
real property held under the authority of a college or university 99762
of learning in this state; but leaseholds, or other estates or 99763
property, real or personal, the rents, issues, profits, and income 99764
of which is given to a municipal corporation, school district, or 99765
subdistrict in this state exclusively for the use, endowment, or 99766
support of schools for the free education of youth without charge 99767
shall be exempt from taxation as long as such property, or the 99768
rents, issues, profits, or income of the property is used and 99769
exclusively applied for the support of free education by such 99770
municipal corporation, district, or subdistrict. Division (B) of 99771
this section shall not apply with respect to buildings and lands 99772
that satisfy all of the requirements specified in divisions 99773
(A)(4)(a) to (c) of this section. 99774

(C) For purposes of this section, if the requirements 99775
specified in divisions (A)(4)(a) to (c) of this section are 99776
satisfied, the buildings and lands with respect to which exemption 99777
is claimed under division (A)(4) of this section shall be deemed 99778
to be used with reasonable certainty in furthering or carrying out 99779
the necessary objects and purposes of a state university. 99780

(D) As used in this section: 99781

(1) "Church" means a fellowship of believers, congregation, 99782
society, corporation, convention, or association that is formed 99783
primarily or exclusively for religious purposes and that is not 99784
formed for the private profit of any person. 99785

(2) "State university" has the same meaning as in section 99786
3345.011 of the Revised Code. 99787

(3) "Qualifying joint use agreement" means an agreement that 99788
satisfies all of the following: 99789

(a) The agreement was entered into before June 30, 2004; 99790

(b) The agreement is between a state university and an 99791
organization that is exempt from federal income taxation under 99792
section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 99793
2085, 26 U.S.C. 1, as amended; and 99794

(c) The state university that is a party to the agreement 99795
reported to the Ohio board of regents that the university 99796
maintained a headcount of at least twenty-five thousand students 99797
on its main campus during the academic school year that began in 99798
calendar year 2003 and ended in calendar year 2004. 99799

Sec. 5709.62. (A) In any municipal corporation that is 99800
defined by the United States office of management and budget as a 99801
principal city of a metropolitan statistical area, the legislative 99802
authority of the municipal corporation may designate one or more 99803
areas within its municipal corporation as proposed enterprise 99804
zones. Upon designating an area, the legislative authority shall 99805
petition the director of development for certification of the area 99806
as having the characteristics set forth in division (A)(1) of 99807
section 5709.61 of the Revised Code as amended by Substitute 99808
Senate Bill No. 19 of the 120th general assembly. Except as 99809
otherwise provided in division (E) of this section, on and after 99810
July 1, 1994, legislative authorities shall not enter into 99811
agreements under this section unless the legislative authority has 99812
petitioned the director and the director has certified the zone 99813
under this section as amended by that act; however, all agreements 99814
entered into under this section as it existed prior to July 1, 99815
1994, and the incentives granted under those agreements shall 99816
remain in effect for the period agreed to under those agreements. 99817
Within sixty days after receiving such a petition, the director 99818

shall determine whether the area has the characteristics set forth 99819
in division (A)(1) of section 5709.61 of the Revised Code, and 99820
shall forward the findings to the legislative authority of the 99821
municipal corporation. If the director certifies the area as 99822
having those characteristics, and thereby certifies it as a zone, 99823
the legislative authority may enter into an agreement with an 99824
enterprise under division (C) of this section. 99825

(B) Any enterprise that wishes to enter into an agreement 99826
with a municipal corporation under division (C) of this section 99827
shall submit a proposal to the legislative authority of the 99828
municipal corporation on a form prescribed by the director of 99829
development, together with the application fee established under 99830
section 5709.68 of the Revised Code. The form shall require the 99831
following information: 99832

(1) An estimate of the number of new employees whom the 99833
enterprise intends to hire, or of the number of employees whom the 99834
enterprise intends to retain, within the zone at a facility that 99835
is a project site, and an estimate of the amount of payroll of the 99836
enterprise attributable to these employees; 99837

(2) An estimate of the amount to be invested by the 99838
enterprise to establish, expand, renovate, or occupy a facility, 99839
including investment in new buildings, additions or improvements 99840
to existing buildings, machinery, equipment, furniture, fixtures, 99841
and inventory; 99842

(3) A listing of the enterprise's current investment, if any, 99843
in a facility as of the date of the proposal's submission. 99844

The enterprise shall review and update the listings required 99845
under this division to reflect material changes, and any agreement 99846
entered into under division (C) of this section shall set forth 99847
final estimates and listings as of the time the agreement is 99848
entered into. The legislative authority may, on a separate form 99849

and at any time, require any additional information necessary to 99850
determine whether an enterprise is in compliance with an agreement 99851
and to collect the information required to be reported under 99852
section 5709.68 of the Revised Code. 99853

(C) Upon receipt and investigation of a proposal under 99854
division (B) of this section, if the legislative authority finds 99855
that the enterprise submitting the proposal is qualified by 99856
financial responsibility and business experience to create and 99857
preserve employment opportunities in the zone and improve the 99858
economic climate of the municipal corporation, the legislative 99859
authority, on or before October 15, ~~2011~~ 2012, may do one of the 99860
following: 99861

(1) Enter into an agreement with the enterprise under which 99862
the enterprise agrees to establish, expand, renovate, or occupy a 99863
facility and hire new employees, or preserve employment 99864
opportunities for existing employees, in return for one or more of 99865
the following incentives: 99866

(a) Exemption for a specified number of years, not to exceed 99867
fifteen, of a specified portion, up to seventy-five per cent, of 99868
the assessed value of tangible personal property first used in 99869
business at the project site as a result of the agreement. If an 99870
exemption for inventory is specifically granted in the agreement 99871
pursuant to this division, the exemption applies to inventory 99872
required to be listed pursuant to sections 5711.15 and 5711.16 of 99873
the Revised Code, except that, in the instance of an expansion or 99874
other situations in which an enterprise was in business at the 99875
facility prior to the establishment of the zone, the inventory 99876
that is exempt is that amount or value of inventory in excess of 99877
the amount or value of inventory required to be listed in the 99878
personal property tax return of the enterprise in the return for 99879
the tax year in which the agreement is entered into. 99880

(b) Exemption for a specified number of years, not to exceed 99881

fifteen, of a specified portion, up to seventy-five per cent, of 99882
the increase in the assessed valuation of real property 99883
constituting the project site subsequent to formal approval of the 99884
agreement by the legislative authority; 99885

(c) Provision for a specified number of years, not to exceed 99886
fifteen, of any optional services or assistance that the municipal 99887
corporation is authorized to provide with regard to the project 99888
site. 99889

(2) Enter into an agreement under which the enterprise agrees 99890
to remediate an environmentally contaminated facility, to spend an 99891
amount equal to at least two hundred fifty per cent of the true 99892
value in money of the real property of the facility prior to 99893
remediation as determined for the purposes of property taxation to 99894
establish, expand, renovate, or occupy the remediated facility, 99895
and to hire new employees or preserve employment opportunities for 99896
existing employees at the remediated facility, in return for one 99897
or more of the following incentives: 99898

(a) Exemption for a specified number of years, not to exceed 99899
fifteen, of a specified portion, not to exceed fifty per cent, of 99900
the assessed valuation of the real property of the facility prior 99901
to remediation; 99902

(b) Exemption for a specified number of years, not to exceed 99903
fifteen, of a specified portion, not to exceed one hundred per 99904
cent, of the increase in the assessed valuation of the real 99905
property of the facility during or after remediation; 99906

(c) The incentive under division (C)(1)(a) of this section, 99907
except that the percentage of the assessed value of such property 99908
exempted from taxation shall not exceed one hundred per cent; 99909

(d) The incentive under division (C)(1)(c) of this section. 99910

(3) Enter into an agreement with an enterprise that plans to 99911
purchase and operate a large manufacturing facility that has 99912

ceased operation or announced its intention to cease operation, in 99913
return for exemption for a specified number of years, not to 99914
exceed fifteen, of a specified portion, up to one hundred per 99915
cent, of the assessed value of tangible personal property used in 99916
business at the project site as a result of the agreement, or of 99917
the assessed valuation of real property constituting the project 99918
site, or both. 99919

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 99920
section, the portion of the assessed value of tangible personal 99921
property or of the increase in the assessed valuation of real 99922
property exempted from taxation under those divisions may exceed 99923
seventy-five per cent in any year for which that portion is 99924
exempted if the average percentage exempted for all years in which 99925
the agreement is in effect does not exceed sixty per cent, or if 99926
the board of education of the city, local, or exempted village 99927
school district within the territory of which the property is or 99928
will be located approves a percentage in excess of seventy-five 99929
per cent. 99930

(2) Notwithstanding any provision of the Revised Code to the 99931
contrary, the exemptions described in divisions (C)(1)(a), (b), 99932
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 99933
be for up to fifteen years if the board of education of the city, 99934
local, or exempted village school district within the territory of 99935
which the property is or will be located approves a number of 99936
years in excess of ten. 99937

(3) For the purpose of obtaining the approval of a city, 99938
local, or exempted village school district under division (D)(1) 99939
or (2) of this section, the legislative authority shall deliver to 99940
the board of education a notice not later than forty-five days 99941
prior to approving the agreement, excluding Saturdays, Sundays, 99942
and legal holidays as defined in section 1.14 of the Revised Code. 99943
The notice shall state the percentage to be exempted, an estimate 99944

of the true value of the property to be exempted, and the number 99945
of years the property is to be exempted. The board of education, 99946
by resolution adopted by a majority of the board, shall approve or 99947
disapprove the agreement and certify a copy of the resolution to 99948
the legislative authority not later than fourteen days prior to 99949
the date stipulated by the legislative authority as the date upon 99950
which approval of the agreement is to be formally considered by 99951
the legislative authority. The board of education may include in 99952
the resolution conditions under which the board would approve the 99953
agreement, including the execution of an agreement to compensate 99954
the school district under division (B) of section 5709.82 of the 99955
Revised Code. The legislative authority may approve the agreement 99956
at any time after the board of education certifies its resolution 99957
approving the agreement to the legislative authority, or, if the 99958
board approves the agreement conditionally, at any time after the 99959
conditions are agreed to by the board and the legislative 99960
authority. 99961

If a board of education has adopted a resolution waiving its 99962
right to approve agreements and the resolution remains in effect, 99963
approval of an agreement by the board is not required under this 99964
division. If a board of education has adopted a resolution 99965
allowing a legislative authority to deliver the notice required 99966
under this division fewer than forty-five business days prior to 99967
the legislative authority's approval of the agreement, the 99968
legislative authority shall deliver the notice to the board not 99969
later than the number of days prior to such approval as prescribed 99970
by the board in its resolution. If a board of education adopts a 99971
resolution waiving its right to approve agreements or shortening 99972
the notification period, the board shall certify a copy of the 99973
resolution to the legislative authority. If the board of education 99974
rescinds such a resolution, it shall certify notice of the 99975
rescission to the legislative authority. 99976

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2011~~ 2012, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to 100007
establish, expand, renovate, or occupy a facility in the zone and 100008
hire new employees, or preserve employment opportunities for 100009
existing employees, in return for one or more of the incentives 100010
described in division (C) of this section. 100011

(F) All agreements entered into under this section shall be 100012
in the form prescribed under section 5709.631 of the Revised Code. 100013
After an agreement is entered into under this section, if the 100014
legislative authority revokes its designation of a zone, or if the 100015
director of development revokes a zone's certification, any 100016
entitlements granted under the agreement shall continue for the 100017
number of years specified in the agreement. 100018

(G) Except as otherwise provided in this division, an 100019
agreement entered into under this section shall require that the 100020
enterprise pay an annual fee equal to the greater of one per cent 100021
of the dollar value of incentives offered under the agreement or 100022
five hundred dollars; provided, however, that if the value of the 100023
incentives exceeds two hundred fifty thousand dollars, the fee 100024
shall not exceed two thousand five hundred dollars. The fee shall 100025
be payable to the legislative authority once per year for each 100026
year the agreement is effective on the days and in the form 100027
specified in the agreement. Fees paid shall be deposited in a 100028
special fund created for such purpose by the legislative authority 100029
and shall be used by the legislative authority exclusively for the 100030
purpose of complying with section 5709.68 of the Revised Code and 100031
by the tax incentive review council created under section 5709.85 100032
of the Revised Code exclusively for the purposes of performing the 100033
duties prescribed under that section. The legislative authority 100034
may waive or reduce the amount of the fee charged against an 100035
enterprise, but such a waiver or reduction does not affect the 100036
obligations of the legislative authority or the tax incentive 100037
review council to comply with section 5709.68 or 5709.85 of the 100038

Revised Code. 100039

(H) When an agreement is entered into pursuant to this 100040
section, the legislative authority authorizing the agreement shall 100041
forward a copy of the agreement to the director of development and 100042
to the tax commissioner within fifteen days after the agreement is 100043
entered into. If any agreement includes terms not provided for in 100044
section 5709.631 of the Revised Code affecting the revenue of a 100045
city, local, or exempted village school district or causing 100046
revenue to be forgone by the district, including any compensation 100047
to be paid to the school district pursuant to section 5709.82 of 100048
the Revised Code, those terms also shall be forwarded in writing 100049
to the director of development along with the copy of the 100050
agreement forwarded under this division. 100051

(I) After an agreement is entered into, the enterprise shall 100052
file with each personal property tax return required to be filed, 100053
or annual report required to be filed under section 5727.08 of the 100054
Revised Code, while the agreement is in effect, an informational 100055
return, on a form prescribed by the tax commissioner for that 100056
purpose, setting forth separately the property, and related costs 100057
and values, exempted from taxation under the agreement. 100058

(J) Enterprises may agree to give preference to residents of 100059
the zone within which the agreement applies relative to residents 100060
of this state who do not reside in the zone when hiring new 100061
employees under the agreement. 100062

(K) An agreement entered into under this section may include 100063
a provision requiring the enterprise to create one or more 100064
temporary internship positions for students enrolled in a course 100065
of study at a school or other educational institution in the 100066
vicinity, and to create a scholarship or provide another form of 100067
educational financial assistance for students holding such a 100068
position in exchange for the student's commitment to work for the 100069
enterprise at the completion of the internship. 100070

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the

board under division (B) or (D) of this section shall submit a 100103
proposal to the board on the form and accompanied by the 100104
application fee prescribed under division (B) of section 5709.62 100105
of the Revised Code. The enterprise shall review and update the 100106
estimates and listings required by the form in the manner required 100107
under that division. The board may, on a separate form and at any 100108
time, require any additional information necessary to determine 100109
whether an enterprise is in compliance with an agreement and to 100110
collect the information required to be reported under section 100111
5709.68 of the Revised Code. 100112

(B) If the board of county commissioners finds that an 100113
enterprise submitting a proposal is qualified by financial 100114
responsibility and business experience to create and preserve 100115
employment opportunities in the zone and to improve the economic 100116
climate of the municipal corporation or municipal corporations or 100117
the unincorporated areas in which the zone is located and to which 100118
the proposal applies, the board, on or before October 15, ~~2011~~ 100119
2012, and with the consent of the legislative authority of each 100120
affected municipal corporation or of the board of township 100121
trustees may do either of the following: 100122

(1) Enter into an agreement with the enterprise under which 100123
the enterprise agrees to establish, expand, renovate, or occupy a 100124
facility in the zone and hire new employees, or preserve 100125
employment opportunities for existing employees, in return for the 100126
following incentives: 100127

(a) When the facility is located in a municipal corporation, 100128
the board may enter into an agreement for one or more of the 100129
incentives provided in division (C) of section 5709.62 of the 100130
Revised Code, subject to division (D) of that section; 100131

(b) When the facility is located in an unincorporated area, 100132
the board may enter into an agreement for one or more of the 100133
following incentives: 100134

(i) Exemption for a specified number of years, not to exceed 100135
fifteen, of a specified portion, up to sixty per cent, of the 100136
assessed value of tangible personal property first used in 100137
business at a project site as a result of the agreement. If an 100138
exemption for inventory is specifically granted in the agreement 100139
pursuant to this division, the exemption applies to inventory 100140
required to be listed pursuant to sections 5711.15 and 5711.16 of 100141
the Revised Code, except, in the instance of an expansion or other 100142
situations in which an enterprise was in business at the facility 100143
prior to the establishment of the zone, the inventory that is 100144
exempt is that amount or value of inventory in excess of the 100145
amount or value of inventory required to be listed in the personal 100146
property tax return of the enterprise in the return for the tax 100147
year in which the agreement is entered into. 100148

(ii) Exemption for a specified number of years, not to exceed 100149
fifteen, of a specified portion, up to sixty per cent, of the 100150
increase in the assessed valuation of real property constituting 100151
the project site subsequent to formal approval of the agreement by 100152
the board; 100153

(iii) Provision for a specified number of years, not to 100154
exceed fifteen, of any optional services or assistance the board 100155
is authorized to provide with regard to the project site; 100156

(iv) The incentive described in division (C)(2) of section 100157
5709.62 of the Revised Code. 100158

(2) Enter into an agreement with an enterprise that plans to 100159
purchase and operate a large manufacturing facility that has 100160
ceased operation or has announced its intention to cease 100161
operation, in return for exemption for a specified number of 100162
years, not to exceed fifteen, of a specified portion, up to one 100163
hundred per cent, of tangible personal property used in business 100164
at the project site as a result of the agreement, or of real 100165
property constituting the project site, or both. 100166

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 100167
this section, the portion of the assessed value of tangible 100168
personal property or of the increase in the assessed valuation of 100169
real property exempted from taxation under those divisions may 100170
exceed sixty per cent in any year for which that portion is 100171
exempted if the average percentage exempted for all years in which 100172
the agreement is in effect does not exceed fifty per cent, or if 100173
the board of education of the city, local, or exempted village 100174
school district within the territory of which the property is or 100175
will be located approves a percentage in excess of sixty per cent. 100176

(b) Notwithstanding any provision of the Revised Code to the 100177
contrary, the exemptions described in divisions (B)(1)(b)(i), 100178
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 100179
fifteen years if the board of education of the city, local, or 100180
exempted village school district within the territory of which the 100181
property is or will be located approves a number of years in 100182
excess of ten. 100183

(c) For the purpose of obtaining the approval of a city, 100184
local, or exempted village school district under division 100185
(C)(1)(a) or (b) of this section, the board of county 100186
commissioners shall deliver to the board of education a notice not 100187
later than forty-five days prior to approving the agreement, 100188
excluding Saturdays, Sundays, and legal holidays as defined in 100189
section 1.14 of the Revised Code. The notice shall state the 100190
percentage to be exempted, an estimate of the true value of the 100191
property to be exempted, and the number of years the property is 100192
to be exempted. The board of education, by resolution adopted by a 100193
majority of the board, shall approve or disapprove the agreement 100194
and certify a copy of the resolution to the board of county 100195
commissioners not later than fourteen days prior to the date 100196
stipulated by the board of county commissioners as the date upon 100197
which approval of the agreement is to be formally considered by 100198

the board of county commissioners. The board of education may 100199
include in the resolution conditions under which the board would 100200
approve the agreement, including the execution of an agreement to 100201
compensate the school district under division (B) of section 100202
5709.82 of the Revised Code. The board of county commissioners may 100203
approve the agreement at any time after the board of education 100204
certifies its resolution approving the agreement to the board of 100205
county commissioners, or, if the board of education approves the 100206
agreement conditionally, at any time after the conditions are 100207
agreed to by the board of education and the board of county 100208
commissioners. 100209

If a board of education has adopted a resolution waiving its 100210
right to approve agreements and the resolution remains in effect, 100211
approval of an agreement by the board of education is not required 100212
under division (C) of this section. If a board of education has 100213
adopted a resolution allowing a board of county commissioners to 100214
deliver the notice required under this division fewer than 100215
forty-five business days prior to approval of the agreement by the 100216
board of county commissioners, the board of county commissioners 100217
shall deliver the notice to the board of education not later than 100218
the number of days prior to such approval as prescribed by the 100219
board of education in its resolution. If a board of education 100220
adopts a resolution waiving its right to approve agreements or 100221
shortening the notification period, the board of education shall 100222
certify a copy of the resolution to the board of county 100223
commissioners. If the board of education rescinds such a 100224
resolution, it shall certify notice of the rescission to the board 100225
of county commissioners. 100226

(2) The board of county commissioners shall comply with 100227
section 5709.83 of the Revised Code unless the board of education 100228
has adopted a resolution under that section waiving its right to 100229
receive such notice. 100230

(D) This division applies to zones certified by the director 100231
of development under this section prior to July 22, 1994. 100232

On or before October 15, ~~2011~~ 2012, and with the consent of 100233
the legislative authority of each affected municipal corporation 100234
or board of township trustees of each affected township, the board 100235
of county commissioners that designated a zone to which this 100236
division applies may enter into an agreement with an enterprise if 100237
the board finds that the enterprise satisfies one of the criteria 100238
described in divisions (D)(1) to (5) of this section: 100239

(1) The enterprise currently has no operations in this state 100240
and, subject to approval of the agreement, intends to establish 100241
operations in the zone; 100242

(2) The enterprise currently has operations in this state 100243
and, subject to approval of the agreement, intends to establish 100244
operations at a new location in the zone that would not result in 100245
a reduction in the number of employee positions at any of the 100246
enterprise's other locations in this state; 100247

(3) The enterprise, subject to approval of the agreement, 100248
intends to relocate operations, currently located in another 100249
state, to the zone; 100250

(4) The enterprise, subject to approval of the agreement, 100251
intends to expand operations at an existing site in the zone that 100252
the enterprise currently operates; 100253

(5) The enterprise, subject to approval of the agreement, 100254
intends to relocate operations, currently located in this state, 100255
to the zone, and the director of development has issued a waiver 100256
for the enterprise under division (B) of section 5709.633 of the 100257
Revised Code. 100258

The agreement shall require the enterprise to agree to 100259
establish, expand, renovate, or occupy a facility in the zone and 100260
hire new employees, or preserve employment opportunities for 100261

existing employees, in return for one or more of the incentives 100262
described in division (B) of this section. 100263

(E) All agreements entered into under this section shall be 100264
in the form prescribed under section 5709.631 of the Revised Code. 100265
After an agreement under this section is entered into, if the 100266
board of county commissioners revokes its designation of a zone, 100267
or if the director of development revokes a zone's certification, 100268
any entitlements granted under the agreement shall continue for 100269
the number of years specified in the agreement. 100270

(F) Except as otherwise provided in this division, an 100271
agreement entered into under this section shall require that the 100272
enterprise pay an annual fee equal to the greater of one per cent 100273
of the dollar value of incentives offered under the agreement or 100274
five hundred dollars; provided, however, that if the value of the 100275
incentives exceeds two hundred fifty thousand dollars, the fee 100276
shall not exceed two thousand five hundred dollars. The fee shall 100277
be payable to the board of county commissioners once per year for 100278
each year the agreement is effective on the days and in the form 100279
specified in the agreement. Fees paid shall be deposited in a 100280
special fund created for such purpose by the board and shall be 100281
used by the board exclusively for the purpose of complying with 100282
section 5709.68 of the Revised Code and by the tax incentive 100283
review council created under section 5709.85 of the Revised Code 100284
exclusively for the purposes of performing the duties prescribed 100285
under that section. The board may waive or reduce the amount of 100286
the fee charged against an enterprise, but such waiver or 100287
reduction does not affect the obligations of the board or the tax 100288
incentive review council to comply with section 5709.68 or 5709.85 100289
of the Revised Code, respectively. 100290

(G) With the approval of the legislative authority of a 100291
municipal corporation or the board of township trustees of a 100292
township in which a zone is designated under division (A) of this 100293

section, the board of county commissioners may delegate to that 100294
legislative authority or board any powers and duties of the board 100295
of county commissioners to negotiate and administer agreements 100296
with regard to that zone under this section. 100297

(H) When an agreement is entered into pursuant to this 100298
section, the board of county commissioners authorizing the 100299
agreement or the legislative authority or board of township 100300
trustees that negotiates and administers the agreement shall 100301
forward a copy of the agreement to the director of development and 100302
to the tax commissioner within fifteen days after the agreement is 100303
entered into. If any agreement includes terms not provided for in 100304
section 5709.631 of the Revised Code affecting the revenue of a 100305
city, local, or exempted village school district or causing 100306
revenue to be foregone by the district, including any compensation 100307
to be paid to the school district pursuant to section 5709.82 of 100308
the Revised Code, those terms also shall be forwarded in writing 100309
to the director of development along with the copy of the 100310
agreement forwarded under this division. 100311

(I) After an agreement is entered into, the enterprise shall 100312
file with each personal property tax return required to be filed, 100313
or annual report that is required to be filed under section 100314
5727.08 of the Revised Code, while the agreement is in effect, an 100315
informational return, on a form prescribed by the tax commissioner 100316
for that purpose, setting forth separately the property, and 100317
related costs and values, exempted from taxation under the 100318
agreement. 100319

(J) Enterprises may agree to give preference to residents of 100320
the zone within which the agreement applies relative to residents 100321
of this state who do not reside in the zone when hiring new 100322
employees under the agreement. 100323

(K) An agreement entered into under this section may include 100324
a provision requiring the enterprise to create one or more 100325

temporary internship positions for students enrolled in a course 100326
of study at a school or other educational institution in the 100327
vicinity, and to create a scholarship or provide another form of 100328
educational financial assistance for students holding such a 100329
position in exchange for the student's commitment to work for the 100330
enterprise at the completion of the internship. 100331

(L) The tax commissioner's authority in determining the 100332
accuracy of any exemption granted by an agreement entered into 100333
under this section is limited to divisions (B)(1)(b)(i) and (ii), 100334
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 100335
this section as it pertains to divisions (C)(2)(a), (b), and (c) 100336
of section 5709.62 of the Revised Code, and divisions (B)(1) to 100337
(10) of section 5709.631 of the Revised Code and, as authorized by 100338
law, to enforcing any modification to, or revocation of, that 100339
agreement by the board of county commissioners or the director of 100340
development or, if the board's powers and duties are delegated 100341
under division (G) of this section, by the legislative authority 100342
of a municipal corporation or board of township trustees. 100343

Sec. 5709.632. (A)(1) The legislative authority of a 100344
municipal corporation defined by the United States office of 100345
management and budget as a principal city of a metropolitan 100346
statistical area may, in the manner set forth in section 5709.62 100347
of the Revised Code, designate one or more areas in the municipal 100348
corporation as a proposed enterprise zone. 100349

(2) With the consent of the legislative authority of each 100350
affected municipal corporation or of a board of township trustees, 100351
a board of county commissioners may, in the manner set forth in 100352
section 5709.62 of the Revised Code, designate one or more areas 100353
in one or more municipal corporations or in unincorporated areas 100354
of the county as proposed urban jobs and enterprise zones, except 100355
that a board of county commissioners may designate no more than 100356

one area within a township, or within adjacent townships, as a 100357
proposed urban jobs and enterprise zone. 100358

(3) The legislative authority or board of county 100359
commissioners may petition the director of development for 100360
certification of the area as having the characteristics set forth 100361
in division (A)(3) of section 5709.61 of the Revised Code. Within 100362
sixty days after receiving such a petition, the director shall 100363
determine whether the area has the characteristics set forth in 100364
that division and forward the findings to the legislative 100365
authority or board of county commissioners. If the director 100366
certifies the area as having those characteristics and thereby 100367
certifies it as a zone, the legislative authority or board may 100368
enter into agreements with enterprises under division (B) of this 100369
section. Any enterprise wishing to enter into an agreement with a 100370
legislative authority or board of county commissioners under this 100371
section and satisfying one of the criteria described in divisions 100372
(B)(1) to (5) of this section shall submit a proposal to the 100373
legislative authority or board on the form prescribed under 100374
division (B) of section 5709.62 of the Revised Code and shall 100375
review and update the estimates and listings required by the form 100376
in the manner required under that division. The legislative 100377
authority or board may, on a separate form and at any time, 100378
require any additional information necessary to determine whether 100379
an enterprise is in compliance with an agreement and to collect 100380
the information required to be reported under section 5709.68 of 100381
the Revised Code. 100382

(B) Prior to entering into an agreement with an enterprise, 100383
the legislative authority or board of county commissioners shall 100384
determine whether the enterprise submitting the proposal is 100385
qualified by financial responsibility and business experience to 100386
create and preserve employment opportunities in the zone and to 100387
improve the economic climate of the municipal corporation or 100388

municipal corporations or the unincorporated areas in which the 100389
zone is located and to which the proposal applies, and whether the 100390
enterprise satisfies one of the following criteria: 100391

(1) The enterprise currently has no operations in this state 100392
and, subject to approval of the agreement, intends to establish 100393
operations in the zone; 100394

(2) The enterprise currently has operations in this state 100395
and, subject to approval of the agreement, intends to establish 100396
operations at a new location in the zone that would not result in 100397
a reduction in the number of employee positions at any of the 100398
enterprise's other locations in this state; 100399

(3) The enterprise, subject to approval of the agreement, 100400
intends to relocate operations, currently located in another 100401
state, to the zone; 100402

(4) The enterprise, subject to approval of the agreement, 100403
intends to expand operations at an existing site in the zone that 100404
the enterprise currently operates; 100405

(5) The enterprise, subject to approval of the agreement, 100406
intends to relocate operations, currently located in this state, 100407
to the zone, and the director of development has issued a waiver 100408
for the enterprise under division (B) of section 5709.633 of the 100409
Revised Code. 100410

(C) If the legislative authority or board determines that the 100411
enterprise is so qualified and satisfies one of the criteria 100412
described in divisions (B)(1) to (5) of this section, the 100413
legislative authority or board may, after complying with section 100414
5709.83 of the Revised Code and on or before October 15, ~~2011~~ 100415
2012, and, in the case of a board of commissioners, with the 100416
consent of the legislative authority of each affected municipal 100417
corporation or of the board of township trustees, enter into an 100418
agreement with the enterprise under which the enterprise agrees to 100419

establish, expand, renovate, or occupy a facility in the zone and 100420
hire new employees, or preserve employment opportunities for 100421
existing employees, in return for the following incentives: 100422

(1) When the facility is located in a municipal corporation, 100423
a legislative authority or board of commissioners may enter into 100424
an agreement for one or more of the incentives provided in 100425
division (C) of section 5709.62 of the Revised Code, subject to 100426
division (D) of that section; 100427

(2) When the facility is located in an unincorporated area, a 100428
board of commissioners may enter into an agreement for one or more 100429
of the incentives provided in divisions (B)(1)(b), (B)(2), and 100430
(B)(3) of section 5709.63 of the Revised Code, subject to division 100431
(C) of that section. 100432

(D) All agreements entered into under this section shall be 100433
in the form prescribed under section 5709.631 of the Revised Code. 100434
After an agreement under this section is entered into, if the 100435
legislative authority or board of county commissioners revokes its 100436
designation of the zone, or if the director of development revokes 100437
the zone's certification, any entitlements granted under the 100438
agreement shall continue for the number of years specified in the 100439
agreement. 100440

(E) Except as otherwise provided in this division, an 100441
agreement entered into under this section shall require that the 100442
enterprise pay an annual fee equal to the greater of one per cent 100443
of the dollar value of incentives offered under the agreement or 100444
five hundred dollars; provided, however, that if the value of the 100445
incentives exceeds two hundred fifty thousand dollars, the fee 100446
shall not exceed two thousand five hundred dollars. The fee shall 100447
be payable to the legislative authority or board of commissioners 100448
once per year for each year the agreement is effective on the days 100449
and in the form specified in the agreement. Fees paid shall be 100450
deposited in a special fund created for such purpose by the 100451

legislative authority or board and shall be used by the 100452
legislative authority or board exclusively for the purpose of 100453
complying with section 5709.68 of the Revised Code and by the tax 100454
incentive review council created under section 5709.85 of the 100455
Revised Code exclusively for the purposes of performing the duties 100456
prescribed under that section. The legislative authority or board 100457
may waive or reduce the amount of the fee charged against an 100458
enterprise, but such waiver or reduction does not affect the 100459
obligations of the legislative authority or board or the tax 100460
incentive review council to comply with section 5709.68 or 5709.85 100461
of the Revised Code, respectively. 100462

(F) With the approval of the legislative authority of a 100463
municipal corporation or the board of township trustees of a 100464
township in which a zone is designated under division (A)(2) of 100465
this section, the board of county commissioners may delegate to 100466
that legislative authority or board any powers and duties of the 100467
board to negotiate and administer agreements with regard to that 100468
zone under this section. 100469

(G) When an agreement is entered into pursuant to this 100470
section, the legislative authority or board of commissioners 100471
authorizing the agreement shall forward a copy of the agreement to 100472
the director of development and to the tax commissioner within 100473
fifteen days after the agreement is entered into. If any agreement 100474
includes terms not provided for in section 5709.631 of the Revised 100475
Code affecting the revenue of a city, local, or exempted village 100476
school district or causing revenue to be forgone by the district, 100477
including any compensation to be paid to the school district 100478
pursuant to section 5709.82 of the Revised Code, those terms also 100479
shall be forwarded in writing to the director of development along 100480
with the copy of the agreement forwarded under this division. 100481

(H) After an agreement is entered into, the enterprise shall 100482
file with each personal property tax return required to be filed 100483

while the agreement is in effect, an informational return, on a 100484
form prescribed by the tax commissioner for that purpose, setting 100485
forth separately the property, and related costs and values, 100486
exempted from taxation under the agreement. 100487

(I) An agreement entered into under this section may include 100488
a provision requiring the enterprise to create one or more 100489
temporary internship positions for students enrolled in a course 100490
of study at a school or other educational institution in the 100491
vicinity, and to create a scholarship or provide another form of 100492
educational financial assistance for students holding such a 100493
position in exchange for the student's commitment to work for the 100494
enterprise at the completion of the internship. 100495

Sec. 5713.01. (A) Each county shall be the unit for assessing 100496
real estate for taxation purposes. The county auditor shall be the 100497
assessor of all the real estate in the auditor's county for 100498
purposes of taxation, but this section does not affect the power 100499
conferred by Chapter 5727. of the Revised Code upon the tax 100500
commissioner regarding the valuation and assessment of real 100501
property used in railroad operations. 100502

(B) The auditor shall assess all the real estate situated in 100503
the county at its taxable value in accordance with sections 100504
5713.03, 5713.31, and 5715.01 of the Revised Code and with the 100505
rules and methods applicable to the auditor's county adopted, 100506
prescribed, and promulgated by the tax commissioner. The auditor 100507
shall view and appraise or cause to be viewed and appraised at its 100508
true value in money, each lot or parcel of real estate, including 100509
land devoted exclusively to agricultural use, and the improvements 100510
located thereon at least once in each six-year period and the 100511
taxable values required to be derived therefrom shall be placed on 100512
the auditor's tax list and the county treasurer's duplicate for 100513
the tax year ordered by the commissioner pursuant to section 100514

5715.34 of the Revised Code. The commissioner may grant an 100515
extension of one year or less if the commissioner finds that good 100516
cause exists for the extension. When the auditor so views and 100517
appraises, the auditor may enter each structure located thereon to 100518
determine by actual view what improvements have been made therein 100519
or additions made thereto since the next preceding valuation. The 100520
auditor shall revalue and assess at any time all or any part of 100521
the real estate in such county, including land devoted exclusively 100522
to agricultural use, where the auditor finds that the true or 100523
taxable values thereof have changed, and when a conservation 100524
easement is created under sections 5301.67 to 5301.70 of the 100525
Revised Code. The auditor may increase or decrease the true or 100526
taxable value of any lot or parcel of real estate in any township, 100527
municipal corporation, or other taxing district by an amount which 100528
will cause all real property on the tax list to be valued as 100529
required by law, or the auditor may increase or decrease the 100530
aggregate value of all real property, or any class of real 100531
property, in the county, township, municipal corporation, or other 100532
taxing district, or in any ward or other division of a municipal 100533
corporation by a per cent or amount which will cause all property 100534
to be properly valued and assessed for taxation in accordance with 100535
Section 36, Article II, Section 2, Article XII, Ohio Constitution, 100536
this section, and sections 5713.03, 5713.31, and 5715.01 of the 100537
Revised Code. 100538

(C) When the auditor determines to reappraise all the real 100539
estate in the county or any class thereof, when the tax 100540
commissioner orders an increase in the aggregate true or taxable 100541
value of the real estate in any taxing subdivision, or when the 100542
taxable value of real estate is increased by the application of a 100543
uniform taxable value per cent of true value pursuant to the order 100544
of the commissioner, the auditor shall advertise the completion of 100545
the reappraisal or equalization action in a newspaper of general 100546
circulation in the county once a week for the three consecutive 100547

weeks next preceding the issuance of the tax bills, or as provided 100548
in section 7.16 of the Revised Code for the two consecutive weeks 100549
next preceding the issuance of the tax bills. When the auditor 100550
changes the true or taxable value of any individual parcels of 100551
real estate, the auditor shall notify the owner of the real 100552
estate, or the person in whose name the same stands charged on the 100553
duplicate, by mail or in person, of the changes the auditor has 100554
made in the assessments of such property. Such notice shall be 100555
given at least thirty days prior to the issuance of the tax bills. 100556
Failure to receive notice shall not invalidate any proceeding 100557
under this section. 100558

(D) The auditor shall make the necessary abstracts from books 100559
of the auditor's office containing descriptions of real estate in 100560
such county, together with such platbooks and lists of transfers 100561
of title to land as the auditor deems necessary in the performance 100562
of the auditor's duties in valuing such property for taxation. 100563
Such abstracts, platbooks, and lists shall be in such form and 100564
detail as the tax commissioner prescribes. 100565

(E) The auditor, with the approval of the tax commissioner, 100566
may appoint and employ such experts, deputies, clerks, or other 100567
employees as the auditor deems necessary to the performance of the 100568
auditor's duties as assessor, or, with the approval of the tax 100569
commissioner, the auditor may enter into a contract with an 100570
individual, partnership, firm, company, or corporation to do all 100571
or any part of the work; the amount to be expended in the payment 100572
of the compensation of such employees shall be fixed by the board 100573
of county commissioners. If, in the opinion of the auditor, the 100574
board of county commissioners fails to provide a sufficient amount 100575
for the compensation of such employees, the auditor may apply to 100576
the tax commissioner for an additional allowance, and the 100577
additional amount of compensation allowed by the commissioner 100578
shall be certified to the board of county commissioners, and the 100579

same shall be final. The salaries and compensation of such 100580
experts, deputies, clerks, and employees shall be paid upon the 100581
warrant of the auditor out of the general fund or the real estate 100582
assessment fund of the county, or both. If the salaries and 100583
compensation are in whole or in part fixed by the commissioner, 100584
they shall constitute a charge against the county regardless of 100585
the amount of money in the county treasury levied or appropriated 100586
for such purposes. 100587

(F) Any contract for goods or services related to the 100588
auditor's duties as assessor, including contracts for mapping, 100589
computers, and reproduction on any medium of any documents, 100590
records, photographs, microfiche, or magnetic tapes, but not 100591
including contracts for the professional services of an appraiser, 100592
shall be awarded pursuant to the competitive bidding procedures 100593
set forth in sections 307.86 to 307.92 of the Revised Code and 100594
shall be paid for, upon the warrant of the auditor, from the real 100595
estate assessment fund. 100596

(G) Experts, deputies, clerks, and other employees, in 100597
addition to their other duties, shall perform such services as the 100598
auditor directs in ascertaining such facts, description, location, 100599
character, dimensions of buildings and improvements, and other 100600
circumstances reflecting upon the value of real estate as will aid 100601
the auditor in fixing its true and taxable value and, in the case 100602
of land valued in accordance with section 5713.31 of the Revised 100603
Code, its current agricultural use value. The auditor may also 100604
summon and examine any person under oath in respect to any matter 100605
pertaining to the value of any real property within the county. 100606

Sec. 5715.17. When the county board of revision has completed 100607
its work of equalization and transmitted the returns to ~~him~~ the 100608
county auditor, the ~~county~~ auditor shall give notice by 100609
advertising in ~~two newspapers of opposite politics published in~~ 100610

and a newspaper of general circulation throughout the county that 100611
the tax returns for the current year have been revised and the 100612
valuations have been completed and are open for public inspection 100613
in ~~his~~ the auditor's office, and that complaints against any 100614
valuation or assessment, except the valuations fixed and 100615
assessments made by the department of taxation, will be heard by 100616
the board, stating in the notice the time and place of the meeting 100617
of such board. Such advertisement shall be inserted in a 100618
conspicuous place in ~~each~~ such newspaper and be published daily 100619
for ten days, ~~unless there is no daily newspaper published in and~~ 100620
~~of general circulation throughout such county, in which event such~~ 100621
~~advertisement shall be so published once each week for two weeks~~ 100622
or as provided in section 7.16 of the Revised Code. 100623

The auditor shall, upon request, furnish to any person a 100624
certificate setting forth the assessment and valuation of any 100625
tract, lot, or parcel of real estate or any specific personal 100626
property, and mail the same when requested to do so upon receipt 100627
of sufficient postage. 100628

The auditor shall furnish notice to boards of education of 100629
school districts within the county of all hearings, and the 100630
results of such hearings, held in regard to the reduction or 100631
increasing of tax valuations in excess of one hundred thousand 100632
dollars directly affecting the revenue of such district. 100633

Sec. 5715.23. Annually, immediately after the county board of 100634
revision has acted upon the assessments for the current year as 100635
required under section 5715.16 of the Revised Code and the county 100636
auditor has given notice by advertisement in ~~two newspapers a~~ 100637
newspaper of general circulation in the county that the valuations 100638
have been revised and are open for public inspection as provided 100639
in section 5715.17 of the Revised Code, each auditor shall make 100640
out and transmit to the tax commissioner an abstract of the real 100641

property of each taxing district in ~~his~~ the auditor's county, in 100642
which ~~he~~ the auditor shall set forth the aggregate amount and 100643
valuation of each class of real property in such county and in 100644
each taxing district therein as it appears on ~~his~~ the auditor's 100645
tax list or the statements and returns on file in ~~his~~ the 100646
auditor's office and an abstract of the current year's true value 100647
of land valued for such year under section 5713.31 of the Revised 100648
Code as it appears in the current year's agricultural land tax 100649
list. 100650

Sec. 5715.26. (A)(1) Upon receiving the statement required by 100651
section 5715.25 of the Revised Code, the county auditor shall 100652
forthwith add to or deduct from each tract, lot, or parcel of real 100653
property or class of real property the required percentage or 100654
amount of the valuation thereof, adding or deducting any sum less 100655
than five dollars so that the value of any separate tract, lot, or 100656
parcel of real property shall be ten dollars or some multiple 100657
thereof. 100658

(2) After making the additions or deductions required by this 100659
section, the auditor shall transmit to the tax commissioner the 100660
appropriate adjusted abstract of the real property of each taxing 100661
district in the auditor's county in which an adjustment was 100662
required. 100663

(3) If the commissioner increases or decreases the aggregate 100664
value of the real property or any class thereof in any county or 100665
taxing district thereof and does not receive within ninety days 100666
thereafter an adjusted abstract conforming to its statement for 100667
such county or taxing district therein, the commissioner shall 100668
withhold from such county or taxing district therein fifty per 100669
cent of its share in the distribution of state revenues to local 100670
governments pursuant to sections 5747.50 to 5747.55 of the Revised 100671
Code and shall direct the department of education to withhold 100672

therefrom fifty per cent of state revenues to school districts 100673
pursuant to ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code. 100674
The commissioner shall withhold the distribution of such funds 100675
until such county auditor has complied with this division, and the 100676
department shall withhold the distribution of such funds until the 100677
commissioner has notified the department that such county auditor 100678
has complied with this division. 100679

(B)(1) If the commissioner's determination is appealed under 100680
section 5715.251 of the Revised Code, the county auditor, 100681
treasurer, and all other officers shall forthwith proceed with the 100682
levy and collection of the current year's taxes in the manner 100683
prescribed by law. The taxes shall be determined and collected as 100684
if the commissioner had determined under section 5715.24 of the 100685
Revised Code that the real property and the various classes 100686
thereof in the county as shown in the auditor's abstract were 100687
assessed for taxation and the true and agricultural use values 100688
were recorded on the agricultural land tax list as required by 100689
law. 100690

(2) If as a result of the appeal to the board it is finally 100691
determined either that all real property and the various classes 100692
thereof have not been assessed as required by law or that the 100693
values set forth in the agricultural land tax list do not 100694
correctly reflect the true and agricultural use values of the 100695
lands contained therein, the county auditor shall forthwith add to 100696
or deduct from each tract, lot, or parcel of real property or 100697
class of real property the required percentage or amount of the 100698
valuation in accordance with the order of the board or judgment of 100699
the court to which the board's order was appealed, and the taxes 100700
on each tract, lot, or parcel and the percentages required by 100701
section 319.301 of the Revised Code shall be recomputed using the 100702
valuation as finally determined. The order or judgment making the 100703
final determination shall prescribe the time and manner for 100704

collecting, crediting, or refunding the resultant increases or 100705
decreases in taxes. 100706

Sec. 5719.04. (A) Immediately after each settlement required 100707
by division (D) of section 321.24 of the Revised Code the county 100708
auditor shall make a tax list and duplicates thereof of all 100709
general personal and classified property taxes remaining unpaid, 100710
as shown by the county treasurer's books and the list of taxes 100711
returned as delinquent by the treasurer to the auditor at such 100712
settlement. The county auditor shall also include in such list all 100713
taxes assessed by the tax commissioner pursuant to law which were 100714
not charged upon the tax lists and duplicates on which such 100715
settlements were made nor previously charged upon a delinquent tax 100716
list and duplicates pursuant to this section, but the auditor 100717
shall not include taxes specifically excepted from collection 100718
pursuant to section 5711.32 of the Revised Code. Such tax list and 100719
duplicates shall contain the name of the person charged and the 100720
amount of such taxes, and the penalty, due and unpaid, and shall 100721
set forth separately the amount charged or chargeable on the 100722
general and on the classified list and duplicate. The auditor 100723
shall deliver one such duplicate to the treasurer on the first day 100724
of December, annually. Upon receipt of the duplicate the treasurer 100725
may prepare and mail tax bills to all persons charged with such 100726
delinquent taxes. Each bill shall include a notice that the 100727
interest charge prescribed by section 5719.041 of the Revised Code 100728
has begun to accrue. 100729

The auditor shall cause a copy of the delinquent personal and 100730
classified property tax list and duplicate provided for in this 100731
division to be published twice within sixty days after delivery of 100732
such duplicate to the treasurer in a newspaper ~~published in the~~ 100733
~~English language in the county and of general circulation therein;~~ 100734
~~provided that before~~ in the county. The newspaper shall meet the 100735
requirements of section 7.12 of the Revised Code. The auditor may 100736

publish the tax list on a pre-printed insert in the newspaper. The 100737
cost of the second publication of the list shall not exceed 100738
three-fourths of the cost of the first publication of the list. 100739

Before such publication, the auditor shall cause a display 100740
notice of the forthcoming publication of such delinquent personal 100741
and classified property tax list to be inserted once a week for 100742
two consecutive weeks in a newspaper ~~published in the English~~ 100743
~~language in the county and~~ of general circulation ~~therein in the~~ 100744
county. Copy for such display notice shall be furnished by the 100745
auditor to the newspaper selected to publish such delinquent tax 100746
lists simultaneously with the delivery of the duplicate to the 100747
treasurer. ~~If there is only one newspaper published in the county,~~ 100748
~~such display notice and delinquent personal and classified~~ 100749
~~property tax lists shall be published in it.~~ Publication of the 100750
delinquent lists may be made by a newspaper in installments, 100751
provided that complete publication thereof is made twice during 100752
said sixty-day period. 100753

The office of the county treasurer shall be kept open to 100754
receive the payment of delinquent general and classified property 100755
taxes from the day of delivery of the duplicate thereof until the 100756
final publication of the delinquent tax list. The name of any 100757
taxpayer who prior to seven days before either the first or second 100758
publication of said list pays such taxes in full or enters into a 100759
delinquent tax contract to pay such taxes in installments pursuant 100760
to section 5719.05 of the Revised Code shall be stricken from such 100761
list, and the taxpayer's name shall not be included in the list 100762
for that publication. 100763

The other such duplicate, from which shall first be 100764
eliminated the names of persons whose total liability for taxes 100765
and penalty is less than one hundred dollars, shall be filed by 100766
the auditor on the first day of December, annually, in the office 100767
of the county recorder, and the same shall constitute a notice of 100768

lien and operate as of the date of delivery as a lien on the lands 100769
and tenements, vested legal interests therein, and permanent 100770
leasehold estates of each person named therein having such real 100771
estate in such county. Such notice of lien and such lien shall not 100772
be valid as against any mortgagee, pledgee, purchaser, or judgment 100773
creditor whose rights have attached prior to the date of such 100774
delivery. Such duplicate shall be kept by the recorder, designated 100775
as the personal tax lien record, and indexed under the name of the 100776
person charged with such tax. No fee shall be charged by the 100777
recorder for the services required under this section. 100778

The auditor shall add to the tax list made pursuant to this 100779
section all such taxes omitted in a previous year when assessed by 100780
the auditor or finally assessed by the tax commissioner pursuant 100781
to law, and by proper certificates cause the same to be added to 100782
the treasurer's delinquent tax duplicate provided for in this 100783
section, and, in proper cases, file notice of the lien with the 100784
recorder, as provided in this section. 100785

If the authority making any assessment believes that the 100786
collection of such taxes will be jeopardized by delay, such 100787
assessing authority shall so certify on the assessment certificate 100788
thereof, and the auditor shall include a certificate of such 100789
jeopardy in the certificate given by the auditor to the treasurer. 100790
In such event the treasurer shall proceed immediately to collect 100791
such taxes, and to enforce the collection thereof by any means 100792
provided by law, and the treasurer may not accept a tender of any 100793
part of such taxes; but the person or the representatives of the 100794
person against whom such assessment is made may, in the event of 100795
an appeal to the tax commissioner therefrom, obtain a stay of 100796
collection of the whole or any part of the amount of such 100797
assessment by filing with the treasurer a bond in an amount not 100798
exceeding double the amount as to which the stay is desired, with 100799
such surety as the treasurer deems necessary, conditioned upon the 100800

payment of the amount determined to be due by the decision of the 100801
commissioner which has become final, and further conditioned that 100802
if an appeal is not filed within the period provided by law, the 100803
amount of collection which is stayed by the bond will be paid on 100804
notice and demand of the treasurer at any time after the 100805
expiration of such period. The taxpayer may waive such stay as to 100806
the whole or any part of the amount covered by the bond, and if as 100807
the result of such waiver any part of the amount covered by the 100808
bond is paid, then the bond shall be proportionately reduced on 100809
the request of the taxpayer. 100810

(B) Immediately after each settlement required by division 100811
(D) of section 321.24 of the Revised Code the auditor shall make a 100812
separate list and duplicate, prepared as prescribed in division 100813
(A) of this section, of all general personal and classified 100814
property taxes that remain unpaid but are excepted from collection 100815
pursuant to section 5711.32 of the Revised Code. The duplicate of 100816
such list shall be delivered to the treasurer at the time of 100817
delivery of the delinquent personal and classified property tax 100818
duplicate. 100819

Sec. 5721.01. (A) As used in this chapter: 100820

(1) "Delinquent lands" means all lands upon which delinquent 100821
taxes, as defined in section 323.01 of the Revised Code, remain 100822
unpaid at the time a settlement is made between the county 100823
treasurer and auditor pursuant to division (C) of section 321.24 100824
of the Revised Code. 100825

(2) "Delinquent vacant lands" means all lands that have been 100826
delinquent lands for at least one year and that are unimproved by 100827
any dwelling. 100828

(3) "County land reutilization corporation" means a county 100829
land reutilization corporation organized under Chapter 1724. of 100830
the Revised Code. 100831

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the Revised Code and in any other sections of the Revised Code to which those sections are applicable, a "newspaper" or "newspaper of general circulation ~~shall be a publication bearing a title or name, regularly issued as frequently as once a week for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege, being not less than four pages, published continuously during the immediately preceding one year period, and circulated generally in the political subdivision in which it is published.~~ Such publication shall be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, ~~miscellaneous reading matter, advertisements, and other notices"~~ has the same meaning as in section 7.12 of the Revised Code.

Sec. 5721.03. (A) At the time of making the delinquent land list, as provided in section 5721.011 of the Revised Code, the county auditor shall compile a delinquent tax list consisting of all lands on the delinquent land list on which taxes have become delinquent at the close of the collection period immediately preceding the making of the delinquent land list. The auditor shall also compile a delinquent vacant land tax list of all delinquent vacant lands prior to the institution of any foreclosure and forfeiture actions against delinquent vacant lands under section 5721.14 of the Revised Code or any foreclosure actions against delinquent vacant lands under section 5721.18 of the Revised Code.

The delinquent tax list, and the delinquent vacant land tax list if one is compiled, shall contain all of the information included on the delinquent land list, except that, if the auditor's records show that the name of the person in whose name the property currently is listed is not the name that appears on

the delinquent land list, the name used in the delinquent tax list 100864
or the delinquent vacant land tax list shall be the name of the 100865
person the auditor's records show as the person in whose name the 100866
property currently is listed. 100867

Lands that have been included in a previously published 100868
delinquent tax list shall not be included in the delinquent tax 100869
list so long as taxes have remained delinquent on such lands for 100870
the entire intervening time. 100871

In either list, there may be included lands that have been 100872
omitted in error from a prior list and lands with respect to which 100873
the auditor has received a certification that a delinquent tax 100874
contract has become void since the publication of the last 100875
previously published list, provided the name of the owner was 100876
stricken from a prior list under section 5721.02 of the Revised 100877
Code. 100878

(B)(1) The auditor shall cause the delinquent tax list and 100879
the delinquent vacant land tax list, if one is compiled, to be 100880
published twice within sixty days after the delivery of the 100881
delinquent land duplicate to the county treasurer, in a newspaper 100882
of general circulation in the county. The newspaper shall meet the 100883
requirements of section 7.12 of the Revised Code. ~~The publication~~ 100884
~~shall be printed in the English language~~ auditor may publish the 100885
list or lists on a pre-printed insert in the newspaper. The cost 100886
of the second publication of the list or lists shall not exceed 100887
three-fourths of the cost of the first publication of the list or 100888
lists. 100889

The auditor shall insert display notices of the forthcoming 100890
publication of the delinquent tax list and, if it is to be 100891
published, the delinquent vacant land tax list once a week for two 100892
consecutive weeks in a newspaper of general circulation in the 100893
county. The display notices shall contain the times and methods of 100894
payment of taxes provided by law, including information concerning 100895

installment payments made in accordance with a written delinquent 100896
tax contract. The display notice for the delinquent tax list also 100897
shall include a notice that an interest charge will accrue on 100898
accounts remaining unpaid after the last day of November unless 100899
the taxpayer enters into a written delinquent tax contract to pay 100900
such taxes in installments. The display notice for the delinquent 100901
vacant land tax list if it is to be published also shall include a 100902
notice that delinquent vacant lands in the list are lands on which 100903
taxes have remained unpaid for one year after being certified 100904
delinquent, and that they are subject to foreclosure proceedings 100905
as provided in section 323.25, sections 323.65 to 323.79, or 100906
section 5721.18 of the Revised Code, or foreclosure and forfeiture 100907
proceedings as provided in section 5721.14 of the Revised Code. 100908
Each display notice also shall state that the lands are subject to 100909
a tax certificate sale under section 5721.32 or 5721.33 of the 100910
Revised Code or assignment to a county land reutilization 100911
corporation, as the case may be, and shall include any other 100912
information that the auditor considers pertinent to the purpose of 100913
the notice. The display notices shall be furnished by the auditor 100914
to the ~~newspapers~~ newspaper selected to publish the lists at least 100915
ten days before their first publication. 100916

(2) Publication of the list or lists may be made by a 100917
newspaper in installments, provided the complete publication of 100918
each list is made twice during the sixty-day period. 100919

(3) There shall be attached to the delinquent tax list a 100920
notice that the delinquent lands will be certified for foreclosure 100921
by the auditor unless the taxes, assessments, interest, and 100922
penalties due and owing on them are paid. There shall be attached 100923
to the delinquent vacant land tax list, if it is to be published, 100924
a notice that delinquent vacant lands will be certified for 100925
foreclosure or foreclosure and forfeiture by the auditor unless 100926
the taxes, assessments, interest, and penalties due and owing on 100927

them are paid within twenty-eight days after the final publication 100928
of the notice. 100929

(4) The auditor shall review the first publication of each 100930
list for accuracy and completeness and may correct any errors 100931
appearing in the list in the second publication. 100932

(C) For the purposes of section 5721.18 of the Revised Code, 100933
land is first certified delinquent on the date of the 100934
certification of the delinquent land list containing that land. 100935

Sec. 5721.04. The proper and necessary expenses of publishing 100936
the delinquent tax lists, delinquent vacant land tax lists, and 100937
display notices provided for by sections 5719.04 and 5721.03 of 100938
the Revised Code shall be paid from the county treasury as county 100939
expenses are paid, and the board of county commissioners shall 100940
make provision for them in the annual budget of the county 100941
submitted to the budget commission, and shall make the necessary 100942
appropriations. If the board fails to make such appropriations, or 100943
if an appropriation is insufficient to meet such an expense, any 100944
person interested may apply to the court of common pleas of the 100945
county for an allowance to cover the expense, and the court shall 100946
issue an order instructing the county auditor to issue ~~his~~ a 100947
warrant upon the county treasurer for the amount necessary. The 100948
order by the court shall be final and shall be complied with 100949
immediately. 100950

The aggregate amount paid ~~shall~~ for publication may be 100951
apportioned by the county auditor among the taxing districts in 100952
which the lands on each list are located in proportion to the 100953
amount of delinquent taxes so advertised in such subdivision, or 100954
the county auditor may charge the property owner of land on a list 100955
a flat fee established under section 319.54 of the Revised Code 100956
for the cost of publishing the list and, if the fee is not paid, 100957
may place the fee upon the tax duplicate as a lien on the land, to 100958

be collected as other taxes. Thereafter, the auditor, in making 100959
~~his~~ the auditor's semiannual apportionment of funds, shall retain 100960
at each semiannual apportionment one half the amount apportioned 100961
to each such taxing district. The amounts retained shall be 100962
credited to the general fund of the county until the aggregate of 100963
all amounts paid in the first instance out of the treasury have 100964
been fully reimbursed. 100965

Sec. 5721.18. The county prosecuting attorney, upon the 100966
delivery to the prosecuting attorney by the county auditor of a 100967
delinquent land or delinquent vacant land tax certificate, or of a 100968
master list of delinquent or delinquent vacant tracts, shall 100969
institute a foreclosure proceeding under this section in the name 100970
of the county treasurer to foreclose the lien of the state, in any 100971
court with jurisdiction or in the county board of revision with 100972
jurisdiction pursuant to section 323.66 of the Revised Code, 100973
unless the taxes, assessments, charges, penalties, and interest 100974
are paid prior to the time a complaint is filed, or unless a 100975
foreclosure or foreclosure and forfeiture action has been or will 100976
be instituted under section 323.25, sections 323.65 to 323.79, or 100977
section 5721.14 of the Revised Code. If the delinquent land or 100978
delinquent vacant land tax certificate or the master list of 100979
delinquent or delinquent vacant tracts lists minerals or rights to 100980
minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 100981
of the Revised Code, the county prosecuting attorney may institute 100982
a foreclosure proceeding in the name of the county treasurer, in 100983
any court with jurisdiction, to foreclose the lien of the state 100984
against such minerals or rights to minerals, unless the taxes, 100985
assessments, charges, penalties, and interest are paid prior to 100986
the time the complaint is filed, or unless a foreclosure or 100987
foreclosure and forfeiture action has been or will be instituted 100988
under section 323.25, sections 323.65 to 323.79, or section 100989
5721.14 of the Revised Code. 100990

The prosecuting attorney shall prosecute the proceeding to 100991
final judgment and satisfaction. Within ten days after obtaining a 100992
judgment, the prosecuting attorney shall notify the treasurer in 100993
writing that judgment has been rendered. If there is a copy of a 100994
written delinquent tax contract attached to the certificate or an 100995
asterisk next to an entry on the master list, or if a copy of a 100996
delinquent tax contract is received from the auditor prior to the 100997
commencement of the proceeding under this section, the prosecuting 100998
attorney shall not institute the proceeding under this section, 100999
unless the prosecuting attorney receives a certification of the 101000
treasurer that the delinquent tax contract has become void. 101001

(A) This division applies to all foreclosure proceedings not 101002
instituted and prosecuted under section 323.25 of the Revised Code 101003
or division (B) or (C) of this section. The foreclosure 101004
proceedings shall be instituted and prosecuted in the same manner 101005
as is provided by law for the foreclosure of mortgages on land, 101006
except that, if service by publication is necessary, such 101007
publication shall be made once a week for three consecutive weeks 101008
instead of as provided by the Rules of Civil Procedure, and the 101009
service shall be complete at the expiration of three weeks after 101010
the date of the first publication. In any proceeding prosecuted 101011
under this section, if the prosecuting attorney determines that 101012
service upon a defendant may be obtained ultimately only by 101013
publication, the prosecuting attorney may cause service to be made 101014
simultaneously by certified mail, return receipt requested, 101015
ordinary mail, and publication. 101016

In any county that has adopted a permanent parcel number 101017
system, the parcel may be described in the notice by parcel number 101018
only, instead of also with a complete legal description, if the 101019
prosecuting attorney determines that the publication of the 101020
complete legal description is not necessary to provide reasonable 101021
notice of the foreclosure proceeding to the interested parties. If 101022

the complete legal description is not published, the notice shall 101023
indicate where the complete legal description may be obtained. 101024

It is sufficient, having been made a proper party to the 101025
foreclosure proceeding, for the treasurer to allege in the 101026
treasurer's complaint that the certificate or master list has been 101027
duly filed by the auditor, that the amount of money appearing to 101028
be due and unpaid is due and unpaid, and that there is a lien 101029
against the property described in the certificate or master list, 101030
without setting forth in the complaint any other or special matter 101031
relating to the foreclosure proceeding. The prayer of the 101032
complaint shall be that the court or the county board of revision 101033
with jurisdiction pursuant to section 323.66 of the Revised Code 101034
issue an order that the property be sold or conveyed by the 101035
sheriff or otherwise be disposed of, and the equity of redemption 101036
be extinguished, according to the alternative redemption 101037
procedures prescribed in sections 323.65 to 323.79 of the Revised 101038
Code, or if the action is in the municipal court by the bailiff, 101039
in the manner provided in section 5721.19 of the Revised Code. 101040

In the foreclosure proceeding, the treasurer may join in one 101041
action any number of lots or lands, but the decree shall be 101042
rendered separately, and any proceedings may be severed, in the 101043
discretion of the court or board of revision, for the purpose of 101044
trial or appeal, and the court or board of revision shall make 101045
such order for the payment of costs as is considered proper. The 101046
certificate or master list filed by the auditor with the 101047
prosecuting attorney is prima-facie evidence at the trial of the 101048
foreclosure action of the amount and validity of the taxes, 101049
assessments, charges, penalties, and interest appearing due and 101050
unpaid and of their nonpayment. 101051

(B) Foreclosure proceedings constituting an action in rem may 101052
be commenced by the filing of a complaint after the end of the 101053
second year from the date on which the delinquency was first 101054

certified by the auditor. Prior to filing such an action in rem, 101055
the prosecuting attorney shall cause a title search to be 101056
conducted for the purpose of identifying any lienholders or other 101057
persons with interests in the property subject to foreclosure. 101058
Following the title search, the action in rem shall be instituted 101059
by filing in the office of the clerk of a court with jurisdiction 101060
a complaint bearing a caption substantially in the form set forth 101061
in division (A) of section 5721.181 of the Revised Code. 101062

Any number of parcels may be joined in one action. Each 101063
separate parcel included in a complaint shall be given a serial 101064
number and shall be separately indexed and docketed by the clerk 101065
of the court in a book kept by the clerk for such purpose. A 101066
complaint shall contain the permanent parcel number of each parcel 101067
included in it, the full street address of the parcel when 101068
available, a description of the parcel as set forth in the 101069
certificate or master list, the name and address of the last known 101070
owner of the parcel if they appear on the general tax list, the 101071
name and address of each lienholder and other person with an 101072
interest in the parcel identified in the title search relating to 101073
the parcel that is required by this division, and the amount of 101074
taxes, assessments, charges, penalties, and interest due and 101075
unpaid with respect to the parcel. It is sufficient for the 101076
treasurer to allege in the complaint that the certificate or 101077
master list has been duly filed by the auditor with respect to 101078
each parcel listed, that the amount of money with respect to each 101079
parcel appearing to be due and unpaid is due and unpaid, and that 101080
there is a lien against each parcel, without setting forth any 101081
other or special matters. The prayer of the complaint shall be 101082
that the court issue an order that the land described in the 101083
complaint be sold in the manner provided in section 5721.19 of the 101084
Revised Code. 101085

(1) Within thirty days after the filing of a complaint, the 101086

clerk of the court in which the complaint was filed shall cause a 101087
notice of foreclosure substantially in the form of the notice set 101088
forth in division (B) of section 5721.181 of the Revised Code to 101089
be published once a week for three consecutive weeks in a 101090
newspaper of general circulation in the county. The newspaper 101091
shall meet the requirements of section 7.12 of the Revised Code. 101092
In any county that has adopted a permanent parcel number system, 101093
the parcel may be described in the notice by parcel number only, 101094
instead of also with a complete legal description, if the 101095
prosecuting attorney determines that the publication of the 101096
complete legal description is not necessary to provide reasonable 101097
notice of the foreclosure proceeding to the interested parties. If 101098
the complete legal description is not published, the notice shall 101099
indicate where the complete legal description may be obtained. 101100

After the third publication, the publisher shall file with 101101
the clerk of the court an affidavit stating the fact of the 101102
publication and including a copy of the notice of foreclosure as 101103
published. Service of process for purposes of the action in rem 101104
shall be considered as complete on the date of the last 101105
publication. 101106

Within thirty days after the filing of a complaint and before 101107
the final date of publication of the notice of foreclosure, the 101108
clerk of the court also shall cause a copy of a notice 101109
substantially in the form of the notice set forth in division (C) 101110
of section 5721.181 of the Revised Code to be mailed by certified 101111
mail, with postage prepaid, to each person named in the complaint 101112
as being the last known owner of a parcel included in it, or as 101113
being a lienholder or other person with an interest in a parcel 101114
included in it. The notice shall be sent to the address of each 101115
such person, as set forth in the complaint, and the clerk shall 101116
enter the fact of such mailing upon the appearance docket. If the 101117
name and address of the last known owner of a parcel included in a 101118

complaint is not set forth in it, the auditor shall file an 101119
affidavit with the clerk stating that the name and address of the 101120
last known owner does not appear on the general tax list. 101121

(2)(a) An answer may be filed in an action in rem under this 101122
division by any person owning or claiming any right, title, or 101123
interest in, or lien upon, any parcel described in the complaint. 101124
The answer shall contain the caption and number of the action and 101125
the serial number of the parcel concerned. The answer shall set 101126
forth the nature and amount of interest claimed in the parcel and 101127
any defense or objection to the foreclosure of the lien of the 101128
state for delinquent taxes, assessments, charges, penalties, and 101129
interest as shown in the complaint. The answer shall be filed in 101130
the office of the clerk of the court, and a copy of the answer 101131
shall be served on the prosecuting attorney, not later than 101132
twenty-eight days after the date of final publication of the 101133
notice of foreclosure. If an answer is not filed within such time, 101134
a default judgment may be taken as to any parcel included in a 101135
complaint as to which no answer has been filed. A default judgment 101136
is valid and effective with respect to all persons owning or 101137
claiming any right, title, or interest in, or lien upon, any such 101138
parcel, notwithstanding that one or more of such persons are 101139
minors, incompetents, absentees or nonresidents of the state, or 101140
convicts in confinement. 101141

(b)(i) A receiver appointed pursuant to divisions (C)(2) and 101142
(3) of section 3767.41 of the Revised Code may file an answer 101143
pursuant to division (B)(2)(a) of this section, but is not 101144
required to do so as a condition of receiving proceeds in a 101145
distribution under division (B)(1) of section 5721.17 of the 101146
Revised Code. 101147

(ii) When a receivership under section 3767.41 of the Revised 101148
Code is associated with a parcel, the notice of foreclosure set 101149
forth in division (B) of section 5721.181 of the Revised Code and 101150

the notice set forth in division (C) of that section shall be 101151
modified to reflect the provisions of division (B)(2)(b)(i) of 101152
this section. 101153

(3) At the trial of an action in rem under this division, the 101154
certificate or master list filed by the auditor with the 101155
prosecuting attorney shall be prima-facie evidence of the amount 101156
and validity of the taxes, assessments, charges, penalties, and 101157
interest appearing due and unpaid on the parcel to which the 101158
certificate or master list relates and their nonpayment. If an 101159
answer is properly filed, the court may, in its discretion, and 101160
shall, at the request of the person filing the answer, grant a 101161
severance of the proceedings as to any parcel described in such 101162
answer for purposes of trial or appeal. 101163

(C) In addition to the actions in rem authorized under 101164
division (B) of this section and section 5721.14 of the Revised 101165
Code, an action in rem may be commenced under this division. An 101166
action commenced under this division shall conform to all of the 101167
requirements of division (B) of this section except as follows: 101168

(1) The prosecuting attorney shall not cause a title search 101169
to be conducted for the purpose of identifying any lienholders or 101170
other persons with interests in the property subject to 101171
foreclosure, except that the prosecuting attorney shall cause a 101172
title search to be conducted to identify any receiver's lien. 101173

(2) The names and addresses of lienholders and persons with 101174
an interest in the parcel shall not be contained in the complaint, 101175
and notice shall not be mailed to lienholders and persons with an 101176
interest as provided in division (B)(1) of this section, except 101177
that the name and address of a receiver under section 3767.41 of 101178
the Revised Code shall be contained in the complaint and notice 101179
shall be mailed to the receiver. 101180

(3) With respect to the forms applicable to actions commenced 101181

under division (B) of this section and contained in section 101182
5721.181 of the Revised Code: 101183

(a) The notice of foreclosure prescribed by division (B) of 101184
section 5721.181 of the Revised Code shall be revised to exclude 101185
any reference to the inclusion of the name and address of each 101186
lienholder and other person with an interest in the parcel 101187
identified in a statutorily required title search relating to the 101188
parcel, and to exclude any such names and addresses from the 101189
published notice, except that the revised notice shall refer to 101190
the inclusion of the name and address of a receiver under section 101191
3767.41 of the Revised Code and the published notice shall include 101192
the receiver's name and address. The notice of foreclosure also 101193
shall include the following in boldface type: 101194

"If pursuant to the action the parcel is sold, the sale shall 101195
not affect or extinguish any lien or encumbrance with respect to 101196
the parcel other than a receiver's lien and other than the lien 101197
for land taxes, assessments, charges, interest, and penalties for 101198
which the lien is foreclosed and in satisfaction of which the 101199
property is sold. All other liens and encumbrances with respect to 101200
the parcel shall survive the sale." 101201

(b) The notice to the owner, lienholders, and other persons 101202
with an interest in a parcel shall be a notice only to the owner 101203
and to any receiver under section 3767.41 of the Revised Code, and 101204
the last two sentences of the notice shall be omitted. 101205

(4) As used in this division, a "receiver's lien" means the 101206
lien of a receiver appointed pursuant to divisions (C)(2) and (3) 101207
of section 3767.41 of the Revised Code that is acquired pursuant 101208
to division (H)(2)(b) of that section for any unreimbursed 101209
expenses and other amounts paid in accordance with division (F) of 101210
that section by the receiver and for the fees of the receiver 101211
approved pursuant to division (H)(1) of that section. 101212

(D) If the prosecuting attorney determines that an action in rem under division (B) or (C) of this section is precluded by law, then foreclosure proceedings shall be filed pursuant to division (A) of this section, and the complaint in the action in personam shall set forth the grounds upon which the action in rem is precluded.

(E) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent tax list but before the date of a judgment of foreclosure pursuant to section 5721.19 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure.

Sec. 5721.30. As used in sections 5721.30 to 5721.43 of the Revised Code:

(A) "Tax certificate," "certificate," or "duplicate certificate" means a document that may be issued as a physical certificate, in book-entry form, or through an electronic medium, at the discretion of the county treasurer. Such document shall contain the information required by section 5721.31 of the Revised Code and shall be prepared, transferred, or redeemed in the manner prescribed by sections 5721.30 to 5721.43 of the Revised Code. As used in those sections, "tax certificate," "certificate," and "duplicate certificate" do not refer to the delinquent land tax certificate or the delinquent vacant land tax certificate issued under section 5721.13 of the Revised Code.

(B) "Certificate parcel" means the parcel of delinquent land that is the subject of and is described in a tax certificate.

(C) "Certificate holder" means a person, including a county land reutilization corporation, that purchases or otherwise acquires a tax certificate under section 5721.32, 5721.33, or 5721.42 of the Revised Code, or a person to whom a tax certificate

has been transferred pursuant to section 5721.36 of the Revised Code. 101244
101245

(D) "Certificate purchase price" means, with respect to the 101246
sale of tax certificates under sections 5721.32, 5721.33, and 101247
5721.42 of the Revised Code, the amount equal to delinquent taxes 101248
charged against a certificate parcel at the time the tax 101249
certificate respecting that parcel is sold or transferred, not 101250
including any delinquent taxes the lien for which has been 101251
conveyed to a certificate holder through a prior sale of a tax 101252
certificate respecting that parcel. Payment of the certificate 101253
purchase price in a sale under section 5721.33 of the Revised Code 101254
may be made wholly in cash or partially in cash and partially by 101255
noncash consideration acceptable to the county treasurer from the 101256
purchaser, and, in the case of a county land reutilization 101257
corporation, with notes. In the event that any such noncash 101258
consideration is delivered to pay a portion of the certificate 101259
purchase price, such noncash consideration may be subordinate to 101260
the rights of the holders of other obligations whose proceeds paid 101261
the cash portion of the certificate purchase price. 101262

"Certificate purchase price" also includes the amount of the 101263
fee charged by the county treasurer to the purchaser of the 101264
certificate under division (H) of section 5721.32 of the Revised 101265
Code. 101266

(E)(1) With respect to a sale of tax certificates under 101267
section 5721.32 of the Revised Code, and except as provided in 101268
division (E)(2) of this section, "certificate redemption price" 101269
means the certificate purchase price plus the greater of the 101270
following: 101271

(a) Simple interest, at the certificate rate of interest, 101272
accruing during the certificate interest period on the certificate 101273
purchase price, calculated in accordance with section 5721.41 of 101274
the Revised Code; 101275

(b) Six per cent of the certificate purchase price.	101276
(2) If the certificate rate of interest equals zero, the certificate redemption price equals the certificate purchase price plus the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.	101277 101278 101279 101280 101281
(F) With respect to a sale or transfer of tax certificates under section 5721.33 of the Revised Code, "certificate redemption price" means the amount equal to the sum of the following:	101282 101283 101284
(1) The certificate purchase price;	101285
(2) Interest accrued on the certificate purchase price at the certificate rate of interest from the date on which a tax certificate is delivered through and including the day immediately preceding the day on which the certificate redemption price is paid;	101286 101287 101288 101289 101290
(3) The fee, if any, charged by the county treasurer to the purchaser of the certificate under division (J) of section 5721.33 of the Revised Code;	101291 101292 101293
(4) Any other fees charged by any county office in connection with the recording of tax certificates.	101294 101295
(G) "Certificate rate of interest" means the rate of simple interest per year bid by the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code, or the rate of simple interest per year not to exceed eighteen per cent per year fixed pursuant to section 5721.42 of the Revised Code or by the county treasurer with respect to any tax certificate sold or transferred pursuant to a negotiated sale under section 5721.33 of the Revised Code. The certificate rate of interest shall not be less than zero per cent per year.	101296 101297 101298 101299 101300 101301 101302 101303 101304
(H) "Cash" means United States currency, certified checks,	101305

money orders, bank drafts, electronic transfer of funds, or other 101306
forms of payment authorized by the county treasurer, and excludes 101307
any other form of payment not so authorized. 101308

(I) "The date on which a tax certificate is sold or 101309
transferred," "the date the certificate was sold or transferred," 101310
"the date the certificate is purchased," and any other phrase of 101311
similar content mean, with respect to a sale pursuant to an 101312
auction under section 5721.32 of the Revised Code, the date 101313
designated by the county treasurer for the submission of bids and, 101314
with respect to a negotiated sale or transfer under section 101315
5721.33 of the Revised Code, the date of delivery of the tax 101316
certificates to the purchasers thereof pursuant to a tax 101317
certificate sale/purchase agreement. 101318

(J) "Certificate interest period" means, with respect to a 101319
tax certificate sold under section 5721.32 or 5721.42 of the 101320
Revised Code and for the purpose of accruing interest under 101321
section 5721.41 of the Revised Code, the period beginning on the 101322
date on which the certificate is purchased and, with respect to a 101323
tax certificate sold or transferred under section 5721.33 of the 101324
Revised Code, the period beginning on the date of delivery of the 101325
tax certificate, and in either case ending on one of the following 101326
dates: 101327

(1) The date the certificate holder files a request for 101328
foreclosure or notice of intent to foreclose under division (A) of 101329
section 5721.37 of the Revised Code and submits the payment 101330
required under division (B) of that section; 101331

(2) The date the owner of record of the certificate parcel, 101332
or any other person entitled to redeem that parcel, redeems the 101333
certificate parcel under division (A) or (C) of section 5721.38 of 101334
the Revised Code or redeems the certificate under section 5721.381 101335
of the Revised Code. 101336

(K) "Qualified trustee" means a trust company within the 101337
state or a bank having the power of a trust company within the 101338
state with a combined capital stock, surplus, and undivided 101339
profits of at least one hundred million dollars. 101340

(L) "Tax certificate sale/purchase agreement" means the 101341
purchase and sale agreement described in division (C) of section 101342
5721.33 of the Revised Code setting forth the certificate purchase 101343
price, plus any applicable premium or less any applicable 101344
discount, including, without limitation, the amount to be paid in 101345
cash and the amount and nature of any noncash consideration, the 101346
date of delivery of the tax certificates, and the other terms and 101347
conditions of the sale, including, without limitation, the rate of 101348
interest that the tax certificates shall bear. 101349

(M) "Noncash consideration" means any form of consideration 101350
other than cash, including, but not limited to, promissory notes 101351
whether subordinate or otherwise. 101352

(N) "Private attorney" means any attorney licensed to 101353
practice law in this state whose license has not been revoked and 101354
is not currently suspended, and who is retained to bring 101355
foreclosure proceedings pursuant to section 5721.37 of the Revised 101356
Code on behalf of a certificate holder. 101357

(O) "Related certificate parcel" means, with respect to a 101358
certificate holder, the certificate parcel with respect to which 101359
the certificate holder has purchased and holds a tax certificate 101360
pursuant to sections 5721.30 to 5721.43 of the Revised Code and, 101361
with respect to a tax certificate, the certificate parcel against 101362
which the tax certificate has been sold pursuant to those 101363
sections. 101364

(P) "Delinquent taxes" means delinquent taxes as defined in 101365
section 323.01 of the Revised Code and includes assessments and 101366
charges, and penalties and interest computed under section 323.121 101367

of the Revised Code. 101368

(O) "Certificate period" means the period of time after the 101369
sale or delivery of a tax certificate within which a certificate 101370
holder must initiate an action to foreclose the tax lien 101371
represented by the certificate as specified under division (A) of 101372
section 5721.32 of the Revised Code or as negotiated under section 101373
5721.33 of the Revised Code. 101374

Sec. 5721.31. (A)(1) After receipt of a duplicate of the 101375
delinquent land list compiled under section 5721.011 of the 101376
Revised Code, or a delinquent land list compiled previously under 101377
that section, the county treasurer may select from the list 101378
parcels of delinquent land the lien against which the county 101379
treasurer may attempt to transfer by the sale of tax certificates 101380
under sections 5721.30 to 5721.43 of the Revised Code. None of the 101381
following parcels may be selected for a tax certificate sale: 101382

(a) A parcel for which the full amount of taxes, assessments, 101383
penalties, interest, and charges have been paid; 101384

(b) A parcel for which a valid contract under section 101385
323.122, 323.31, or 5713.20 of the Revised Code is in force; 101386

(c) A parcel the owner of which has filed a petition in 101387
bankruptcy, so long as the parcel is property of the bankruptcy 101388
estate. 101389

(2) The county treasurer shall compile a separate list of 101390
parcels selected for tax certificate sales, including the same 101391
information as is required to be included in the delinquent land 101392
list. 101393

Upon compiling the list of parcels selected for tax 101394
certificate sales, the county treasurer may conduct a title search 101395
for any parcel on the list. 101396

(B)(1) Except as otherwise provided in division (B)(3) of 101397

this section, when tax certificates are to be sold under section 101398
5721.32 of the Revised Code with respect to parcels, the county 101399
treasurer shall send written notice by certified mail to either 101400
the owner of record or all interested parties discoverable through 101401
a title search, or both, of each parcel on the list. A notice to 101402
an owner shall be sent to the owner's last known tax-mailing 101403
address. The notice shall inform the owner or interested parties 101404
that a tax certificate will be offered for sale on the parcel, and 101405
that the owner or interested parties may incur additional expenses 101406
as a result of the sale. 101407

(2) Except as otherwise provided in division (B)(3) of this 101408
section, when tax certificates are to be sold or transferred under 101409
section 5721.33 of the Revised Code with respect to parcels, the 101410
county treasurer, at least thirty days prior to the date of sale 101411
or transfer of such tax certificates, shall send written notice of 101412
the sale or transfer by certified mail to the last known 101413
tax-mailing address of the record owner of the property or parcel 101414
and may send such notice to all parties with an interest in the 101415
property that has been recorded in the property records of the 101416
county pursuant to section 317.08 of the Revised Code. The notice 101417
shall state that a tax certificate will be offered for sale or 101418
transfer on the parcel, and that the owner or interested parties 101419
may incur additional expenses as a result of the sale or transfer. 101420

(3) The county treasurer is not required to send a notice 101421
under division (B)(1) or (B)(2) of this section if the treasurer 101422
previously has attempted to send such notice to the owner of the 101423
parcel and the notice has been returned by the post office as 101424
undeliverable. The absence of a valid tax-mailing address for the 101425
owner of a parcel does not preclude the county treasurer from 101426
selling or transferring a tax certificate for the parcel. 101427

(C) The county treasurer shall advertise the sale of tax 101428
certificates under section 5721.32 of the Revised Code in a 101429

newspaper of general circulation in the county, once a week for 101430
two consecutive weeks. The newspaper shall meet the requirements 101431
of section 7.12 of the Revised Code. The advertisement shall 101432
include the date, the time, and the place of the public auction, 101433
abbreviated legal descriptions of the parcels, and the names of 101434
the owners of record of the parcels. The advertisement also shall 101435
include the certificate purchase prices of the parcels or the 101436
total purchase price of tax certificates for sale in blocks of tax 101437
certificates. 101438

(D) After the county treasurer has compiled the list of 101439
parcels selected for tax certificate sales but before a tax 101440
certificate respecting a parcel is sold or transferred, if the 101441
owner of record of the parcel pays to the county treasurer in cash 101442
the delinquent taxes respecting the parcel or otherwise acts so 101443
that any condition in division (A)(1)(a), (b), or (c) of this 101444
section applies to the parcel, the owner of record of the parcel 101445
also shall pay a fee in an amount prescribed by the treasurer to 101446
cover the administrative costs of the treasurer under this section 101447
respecting the parcel. The fee shall be deposited in the county 101448
treasury to the credit of the tax certificate administration fund. 101449

(E) A tax certificate administration fund shall be created in 101450
the county treasury of each county selling tax certificates under 101451
sections 5721.30 to 5721.43 of the Revised Code. The fund shall be 101452
administered by the county treasurer, and used solely for the 101453
purposes of sections 5721.30 to 5721.43 of the Revised Code or as 101454
otherwise permitted in this division. Any fee received by the 101455
treasurer under sections 5721.30 to 5721.43 of the Revised Code 101456
shall be credited to the fund, except the bidder registration fee 101457
under division (B) of section 5721.32 of the Revised Code and the 101458
county prosecuting attorney's fee under division (B)(3) of section 101459
5721.37 of the Revised Code. To the extent there is a surplus in 101460
the fund from time to time, the surplus may, with the approval of 101461

the county treasurer, be utilized for the purposes of a county 101462
land reutilization corporation operating in the county. 101463

(F) The county treasurers of more than one county may jointly 101464
conduct a regional sale of tax certificates under section 5721.32 101465
of the Revised Code. A regional sale shall be held at a single 101466
location in one county, where the tax certificates from each of 101467
the participating counties shall be offered for sale at public 101468
auction. Before the regional sale, each county treasurer shall 101469
advertise the sale for the parcels in the treasurer's county as 101470
required by division (C) of this section. At the regional sale, 101471
tax certificates shall be sold on parcels from one county at a 101472
time, with all of the certificates for one county offered for sale 101473
before any certificates for the next county are offered for sale. 101474

(G) The tax commissioner shall prescribe the form of the tax 101475
certificate under this section, and county treasurers shall use 101476
the form so prescribed. 101477

Sec. 5721.32. (A) The sale of tax certificates by public 101478
auction may be conducted at any time after completion of the 101479
advertising of the sale under section 5721.31 of the Revised Code, 101480
on the date and at the time and place designated in the 101481
advertisements, and may be continued from time to time as the 101482
county treasurer directs. The county treasurer may offer the tax 101483
certificates for sale in blocks of tax certificates, consisting of 101484
any number of tax certificates as determined by the county 101485
treasurer, and may specify a certificate period of not less than 101486
three years and not more than six years. 101487

(B)(1) The sale of tax certificates under this section shall 101488
be conducted at a public auction by the county treasurer or a 101489
designee of the county treasurer. 101490

(2) No person shall be permitted to bid without completing a 101491
bidder registration form, in the form prescribed by the tax 101492

commissioner, and without filing the form with the county treasurer prior to the start of the auction, together with remittance of a registration fee, in cash, of five hundred dollars. The bidder registration form shall include a tax identification number of the registrant. The registration fee is refundable at the end of bidding on the day of the auction, unless the registrant is the winning bidder for one or more tax certificates or one or more blocks of tax certificates, in which case the fee may be applied toward the deposit required by this section.

(3) The county treasurer may require a person who wishes to bid on one or more parcels to submit a letter from a financial institution stating that the bidder has sufficient funds available to pay the purchase price of the parcels and a written authorization for the treasurer to verify such information with the financial institution. The county treasurer may require submission of the letter and authorization sufficiently in advance of the auction to allow for verification. No person who fails to submit the required letter and authorization, or whose financial institution fails to provide the requested verification, shall be permitted to bid.

(C) At the public auction, the county treasurer or the treasurer's designee or agent shall begin the bidding at eighteen per cent per year simple interest, and accept lower bids in even increments of one-fourth of one per cent to the rate of zero per cent. The county treasurer, designee, or agent shall award the tax certificate to the person bidding the lowest certificate rate of interest. The county treasurer shall decide which person is the winning bidder in the event of a tie for the lowest bid offered, or if a person contests the lowest bid offered. The county treasurer's decision is not appealable.

(D)(1) The winning bidder shall pay the county treasurer a

cash deposit of at least ten per cent of the certificate purchase 101525
price not later than the close of business on the day of the sale. 101526
The winning bidder shall pay the balance and the fee required 101527
under division (H) of this section not later than five business 101528
days after the day on which the certificate is sold. Except as 101529
provided under division (D)(2) of this section, if the winning 101530
bidder fails to pay the balance and fee within the prescribed 101531
time, the bidder forfeits the deposit, and the county treasurer 101532
shall retain the tax certificate and may attempt to sell it at any 101533
auction conducted at a later date. 101534

(2) At the request of a winning bidder, the county treasurer 101535
may release the bidder from the bidder's tax certificate purchase 101536
obligation. The county treasurer may retain all or any portion of 101537
the deposit of a bidder granted a release. After granting a 101538
release under this division, the county treasurer may award the 101539
tax certificate to the person that submitted the second lowest bid 101540
at the auction. 101541

(3) The county treasurer shall deposit the deposit forfeited 101542
or retained under divisions (D)(1) or (2) of this section in the 101543
county treasury to the credit of the tax certificate 101544
administration fund. 101545

(E) Upon receipt of the full payment of the certificate 101546
purchase price from the purchaser, the county treasurer shall 101547
issue the tax certificate and record the tax certificate sale by 101548
entering into a tax certificate register the certificate purchase 101549
price, the certificate rate of interest, the date the certificate 101550
was sold, the certificate period, the name and address of the 101551
certificate holder, and any other information the county treasurer 101552
considers necessary. The county treasurer may keep the tax 101553
certificate register in a hard-copy format or in an electronic 101554
format. The name and address of the certificate holder may be, 101555
upon receipt of instructions from the purchaser, that of the 101556

secured party of the actual purchaser, or an agent or custodian 101557
for the purchaser or secured party. The county treasurer also 101558
shall transfer the tax certificate to the certificate holder. The 101559
county treasurer shall apportion the part of the proceeds from the 101560
sale representing taxes, penalties, and interest among the several 101561
taxing districts in the same proportion that the amount of taxes 101562
levied by each district against the certificate parcel in the 101563
preceding tax year bears to the taxes levied by all such districts 101564
against the certificate parcel in the preceding tax year, and 101565
credit the part of the proceeds representing assessments and other 101566
charges to the items of assessments and charges in the order in 101567
which those items became due. Upon issuing a tax certificate, the 101568
delinquent taxes that make up the certificate purchase price are 101569
transferred, and the superior lien of the state and its taxing 101570
districts for those delinquent taxes is conveyed intact to the 101571
certificate holder. 101572

(F) If a tax certificate is offered for sale under this 101573
section but is not sold, the county treasurer may sell the 101574
certificate in a negotiated sale authorized under section 5721.33 101575
of the Revised Code, or may strike the corresponding certificate 101576
parcel from the list of parcels selected for tax certificate 101577
sales. The lien for taxes, assessments, charges, penalties, and 101578
interest against a parcel stricken from the list thereafter may be 101579
foreclosed in the manner prescribed by section 323.25, sections 101580
323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised 101581
Code unless, prior to the institution of such proceedings against 101582
the parcel, the county treasurer restores the parcel to the list 101583
of parcels selected for tax certificate sales. 101584

(G) A certificate holder shall not be liable for damages 101585
arising from a violation of sections 3737.87 to 3737.891 or 101586
Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 101587
6111. of the Revised Code, or a rule adopted or order, permit, 101588

license, variance, or plan approval issued under any of those 101589
chapters, that is or was committed by another person in connection 101590
with the parcel for which the tax certificate is held. 101591

(H) When selling a tax certificate under this section, the 101592
county treasurer shall charge a fee to the purchaser of the 101593
certificate. The county treasurer shall set the fee at a 101594
reasonable amount that covers the treasurer's costs of 101595
administering the sale of the tax certificate. The county 101596
treasurer shall deposit the fee in the county treasury to the 101597
credit of the tax certificate administration fund. 101598

(I) After selling a tax certificate under this section, the 101599
county treasurer shall send written notice by certified mail to 101600
the owner of the certificate parcel at the owner's last known 101601
tax-mailing address. The notice shall inform the owner that the 101602
tax certificate was sold, shall describe the owner's options to 101603
redeem the parcel, including entering into a redemption payment 101604
plan under division (C)(1) of section 5721.38 of the Revised Code, 101605
and shall name the certificate holder and its secured party, if 101606
any. However, the county treasurer is not required to send a 101607
notice under this division if the treasurer previously has 101608
attempted to send a notice to the owner of the parcel at the 101609
owner's last known tax-mailing address, and the postal service has 101610
returned the notice as undeliverable. 101611

(J) A tax certificate shall not be sold to the owner of the 101612
certificate parcel. 101613

Sec. 5721.37. ~~(A)(1) Division (A)(1) of this section applies 101614~~
~~to tax certificates purchased under section 5721.32 of the Revised 101615~~
~~Code, or under section 5721.42 of the Revised Code by the holder 101616~~
~~of a certificate issued under section 5721.32 of the Revised Code. 101617~~
At any time after one year from the date shown on the tax 101618
certificate as the date the tax certificate was sold, and not 101619

later than ~~six years after that date~~ the end of the certificate 101620
period, a certificate holder, except for a county land 101621
reutilization corporation, may file with the county treasurer a 101622
request for foreclosure, or a private attorney on behalf of the 101623
certificate holder may file with the county treasurer a notice of 101624
intent to foreclose, on a form prescribed by the tax commissioner, 101625
provided the certificate parcel has not been redeemed under 101626
division (A) or (C) of section 5721.38 of the Revised Code and at 101627
least one certificate respecting the certificate parcel, held by 101628
the certificate holder filing the request for foreclosure or 101629
notice of intent to foreclose and eligible to be enforced through 101630
a foreclosure proceeding, has not been voided under section 101631
5721.381 of the Revised Code. If the certificate holder is a 101632
county land reutilization corporation, the corporation may 101633
institute a foreclosure action under the statutes pertaining to 101634
the foreclosure of mortgages or as permitted under sections 323.65 101635
to 323.79 of the Revised Code at any time after it acquires the 101636
tax certificate. 101637

~~(2) Division (A)(2) of this section applies to tax 101638
certificates purchased under section 5721.33 of the Revised Code 101639
or under section 5721.42 of the Revised Code by the holder of a 101640
certificate issued under section 5721.33 of the Revised Code. At 101641
any time after one year from the date shown on the tax certificate 101642
as the date the tax certificate was sold, and not later than six 101643
years after that date or any extension of that date pursuant to 101644
division (C)(2) of section 5721.38 of the Revised Code, or not 101645
earlier or later than the dates negotiated by the county treasurer 101646
and specified in the tax certificate sale/purchase agreement, the 101647
certificate holder may file with the county treasurer a request 101648
for foreclosure, or a private attorney on behalf of a certificate 101649
holder other than a county land reutilization corporation may file 101650
with the county treasurer a notice of intent to foreclose, on a 101651
form prescribed by the tax commissioner, provided the parcel has 101652~~

~~not been redeemed under division (A) or (C) of section 5721.38 of
the Revised Code and at least one certificate respecting the
certificate parcel, held by the certificate holder filing the
request for foreclosure or notice of intent to foreclose and
eligible to be enforced through a foreclosure proceeding, has not
been voided under section 5721.381 of the Revised Code. If the
certificate holder is a county land reutilization corporation, the
corporation may institute a foreclosure action under the statutes
pertaining to the foreclosure of mortgages or as permitted under
sections 323.65 to 323.79 of the Revised Code at any time after it
acquires the tax certificate.~~

~~(3)(a) Division (A)(3)(a) of this section applies to a tax
certificate purchased under section 5721.32 of the Revised Code,
or under section 5721.42 of the Revised Code by the holder of a
certificate issued under section 5721.32 of the Revised Code, and
not held by a county land reutilization corporation. If, before
the expiration of six years after the date a tax certificate was
sold, the owner of the property for which the certificate was sold
files a petition in bankruptcy, the county treasurer, upon being
notified of the filing of the petition, shall notify the
certificate holder by ordinary first class or certified mail or by
binary means of the filing of the petition. It is the obligation
of the certificate holder to file a proof of claim with the
bankruptcy court to protect the holder's interest in the
certificate parcel. The last day on which the certificate holder
may file a request for foreclosure or the private attorney may
file a notice of intent to foreclose is the later of six years
after the date the certificate was sold or one hundred eighty days
after the certificate parcel is no longer property of the
bankruptcy estate; however, the six year period measured from the
date the certificate was sold is tolled while the property owner's
bankruptcy case remains open.~~

~~(b) Division (A)(3)(b) of this section applies to a tax certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, and not held by a county land reutilization corporation. If, before six years after the date a tax certificate was sold or before the date negotiated by the county treasurer~~ If, before the expiration of the certificate period, the owner of the property files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or a notice of intent to foreclose is the later of ~~six years after the date the tax certificate was sold or the date negotiated by the county treasurer,~~ the expiration of the certificate period or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the ~~six-year or negotiated period being measured after the date the certificate was sold~~ certificate period is tolled while the property owner's bankruptcy case remains open. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires such tax certificate, subject to any restrictions under such bankruptcy law or proceeding.

~~(e)~~ Interest at the certificate rate of interest continues to accrue during any extension of time required by division ~~(A)(3)(a)~~ or (b)(A)(2) of this section unless otherwise provided under Title 11 of the United States Code.

~~(4)~~(3) If, before the expiration of three years from the date a tax certificate was sold, the owner of property for which the certificate was sold applies for an exemption under section 3735.67 or 5715.27 of the Revised Code or under any other section of the Revised Code under the jurisdiction of the director of environmental protection, the county treasurer shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the application. Once a determination has been made on the exemption application, the county treasurer shall notify the certificate holder of the determination by ordinary first-class or certified mail or by binary means. Except with respect to a county land reutilization corporation, the last day on which the certificate holder may file a request for foreclosure shall be the later of three years from the date the certificate was sold or forty-five days after notice of the determination was provided.

(B) When a request for foreclosure or a notice of intent to foreclose is filed under ~~division (A)(1) or (2)~~ of this section, the certificate holder shall submit a payment to the county treasurer equal to the sum of the following:

(1) The certificate redemption prices of all outstanding tax certificates that have been sold on the parcel, other than tax certificates held by the person requesting foreclosure;

(2) Any taxes, assessments, penalties, interest, and charges appearing on the tax duplicate charged against the certificate parcel that is the subject of the foreclosure proceedings and that are not covered by a tax certificate, but such amounts are not payable if the certificate holder is a county land reutilization corporation;

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, a

fee in the amount prescribed by the county prosecuting attorney to 101750
cover the prosecuting attorney's legal costs incurred in the 101751
foreclosure proceeding. 101752

(C)(1) With respect to a certificate purchased under section 101753
5721.32, 5721.33, or 5721.42 of the Revised Code, if the 101754
certificate parcel has not been redeemed and at least one 101755
certificate respecting the certificate parcel, held by the 101756
certificate holder filing the request for foreclosure and eligible 101757
to be enforced through a foreclosure proceeding, has not been 101758
voided under section 5721.381 of the Revised Code, the county 101759
treasurer, within five days after receiving a foreclosure request 101760
and the payment required under division (B) of this section, shall 101761
certify notice to that effect to the county prosecuting attorney 101762
and shall provide a copy of the foreclosure request. The county 101763
treasurer also shall send notice by ordinary first class or 101764
certified mail to all certificate holders other than the 101765
certificate holder requesting foreclosure that foreclosure has 101766
been requested by a certificate holder and that payment for the 101767
tax certificates is forthcoming. Within ninety days of receiving 101768
the copy of the foreclosure request, the prosecuting attorney 101769
shall commence a foreclosure proceeding in the name of the county 101770
treasurer in the manner provided under section 323.25, sections 101771
323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised 101772
Code, to enforce the lien vested in the certificate holder by the 101773
certificate. The prosecuting attorney shall attach to the 101774
complaint the foreclosure request and the county treasurer's 101775
written certification. 101776

(2) With respect to a certificate purchased under section 101777
5721.32, 5721.33, or 5721.42 of the Revised Code, if the 101778
certificate parcel has not been redeemed, at least one certificate 101779
respecting the certificate parcel, held by the certificate holder 101780
filing the notice of intent to foreclose and eligible to be 101781

enforced through a foreclosure proceeding, has not been voided 101782
under section 5721.381 of the Revised Code, a notice of intent to 101783
foreclose has been filed, and the payment required under division 101784
(B) of this section has been made, the county treasurer shall 101785
certify notice to that effect to the private attorney. The county 101786
treasurer also shall send notice by ordinary first class or 101787
certified mail or by binary means to all certificate holders other 101788
than the certificate holder represented by the attorney that a 101789
notice of intent to foreclose has been filed and that payment for 101790
the tax certificates is forthcoming. After receipt of the 101791
treasurer's certification and not later than one hundred twenty 101792
days after the filing of the intent to foreclose or the number of 101793
days specified under the terms of a negotiated sale under section 101794
5721.33 of the Revised Code, the private attorney shall commence a 101795
foreclosure proceeding in the name of the certificate holder in 101796
the manner provided under division (F) of this section to enforce 101797
the lien vested in the certificate holder by the certificate. The 101798
private attorney shall attach to the complaint the notice of 101799
intent to foreclose and the county treasurer's written 101800
certification. 101801

(D) The county treasurer shall credit the amount received 101802
under division (B)(1) of this section to the tax certificate 101803
redemption fund. The tax certificates respecting the payment shall 101804
be paid as provided in division (D) of section 5721.38 of the 101805
Revised Code. The amount received under division (B)(2) of this 101806
section shall be distributed to the taxing districts to which the 101807
delinquent and unpaid amounts are owed. The county treasurer shall 101808
deposit the fee received under division (B)(3) of this section in 101809
the county treasury to the credit of the delinquent tax and 101810
assessment collection fund. 101811

~~(E)(1)(a) Except with respect to a county land reutilization 101812
corporation, if, in the case of a certificate purchased under 101813~~

~~section 5721.32 of the Revised Code, or under section 5721.42 of~~ 101814
~~the Revised Code by the holder of a certificate issued under~~ 101815
~~section 5721.32 of the Revised Code, the certificate holder does~~ 101816
~~not file with the county treasurer a request for foreclosure or a~~ 101817
~~notice of intent to foreclose with the required payment within six~~ 101818
~~years after the date shown on the tax certificate as the date the~~ 101819
~~certificate was sold or within the period provided under division~~ 101820
~~(A)(3)(a) of this section, and during that time the certificate~~ 101821
~~has not been voided under section 5721.381 of the Revised Code and~~ 101822
~~the parcel has not been redeemed or foreclosed upon, the~~ 101823
~~certificate holder's lien against the parcel is canceled, and the~~ 101824
~~certificate is voided, subject to division (E)(1)(b) of this~~ 101825
~~section.~~ 101826

~~(b) In the case of any tax certificate purchased under~~ 101827
~~section 5721.32 of the Revised Code or under section 5721.42 of~~ 101828
~~the Revised Code by the holder of a certificate issued under~~ 101829
~~section 5721.32 of the Revised Code prior to June 24, 2008, the~~ 101830
~~county treasurer, upon application by the certificate holder, may~~ 101831
~~sell to the certificate holder a new certificate extending the~~ 101832
~~three year period prescribed by division (E)(1) of this section,~~ 101833
~~as that division existed prior to that date, to six years after~~ 101834
~~the date shown on the original certificate as the date it was sold~~ 101835
~~or any extension of that date.~~ 101836

~~(2)(a) Except with respect to a county land reutilization~~ 101837
~~corporation, if, in the case of a certificate purchased under~~ 101838
~~section 5721.33 of the Revised Code, or under section 5721.42 of~~ 101839
~~the Revised Code by the holder of a certificate issued under~~ 101840
~~section 5721.33 of the Revised Code, the certificate holder does~~ 101841
~~not file with the county treasurer a request for foreclosure or a~~ 101842
~~notice of intent to foreclose with respect to a certificate parcel~~ 101843
~~with the required payment within six years after the date shown on~~ 101844
~~the tax certificate as the date the certificate was sold the~~ 101845

certificate period or any extension of that ~~date~~ period pursuant 101846
to division (C)(2) of section 5721.38 of the Revised Code, or 101847
within the period provided under division ~~(A)(3)(b)~~ (A)(2) of this 101848
section ~~or as specified under the terms of a negotiated sale under~~ 101849
~~section 5721.33 of the Revised Code~~, and during that time the 101850
certificate has not been voided under section 5721.381 of the 101851
Revised Code and the certificate parcel has not been redeemed or 101852
foreclosed upon, the certificate holder's lien against the parcel 101853
is canceled and the certificate is voided, subject to division 101854
~~(E)(2)(b)~~ (E)(2) of this section. 101855

~~(b)(2)~~ In the case of any tax certificate purchased under 101856
section ~~5721.33~~ 5721.32 of the Revised Code or under section 101857
5721.42 of the Revised Code by the holder of a certificate issued 101858
under section 5721.32 of the Revised Code prior to ~~October 10,~~ 101859
~~2000~~ June 24, 2008, the county treasurer, upon application by the 101860
certificate holder, may sell to the certificate holder a new 101861
certificate extending the three-year period prescribed by division 101862
~~(E)(2)(E)(1)~~ of this section, as that division existed prior to 101863
~~October 10, 2000~~ that date, to six years after the date shown on 101864
the original certificate as the date it was sold or any extension 101865
of that date. 101866

~~(3)~~ The county treasurer and the certificate holder shall 101867
negotiate the premium, in cash, to be paid for a new certificate 101868
sold under division ~~(E)(1)(b) or (2)(b)~~ (E)(2) of this section. If 101869
the county treasurer and certificate holder do not negotiate a 101870
mutually acceptable premium, the county treasurer and certificate 101871
holder may agree to engage a person experienced in the valuation 101872
of financial assets to appraise a fair premium for the new 101873
certificate. The certificate holder has the option to purchase the 101874
new certificate for the fair premium so appraised. Not less than 101875
one-half of the fee of the person so engaged shall be paid by the 101876
certificate holder requesting the new certificate; the remainder 101877

of the fee shall be paid from the proceeds of the sale of the new 101878
certificate. If the certificate holder does not purchase the new 101879
certificate for the premium so appraised, the certificate holder 101880
shall pay the entire fee. The county treasurer shall credit the 101881
remaining proceeds from the sale to the items of taxes, 101882
assessments, penalties, interest, and charges in the order in 101883
which they became due. 101884

~~(4)~~ A certificate issued under division ~~(E)(1)(b)~~ or 101885
~~(2)(b)(E)(2)~~ of this section vests in the certificate holder and 101886
its secured party, if any, the same rights, interests, privileges, 101887
and immunities as are vested by the original certificate under 101888
sections 5721.30 to 5721.43 of the Revised Code. The certificate 101889
shall be issued in the same form as the form prescribed for the 101890
original certificate issued except for any modifications 101891
necessary, in the county treasurer's discretion, to reflect the 101892
extension under this division of the certificate holder's lien to 101893
six years after the date shown on the original certificate as the 101894
date it was sold or any extension of that date. The certificate 101895
holder may record a certificate issued under division ~~(E)(1)(b)~~ or 101896
~~(2)(b)(E)(2)~~ of this section or memorandum thereof as provided in 101897
division (B) of section 5721.35 of the Revised Code, and the 101898
county recorder shall index the certificate and record any 101899
subsequent cancellation of the lien as provided in that section. 101900
The sale of a certificate extending the lien under division 101901
~~(E)(1)(b)~~ or ~~(2)(b)(E)(2)~~ of this section does not impair the 101902
right of redemption of the owner of record of the certificate 101903
parcel or of any other person entitled to redeem the property. 101904

~~(5)~~(3) If the holder of a certificate purchased under section 101905
5721.32, 5721.33, or 5721.42 of the Revised Code submits a notice 101906
of intent to foreclose to the county treasurer but fails to file a 101907
foreclosure action in a court of competent jurisdiction within the 101908
time specified in division (C)(2) of this section, the liens 101909

represented by all tax certificates respecting the certificate 101910
parcel held by that certificate holder, and for which the deadline 101911
for filing a notice of intent to foreclose has passed, are 101912
canceled and the certificates voided, and the certificate holder 101913
forfeits the payment of the amounts described in division (B)(2) 101914
of this section. 101915

(F) With respect to tax certificates purchased under section 101916
5721.32, 5721.33, or 5721.42 of the Revised Code, upon the 101917
delivery to the private attorney by the county treasurer of the 101918
certification provided for under division (C)(2) of this section, 101919
the private attorney shall institute a foreclosure proceeding 101920
under this division in the name of the certificate holder to 101921
enforce the holder's lien, in any court or board of revision with 101922
jurisdiction, unless the certificate redemption price is paid 101923
prior to the time a complaint is filed. The attorney shall 101924
prosecute the proceeding to final judgment and satisfaction, 101925
whether through sale of the property or the vesting of title and 101926
possession in the certificate holder or other disposition under 101927
sections 323.65 to 323.79 of the Revised Code or as may otherwise 101928
be provided by law. 101929

The foreclosure proceedings under this division, except as 101930
otherwise provided in this division, shall be instituted and 101931
prosecuted in the same manner as is provided by law for the 101932
foreclosure of mortgages on land, except that, if service by 101933
publication is necessary, such publication shall be made once a 101934
week for three consecutive weeks and the service shall be complete 101935
at the expiration of three weeks after the date of the first 101936
publication. 101937

Any notice given under this division shall include the name 101938
of the owner of the parcel as last set forth in the records of the 101939
county recorder, the owner's last known mailing address, the 101940
address of the subject parcel if different from that of the owner, 101941

and a complete legal description of the subject parcel. In any 101942
county that has adopted a permanent parcel number system, such 101943
notice may include the permanent parcel number in addition to a 101944
complete legal description. 101945

It is sufficient, having been made a proper party to the 101946
foreclosure proceeding, for the certificate holder to allege in 101947
such holder's complaint that the tax certificate has been duly 101948
purchased by the certificate holder, that the certificate 101949
redemption price is due and unpaid, that there is a lien against 101950
the property described in the tax certificate, and, if applicable, 101951
that the certificate holder desires to invoke the alternative 101952
redemption period prescribed in sections 323.65 to 323.79 of the 101953
Revised Code, without setting forth in such holder's complaint any 101954
other special matter relating to the foreclosure proceeding. The 101955
complaint shall pray for an order directing the sheriff, or the 101956
bailiff if the complaint is filed in municipal court, to offer the 101957
property for sale in the manner provided in section 5721.19 of the 101958
Revised Code or otherwise transferred according to any applicable 101959
procedures provided in sections 323.65 to 323.79 of the Revised 101960
Code, unless the complaint documents that the county auditor has 101961
determined that the true value of the certificate parcel is less 101962
than the certificate purchase price. In that case, the prayer of 101963
the complaint shall request that fee simple title to the property 101964
be transferred to and vested in the certificate holder free and 101965
clear of all subordinate liens. 101966

In the foreclosure proceeding, the certificate holder may 101967
join in one action any number of tax certificates relating to the 101968
same owner. However, the decree for each tax certificate shall be 101969
rendered separately and any proceeding may be severed, in the 101970
discretion of the court or board of revision, for the purpose of 101971
trial or appeal. Except as may otherwise be provided in sections 101972
323.65 to 323.79 of the Revised Code, upon confirmation of sale, 101973

the court or board of revision shall order payment of all costs 101974
related directly or indirectly to the tax certificate, including, 101975
without limitation, attorney's fees of the holder's attorney in 101976
accordance with section 5721.371 of the Revised Code. The tax 101977
certificate purchased by the certificate holder is presumptive 101978
evidence in all courts and boards of revision and in all 101979
proceedings, including, without limitation, at the trial of the 101980
foreclosure action, of the amount and validity of the taxes, 101981
assessments, charges, penalties by the court and added to such 101982
principal amount, and interest appearing due and unpaid and of 101983
their nonpayment. 101984

(G) If a parcel is sold under this section, the officer who 101985
conducted the sale shall collect the recording fee from the 101986
purchaser at the time of the sale and, following confirmation of 101987
the sale, shall prepare and record the deed conveying the title to 101988
the parcel to the purchaser. 101989

Sec. 5721.38. (A) At any time prior to payment to the county 101990
treasurer by the certificate holder to initiate foreclosure 101991
proceedings under division (B) of section 5721.37 of the Revised 101992
Code, the owner of record of the certificate parcel, or any other 101993
person entitled to redeem that parcel, may redeem the parcel by 101994
paying to the county treasurer an amount equal to the total of the 101995
certificate redemption prices of all tax certificates respecting 101996
that parcel. 101997

(B) At any time after payment to the county treasurer by the 101998
certificate holder to initiate foreclosure proceedings under 101999
section 5721.37 of the Revised Code, and before the filing of the 102000
entry of confirmation of sale of a certificate parcel, or the 102001
expiration of the alternative redemption period defined in section 102002
323.65 of the Revised Code under foreclosure proceedings filed by 102003
the county prosecuting attorney, and before the decree conveying 102004

title to the certificate holder is rendered as provided for in 102005
division (F) of section 5721.37 of the Revised Code, the owner of 102006
record of the certificate parcel or any other person entitled to 102007
redeem that parcel may redeem the parcel by paying to the county 102008
treasurer the sum of the following amounts: 102009

(1) The amount described in division (A) of this section; 102010

(2) Interest on the certificate purchase price for each tax 102011
certificate sold respecting the parcel at the rate of eighteen per 102012
cent per year for the period beginning on the day on which the 102013
payment was submitted by the certificate holder and ending on the 102014
day the parcel is redeemed under this division; 102015

(3) An amount equal to the sum of the county prosecuting 102016
attorney's fee under division (B)(3) of section 5721.37 of the 102017
Revised Code plus interest on that amount at the rate of eighteen 102018
per cent per year beginning on the day on which the payment was 102019
submitted by the certificate holder and ending on the day the 102020
parcel is redeemed under this division. If the parcel is redeemed 102021
before the complaint has been filed, the prosecuting attorney 102022
shall adjust the fee to reflect services performed to the date of 102023
redemption, and the county treasurer shall calculate the interest 102024
based on the adjusted fee and refund any excess fee to the 102025
certificate holder. 102026

(4) Reasonable attorney's fees in accordance with section 102027
5721.371 of the Revised Code if the certificate holder retained a 102028
private attorney to foreclose the lien; 102029

(5) Any other costs and fees of the proceeding allocable to 102030
the certificate parcel as determined by the court or board of 102031
revision. 102032

The county treasurer may collect the total amount due under 102033
divisions (B)(1) to (5) of this section in the form of guaranteed 102034
funds acceptable to the treasurer. Immediately upon receipt of 102035

such payments, the county treasurer shall reimburse the 102036
certificate holder who initiated foreclosure proceedings as 102037
provided in division (D) of this section. The county treasurer 102038
shall pay the certificate holder interest at the rate of eighteen 102039
per cent per year on amounts paid under divisions (B)(2) and (3) 102040
of section 5721.37 of the Revised Code, beginning on the day the 102041
certificate holder paid the amounts under those divisions and 102042
ending on the day the parcel is redeemed under this section. 102043

(C)(1) During the period beginning on the date a tax 102044
certificate is sold under section 5721.32 of the Revised Code and 102045
ending one year from that date, the county treasurer may enter 102046
into a redemption payment plan with the owner of record of the 102047
certificate parcel or any other person entitled to redeem that 102048
parcel. The plan shall require the owner or other person to pay 102049
the certificate redemption price for the tax certificate in 102050
installments, with the final installment due no later than one 102051
year after the date the tax certificate is sold. The certificate 102052
holder may at any time, by written notice to the county treasurer, 102053
agree to accept installments collected to the date of notice as 102054
payment in full. Receipt of such notice by the treasurer shall 102055
constitute satisfaction of the payment plan and redemption of the 102056
tax certificate. 102057

(2) During the period beginning on the date a tax certificate 102058
is sold under section 5721.33 of the Revised Code and ending on 102059
the date the decree is rendered on the foreclosure proceeding 102060
under division (F) of section 5721.37 of the Revised Code, the 102061
owner of record of the certificate parcel, or any other person 102062
entitled to redeem that parcel, may enter into a redemption 102063
payment plan with the certificate holder and all secured parties 102064
of the certificate holder. The plan shall require the owner or 102065
other person to pay the certificate redemption price for the tax 102066
certificate, an administrative fee not to exceed one hundred 102067

dollars per year, and the actual fees and costs incurred, in 102068
installments, with the final installment due no later than ~~six~~ 102069
~~years after the date the tax certificate is sold~~ the expiration of 102070
the certificate period. The certificate holder shall give written 102071
notice of the plan to the applicable county treasurer within sixty 102072
days after entering into the plan and written notice of default 102073
under the plan within ninety days after the default. If such a 102074
plan is entered into, the time period for filing a request for 102075
foreclosure or a notice of intent to foreclose under section 102076
5721.37 of the Revised Code is extended by the length of time the 102077
plan is in effect and not in default. 102078

(D)(1) Immediately upon receipt of full payment under 102079
division (A) or (B) of this section, the county treasurer shall 102080
make an entry to that effect in the tax certificate register, 102081
credit the payment to the tax certificate redemption fund created 102082
in the county treasury, and shall notify the certificate holder or 102083
holders by ordinary first class or certified mail or by binary 102084
means that the parcel has been redeemed and the lien or liens 102085
canceled, and that payment on the certificate or certificates is 102086
forthcoming. The treasurer shall pay the tax certificate holder or 102087
holders promptly. 102088

The county treasurer shall administer the tax certificate 102089
redemption fund for the purpose of redeeming tax certificates. 102090
Interest earned on the fund shall be credited to the county 102091
general fund. If the county has established a county land 102092
reutilization corporation, the county treasurer may apply interest 102093
earned on the fund to the payment of the expenses of such 102094
corporation. 102095

(2) If a redemption payment plan is entered into pursuant to 102096
division (C)(1) of this section, the county treasurer immediately 102097
shall notify each certificate holder by ordinary first class or 102098
certified mail or by binary means of the terms of the plan. 102099

Installment payments made pursuant to the plan shall be deposited 102100
in the tax certificate redemption fund. Any overpayment of the 102101
installments shall be refunded to the person responsible for 102102
causing the overpayment if the person applies for a refund under 102103
this section. If the person responsible for causing the 102104
overpayment fails to apply for a refund under this section within 102105
five years from the date the plan is satisfied, an amount equal to 102106
the overpayment shall be deposited into the general fund of the 102107
county. If the county has established a county land reutilization 102108
corporation, the county treasurer may apply such overpayment to 102109
the payment of the expenses of the corporation. 102110

Upon satisfaction of the plan, the county treasurer shall 102111
indicate in the tax certificate register that the plan has been 102112
satisfied, and shall notify each certificate holder by ordinary 102113
first class or certified mail or by binary means that the plan has 102114
been satisfied and that payment on the certificate or certificates 102115
is forthcoming. The treasurer shall pay each certificate holder 102116
promptly. 102117

If a redemption payment plan becomes void, the county 102118
treasurer shall notify each certificate holder by ordinary first 102119
class or certified mail or by binary means. If a certificate 102120
holder files a request for foreclosure under section 5721.37 of 102121
the Revised Code, upon the filing of the request for foreclosure, 102122
any money paid under the plan shall be refunded to the person that 102123
paid the money under the plan. 102124

(3) Upon receipt of the payment required under division 102125
(B)(1) of section 5721.37 of the Revised Code, the treasurer shall 102126
pay all other certificate holders and indicate in the tax 102127
certificate register that such certificates have been satisfied. 102128
If a county has organized a county land reutilization corporation, 102129
the county treasurer may apply the redemption price and any 102130
applicable interest payable under division (B) of this section to 102131

the payment of the expenses of the corporation. 102132

Sec. 5721.42. After the settlement required under division 102133
(C) of section 321.24 of the Revised Code, the county treasurer 102134
shall notify the certificate holder of the most recently issued 102135
tax certificate, by ordinary first class or certified mail or by 102136
binary means, that the certificate holder may purchase a 102137
subsequent tax certificate by paying all delinquent taxes on the 102138
related certificate parcel, the lien against which has not been 102139
transferred by the sale of a tax certificate. During the thirty 102140
days after receiving the notice, the certificate holder possesses 102141
the exclusive right to purchase the subsequent tax certificate by 102142
paying those amounts to the county treasurer. The amount of the 102143
payment shall constitute a separate lien against the certificate 102144
parcel that shall be evidenced by the issuance by the treasurer to 102145
the certificate holder of an additional tax certificate with 102146
respect to the delinquent taxes so paid on the related certificate 102147
parcel. The amount of the payment as set forth in the tax 102148
certificate shall earn interest at the rate of eighteen per cent 102149
per year. The certificate period of each subsequent tax 102150
certificate shall terminate on the expiration date of the 102151
certificate period of the most recent tax certificate for the same 102152
certificate parcel. 102153

Sec. 5722.13. Real property acquired and held by an electing 102154
subdivision pursuant to this chapter that is not sold or otherwise 102155
transferred within fifteen years after such acquisition shall be 102156
offered for sale at public auction during the sixteenth year after 102157
acquisition. If the real property is not sold at that time, it may 102158
be disposed of or retained for any lawful purpose without further 102159
application of this chapter. 102160

Notice of the sale shall contain a description of each 102161
parcel, the permanent parcel number, and the full street address 102162

when available. The notice shall be published once a week for 102163
three consecutive weeks prior to the sale in a newspaper of 102164
general circulation within the electing subdivision. The newspaper 102165
shall meet the requirements of section 7.12 of the Revised Code. 102166

Each parcel subsequent to the fifteenth year after its 102167
acquisition as part of a land reutilization program shall be sold 102168
for an amount equal to not less than the greater of: 102169

(A) Two-thirds of its fair market value; 102170

(B) The total amount of accrued taxes, assessments, 102171
penalties, interest, charges, and costs incurred by the electing 102172
subdivision in the acquisition, maintenance, and disposal of each 102173
parcel and the parcel's share of the costs and expenses of the 102174
land reutilization program. 102175

The sale requirements of this section do not apply to real 102176
property acquired and held by a county land reutilization 102177
corporation. 102178

Sec. 5723.05. If the taxes, assessments, charges, penalties, 102179
interest, and costs due on the forfeited lands have not been paid 102180
when the county auditor fixes the date for the sale of forfeited 102181
lands, the auditor shall give notice of them once a week for two 102182
consecutive weeks prior to the date fixed by the auditor for the 102183
sale, ~~in two newspapers~~ as provided in section 5721.03 of the 102184
Revised Code. The notice shall state that if the taxes, 102185
assessments, charges, penalties, interest, and costs charged 102186
against the lands forfeited to the state for nonpayment of taxes 102187
are not paid into the county treasury, and the county treasurer's 102188
receipt produced for the payment before the time specified in the 102189
notice for the sale of the lands, which day shall be named in the 102190
notice, each forfeited tract on which the taxes, assessments, 102191
charges, penalties, interest, and costs remain unpaid will be 102192
offered for sale beginning on the date set by the auditor, at the 102193

courthouse in the county, in order to satisfy the unpaid taxes, 102194
assessments, charges, penalties, interest, and costs, and that the 102195
sale will continue from day to day until each of the tracts is 102196
sold or offered for sale. 102197

The notice also shall state that, if the forfeited land is 102198
sold for an amount that is less than the amount of the delinquent 102199
taxes, assessments, charges, penalties, and interest against it, 102200
and, if division (B)(2) of section 5721.17 of the Revised Code is 102201
applicable, any notes issued by a receiver pursuant to division 102202
(F) of section 3767.41 of the Revised Code and any receiver's lien 102203
as defined in division (C)(4) of section 5721.18 of the Revised 102204
Code, the court, in a separate order, may enter a deficiency 102205
judgment against the last owner of record of the land before its 102206
forfeiture to the state, for the amount of the difference; and 102207
that, if that owner of record is a corporation, the court may 102208
enter the deficiency judgment against the stockholder holding a 102209
majority of that corporation's stock. 102210

Sec. 5725.151. (A) As used in this section, "certificate 102211
owner" has the same meaning as in section 149.311 of the Revised 102212
Code. 102213

(B) There is allowed a credit against the tax imposed by 102214
section 5707.03 and assessed under section 5725.15 of the Revised 102215
Code for a dealer in intangibles subject to that tax that is a 102216
certificate owner of a rehabilitation tax credit certificate 102217
issued under section 149.311 of the Revised Code. The credit shall 102218
equal twenty-five per cent of the dollar amount indicated on the 102219
certificate, but the amount of the credit allowed for any dealer 102220
for any year shall not exceed five million dollars. The credit 102221
shall be claimed in the calendar year specified in the 102222
certificate. If the credit exceeds the amount of tax otherwise due 102223
in that year, the excess shall be refunded to the dealer but, if 102224

any amount of the credit is refunded, the sum of the amount 102225
refunded and the amount applied to reduce the tax otherwise due in 102226
that year shall not exceed three million dollars. The dealer may 102227
carry forward any balance of the credit in excess of the amount 102228
claimed in that year for not more than five ensuing years, and 102229
shall deduct any amount claimed in any such year from the amount 102230
claimed in an ensuing year. 102231

(C) A dealer in intangibles claiming a credit under this 102232
section shall retain the rehabilitation tax credit certificate for 102233
four years following the end of the year in which the credit was 102234
claimed, and shall make the certificate available for inspection 102235
by the tax commissioner upon the request of the tax commissioner 102236
during that period. 102237

~~(D) For the purpose of division (C) of section 5725.24 of the 102238
Revised Code, reductions in the amount of taxes collected on 102239
account of credits allowed under this section shall be applied to 102240
reduce the amount credited to the general revenue fund and shall 102241
not be applied to reduce the amount to be credited to the 102242
undivided local government funds of the counties in which such 102243
taxes originate. 102244~~

Sec. 5725.24. ~~(A) As used in this section, "qualifying 102245
dealer" means a dealer in intangibles that is a qualifying dealer 102246
in intangibles as defined in section 5733.45 of the Revised Code 102247
or a member of a qualifying controlled group, as defined in 102248
section 5733.04 of the Revised Code, of which an insurance company 102249
also is a member on the first day of January of the year in and 102250
for which the tax imposed by section 5707.03 of the Revised Code 102251
is required to be paid by the dealer. 102252~~

~~(B) The taxes levied by section 5725.18 of the Revised Code 102253
and collected pursuant to this chapter shall be paid into the 102254
state treasury to the credit of the general revenue fund. 102255~~

~~(C)(B) The taxes levied by section 5707.03 of the Revised Code on the value of shares in and capital employed by all dealers in intangibles ~~other than those that are qualifying dealers~~ shall be ~~for the use of~~ paid into the state treasury to the credit of the general revenue fund ~~of the state and the local government funds of the several counties in which the taxes originate as provided in this division.~~~~

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~~During each month for which there is money in the state treasury for disbursement under this division, the tax commissioner shall provide for payment to the county treasurer of each county of five eighths of the amount of the taxes collected on account of shares in and capital employed by dealers in intangibles other than those that are qualifying dealers, representing capital employed in the county. The balance of the money received and credited on account of taxes assessed on shares in and capital employed by such dealers in intangibles shall be credited to the general revenue fund.~~

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~~Reductions in the amount of taxes collected on account of credits allowed under section 5725.151 of the Revised Code shall be applied to reduce the amount credited to the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.~~

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~~For the purpose of this division, such taxes are deemed to originate in the counties in which such dealers in intangibles have their offices.~~

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~~Money received into the treasury of a county pursuant to this section shall be credited to the undivided local government fund of the county and shall be distributed by the budget commission as provided by law.~~

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~~(D) All of the taxes levied under section 5707.03 of the~~

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~~Revised Code on the value of the shares in and capital employed by 102287
dealers in intangibles that are qualifying dealers shall be paid 102288
into the state treasury to the credit of the general revenue fund. 102289~~

Sec. 5725.34. (A) As used in this section, "certificate 102290
owner" has the same meaning as in section 149.311 of the Revised 102291
Code. 102292

(B) There is allowed a credit against the tax imposed by 102293
section 5725.18 of the Revised Code for an insurance company 102294
subject to that tax that is a certificate owner of a 102295
rehabilitation tax credit certificate issued under section 149.311 102296
of the Revised Code. The credit shall equal twenty-five per cent 102297
of the dollar amount indicated on the certificate, but the amount 102298
of the credit allowed for any company for any year shall not 102299
exceed five million dollars. The credit shall be claimed in the 102300
calendar year specified in the certificate and in the order 102301
required under section 5725.98 of the Revised Code. If the credit 102302
exceeds the amount of tax otherwise due in that year, the excess 102303
shall be refunded to the company but, if any amount of the credit 102304
is refunded, the sum of the amount refunded and the amount applied 102305
to reduce the tax otherwise due in that year shall not exceed 102306
three million dollars. The company may carry forward any balance 102307
of the credit in excess of the amount claimed in that year for not 102308
more than five ensuing years, and shall deduct any amount claimed 102309
in any such year from the amount claimed in an ensuing year. 102310

(C) An insurance company claiming a credit under this section 102311
shall retain the rehabilitation tax credit certificate for four 102312
years following the end of the year in which the credit was 102313
claimed, and shall make the certificate available for inspection 102314
by the tax commissioner upon the request of the tax commissioner 102315
during that period. 102316

Sec. 5725.98. (A) To provide a uniform procedure for 102317
calculating the amount of tax imposed by section 5725.18 of the 102318
Revised Code that is due under this chapter, a taxpayer shall 102319
claim any credits and offsets against tax liability to which it is 102320
entitled in the following order: 102321

(1) The credit for an insurance company or insurance company 102322
group under section 5729.031 of the Revised Code; 102323

(2) The credit for eligible employee training costs under 102324
section 5725.31 of the Revised Code; 102325

(3) The credit for purchasers of qualified low-income 102326
community investments under section 5725.33 of the Revised Code; 102327

(4) The nonrefundable job retention credit under division 102328
(B)(1) of section 122.171 of the Revised Code; 102329

(5) The offset of assessments by the Ohio life and health 102330
insurance guaranty association permitted by section 3956.20 of the 102331
Revised Code; 102332

(6) The refundable credit for rehabilitating a historic 102333
building under section 5725.34 of the Revised Code. 102334

(7) The refundable credit for Ohio job retention under 102335
division (B)(2) or (3) of section 122.171 of the Revised Code; 102336

~~(7)~~(8) The refundable credit for Ohio job creation under 102337
section 5725.32 of the Revised Code; 102338

~~(8)~~(9) The refundable credit under section 5725.19 of the 102339
Revised Code for losses on loans made under the Ohio venture 102340
capital program under sections 150.01 to 150.10 of the Revised 102341
Code. 102342

(B) For any credit except the refundable credits enumerated 102343
in this section, the amount of the credit for a taxable year shall 102344
not exceed the tax due after allowing for any other credit that 102345

precedes it in the order required under this section. Any excess 102346
amount of a particular credit may be carried forward if authorized 102347
under the section creating that credit. Nothing in this chapter 102348
shall be construed to allow a taxpayer to claim, directly or 102349
indirectly, a credit more than once for a taxable year. 102350

Sec. 5727.57. In addition to all other remedies for the 102351
collection of any taxes or penalties due under law, whenever any 102352
taxes, fees, or penalties due from any public utility have 102353
remained unpaid for a period of ninety days, or whenever any 102354
public utility has failed for a period of ninety days to make any 102355
report or return required by law, or to pay any penalty for 102356
failure to make or file such report or return, the attorney 102357
general, upon the request of the tax commissioner, shall file a 102358
petition in the court of common pleas in the county of the state 102359
in which such public utility has its principal place of business 102360
for a judgment for the amount of the taxes and penalties appearing 102361
to be due, the enforcement of any lien in favor of the state, and 102362
an injunction to restrain such public utility and its officers, 102363
directors, and managing agents from the transaction of any 102364
business within this state, other than such acts as are incidental 102365
to liquidation or winding up, until the payment of such taxes, 102366
fees, penalties, and the costs of the proceeding, which shall be 102367
fixed by the court, or the making and filing of such report or 102368
return. 102369

Such petition shall be in the name of the state. All or any 102370
of the public utilities having their principal places of business 102371
in the county may be joined in one suit. On the motion of the 102372
attorney general, the court of common pleas shall enter an order 102373
requiring all defendants to answer by a day certain, and may 102374
appoint a special master commissioner to take testimony, with such 102375
other power and authority as the court confers, and permit process 102376
to be served by certified mail and by publication in a newspaper 102377

of general circulation ~~published~~ in the county, which publication 102378
need not be made more than once, setting forth the name of each 102379
delinquent public utility, the matter in which such public utility 102380
is delinquent, the names of its officers, directors, and managing 102381
agents, if set forth in the petition, and the amount of any taxes, 102382
fees, or penalties claimed to be owing by said public utility. 102383

All of the officers, directors, shareholders, or managing 102384
agents of any public utility may be joined as defendants with such 102385
public utility. 102386

If it appears to the court upon hearing that any public 102387
utility which is a party to such proceeding is indebted to the 102388
state for taxes, fees, or penalties, judgment shall be entered 102389
therefor with interest, which shall be computed at the rate per 102390
annum prescribed by section 5703.47 of the Revised Code; and if it 102391
appears that any public utility has failed to make or file any 102392
report or return, a mandatory injunction may be issued against 102393
such public utility, its officers, directors, and managing agents, 102394
as such enjoining them from the transaction of any business within 102395
this state, other than acts incidental to liquidation or winding 102396
up, until the making and filing of all proper reports or returns 102397
and the payment in full of all taxes, fees, and penalties. 102398

If the officers, directors, shareholders, or managing agents 102399
of a public utility are not made parties in the first instance, 102400
and a judgment or an injunction is rendered or issued against such 102401
public utility, such officers, directors, shareholders, or 102402
managing agents, or any of them, may be made parties to such 102403
proceedings upon the motion of the attorney general, and, upon 102404
notice to them of the form and terms of such injunction, they 102405
shall be bound thereby as fully as if they had been made parties 102406
in the first instance. 102407

In any action authorized by this section, a statement of the 102408
commissioner or the secretary of state, when duly certified shall 102409

be prima-facie evidence of the amount of taxes, fees, or penalties 102410
due from any public utility, or of the failure of any public 102411
utility to file with the commissioner or the secretary of state 102412
any report required by law, and any such certificate of the 102413
commissioner or the secretary of state may be required in evidence 102414
in any such proceeding. 102415

On the application of any defendant and for good cause shown, 102416
the court may order a separate hearing of the issues as to any 102417
defendant. 102418

The costs of the proceeding shall be apportioned among the 102419
parties as the court deems proper. 102420

The court in such proceeding may make, enter, and enforce 102421
such other judgments and orders and grant such other relief as is 102422
necessary or incidental to the enforcement of the claims and lien 102423
of the state. 102424

In the performance of the duties enjoined ~~upon him~~ by this 102425
section the attorney general may direct any prosecuting attorney 102426
to bring an action, as authorized by this section, in the name of 102427
the state with respect to any delinquent public utilities within 102428
~~his~~ the prosecuting attorney's county, and like proceedings and 102429
orders shall be had as if such action were instituted by the 102430
attorney general. 102431

Sec. 5727.84. (A) As used in this section and sections 102432
5727.85, 5727.86, and 5727.87 of the Revised Code: 102433

(1) "School district" means a city, local, or exempted 102434
village school district. 102435

(2) "Joint vocational school district" means a joint 102436
vocational school district created under section 3311.16 of the 102437
Revised Code, and includes a cooperative education school district 102438
created under section 3311.52 or 3311.521 of the Revised Code and 102439

a county school financing district created under section 3311.50 102440
of the Revised Code. 102441

(3) "Local taxing unit" means a subdivision or taxing unit, 102442
as defined in section 5705.01 of the Revised Code, a park district 102443
created under Chapter 1545. of the Revised Code, or a township 102444
park district established under section 511.23 of the Revised 102445
Code, but excludes school districts and joint vocational school 102446
districts. 102447

(4) "State education aid," for a school district, means the 102448
following: 102449

(a) For fiscal years prior to fiscal year 2010, the sum of 102450
state aid amounts computed for the district under the following 102451
provisions, as they existed for the applicable fiscal year: 102452
divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 102453
3317.022; divisions (B), (C), and (D) of section 3317.023; 102454
divisions (G), (L), and (N) of section 3317.024; and sections 102455
3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 102456
3317.053 of the Revised Code; and the adjustments required by: 102457
division (C) of section 3310.08; division (C)(2) of section 102458
3310.41; division (C) of section 3314.08; division (D)(2) of 102459
section 3314.091; division (D) of section 3314.13; divisions (E), 102460
(K), (L), (M), and (N) of section 3317.023; division (C) of 102461
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 102462
Code. However, when calculating state education aid for a school 102463
district for fiscal years 2008 and 2009, include the amount 102464
computed for the district under Section 269.20.80 of H.B. 119 of 102465
the 127th general assembly, as subsequently amended, instead of 102466
division (D) of section 3317.022 of the Revised Code; and include 102467
amounts calculated under Section 269.30.80 of ~~this act~~ H.B. 119 of 102468
the 127th general assembly, as subsequently amended. 102469

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year~~ 102470
~~thereafter~~ 2011, the sum of the amounts computed for the district 102471

under former sections 3306.052, 3306.12, 3306.13, 3306.19, 102472
3306.191, and 3306.192+ of the Revised Code and the following 102473
provisions, as they existed for the applicable fiscal year: 102474
division (G) of section 3317.024; sections 3317.05, 3317.052, and 102475
3317.053 of the Revised Code; and the adjustments required by 102476
division (C) of section 3310.08; division (C)(2) of section 102477
3310.41; division (C) of section 3314.08; division (D)(2) of 102478
section 3314.091; division (D) of section 3314.13; divisions (E), 102479
(K), (L), (M), and (N) of section 3317.023; division (C) of 102480
section 3317.20; and sections 3313.979 and, 3313.981, and 3326.33 102481
of the Revised Code. 102482

(c) For fiscal years 2012 and 2013, the amount paid in 102483
accordance with the section of H.B. 153 of the 129th general 102484
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 102485
SCHOOL DISTRICTS" and the adjustments required by division (C) of 102486
section 3310.08; division (C)(2) of section 3310.41; division (C) 102487
of section 3314.08; division (D)(2) of section 3314.091; division 102488
(D) of section 3314.13; divisions (B), (H), (I), (J), and (K) of 102489
section 3317.023; division (C) of section 3317.20; and sections 102490
3313.979 and 3313.981 of the Revised Code. 102491

(5) "State education aid," for a joint vocational school 102492
district, means the following: 102493

(a) For fiscal years prior to fiscal year 2010, the sum of 102494
the state aid amounts computed for the district under division (N) 102495
of section 3317.024 and section 3317.16 of the Revised Code. 102496
However, when calculating state education aid for a joint 102497
vocational school district for fiscal years 2008 and 2009, include 102498
the amount computed for the district under Section 269.30.90 of 102499
H.B. 119 of the 127th general assembly, as subsequently amended. 102500

(b) For fiscal years 2010 and 2011, the amount computed for 102501
the district in accordance with the section of ~~this act~~ H.B. 1 of 102502
the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL 102503

SCHOOL DISTRICTS".	102504
<u>(c) For fiscal years 2012 and 2013, the amount paid in</u>	102505
<u>accordance with the section of H.B. 153 of the 129th general</u>	102506
<u>assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."</u>	102507
(6) "State education aid offset" means the amount determined	102508
for each school district or joint vocational school district under	102509
division (A)(1) of section 5727.85 of the Revised Code.	102510
(7) "Recognized valuation" has the same meaning as in section	102511
3317.02 of the Revised Code.	102512
(8) "Electric company tax value loss" means the amount	102513
determined under division (D) of this section.	102514
(9) "Natural gas company tax value loss" means the amount	102515
determined under division (E) of this section.	102516
(10) "Tax value loss" means the sum of the electric company	102517
tax value loss and the natural gas company tax value loss.	102518
(11) "Fixed-rate levy" means any tax levied on property other	102519
than a fixed-sum levy.	102520
(12) "Fixed-rate levy loss" means the amount determined under	102521
division (G) of this section.	102522
(13) "Fixed-sum levy" means a tax levied on property at	102523
whatever rate is required to produce a specified amount of tax	102524
money or levied in excess of the ten-mill limitation to pay debt	102525
charges, and includes school district emergency levies imposed	102526
pursuant to section 5705.194 of the Revised Code.	102527
(14) "Fixed-sum levy loss" means the amount determined under	102528
division (H) of this section.	102529
(15) "Consumer price index" means the consumer price index	102530
(all items, all urban consumers) prepared by the bureau of labor	102531
statistics of the United States department of labor.	102532

(16) "Total resources" has the same meaning as in section 5751.20 of the Revised Code. 102533
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(17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint vocational school district in fiscal year 2011 for current expense levy losses pursuant to division (C)(2) of section 5727.85 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2011 current expense S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy. 102535
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(18) "2010 current expense S.B. 3 allocation" means the sum of payments received by a municipal corporation in calendar year 2010 for current expense levy losses pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2010 current expense S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy. 102546
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(19) "2010 S.B. 3 allocation" means the sum of payments received by a local taxing unit during calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2010 S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy. 102556
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(20) "Total S.B. 3 allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(2) and (D) of section 5727.85 of the Revised Code. In the case of a local taxing unit, "total S.B. 3 allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "total S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 or division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85 or division (A)(1)(b) of section 5727.86 of the Revised Code.

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(21) "2011 non-current expense S.B. 3 allocation" means the difference of a school district's or joint vocational school district's total S.B. 3 allocation minus the sum of the school district's 2011 current expense S.B. 3 allocation and the portion of the school district's total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (D) of section 5727.85 of the Revised Code.

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(22) "2010 non-current expense S.B. 3 allocation" means the difference of a municipal corporation's total S.B. 3 allocation minus the sum of its 2010 current expense S.B. 3 allocation and the portion of its total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (A)(4) of section 5727.86 of the Revised Code.

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(23) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and

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thereafter. In the case of a local taxing unit, "threshold per cent" means two per cent for calendar year 2011, four per cent for calendar year 2012, and six per cent for calendar years 2013 and thereafter. 102597
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(B) The kilowatt-hour tax receipts fund is hereby created in 102601
the state treasury and shall consist of money arising from the tax 102602
imposed by section 5727.81 of the Revised Code. All money in the 102603
kilowatt-hour tax receipts fund shall be credited as follows: 102604

~~(1) Sixty three per cent shall be credited to the general revenue fund.~~ 102605
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~~(2) Twenty five and four tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.~~ 102607
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~~(3) Eleven and six tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.~~ 102611
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<u>Fiscal Year</u>	<u>General Revenue Fund</u>	<u>School District Property Tax Replacement Fund</u>	<u>Local Government Property Tax Replacement Fund</u>	
<u>2001-2011</u>	<u>63.0%</u>	<u>25.4%</u>	<u>11.6%</u>	102615
<u>2012 and thereafter</u>	<u>88.0%</u>	<u>9.0%</u>	<u>3.0%</u>	102616 102617

(C) The natural gas tax receipts fund is hereby created in 102618
the state treasury and shall consist of money arising from the tax 102619
imposed by section 5727.811 of the Revised Code. All money in the 102620
fund shall be credited as follows: 102621

(1) For fiscal years before fiscal year 2012: 102622

(a) Sixty-eight and seven-tenths per cent shall be credited 102623
to the school district property tax replacement fund for the 102624

purpose of making the payments described in section 5727.85 of the Revised Code. 102625
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~~(2)(b)~~ Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code. 102627
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(2) For fiscal years 2012 and thereafter, one hundred per cent to the general revenue fund. 102631
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(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of this section: 102633
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(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section. 102637
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(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998; 102640
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(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001. 102645
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(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section. 102650
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(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies 102653
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assessed against a person under Chapter 5711. of the Revised Code 102655
from the leasing of them to an electric company for those 102656
respective tax years, as reflected in the preliminary assessments; 102657

(b) The three-year average assessed value from nuclear fuel 102658
materials and assemblies assessed under division (D)(2)(a) of this 102659
section for tax years 1996, 1997, and 1998, as reflected in the 102660
preliminary assessments, using an assessment rate of twenty-five 102661
per cent. 102662

(3) In the case of a taxing district having a nuclear power 102663
plant within its territory, any amount, resulting in an electric 102664
company tax value loss, obtained by subtracting the amount 102665
described in division (D)(1) of this section from the difference 102666
obtained by subtracting the amount described in division (D)(3)(b) 102667
of this section from the amount described in division (D)(3)(a) of 102668
this section. 102669

(a) The value of electric company tangible personal property 102670
as assessed by the tax commissioner for tax year 2000 on a 102671
preliminary assessment, or an amended preliminary assessment if 102672
issued prior to March 1, 2001, and as apportioned to the taxing 102673
district for tax year 2000; 102674

(b) The value of electric company tangible personal property 102675
as assessed by the tax commissioner for tax year 2001 on a 102676
preliminary assessment, or an amended preliminary assessment if 102677
issued prior to March 1, 2002, and as apportioned to the taxing 102678
district for tax year 2001. 102679

(4) In the case of a taxing district having a nuclear power 102680
plant within its territory, the difference obtained by subtracting 102681
the amount described in division (D)(4)(b) of this section from 102682
the amount described in division (D)(4)(a) of this section, 102683
provided that such difference is greater than ten per cent of the 102684
amount described in division (D)(4)(a) of this section. 102685

(a) The value of electric company tangible personal property 102686
as assessed by the tax commissioner for tax year 2005 on a 102687
preliminary assessment, or an amended preliminary assessment if 102688
issued prior to March 1, 2006, and as apportioned to the taxing 102689
district for tax year 2005; 102690

(b) The value of electric company tangible personal property 102691
as assessed by the tax commissioner for tax year 2006 on a 102692
preliminary assessment, or an amended preliminary assessment if 102693
issued prior to March 1, 2007, and as apportioned to the taxing 102694
district for tax year 2006. 102695

(E) Not later than January 1, 2002, the tax commissioner 102696
shall determine for each taxing district its natural gas company 102697
tax value loss, which is the sum of the amounts described in 102698
divisions (E)(1) and (2) of this section: 102699

(1) The difference obtained by subtracting the amount 102700
described in division (E)(1)(b) from the amount described in 102701
division (E)(1)(a) of this section. 102702

(a) The value of all natural gas company tangible personal 102703
property, other than property described in division (E)(2) of this 102704
section, as assessed by the tax commissioner for tax year 1999 on 102705
a preliminary assessment, or an amended preliminary assessment if 102706
issued prior to March 1, 2000, and apportioned to the taxing 102707
district for tax year 1999; 102708

(b) The value of all natural gas company tangible personal 102709
property, other than property described in division (E)(2) of this 102710
section, as assessed by the tax commissioner for tax year 1999 had 102711
the property been apportioned to the taxing district for tax year 102712
2001, and assessed at the rates in effect for tax year 2001. 102713

(2) The difference in the value of current gas obtained by 102714
subtracting the amount described in division (E)(2)(b) from the 102715
amount described in division (E)(2)(a) of this section. 102716

(a) The three-year average assessed value of current gas as 102717
assessed by the tax commissioner for tax years 1997, 1998, and 102718
1999 on a preliminary assessment, or an amended preliminary 102719
assessment if issued prior to March 1, 2001, and as apportioned in 102720
the taxing district for those respective years; 102721

(b) The three-year average assessed value from current gas 102722
under division (E)(2)(a) of this section for tax years 1997, 1998, 102723
and 1999, as reflected in the preliminary assessment, using an 102724
assessment rate of twenty-five per cent. 102725

(F) The tax commissioner may request that natural gas 102726
companies, electric companies, and rural electric companies file a 102727
report to help determine the tax value loss under divisions (D) 102728
and (E) of this section. The report shall be filed within thirty 102729
days of the commissioner's request. A company that fails to file 102730
the report or does not timely file the report is subject to the 102731
penalty in section 5727.60 of the Revised Code. 102732

(G) Not later than January 1, 2002, the tax commissioner 102733
shall determine for each school district, joint vocational school 102734
district, and local taxing unit its fixed-rate levy loss, which is 102735
the sum of its electric company tax value loss multiplied by the 102736
tax rate in effect in tax year 1998 for fixed-rate levies and its 102737
natural gas company tax value loss multiplied by the tax rate in 102738
effect in tax year 1999 for fixed-rate levies. 102739

(H) Not later than January 1, 2002, the tax commissioner 102740
shall determine for each school district, joint vocational school 102741
district, and local taxing unit its fixed-sum levy loss, which is 102742
the amount obtained by subtracting the amount described in 102743
division (H)(2) of this section from the amount described in 102744
division (H)(1) of this section: 102745

(1) The sum of the electric company tax value loss multiplied 102746
by the tax rate in effect in tax year 1998, and the natural gas 102747

company tax value loss multiplied by the tax rate in effect in tax 102748
year 1999, for fixed-sum levies for all taxing districts within 102749
each school district, joint vocational school district, and local 102750
taxing unit. For the years 2002 through 2006, this computation 102751
shall include school district emergency levies that existed in 102752
1998 in the case of the electric company tax value loss, and 1999 102753
in the case of the natural gas company tax value loss, and all 102754
other fixed-sum levies that existed in 1998 in the case of the 102755
electric company tax value loss and 1999 in the case of the 102756
natural gas company tax value loss and continue to be charged in 102757
the tax year preceding the distribution year. For the years 2007 102758
through 2016 in the case of school district emergency levies, and 102759
for all years after 2006 in the case of all other fixed-sum 102760
levies, this computation shall exclude all fixed-sum levies that 102761
existed in 1998 in the case of the electric company tax value loss 102762
and 1999 in the case of the natural gas company tax value loss, 102763
but are no longer in effect in the tax year preceding the 102764
distribution year. For the purposes of this section, an emergency 102765
levy that existed in 1998 in the case of the electric company tax 102766
value loss, and 1999 in the case of the natural gas company tax 102767
value loss, continues to exist in a year beginning on or after 102768
January 1, 2007, but before January 1, 2017, if, in that year, the 102769
board of education levies a school district emergency levy for an 102770
annual sum at least equal to the annual sum levied by the board in 102771
tax year 1998 or 1999, respectively, less the amount of the 102772
payment certified under this division for 2002. 102773

(2) The total taxable value in tax year 1999 less the tax 102774
value loss in each school district, joint vocational school 102775
district, and local taxing unit multiplied by one-fourth of one 102776
mill. 102777

If the amount computed under division (H) of this section for 102778
any school district, joint vocational school district, or local 102779

taxing unit is greater than zero, that amount shall equal the 102780
fixed-sum levy loss reimbursed pursuant to division ~~(E)~~(F) of 102781
section 5727.85 of the Revised Code or division (A)(2) of section 102782
5727.86 of the Revised Code, and the one-fourth of one mill that 102783
is subtracted under division (H)(2) of this section shall be 102784
apportioned among all contributing fixed-sum levies in the 102785
proportion of each levy to the sum of all fixed-sum levies within 102786
each school district, joint vocational school district, or local 102787
taxing unit. 102788

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 102789
section, in computing the tax value loss, fixed-rate levy loss, 102790
and fixed-sum levy loss, the tax commissioner shall use the 102791
greater of the 1998 tax rate or the 1999 tax rate in the case of 102792
levy losses associated with the electric company tax value loss, 102793
but the 1999 tax rate shall not include for this purpose any tax 102794
levy approved by the voters after June 30, 1999, and the tax 102795
commissioner shall use the greater of the 1999 or the 2000 tax 102796
rate in the case of levy losses associated with the natural gas 102797
company tax value loss. 102798

(J) Not later than January 1, 2002, the tax commissioner 102799
shall certify to the department of education the tax value loss 102800
determined under divisions (D) and (E) of this section for each 102801
taxing district, the fixed-rate levy loss calculated under 102802
division (G) of this section, and the fixed-sum levy loss 102803
calculated under division (H) of this section. The calculations 102804
under divisions (G) and (H) of this section shall separately 102805
display the levy loss for each levy eligible for reimbursement. 102806

(K) Not later than September 1, 2001, the tax commissioner 102807
shall certify the amount of the fixed-sum levy loss to the county 102808
auditor of each county in which a school district with a fixed-sum 102809
levy loss has territory. 102810

Sec. 5727.85. (A) By the thirty-first day of July of each 102811
year, beginning in 2002 and ending in ~~2016~~ 2010, the department of 102812
education shall determine the following for each school district 102813
and each joint vocational school district: 102814

(1) The state education aid offset, which, except as provided 102815
in division (A)(1)(c) of this section, is the difference obtained 102816
by subtracting the amount described in division (A)(1)(b) of this 102817
section from the amount described in division (A)(1)(a) of this 102818
section: 102819

(a) The state education aid computed for the school district 102820
or joint vocational school district for the current fiscal year as 102821
of the thirty-first day of July; 102822

(b) The state education aid that would be computed for the 102823
school district or joint vocational school district for the 102824
current fiscal year as of the thirty-first day of July if the 102825
recognized valuation included the tax value loss for the school 102826
district or joint vocational school district; 102827

(c) The state education aid offset for fiscal year 2010 and 102828
fiscal year 2011 equals the greater of the state education aid 102829
offset calculated for that fiscal year under divisions (A)(1)(a) 102830
and (b) of this section or the state education aid offset 102831
calculated for fiscal year 2009. 102832

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of 102833
zero or the difference obtained by subtracting the state education 102834
aid offset determined under division (A)(1) of this section from 102835
the fixed-rate levy loss certified under division (J) of section 102836
5727.84 of the Revised Code for all taxing districts in each 102837
school district and joint vocational school district. 102838

By the fifth day of August of each such year, the department 102839
of education shall certify the amount so determined under division 102840

(A)(1) of this section to the director of budget and management. 102841

(B) Not later than the thirty-first day of October of the 102842
years 2006 through ~~2016~~ 2010, the department of education shall 102843
determine all of the following for each school district: 102844

(1) The amount obtained by subtracting the district's state 102845
education aid computed for fiscal year 2002 from the district's 102846
state education aid computed for the current fiscal year as of the 102847
fifteenth day of July, by including in the definition of 102848
recognized valuation the machinery and equipment, inventory, 102849
furniture and fixtures, and telephone property tax value losses, 102850
as defined in section 5751.20 of the Revised Code, for the school 102851
district or joint vocational school district for the preceding tax 102852
year; 102853

(2) The inflation-adjusted property tax loss. The 102854
inflation-adjusted property tax loss equals the fixed-rate levy 102855
loss, excluding the tax loss from levies within the ten-mill 102856
limitation to pay debt charges, determined under division (G) of 102857
section 5727.84 of the Revised Code for all taxing districts in 102858
each school district, plus the product obtained by multiplying 102859
that loss by the cumulative percentage increase in the consumer 102860
price index from January 1, 2002, to the thirtieth day of June of 102861
the current year. 102862

(3) The difference obtained by subtracting the amount 102863
computed under division (B)(1) from the amount of the 102864
inflation-adjusted property tax loss. If this difference is zero 102865
or a negative number, no further payments shall be made under 102866
division (C) of this section to the school district from the 102867
school district property tax replacement fund. 102868

(C) The Beginning in 2002 for school districts and beginning 102869
in August 2011 for joint vocational school districts, the 102870
department of education shall pay from the school district 102871

property tax replacement fund to each school district all of the 102872
following: 102873

(1) In February 2002, one-half of the fixed-rate levy loss 102874
certified under division (J) of section 5727.84 of the Revised 102875
Code between the twenty-first and twenty-eighth days of February. 102876

(2) From August 2002 through ~~August 2017~~ February 2011, 102877
one-half of the amount calculated for that fiscal year under 102878
division (A)(2) of this section between the twenty-first and 102879
twenty-eighth days of August and of February, provided the 102880
difference computed under division (B)(3) of this section is not 102881
less than or equal to zero. 102882

~~For~~ (3) For fiscal years 2012 and thereafter, the sum of the 102883
amounts in divisions (C)(3)(a) or (b) and (c) of this section 102884
shall be paid on or before the thirty-first day of August and the 102885
twenty-eighth day of February: 102886

(a) If the ratio of 2011 current expense S.B. 3 allocation to 102887
total resources is equal to or less than the threshold per cent, 102888
zero; 102889

(b) If the ratio of 2011 current expense S.B. 3 allocation to 102890
total resources is greater than the threshold per cent, fifty per 102891
cent of the difference of 2011 current expense S.B. 3 allocation 102892
minus the product of total resources multiplied by the threshold 102893
per cent; 102894

(c) Fifty per cent of the product of 2011 non-current expense 102895
S.B. 3 allocation multiplied by seventy-five per cent for fiscal 102896
year 2012 and fifty per cent for fiscal years 2013 and thereafter. 102897

The department of education shall report to each school 102898
district the apportionment of the payments among the school 102899
district's funds based on the certifications under division (J) of 102900
section 5727.84 of the Revised Code. 102901

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

~~The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.~~

~~(D)~~(E) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 ~~to August 2016~~ through February 2011, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

~~(E)~~(F)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district

one-half of the fixed-sum levy loss so certified for each year 102934
between the twenty-first and twenty-eighth days of August and of 102935
February. 102936

(2) Beginning in 2003, by the thirty-first day of January of 102937
each year, the tax commissioner shall review the certification 102938
originally made under division ~~(E)~~(F)(1) of this section. If the 102939
commissioner determines that a debt levy that had been scheduled 102940
to be reimbursed in the current year has expired, a revised 102941
certification for that and all subsequent years shall be made to 102942
the department of education. 102943

~~(F)~~(G) If the balance of the half-mill equalization fund 102944
created under section 3318.18 of the Revised Code is insufficient 102945
to make the full amount of payments required under division (D) of 102946
that section, the department of education, at the end of the third 102947
quarter of the fiscal year, shall certify to the director of 102948
budget and management the amount of the deficiency, and the 102949
director shall transfer an amount equal to the deficiency from the 102950
school district property tax replacement fund to the half-mill 102951
equalization fund. 102952

~~(G)~~(H) Beginning in August 2002, and ending in May ~~2017~~ 2011, 102953
the director of budget and management shall transfer from the 102954
school district property tax replacement fund to the general 102955
revenue fund each of the following: 102956

(1) Between the twenty-eighth day of August and the fifth day 102957
of September, the lesser of one-half of the amount certified for 102958
that fiscal year under division (A)(2) of this section or the 102959
balance in the school district property tax replacement fund; 102960

(2) Between the first and fifth days of May, the lesser of 102961
one-half of the amount certified for that fiscal year under 102962
division (A)(2) of this section or the balance in the school 102963
district property tax replacement fund. 102964

~~(H)~~(I) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), ~~and (G)~~, and (H) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code to the extent required to make any payments in the current fiscal year under that section, and shall transfer the remaining balance to the general revenue fund.

~~(I)~~ ~~From (J)~~ After fiscal year 2002 ~~through fiscal year 2016~~, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), (E), ~~and (F)~~, and (G) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

~~(J)~~(K) If all of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For the merger of all of the territory of two or more districts, the ~~fixed rate levy loss and the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation,~~

2011 non-current expense S.B. 3 allocation, and fixed-sum levy 102997
loss of the successor district shall be equal to the sum of the 102998
~~fixed rate levy losses and the~~ total resources, 2011 current 102999
expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 103000
non-current expense S.B. 3 allocation, and fixed-sum levy losses 103001
loss for each of the districts involved in the merger. 103002

(2) For the transfer of a part of one district's territory to 103003
an existing district, the amount of the ~~fixed rate levy loss~~ total 103004
resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 103005
3 allocation, and 2011 non-current expense S.B. 3 allocation that 103006
is transferred to the recipient district shall be an amount equal 103007
to the transferring district's ~~total fixed rate levy loss~~ total 103008
resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 103009
3 allocation, and 2011 non-current expense S.B. 3 allocation times 103010
a fraction, the numerator of which is the ~~value of electric~~ 103011
~~company tangible personal property located in the part of the~~ 103012
~~territory that was~~ number of pupils being transferred to the 103013
recipient district, measured, in the case of a school district, by 103014
average daily membership as reported under division (A) of section 103015
3317.03 of the Revised Code or, in the case of a joint vocational 103016
school district, by formula ADM as reported in division (D) of 103017
that section, and the denominator of which is the ~~total value of~~ 103018
~~electric company tangible personal property located in the entire~~ 103019
~~district from which the territory was transferred. The value of~~ 103020
~~electric company tangible personal property under this division~~ 103021
~~shall be determined for the most recent year for which data is~~ 103022
~~available~~ average daily membership or formula ADM of the 103023
transferor district. Fixed-sum levy losses for both districts 103024
shall be determined under division ~~(J)~~(K)(4) of this section. 103025

(3) For the transfer of a part of the territory of one or 103026
more districts to create a new district: 103027

(a) If the new district is created on or after January 1, 103028

2000, but before January 1, 2005, the new district shall be paid 103029
its current fixed-rate levy loss through August 2009. ~~From~~ In 103030
~~February 2010 to, August 2016~~ 2010, and February 2011, the new 103031
district shall be paid fifty per cent of the lesser of: (i) the 103032
amount calculated under division (C)(2) of this section or (ii) an 103033
amount equal to seventy per cent of the new district's fixed-rate 103034
levy loss ~~multiplied by the percentage prescribed by the following~~ 103035
~~schedule:~~ 103036

YEAR	PERCENTAGE	
2010	70%	103037
2011	70%	103038
2012	70%	103039
2013	60%	103040
2014	50%	103041
2015	40%	103042
2016	24%	103043
2017 and thereafter	11.5%	103044
	0%.	103045

Beginning in fiscal year 2012, the new district shall be paid 103046
as provided in division (C) of this section. 103047

Fixed-sum levy losses for the districts shall be determined 103048
under division ~~(J)~~(K)(4) of this section. 103049

(b) If the new district is created on or after January 1, 103050
2005, the new district shall be deemed not to have any fixed-rate 103051
levy loss or, except as provided in division ~~(J)~~(K)(4) of this 103052
section, fixed-sum levy loss. The district or districts from which 103053
the territory was transferred shall have no reduction in their 103054
fixed-rate levy loss, or, except as provided in division ~~(J)~~(K)(4) 103055
of this section, their fixed-sum levy loss. 103056

(4) If a recipient district under division ~~(J)~~(K)(2) of this 103057
section or a new district under division ~~(J)~~(K)(3)(a) or (b) of 103058
this section takes on debt from one or more of the districts from 103059
which territory was transferred, and any of the districts 103060

transferring the territory had fixed-sum levy losses, the 103061
department of education, in consultation with the tax 103062
commissioner, shall make an equitable division of the fixed-sum 103063
levy losses. 103064

~~(K) There is hereby created the public utility property tax 103065
study committee, effective January 1, 2011. The committee shall 103066
consist of the following seven members: the tax commissioner, 103067
three members of the senate appointed by the president of the 103068
senate, and three members of the house of representatives 103069
appointed by the speaker of the house of representatives. The 103070
appointments shall be made not later than January 31, 2011. The 103071
tax commissioner shall be the chairperson of the committee. 103072~~

~~The committee shall study the extent to which each school 103073
district or joint vocational school district has been compensated, 103074
under sections 5727.84 and 5727.85 of the Revised Code as enacted 103075
by Substitute Senate Bill No. 3 of the 123rd general assembly and 103076
any subsequent acts, for the property tax loss caused by the 103077
reduction in the assessment rates for natural gas, electric, and 103078
rural electric company tangible personal property. Not later than 103079
June 30, 2011, the committee shall issue a report of its findings, 103080
including any recommendations for providing additional 103081
compensation for the property tax loss or regarding remedial 103082
legislation, to the president of the senate and the speaker of the 103083
house of representatives, at which time the committee shall cease 103084
to exist. 103085~~

~~The department of taxation and department of education shall 103086
provide such information and assistance as is required for the 103087
committee to carry out its duties. 103088~~

Sec. 5727.86. (A) Not later than January 1, 2002, the tax 103089
commissioner shall compute the payments to be made to each local 103090
taxing unit for each year according to divisions (A)(1), (2), (3), 103091

and (4) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in divisions (A)(3) and (4) of this section, ~~for fixed rate levy losses determined under division (G) of section 5727.84 of the Revised Code, payments shall be made in each of the following years at the following percentage of the fixed rate levy loss certified under division (A) of this section:~~

YEAR	PERCENTAGE	
2002	100%	
2003	100%	
2004	100%	
2005	100%	
2006	100%	
2007	80%	
2008	80%	
2009	80%	
2010	80%	
2011	80%	
2012	66.7%	
2013	53.4%	
2014	40.1%	
2015	26.8%	
2016	13.5%	
2017 and thereafter	0%	

the following amounts shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) For years 2002 through 2006, fifty per cent of the

<u>fixed-rate levy loss computed under division (G) of section</u>	103124
<u>5727.84 of the Revised Code;</u>	103125
<u>(b) For years 2007 through 2010, forty per cent of the fixed</u>	103126
<u>rate levy loss computed under division (G) of section 5727.84 of</u>	103127
<u>the Revised Code;</u>	103128
<u>(c) For the payment in 2011 to be made on or before the</u>	103129
<u>twentieth day of February, the amount required to be paid in 2010</u>	103130
<u>on or before the twentieth day of February;</u>	103131
<u>(d) For the payment in 2011 to be made on or before the</u>	103132
<u>thirty-first day of August and for all payments to be made in</u>	103133
<u>years 2012 and thereafter, the sum of the amounts in divisions</u>	103134
<u>(A)(1)(d)(i) or (ii) and (iii) of this section:</u>	103135
<u>(i) If the ratio of fifty per cent of the taxing unit's 2010</u>	103136
<u>S.B. 3 allocation to its total resources is equal to or less than</u>	103137
<u>the threshold per cent, zero;</u>	103138
<u>(ii) If the ratio of fifty per cent of the taxing unit's 2010</u>	103139
<u>S.B. 3 allocation to its total resources is greater than the</u>	103140
<u>threshold per cent, the difference of fifty per cent of the 2010</u>	103141
<u>S.B. 3 allocation minus the product of total resources multiplied</u>	103142
<u>by the threshold per cent;</u>	103143
<u>(iii) In the case of a municipal corporation, fifty per cent</u>	103144
<u>of the product of its 2010 non-current expense S.B. 3 allocation</u>	103145
<u>multiplied by seventy-five per cent for year 2011, fifty per cent</u>	103146
<u>for year 2012, and twenty-five percent for years 2013 and</u>	103147
<u>thereafter.</u>	103148
(2) For fixed-sum levy losses determined under division (H)	103149
of section 5727.84 of the Revised Code, payments shall be made in	103150
the amount of one hundred per cent of the fixed-sum levy loss for	103151
payments required to be made in 2002 and thereafter.	103152
(3) A local taxing unit in a county of less than two hundred	103153

fifty square miles that receives eighty per cent or more of its 103154
combined general fund and bond retirement fund revenues from 103155
property taxes and rollbacks based on 1997 actual revenues as 103156
presented in its 1999 tax budget, and in which electric companies 103157
and rural electric companies comprise over twenty per cent of its 103158
property valuation, shall receive one hundred per cent of its 103159
fixed-rate levy losses from electric company tax value losses 103160
certified under division (A) of this section in years 2002 to ~~2016~~ 103161
2010. Beginning in 2011, payments for such local taxing units 103162
shall be determined under division (A)(1) of this section. 103163

(4) For taxes levied within the ten-mill limitation or 103164
pursuant to a municipal charter for debt purposes in tax year 1998 103165
in the case of electric company tax value losses, and in tax year 103166
1999 in the case of natural gas company tax value losses, payments 103167
shall be made equal to one hundred per cent of the loss computed 103168
as if the tax were a fixed-rate levy, but those payments shall 103169
extend from ~~fiscal year 2006~~ 2011 through ~~fiscal year 2016~~ if the 103170
levy was imposed for debt purposes in tax year 2010. If the levy 103171
is not imposed for debt purposes in tax year 2010 or any following 103172
tax year before tax year 2016, payments for that levy shall be 103173
made under division (A)(1) of this section beginning with the 103174
first year after the year the levy is imposed for a purpose other 103175
than debt. For the purposes of this division, taxes levied 103176
pursuant to a municipal charter refer to taxes levied pursuant to 103177
a provision of a municipal charter that permits the tax to be 103178
levied without prior voter approval. 103179

(B) Beginning in 2003, by the thirty-first day of January of 103180
each year, the tax commissioner shall review the calculation 103181
originally made under division (A) of this section of the 103182
fixed-sum levy loss determined under division (H) of section 103183
5727.84 of the Revised Code. If the commissioner determines that a 103184
fixed-sum levy that had been scheduled to be reimbursed in the 103185

current year has expired, a revised calculation for that and all 103186
subsequent years shall be made. 103187

(C) Payments to local taxing units required to be made under 103188
divisions (A) and (E) of this section shall be paid from the local 103189
government property tax replacement fund to the county undivided 103190
income tax fund in the proper county treasury. ~~One half of the~~ 103191
~~amount certified under those divisions shall be paid between the~~ 103192
~~twenty first and twenty eighth days of August and of February.~~ The 103193
county treasurer shall distribute amounts paid under division (A) 103194
of this section to the proper local taxing unit as if they had 103195
been levied and collected as taxes, and the local taxing unit 103196
shall apportion the amounts so received among its funds in the 103197
same proportions as if those amounts had been levied and collected 103198
as taxes. Except in the case of amounts distributed to the county 103199
as a local taxing unit, amounts distributed under division (E)(2) 103200
of this section shall be credited to the general fund of the local 103201
taxing unit that receives them. Amounts distributed to each county 103202
as a local taxing unit under division (E)(2) of this section shall 103203
be credited in the proportion that the current taxes charged and 103204
payable from each levy of or by the county bears to the total 103205
current taxes charged and payable from all levies of or by the 103206
county. 103207

(D) By February 5, 2002, the tax commissioner shall estimate 103208
the amount of money in the local government property tax 103209
replacement fund in excess of the amount necessary to make 103210
payments in that month under division (C) of this section. 103211
Notwithstanding division (A) of this section, the tax commissioner 103212
may pay any local taxing unit, from those excess funds, nine and 103213
four-tenths times the amount computed for 2002 under division 103214
(A)(1) of this section. A payment made under this division shall 103215
be in lieu of the payment to be made in February 2002 under 103216
division (A)(1) of this section. A local taxing unit receiving a 103217

payment under this division will no longer be entitled to any 103218
further payments under division (A)(1) of this section. A payment 103219
made under this division shall be paid from the local government 103220
property tax replacement fund to the county undivided income tax 103221
fund in the proper county treasury. The county treasurer shall 103222
distribute the payment to the proper local taxing unit as if it 103223
had been levied and collected as taxes, and the local taxing unit 103224
shall apportion the amounts so received among its funds in the 103225
same proportions as if those amounts had been levied and collected 103226
as taxes. 103227

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 103228
2005, and 2006, and on the thirty-first day of January and July of 103229
2007 ~~and each year thereafter~~ through January 2011, if the amount 103230
credited to the local government property tax replacement fund 103231
exceeds the amount needed to be distributed from the fund under 103232
division (A) of this section in the following month, the tax 103233
commissioner shall distribute the excess to each county as 103234
follows: 103235

(a) One-half shall be distributed to each county in 103236
proportion to each county's population. 103237

(b) One-half shall be distributed to each county in the 103238
proportion that the amounts determined under divisions (G) and (H) 103239
of section 5727.84 of the Revised Code for all local taxing units 103240
in the county is of the total amounts so determined for all local 103241
taxing units in the state. 103242

(2) The amounts distributed to each county under division (E) 103243
of this section shall be distributed by the county auditor to each 103244
local taxing unit in the county in the proportion that the unit's 103245
current taxes charged and payable are of the total current taxes 103246
charged and payable of all the local taxing units in the county. 103247
If the amount that the county auditor determines to be distributed 103248
to a local taxing unit is less than five dollars, that amount 103249

shall not be distributed, and the amount not distributed shall 103250
remain credited to the county undivided income tax fund. At the 103251
time of the next distribution under division (E)(2) of this 103252
section, any amount that had not been distributed in the prior 103253
distribution shall be added to the amount available for the next 103254
distribution prior to calculation of the amount to be distributed. 103255
As used in this division, "current taxes charged and payable" 103256
means the taxes charged and payable as most recently determined 103257
for local taxing units in the county. 103258

~~(3) If, in the opinion of the tax commissioner, the excess 103259
remaining in the local government property tax replacement fund in 103260
any year is not sufficient to warrant distribution After January 103261
2011, any amount that exceeds the amount needed to be distributed 103262
from the fund under division ~~(E)(A)~~ of this section, ~~the excess~~ 103263
~~shall remain to the credit of~~ in the following month shall be 103264
transferred to the general revenue fund. 103265~~

~~(F) From fiscal year 2002 through fiscal year 2016, if If the 103266
total amount in the local government property tax replacement fund 103267
is insufficient to make all payments under division (C) of this 103268
section at the times the payments are to be made, the director of 103269
budget and management shall transfer from the general revenue fund 103270
to the local government property tax replacement fund the 103271
difference between the total amount to be paid and the amount in 103272
the local government property tax replacement fund, except that no 103273
transfer shall be made by reason of a deficiency to the extent 103274
that it results from the amendment of section 5727.84 of the 103275
Revised Code by Amended Substitute House Bill 95 of the 125th 103276
general assembly. 103277~~

(G) If all or a part of the territories of two or more local 103278
taxing units are merged, or unincorporated territory of a township 103279
is annexed by a municipal corporation, the tax commissioner shall 103280
adjust the payments made under this section to each of the local 103281

taxing units in proportion to the ~~tax value less~~ square mileage 103282
apportioned to the merged or annexed territory, or as otherwise 103283
provided by a written agreement between the legislative 103284
authorities of the local taxing units certified to the tax 103285
commissioner not later than the first day of June of the calendar 103286
year in which the payment is to be made. 103287

Sec. 5729.17. (A) As used in this section, "certificate 103288
owner" has the same meaning as in section 149.311 of the Revised 103289
Code. 103290

(B) There is allowed a credit against the tax imposed by 103291
section 5729.03 of the Revised Code for an insurance company 103292
subject to that tax that is a certificate owner of a 103293
rehabilitation tax credit certificate issued under section 149.311 103294
of the Revised Code. The credit shall equal twenty-five per cent 103295
of the dollar amount indicated on the certificate, but the amount 103296
of the credit allowed for any company for any year shall not 103297
exceed five million dollars. The credit shall be claimed in the 103298
calendar year specified in the certificate and in the order 103299
required under section 5729.98 of the Revised Code. If the credit 103300
exceeds the amount of tax otherwise due in that year, the excess 103301
shall be refunded to the company but, if any amount of the credit 103302
is refunded, the sum of the amount refunded and the amount applied 103303
to reduce the tax otherwise due in that year shall not exceed 103304
three million dollars. The company may carry forward any balance 103305
of the credit in excess of the amount claimed in that year for not 103306
more than five ensuing years, and shall deduct any amount claimed 103307
in any such year from the amount claimed in an ensuing year. 103308

(C) An insurance company claiming a credit under this section 103309
shall retain the rehabilitation tax credit certificate for four 103310
years following the end of the year in which the credit was 103311
claimed, and shall make the certificate available for inspection 103312

by the tax commissioner upon the request of the tax commissioner 103313
during that period. 103314

Sec. 5729.98. (A) To provide a uniform procedure for 103315
calculating the amount of tax due under this chapter, a taxpayer 103316
shall claim any credits and offsets against tax liability to which 103317
it is entitled in the following order: 103318

(1) The credit for an insurance company or insurance company 103319
group under section 5729.031 of the Revised Code; 103320

(2) The credit for eligible employee training costs under 103321
section 5729.07 of the Revised Code; 103322

(3) The credit for purchases of qualified low-income 103323
community investments under section 5729.16 of the Revised Code; 103324

(4) The nonrefundable job retention credit under division 103325
(B)(1) of section 122.171 of the Revised Code; 103326

(5) The offset of assessments by the Ohio life and health 103327
insurance guaranty association against tax liability permitted by 103328
section 3956.20 of the Revised Code; 103329

(6) The refundable credit for rehabilitating a historic 103330
building under section 5729.17 of the Revised Code. 103331

(7) The refundable credit for Ohio job retention under 103332
division (B)(2) or (3) of section 122.171 of the Revised Code; 103333

~~(7)~~(8) The refundable credit for Ohio job creation under 103334
section 5729.032 of the Revised Code; 103335

~~(8)~~(9) The refundable credit under section 5729.08 of the 103336
Revised Code for losses on loans made under the Ohio venture 103337
capital program under sections 150.01 to 150.10 of the Revised 103338
Code. 103339

(B) For any credit except the refundable credits enumerated 103340
in this section, the amount of the credit for a taxable year shall 103341

not exceed the tax due after allowing for any other credit that 103342
precedes it in the order required under this section. Any excess 103343
amount of a particular credit may be carried forward if authorized 103344
under the section creating that credit. Nothing in this chapter 103345
shall be construed to allow a taxpayer to claim, directly or 103346
indirectly, a credit more than once for a taxable year. 103347

Sec. 5731.02. (A) A tax is hereby levied on the transfer of 103348
the taxable estate, determined as provided in section 5731.14 of 103349
the Revised Code, of every person dying on or after July 1, 1968, 103350
and before January 1, 2013, who at the time of death was a 103351
resident of this state, as follows: 103352

If the taxable estate is:	The tax shall be:	
Not over \$40,000	2% of the taxable estate	103354
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	103355
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000	103356
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	103357
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000	103358
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000.	103359

(B) A credit shall be allowed against the tax imposed by 103360
division (A) of this section equal to the lesser of five hundred 103361
dollars or the amount of the tax for persons dying on or after 103362
July 1, 1968, but before January 1, 2001; the lesser of six 103363
thousand six hundred dollars or the amount of the tax for persons 103364
dying on or after January 1, 2001, but before January 1, 2002; or 103365
the lesser of thirteen thousand nine hundred dollars or the amount 103366
of the tax for persons dying on or after January 1, 2002. 103367

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of 103368
so much of the taxable estate of every person dying on or after 103369
July 1, 1968, and before January 1, 2013, who, at the time of ~~his~~ 103370
death, was not a resident of this state, as consists of real 103371
property situated in this state, tangible personal property having 103372
an actual situs in this state, and intangible personal property 103373
employed in carrying on a business within this state unless 103374
exempted from tax under the provisions of section 5731.34 of the 103375
Revised Code. 103376

(B) The amount of the tax on such real and tangible personal 103377
property shall be determined as follows: 103378

(1) Determine the amount of tax which would be payable under 103379
Chapter 5731. of the Revised Code if the decedent had died a 103380
resident of this state with all ~~his~~ the decedent's property 103381
situated or located within this state; 103382

(2) Multiply the tax so determined by a fraction, the 103383
denominator of which shall be the value of the gross estate 103384
wherever situated and the numerator of which shall be the said 103385
gross estate value of the real property situated and the tangible 103386
personal property having an actual situs in this state and 103387
intangible personal property employed in carrying on a business 103388
within this state and not exempted from tax under section 5731.34 103389
of the Revised Code. The product shall be the amount of tax 103390
payable to this state. 103391

(C) In addition to the tax levied by division (A) of this 103392
section, an additional tax is hereby levied on such real and 103393
tangible personal property determined as follows: 103394

(1) Determine the amount of tax which would be payable under 103395
division (A) of section 5731.18 of the Revised Code, if the 103396
decedent had died a resident of this state with all ~~his~~ the 103397
decedent's property situated or located within this state; 103398

(2) Multiply the tax so determined by a fraction, the denominator of which shall be the value of the gross estate wherever situated and the numerator of which shall be the said gross estate value of the real property situated and the tangible property having an actual situs in this state and intangible personal property employed in carrying on a business within this state and not exempted from tax under section 5731.34 of the Revised Code. The product so derived shall be credited with the amount of the tax determined under division (B) of this section.

Sec. 5731.21. (A)(1)(a) Except as provided under division (A)(3) of this section, the executor or administrator, or, if no executor or administrator has been appointed, another person in possession of property the transfer of which is subject to estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, shall file an estate tax return, within nine months of the date of the decedent's death, in the form prescribed by the tax commissioner, in duplicate, with the probate court of the county. The return shall include all property the transfer of which is subject to estate taxes, whether that property is transferred under the last will and testament of the decedent or otherwise. The time for filing the return may be extended by the tax commissioner.

(b) The estate tax return described in division (A)(1)(a) of this section shall be accompanied by a certificate, in the form prescribed by the tax commissioner, that is signed by the executor, administrator, or other person required to file the return, and that states all of the following:

(i) The fact that the return was filed;

(ii) The date of the filing of the return;

(iii) The fact that the estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, that are

shown to be due in the return, have been paid in full; 103430

(iv) If applicable, the fact that real property listed in the 103431
inventory for the decedent's estate is included in the return; 103432

(v) If applicable, the fact that real property not listed in 103433
the inventory for the decedent's estate, including, but not 103434
limited to, survivorship tenancy property as described in section 103435
5302.17 of the Revised Code or transfer on death property as 103436
described in sections 5302.22 and 5302.23 of the Revised Code, 103437
also is included in the return. In this regard, the certificate 103438
additionally shall describe that real property by the same 103439
description used in the return. 103440

(2) The probate court shall forward one copy of the estate 103441
tax return described in division (A)(1)(a) of this section to the 103442
tax commissioner. 103443

(3) A person shall not be required to file a return under 103444
division (A) of this section if the decedent was a resident of 103445
this state and the value of the decedent's gross estate is 103446
twenty-five thousand dollars or less in the case of a decedent 103447
dying on or after July 1, 1968, but before January 1, 2001; two 103448
hundred thousand dollars or less in the case of a decedent dying 103449
on or after January 1, 2001, but before January 1, 2002; or three 103450
hundred thirty-eight thousand three hundred thirty-three dollars 103451
or less in the case of a decedent dying on or after January 1, 103452
2002. No return shall be filed for estates of decedents dying on 103453
or after January 1, 2013. 103454

(4)(a) Upon receipt of the estate tax return described in 103455
division (A)(1)(a) of this section and the accompanying 103456
certificate described in division (A)(1)(b) of this section, the 103457
probate court promptly shall give notice of the return, by a form 103458
prescribed by the tax commissioner, to the county auditor. The 103459
auditor then shall make a charge based upon the notice and shall 103460

certify a duplicate of the charge to the county treasurer. The 103461
treasurer then shall collect, subject to division (A) of section 103462
5731.25 of the Revised Code or any other statute extending the 103463
time for payment of an estate tax, the tax so charged. 103464

(b) Upon receipt of the return and the accompanying 103465
certificate, the probate court also shall forward the certificate 103466
to the auditor. When satisfied that the estate taxes under section 103467
5731.02 or division (A) of section 5731.19 of the Revised Code, 103468
that are shown to be due in the return, have been paid in full, 103469
the auditor shall stamp the certificate so forwarded to verify 103470
that payment. The auditor then shall return the stamped 103471
certificate to the probate court. 103472

(5)(a) The certificate described in division (A)(1)(b) of 103473
this section is a public record subject to inspection and copying 103474
in accordance with section 149.43 of the Revised Code. It shall be 103475
kept in the records of the probate court pertaining to the 103476
decedent's estate and is not subject to the confidentiality 103477
provisions of section 5731.90 of the Revised Code. 103478

(b) All persons are entitled to rely on the statements 103479
contained in a certificate as described in division (A)(1)(b) of 103480
this section if it has been filed in accordance with that 103481
division, forwarded to a county auditor and stamped in accordance 103482
with division (A)(4) of this section, and placed in the records of 103483
the probate court pertaining to the decedent's estate in 103484
accordance with division (A)(5)(a) of this section. The real 103485
property referred to in the certificate shall be free of, and may 103486
be regarded by all persons as being free of, any lien for estate 103487
taxes under section 5731.02 and division (A) of section 5731.19 of 103488
the Revised Code. 103489

(B) An estate tax return filed under this section, in the 103490
form prescribed by the tax commissioner, and showing that no 103491
estate tax is due shall result in a determination that no estate 103492

tax is due, if the tax commissioner within three months after the receipt of the return by the department of taxation, fails to file exceptions to the return in the probate court of the county in which the return was filed. A copy of exceptions to a return of that nature, when the tax commissioner files them within that period, shall be sent by ordinary mail to the person who filed the return. The tax commissioner is not bound under this division by a determination that no estate tax is due, with respect to property not disclosed in the return.

(C) If the executor, administrator, or other person required to file an estate tax return fails to file it within nine months of the date of the decedent's death, the tax commissioner may determine the estate tax in that estate and issue a certificate of determination in the same manner as is provided in division (B) of section 5731.27 of the Revised Code. A certificate of determination of that nature has the same force and effect as though a return had been filed and a certificate of determination issued with respect to the return.

Sec. 5731.39. (A) No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share of its capital stock registered in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, without the written consent of the tax commissioner.

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit,

including accrued interest and dividends, as of the date of 103524
decedent's death, without the written consent of the tax 103525
commissioner. The written consent of the tax commissioner need not 103526
be obtained prior to the delivery or transfer of amounts having a 103527
value of three-fourths or less of said total value. 103528

(C) No life insurance company shall pay the proceeds of an 103529
annuity or matured endowment contract, or of a life insurance 103530
contract payable to the estate of a decedent, or of any other 103531
insurance contract taxable under Chapter 5731. of the Revised 103532
Code, without the written consent of the tax commissioner. Any 103533
life insurance company may pay the proceeds of any insurance 103534
contract not specified in this division (C) without the written 103535
consent of the tax commissioner. 103536

(D) No trust company or other corporation or person shall pay 103537
the proceeds of any death benefit, retirement, pension or profit 103538
sharing plan in excess of two thousand dollars, without the 103539
written consent of the tax commissioner. Such trust company or 103540
other corporation or person, however, may pay the proceeds of any 103541
death benefit, retirement, pension, or profit-sharing plan which 103542
consists of insurance on the life of the decedent payable to a 103543
beneficiary other than the estate of the insured without the 103544
written consent of the tax commissioner. 103545

(E) No safe deposit company, trust company, financial 103546
institution as defined in division (A) of section 5725.01 of the 103547
Revised Code, or other corporation or person, having in 103548
possession, control, or custody securities, assets, or other 103549
property (including the shares of the capital stock of, or other 103550
interest in, such safe deposit company, trust company, financial 103551
institution as defined in division (A) of section 5725.01 of the 103552
Revised Code, or other corporation), standing in the name of a 103553
decedent, or in trust for a decedent, or in the name of a decedent 103554
and another person or persons, and the transfer of which is 103555

taxable under Chapter 5731. of the Revised Code, shall deliver or 103556
transfer any such securities, assets, or other property which have 103557
a value as of the date of decedent's death in excess of 103558
three-fourths of the total value thereof, without the written 103559
consent of the tax commissioner. The written consent of the tax 103560
commissioner need not be obtained prior to the delivery or 103561
transfer of any such securities, assets, or other property having 103562
a value of three-fourths or less of said total value. 103563

(F) No safe deposit company, financial institution as defined 103564
in division (A) of section 5725.01 of the Revised Code, or other 103565
corporation or person having possession or control of a safe 103566
deposit box or similar receptacle standing in the name of a 103567
decedent or in the name of the decedent and another person or 103568
persons, or to which the decedent had a right of access, except 103569
when such safe deposit box or other receptacle stands in the name 103570
of a corporation or partnership, or in the name of the decedent as 103571
guardian or executor, shall deliver any of the contents thereof 103572
unless the safe deposit box or similar receptacle has been opened 103573
and inventoried in the presence of the tax commissioner or the 103574
commissioner's agent, and a written consent to transfer issued; 103575
provided, however, that a safe deposit company, financial 103576
institution, or other corporation or person having possession or 103577
control of a safe deposit box may deliver wills, deeds to burial 103578
lots, and insurance policies to a representative of the decedent, 103579
but that a representative of the safe deposit company, financial 103580
institution, or other corporation or person must supervise the 103581
opening of the box and make a written record of the wills, deeds, 103582
and policies removed. Such written record shall be included in the 103583
tax commissioner's inventory records. 103584

(G) Notwithstanding any provision of this section: 103585

(1) The tax commissioner may authorize any delivery or 103586
transfer or waive any of the foregoing requirements under such 103587

terms and conditions as the commissioner may prescribe; 103588

(2) An adult care facility, as defined in section ~~3722.01~~ 103589
5119.70 of the Revised Code, or a home, as defined in section 103590
3721.10 of the Revised Code, may transfer or use the money in a 103591
personal needs allowance account in accordance with section 103592
5111.113 of the Revised Code without the written consent of the 103593
tax commissioner, and without the account having been opened and 103594
inventoried in the presence of the commissioner or the 103595
commissioner's agent. 103596

Failure to comply with this section shall render such safe 103597
deposit company, trust company, life insurance company, financial 103598
institution as defined in division (A) of section 5725.01 of the 103599
Revised Code, or other corporation or person liable for the amount 103600
of the taxes and interest due under the provisions of Chapter 103601
5731. of the Revised Code on the transfer of such stock, deposit, 103602
proceeds of an annuity or matured endowment contract or of a life 103603
insurance contract payable to the estate of a decedent, or other 103604
insurance contract taxable under Chapter 5731. of the Revised 103605
Code, proceeds of any death benefit, retirement, pension, or 103606
profit sharing plan in excess of two thousand dollars, or 103607
securities, assets, or other property of any resident decedent, 103608
and in addition thereto, to a penalty of not less than five 103609
hundred or more than five thousand dollars. 103610

Sec. 5733.0610. (A) A refundable corporation franchise tax 103611
credit granted by the tax credit authority under section 122.17 or 103612
division (B)(2) or (3) of section 122.171 of the Revised Code may 103613
be claimed under this chapter in the order required under section 103614
5733.98 of the Revised Code. For purposes of making tax payments 103615
under this chapter, taxes equal to the amount of the refundable 103616
credit shall be considered to be paid to this state on the first 103617
day of the tax year. The refundable credit shall not be claimed 103618

for any tax years following the calendar year in which a 103619
relocation of employment positions occurs in violation of an 103620
agreement entered into under section 122.171 of the Revised Code. 103621

(B) A nonrefundable corporation franchise tax credit granted 103622
by the tax credit authority under division (B)(1) of section 103623
122.171 of the Revised Code may be claimed under this chapter in 103624
the order required under section 5733.98 of the Revised Code. 103625

Sec. 5733.23. In addition to all other remedies for the 103626
collection of any taxes or penalties due under law, whenever any 103627
taxes, fees, or penalties due from any corporation have remained 103628
unpaid for a period of ninety days, or whenever any corporation 103629
has failed for a period of ninety days to make any report or 103630
return required by law, or to pay any penalty for failure to make 103631
or file such report or return, the attorney general, upon the 103632
request of the tax commissioner, shall file a petition in the 103633
court of common pleas in the county of the state in which such 103634
corporation has its principal place of business for a judgment for 103635
the amount of the taxes or penalties appearing to be due, the 103636
enforcement of any lien in favor of the state, and an injunction 103637
to restrain such corporation and its officers, directors, and 103638
managing agents from the transaction of any business within this 103639
state, other than such acts as are incidental to liquidation or 103640
winding up, until the payment of such taxes, fees, and penalties, 103641
and the costs of the proceeding which shall be fixed by the court, 103642
or the making and filing of such report or return. 103643

Such petition shall be in the name of the state. All or any 103644
of the corporations having their principal places of business in 103645
the county may be joined in one suit. On the motion of the 103646
attorney general, the court of common pleas shall enter an order 103647
requiring all defendants to answer by a day certain, and may 103648
appoint a special master commissioner to take testimony, with such 103649

other power and authority as the court confers, and permitting 103650
process to be served by registered mail and by publication in a 103651
newspaper of general circulation ~~published~~ in the county, which 103652
publication need not be made more than once, setting forth the 103653
name of each delinquent corporation, the matter in which such 103654
corporation is delinquent, the names of its officers, directors, 103655
and managing agents, if set forth in the petition, and the amount 103656
of any taxes, fees, or penalties claimed to be owing by said 103657
corporation. 103658

All or any of the officers, directors, shareholders, or 103659
managing agents of any corporation may be joined as defendants 103660
with such corporation. 103661

If it appears to the court upon hearing that any corporation 103662
which is a party to such proceeding is indebted to the state for 103663
taxes, fees, or penalties, judgment shall be entered therefor with 103664
interest; and if it appears that any corporation has failed to 103665
make or file any report or return, a mandatory injunction may be 103666
issued against such corporation, its officers, directors, and 103667
managing agents, enjoining them from the transaction of any 103668
business within this state, other than acts incidental to 103669
liquidation or winding up, until the making and filing of all 103670
proper reports or returns and until the payment in full of all 103671
taxes, fees, and penalties. 103672

If the officers, directors, shareholders, or managing agents 103673
of a corporation are not made parties in the first instance, and a 103674
judgment or an injunction is rendered or issued against such 103675
corporation, such officers, directors, shareholders, or managing 103676
agents may be made parties to such proceedings upon the motion of 103677
the attorney general, and, upon notice to them of the form and 103678
terms of such injunction, they shall be bound thereby as fully as 103679
if they had been made parties in the first instance. 103680

In any action authorized by this section, a statement of the 103681

commissioner, or the secretary of state, when duly certified, 103682
shall be prima-facie evidence of the amount of taxes, fees, or 103683
penalties due from any corporation, or of the failure of any 103684
corporation to file with the commissioner or the secretary of 103685
state any report required by law, and any such certificate of the 103686
commissioner or the secretary of state may be required in evidence 103687
in any such proceeding. 103688

On the application of any defendant and for good cause shown, 103689
the court may order a separate hearing of the issues as to any 103690
defendant. 103691

The costs of the proceeding shall be apportioned among the 103692
parties as the court deems proper. 103693

The court in such proceeding may make, enter, and enforce 103694
such other judgments and orders and grant such other relief as is 103695
necessary or incidental to the enforcement of the claims and lien 103696
of the state. 103697

In the performance of the duties enjoined upon ~~him~~ the 103698
attorney general by this section the attorney general may direct 103699
any prosecuting attorney to bring an action, as authorized by this 103700
section, in the name of the state with respect to any delinquent 103701
corporations within ~~his~~ the prosecuting attorney's county, and 103702
like proceedings and orders shall be had as if such action were 103703
instituted by the attorney general. 103704

Sec. 5739.02. For the purpose of providing revenue with which 103705
to meet the needs of the state, for the use of the general revenue 103706
fund of the state, for the purpose of securing a thorough and 103707
efficient system of common schools throughout the state, for the 103708
purpose of affording revenues, in addition to those from general 103709
property taxes, permitted under constitutional limitations, and 103710
from other sources, for the support of local governmental 103711
functions, and for the purpose of reimbursing the state for the 103712

expense of administering this chapter, an excise tax is hereby 103713
levied on each retail sale made in this state. 103714

(A)(1) The tax shall be collected as provided in section 103715
5739.025 of the Revised Code. The rate of the tax shall be five 103716
and one-half per cent. The tax applies and is collectible when the 103717
sale is made, regardless of the time when the price is paid or 103718
delivered. 103719

(2) In the case of the lease or rental, with a fixed term of 103720
more than thirty days or an indefinite term with a minimum period 103721
of more than thirty days, of any motor vehicles designed by the 103722
manufacturer to carry a load of not more than one ton, watercraft, 103723
outboard motor, or aircraft, or of any tangible personal property, 103724
other than motor vehicles designed by the manufacturer to carry a 103725
load of more than one ton, to be used by the lessee or renter 103726
primarily for business purposes, the tax shall be collected by the 103727
vendor at the time the lease or rental is consummated and shall be 103728
calculated by the vendor on the basis of the total amount to be 103729
paid by the lessee or renter under the lease agreement. If the 103730
total amount of the consideration for the lease or rental includes 103731
amounts that are not calculated at the time the lease or rental is 103732
executed, the tax shall be calculated and collected by the vendor 103733
at the time such amounts are billed to the lessee or renter. In 103734
the case of an open-end lease or rental, the tax shall be 103735
calculated by the vendor on the basis of the total amount to be 103736
paid during the initial fixed term of the lease or rental, and for 103737
each subsequent renewal period as it comes due. As used in this 103738
division, "motor vehicle" has the same meaning as in section 103739
4501.01 of the Revised Code, and "watercraft" includes an outdrive 103740
unit attached to the watercraft. 103741

A lease with a renewal clause and a termination penalty or 103742
similar provision that applies if the renewal clause is not 103743
exercised is presumed to be a sham transaction. In such a case, 103744

the tax shall be calculated and paid on the basis of the entire 103745
length of the lease period, including any renewal periods, until 103746
the termination penalty or similar provision no longer applies. 103747
The taxpayer shall bear the burden, by a preponderance of the 103748
evidence, that the transaction or series of transactions is not a 103749
sham transaction. 103750

(3) Except as provided in division (A)(2) of this section, in 103751
the case of a sale, the price of which consists in whole or in 103752
part of the lease or rental of tangible personal property, the tax 103753
shall be measured by the installments of that lease or rental. 103754

(4) In the case of a sale of a physical fitness facility 103755
service or recreation and sports club service, the price of which 103756
consists in whole or in part of a membership for the receipt of 103757
the benefit of the service, the tax applicable to the sale shall 103758
be measured by the installments thereof. 103759

(B) The tax does not apply to the following: 103760

(1) Sales to the state or any of its political subdivisions, 103761
or to any other state or its political subdivisions if the laws of 103762
that state exempt from taxation sales made to this state and its 103763
political subdivisions; 103764

(2) Sales of food for human consumption off the premises 103765
where sold; 103766

(3) Sales of food sold to students only in a cafeteria, 103767
dormitory, fraternity, or sorority maintained in a private, 103768
public, or parochial school, college, or university; 103769

(4) Sales of newspapers and of magazine subscriptions and 103770
sales or transfers of magazines distributed as controlled 103771
circulation publications; 103772

(5) The furnishing, preparing, or serving of meals without 103773
charge by an employer to an employee provided the employer records 103774

the meals as part compensation for services performed or work done; 103775
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(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state; 103777
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(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires; 103787
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(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code; 103793
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(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or 103800
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services, other than items never subject to the tax, are sold does 103807
not exceed six in any calendar year, except as otherwise provided 103808
in division (B)(9)(b) of this section. If the number of days on 103809
which such sales are made exceeds six in any calendar year, the 103810
church or organization shall be considered to be engaged in 103811
business and all subsequent sales by it shall be subject to the 103812
tax. In counting the number of days, all sales by groups within a 103813
church or within an organization shall be considered to be sales 103814
of that church or organization. 103815

(b) The limitation on the number of days on which tax-exempt 103816
sales may be made by a church or organization under division 103817
(B)(9)(a) of this section does not apply to sales made by student 103818
clubs and other groups of students of a primary or secondary 103819
school, or a parent-teacher association, booster group, or similar 103820
organization that raises money to support or fund curricular or 103821
extracurricular activities of a primary or secondary school. 103822

(c) Divisions (B)(9)(a) and (b) of this section do not apply 103823
to sales by a noncommercial educational radio or television 103824
broadcasting station. 103825

(10) Sales not within the taxing power of this state under 103826
the Constitution of the United States; 103827

(11) Except for transactions that are sales under division 103828
(B)(3)(r) of section 5739.01 of the Revised Code, the 103829
transportation of persons or property, unless the transportation 103830
is by a private investigation and security service; 103831

(12) Sales of tangible personal property or services to 103832
churches, to organizations exempt from taxation under section 103833
501(c)(3) of the Internal Revenue Code of 1986, and to any other 103834
nonprofit organizations operated exclusively for charitable 103835
purposes in this state, no part of the net income of which inures 103836
to the benefit of any private shareholder or individual, and no 103837

substantial part of the activities of which consists of carrying 103838
on propaganda or otherwise attempting to influence legislation; 103839
sales to offices administering one or more homes for the aged or 103840
one or more hospital facilities exempt under section 140.08 of the 103841
Revised Code; and sales to organizations described in division (D) 103842
of section 5709.12 of the Revised Code. 103843

"Charitable purposes" means the relief of poverty; the 103844
improvement of health through the alleviation of illness, disease, 103845
or injury; the operation of an organization exclusively for the 103846
provision of professional, laundry, printing, and purchasing 103847
services to hospitals or charitable institutions; the operation of 103848
a home for the aged, as defined in section 5701.13 of the Revised 103849
Code; the operation of a radio or television broadcasting station 103850
that is licensed by the federal communications commission as a 103851
noncommercial educational radio or television station; the 103852
operation of a nonprofit animal adoption service or a county 103853
humane society; the promotion of education by an institution of 103854
learning that maintains a faculty of qualified instructors, 103855
teaches regular continuous courses of study, and confers a 103856
recognized diploma upon completion of a specific curriculum; the 103857
operation of a parent-teacher association, booster group, or 103858
similar organization primarily engaged in the promotion and 103859
support of the curricular or extracurricular activities of a 103860
primary or secondary school; the operation of a community or area 103861
center in which presentations in music, dramatics, the arts, and 103862
related fields are made in order to foster public interest and 103863
education therein; the production of performances in music, 103864
dramatics, and the arts; or the promotion of education by an 103865
organization engaged in carrying on research in, or the 103866
dissemination of, scientific and technological knowledge and 103867
information primarily for the public. 103868

Nothing in this division shall be deemed to exempt sales to 103869

any organization for use in the operation or carrying on of a 103870
trade or business, or sales to a home for the aged for use in the 103871
operation of independent living facilities as defined in division 103872
(A) of section 5709.12 of the Revised Code. 103873

(13) Building and construction materials and services sold to 103874
construction contractors for incorporation into a structure or 103875
improvement to real property under a construction contract with 103876
this state or a political subdivision of this state, or with the 103877
United States government or any of its agencies; building and 103878
construction materials and services sold to construction 103879
contractors for incorporation into a structure or improvement to 103880
real property that are accepted for ownership by this state or any 103881
of its political subdivisions, or by the United States government 103882
or any of its agencies at the time of completion of the structures 103883
or improvements; building and construction materials sold to 103884
construction contractors for incorporation into a horticulture 103885
structure or livestock structure for a person engaged in the 103886
business of horticulture or producing livestock; building 103887
materials and services sold to a construction contractor for 103888
incorporation into a house of public worship or religious 103889
education, or a building used exclusively for charitable purposes 103890
under a construction contract with an organization whose purpose 103891
is as described in division (B)(12) of this section; building 103892
materials and services sold to a construction contractor for 103893
incorporation into a building under a construction contract with 103894
an organization exempt from taxation under section 501(c)(3) of 103895
the Internal Revenue Code of 1986 when the building is to be used 103896
exclusively for the organization's exempt purposes; building and 103897
construction materials sold for incorporation into the original 103898
construction of a sports facility under section 307.696 of the 103899
Revised Code; building and construction materials and services 103900
sold to a construction contractor for incorporation into real 103901
property outside this state if such materials and services, when 103902

sold to a construction contractor in the state in which the real 103903
property is located for incorporation into real property in that 103904
state, would be exempt from a tax on sales levied by that state; 103905
and, until one calendar year after the construction of a 103906
convention center that qualifies for property tax exemption under 103907
section 5709.084 of the Revised Code is completed, building and 103908
construction materials and services sold to a construction 103909
contractor for incorporation into the real property comprising 103910
that convention center; 103911

(14) Sales of ships or vessels or rail rolling stock used or 103912
to be used principally in interstate or foreign commerce, and 103913
repairs, alterations, fuel, and lubricants for such ships or 103914
vessels or rail rolling stock; 103915

(15) Sales to persons primarily engaged in any of the 103916
activities mentioned in division (B)(42)(a) or (g) of this 103917
section, to persons engaged in making retail sales, or to persons 103918
who purchase for sale from a manufacturer tangible personal 103919
property that was produced by the manufacturer in accordance with 103920
specific designs provided by the purchaser, of packages, including 103921
material, labels, and parts for packages, and of machinery, 103922
equipment, and material for use primarily in packaging tangible 103923
personal property produced for sale, including any machinery, 103924
equipment, and supplies used to make labels or packages, to 103925
prepare packages or products for labeling, or to label packages or 103926
products, by or on the order of the person doing the packaging, or 103927
sold at retail. "Packages" includes bags, baskets, cartons, 103928
crates, boxes, cans, bottles, bindings, wrappings, and other 103929
similar devices and containers, but does not include motor 103930
vehicles or bulk tanks, trailers, or similar devices attached to 103931
motor vehicles. "Packaging" means placing in a package. Division 103932
(B)(15) of this section does not apply to persons engaged in 103933
highway transportation for hire. 103934

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant

to a prescription and when such devices or equipment are for use 103967
by a human being. 103968

(20) Sales of emergency and fire protection vehicles and 103969
equipment to nonprofit organizations for use solely in providing 103970
fire protection and emergency services, including trauma care and 103971
emergency medical services, for political subdivisions of the 103972
state; 103973

(21) Sales of tangible personal property manufactured in this 103974
state, if sold by the manufacturer in this state to a retailer for 103975
use in the retail business of the retailer outside of this state 103976
and if possession is taken from the manufacturer by the purchaser 103977
within this state for the sole purpose of immediately removing the 103978
same from this state in a vehicle owned by the purchaser; 103979

(22) Sales of services provided by the state or any of its 103980
political subdivisions, agencies, instrumentalities, institutions, 103981
or authorities, or by governmental entities of the state or any of 103982
its political subdivisions, agencies, instrumentalities, 103983
institutions, or authorities; 103984

(23) Sales of motor vehicles to nonresidents of this state 103985
under the circumstances described in division (B) of section 103986
5739.029 of the Revised Code; 103987

(24) Sales to persons engaged in the preparation of eggs for 103988
sale of tangible personal property used or consumed directly in 103989
such preparation, including such tangible personal property used 103990
for cleaning, sanitizing, preserving, grading, sorting, and 103991
classifying by size; packages, including material and parts for 103992
packages, and machinery, equipment, and material for use in 103993
packaging eggs for sale; and handling and transportation equipment 103994
and parts therefor, except motor vehicles licensed to operate on 103995
public highways, used in intraplant or interplant transfers or 103996
shipment of eggs in the process of preparation for sale, when the 103997

plant or plants within or between which such transfers or 103998
shipments occur are operated by the same person. "Packages" 103999
includes containers, cases, baskets, flats, fillers, filler flats, 104000
cartons, closure materials, labels, and labeling materials, and 104001
"packaging" means placing therein. 104002

(25)(a) Sales of water to a consumer for residential use, 104003
except the sale of bottled water, distilled water, mineral water, 104004
carbonated water, or ice; 104005

(b) Sales of water by a nonprofit corporation engaged 104006
exclusively in the treatment, distribution, and sale of water to 104007
consumers, if such water is delivered to consumers through pipes 104008
or tubing. 104009

(26) Fees charged for inspection or reinspection of motor 104010
vehicles under section 3704.14 of the Revised Code; 104011

(27) Sales to persons licensed to conduct a food service 104012
operation pursuant to section 3717.43 of the Revised Code, of 104013
tangible personal property primarily used directly for the 104014
following: 104015

(a) To prepare food for human consumption for sale; 104016

(b) To preserve food that has been or will be prepared for 104017
human consumption for sale by the food service operator, not 104018
including tangible personal property used to display food for 104019
selection by the consumer; 104020

(c) To clean tangible personal property used to prepare or 104021
serve food for human consumption for sale. 104022

(28) Sales of animals by nonprofit animal adoption services 104023
or county humane societies; 104024

(29) Sales of services to a corporation described in division 104025
(A) of section 5709.72 of the Revised Code, and sales of tangible 104026
personal property that qualifies for exemption from taxation under 104027

section 5709.72 of the Revised Code;	104028
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	104029 104030 104031
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	104032 104033 104034
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	104035 104036 104037 104038 104039 104040
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	104041 104042 104043 104044 104045
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the	104046 104047 104048 104049 104050 104051 104052 104053 104054 104055 104056 104057 104058

telecommunications, mobile telecommunications, or satellite 104059
broadcasting service. 104060

(35)(a) Sales where the purpose of the consumer is to use or 104061
consume the things transferred in making retail sales and 104062
consisting of newspaper inserts, catalogues, coupons, flyers, gift 104063
certificates, or other advertising material that prices and 104064
describes tangible personal property offered for retail sale. 104065

(b) Sales to direct marketing vendors of preliminary 104066
materials such as photographs, artwork, and typesetting that will 104067
be used in printing advertising material; of printed matter that 104068
offers free merchandise or chances to win sweepstake prizes and 104069
that is mailed to potential customers with advertising material 104070
described in division (B)(35)(a) of this section; and of equipment 104071
such as telephones, computers, facsimile machines, and similar 104072
tangible personal property primarily used to accept orders for 104073
direct marketing retail sales. 104074

(c) Sales of automatic food vending machines that preserve 104075
food with a shelf life of forty-five days or less by refrigeration 104076
and dispense it to the consumer. 104077

For purposes of division (B)(35) of this section, "direct 104078
marketing" means the method of selling where consumers order 104079
tangible personal property by United States mail, delivery 104080
service, or telecommunication and the vendor delivers or ships the 104081
tangible personal property sold to the consumer from a warehouse, 104082
catalogue distribution center, or similar fulfillment facility by 104083
means of the United States mail, delivery service, or common 104084
carrier. 104085

(36) Sales to a person engaged in the business of 104086
horticulture or producing livestock of materials to be 104087
incorporated into a horticulture structure or livestock structure; 104088

(37) Sales of personal computers, computer monitors, computer 104089

keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students; (104090-104093)

(38) Sales to a professional racing team of any of the following: (104094-104095)

(a) Motor racing vehicles; (104096)

(b) Repair services for motor racing vehicles; (104097)

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication. (104098-104105)

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; (104106-104108)

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are (104109-104120)

104121 specially designed and equipped for such use. The exemption
104122 provided in this division shall be in lieu of all other exemptions
104123 in division (B)(42)(a) of this section to which a provider of
104124 electricity may otherwise be entitled based on the use of the
104125 tangible personal property or service purchased in generating,
104126 transmitting, or distributing electricity.

104127 (41) Sales to a person providing services under division
104128 (B)(3)(r) of section 5739.01 of the Revised Code of tangible
104129 personal property and services used directly and primarily in
104130 providing taxable services under that section.

104131 (42) Sales where the purpose of the purchaser is to do any of
104132 the following:

104133 (a) To incorporate the thing transferred as a material or a
104134 part into tangible personal property to be produced for sale by
104135 manufacturing, assembling, processing, or refining; or to use or
104136 consume the thing transferred directly in producing tangible
104137 personal property for sale by mining, including, without
104138 limitation, the extraction from the earth of all substances that
104139 are classed geologically as minerals, production of crude oil and
104140 natural gas, farming, agriculture, horticulture, or floriculture,
104141 or directly in the rendition of a public utility service, except
104142 that the sales tax levied by this section shall be collected upon
104143 all meals, drinks, and food for human consumption sold when
104144 transporting persons. Persons engaged in rendering farming,
104145 agricultural, horticultural, or floricultural services, and
104146 services in the exploration for, and production of, crude oil and
104147 natural gas, for others are deemed engaged directly in farming,
104148 agriculture, horticulture, and floriculture, or exploration for,
104149 and production of, crude oil and natural gas. This paragraph does
104150 not exempt from "retail sale" or "sales at retail" the sale of
104151 tangible personal property that is to be incorporated into a
104152 structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;	104153 104154
(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	104155 104156
(d) To use or consume the thing directly in commercial fishing;	104157 104158
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	104159 104160 104161 104162
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	104163 104164 104165 104166 104167
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	104168 104169 104170
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	104171 104172 104173 104174 104175 104176
(i) To use the thing transferred as qualified research and development equipment;	104177 104178
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this	104179 104180 104181 104182

state to retail stores of the person who owns or controls the 104183
warehouse, distribution center, or similar facility, to retail 104184
stores of an affiliated group of which that person is a member, or 104185
by means of direct marketing. This division does not apply to 104186
motor vehicles registered for operation on the public highways. As 104187
used in this division, "affiliated group" has the same meaning as 104188
in division (B)(3)(e) of section 5739.01 of the Revised Code and 104189
"direct marketing" has the same meaning as in division (B)(35) of 104190
this section. 104191

(k) To use or consume the thing transferred to fulfill a 104192
contractual obligation incurred by a warrantor pursuant to a 104193
warranty provided as a part of the price of the tangible personal 104194
property sold or by a vendor of a warranty, maintenance or service 104195
contract, or similar agreement the provision of which is defined 104196
as a sale under division (B)(7) of section 5739.01 of the Revised 104197
Code; 104198

(l) To use or consume the thing transferred in the production 104199
of a newspaper for distribution to the public; 104200

(m) To use tangible personal property to perform a service 104201
listed in division (B)(3) of section 5739.01 of the Revised Code, 104202
if the property is or is to be permanently transferred to the 104203
consumer of the service as an integral part of the performance of 104204
the service; 104205

(n) To use or consume the thing transferred in acquiring, 104206
formatting, editing, storing, and disseminating data or 104207
information by electronic publishing. 104208

As used in division (B)(42) of this section, "thing" includes 104209
all transactions included in divisions (B)(3)(a), (b), and (e) of 104210
section 5739.01 of the Revised Code. 104211

(43) Sales conducted through a coin operated device that 104212
activates vacuum equipment or equipment that dispenses water, 104213

whether or not in combination with soap or other cleaning agents 104214
or wax, to the consumer for the consumer's use on the premises in 104215
washing, cleaning, or waxing a motor vehicle, provided no other 104216
personal property or personal service is provided as part of the 104217
transaction. 104218

(44) Sales of replacement and modification parts for engines, 104219
airframes, instruments, and interiors in, and paint for, aircraft 104220
used primarily in a fractional aircraft ownership program, and 104221
sales of services for the repair, modification, and maintenance of 104222
such aircraft, and machinery, equipment, and supplies primarily 104223
used to provide those services. 104224

(45) Sales of telecommunications service that is used 104225
directly and primarily to perform the functions of a call center. 104226
As used in this division, "call center" means any physical 104227
location where telephone calls are placed or received in high 104228
volume for the purpose of making sales, marketing, customer 104229
service, technical support, or other specialized business 104230
activity, and that employs at least fifty individuals that engage 104231
in call center activities on a full-time basis, or sufficient 104232
individuals to fill fifty full-time equivalent positions. 104233

(46) Sales by a telecommunications service vendor of 900 104234
service to a subscriber. This division does not apply to 104235
information services, as defined in division (FF) of section 104236
5739.01 of the Revised Code. 104237

(47) Sales of value-added non-voice data service. This 104238
division does not apply to any similar service that is not 104239
otherwise a telecommunications service. 104240

(48)(a) Sales of machinery, equipment, and software to a 104241
qualified direct selling entity for use in a warehouse or 104242
distribution center primarily for storing, transporting, or 104243
otherwise handling inventory that is held for sale to independent 104244

salespersons who operate as direct sellers and that is held 104245
primarily for distribution outside this state; 104246

(b) As used in division (B)(48)(a) of this section: 104247

(i) "Direct seller" means a person selling consumer products 104248
to individuals for personal or household use and not from a fixed 104249
retail location, including selling such product at in-home product 104250
demonstrations, parties, and other one-on-one selling. 104251

(ii) "Qualified direct selling entity" means an entity 104252
selling to direct sellers at the time the entity enters into a tax 104253
credit agreement with the tax credit authority pursuant to section 104254
122.17 of the Revised Code, provided that the agreement was 104255
entered into on or after January 1, 2007. Neither contingencies 104256
relevant to the granting of, nor later developments with respect 104257
to, the tax credit shall impair the status of the qualified direct 104258
selling entity under division (B)(48) of this section after 104259
execution of the tax credit agreement by the tax credit authority. 104260

(c) Division (B)(48) of this section is limited to machinery, 104261
equipment, and software first stored, used, or consumed in this 104262
state within the period commencing June 24, 2008, and ending on 104263
the date that is five years after that date. 104264

(49) Sales of materials, parts, equipment, or engines used in 104265
the repair or maintenance of aircraft or avionics systems of such 104266
aircraft, and sales of repair, remodeling, replacement, or 104267
maintenance services in this state performed on aircraft or on an 104268
aircraft's avionics, engine, or component materials or parts. As 104269
used in division (B)(49) of this section, "aircraft" means 104270
aircraft of more than six thousand pounds maximum certified 104271
takeoff weight or used exclusively in general aviation. 104272

(50) Sales of full flight simulators that are used for pilot 104273
or flight-crew training, sales of repair or replacement parts or 104274
components, and sales of repair or maintenance services for such 104275

full flight simulators. "Full flight simulator" means a replica of 104276
a specific type, or make, model, and series of aircraft cockpit. 104277
It includes the assemblage of equipment and computer programs 104278
necessary to represent aircraft operations in ground and flight 104279
conditions, a visual system providing an out-of-the-cockpit view, 104280
and a system that provides cues at least equivalent to those of a 104281
three-degree-of-freedom motion system, and has the full range of 104282
capabilities of the systems installed in the device as described 104283
in appendices A and B of part 60 of chapter 1 of title 14 of the 104284
Code of Federal Regulations. 104285

(51) Any transfer or lease of tangible personal property 104286
between the state and a successful proposer in accordance with 104287
sections 126.60 to 126.605 of the Revised Code, provided the 104288
property is part of a project as defined in section 126.60 of the 104289
Revised Code and the state retains ownership of the project or 104290
part thereof that is being transferred or leased, between the 104291
state and JobsOhio in accordance with section 4313.02 of the 104292
Revised Code, or between the department of rehabilitation and 104293
correction and a contractor in accordance with division (J) of 104294
section 9.06 of the Revised Code. 104295

(C) For the purpose of the proper administration of this 104296
chapter, and to prevent the evasion of the tax, it is presumed 104297
that all sales made in this state are subject to the tax until the 104298
contrary is established. 104299

(D) The levy of this tax on retail sales of recreation and 104300
sports club service shall not prevent a municipal corporation from 104301
levying any tax on recreation and sports club dues or on any 104302
income generated by recreation and sports club dues. 104303

(E) The tax collected by the vendor from the consumer under 104304
this chapter is not part of the price, but is a tax collection for 104305
the benefit of the state, and of counties levying an additional 104306
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 104307

Code and of transit authorities levying an additional sales tax 104308
pursuant to section 5739.023 of the Revised Code. Except for the 104309
discount authorized under section 5739.12 of the Revised Code and 104310
the effects of any rounding pursuant to section 5703.055 of the 104311
Revised Code, no person other than the state or such a county or 104312
transit authority shall derive any benefit from the collection or 104313
payment of the tax levied by this section or section 5739.021, 104314
5739.023, or 5739.026 of the Revised Code. 104315

Sec. 5739.021. (A) For the purpose of providing additional 104316
general revenues for the county or supporting criminal and 104317
administrative justice services in the county, or both, and to pay 104318
the expenses of administering such levy, any county may levy a tax 104319
at the rate of not more than one per cent at any multiple of 104320
one-fourth of one per cent upon every retail sale made in the 104321
county, except sales of watercraft and outboard motors required to 104322
be titled pursuant to Chapter 1548. of the Revised Code and sales 104323
of motor vehicles, and may increase the rate of an existing tax to 104324
not more than one per cent at any multiple of one-fourth of one 104325
per cent. 104326

The tax shall be levied and the rate increased pursuant to a 104327
resolution of the board of county commissioners. The resolution 104328
shall state the purpose for which the tax is to be levied and the 104329
number of years for which the tax is to be levied, or that it is 104330
for a continuing period of time. If the tax is to be levied for 104331
the purpose of providing additional general revenues and for the 104332
purpose of supporting criminal and administrative justice 104333
services, the resolution shall state the rate or amount of the tax 104334
to be apportioned to each such purpose. The rate or amount may be 104335
different for each year the tax is to be levied, but the rates or 104336
amounts actually apportioned each year shall not be different from 104337
that stated in the resolution for that year. If the resolution is 104338
adopted as an emergency measure necessary for the immediate 104339

preservation of the public peace, health, or safety, it must 104340
receive an affirmative vote of all of the members of the board of 104341
county commissioners and shall state the reasons for such 104342
necessity. The board shall deliver a certified copy of the 104343
resolution to the tax commissioner, not later than the sixty-fifth 104344
day prior to the date on which the tax is to become effective, 104345
which shall be the first day of the calendar quarter. 104346

Prior to the adoption of any resolution under this section, 104347
the board of county commissioners shall conduct two public 104348
hearings on the resolution, the second hearing to be not less than 104349
three nor more than ten days after the first. Notice of the date, 104350
time, and place of the hearings shall be given by publication in a 104351
newspaper of general circulation in the county, or as provided in 104352
section 7.16 of the Revised Code, once a week on the same day of 104353
the week for two consecutive weeks, the second publication being 104354
not less than ten nor more than thirty days prior to the first 104355
hearing. 104356

Except as provided in division (B)(3) of this section, the 104357
resolution shall be subject to a referendum as provided in 104358
sections 305.31 to 305.41 of the Revised Code. 104359

If a petition for a referendum is filed, the county auditor 104360
with whom the petition was filed shall, within five days, notify 104361
the board of county commissioners and the tax commissioner of the 104362
filing of the petition by certified mail. If the board of 104363
elections with which the petition was filed declares the petition 104364
invalid, the board of elections, within five days, shall notify 104365
the board of county commissioners and the tax commissioner of that 104366
declaration by certified mail. If the petition is declared to be 104367
invalid, the effective date of the tax or increased rate of tax 104368
levied by this section shall be the first day of a calendar 104369
quarter following the expiration of sixty-five days from the date 104370
the commissioner receives notice from the board of elections that 104371

the petition is invalid. 104372

(B)(1) A resolution that is not adopted as an emergency 104373
measure may direct the board of elections to submit the question 104374
of levying the tax or increasing the rate of tax to the electors 104375
of the county at a special election held on the date specified by 104376
the board of county commissioners in the resolution, provided that 104377
the election occurs not less than ninety days after a certified 104378
copy of such resolution is transmitted to the board of elections 104379
and the election is not held in February or August of any year. 104380
Upon transmission of the resolution to the board of elections, the 104381
board of county commissioners shall notify the tax commissioner in 104382
writing of the levy question to be submitted to the electors. No 104383
resolution adopted under this division shall go into effect unless 104384
approved by a majority of those voting upon it, and, except as 104385
provided in division (B)(3) of this section, shall become 104386
effective on the first day of a calendar quarter following the 104387
expiration of sixty-five days from the date the tax commissioner 104388
receives notice from the board of elections of the affirmative 104389
vote. 104390

(2) A resolution that is adopted as an emergency measure 104391
shall go into effect as provided in division (A) of this section, 104392
but may direct the board of elections to submit the question of 104393
repealing the tax or increase in the rate of the tax to the 104394
electors of the county at the next general election in the county 104395
occurring not less than ninety days after a certified copy of the 104396
resolution is transmitted to the board of elections. Upon 104397
transmission of the resolution to the board of elections, the 104398
board of county commissioners shall notify the tax commissioner in 104399
writing of the levy question to be submitted to the electors. The 104400
ballot question shall be the same as that prescribed in section 104401
5739.022 of the Revised Code. The board of elections shall notify 104402
the board of county commissioners and the tax commissioner of the 104403

result of the election immediately after the result has been 104404
declared. If a majority of the qualified electors voting on the 104405
question of repealing the tax or increase in the rate of the tax 104406
vote for repeal of the tax or repeal of the increase, the board of 104407
county commissioners, on the first day of a calendar quarter 104408
following the expiration of sixty-five days after the date the 104409
board and tax commissioner receive notice of the result of the 104410
election, shall, in the case of a repeal of the tax, cease to levy 104411
the tax, or, in the case of a repeal of an increase in the rate of 104412
the tax, cease to levy the increased rate and levy the tax at the 104413
rate at which it was imposed immediately prior to the increase in 104414
rate. 104415

(3) If a vendor that is registered with the central 104416
electronic registration system provided for in section 5740.05 of 104417
the Revised Code makes a sale in this state by printed catalog and 104418
the consumer computed the tax on the sale based on local rates 104419
published in the catalog, any tax levied or repealed or rate 104420
changed under this section shall not apply to such a sale until 104421
the first day of a calendar quarter following the expiration of 104422
one hundred twenty days from the date of notice by the tax 104423
commissioner pursuant to division (H) of this section. 104424

(C) If a resolution is rejected at a referendum or if a 104425
resolution adopted after January 1, 1982, as an emergency measure 104426
is repealed by the electors pursuant to division (B)(2) of this 104427
section or section 5739.022 of the Revised Code, then for one year 104428
after the date of the election at which the resolution was 104429
rejected or repealed the board of county commissioners may not 104430
adopt any resolution authorized by this section as an emergency 104431
measure. 104432

(D) The board of county commissioners, at any time while a 104433
tax levied under this section is in effect, may by resolution 104434
reduce the rate at which the tax is levied to a lower rate 104435

authorized by this section. Any reduction in the rate at which the tax is levied shall be made effective on the first day of a calendar quarter next following the sixty-fifth day after a certified copy of the resolution is delivered to the tax commissioner.

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.021 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(F) For purposes of this section, a copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and exact reproduction of the original resolution.

(G) If a board of commissioners intends to adopt a resolution to levy a tax in whole or in part for the purpose of criminal and administrative justice services, the board shall prepare and make

available at the first public hearing at which the resolution is considered a statement containing the following information:

(1) For each of the two preceding fiscal years, the amount of expenditures made by the county from the county general fund for the purpose of criminal and administrative justice services;

(2) For the fiscal year in which the resolution is adopted, the board's estimate of the amount of expenditures to be made by the county from the county general fund for the purpose of criminal and administrative justice services;

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division (E) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2)

of this section, the tax commissioner shall provide notice of a 104498
tax rate change in a manner that is reasonably accessible to all 104499
affected vendors. The commissioner shall provide this notice at 104500
least sixty days prior to the effective date of the rate change. 104501
The commissioner, by rule, may establish the method by which 104502
notice will be provided. 104503

(I) As used in this section, "criminal and administrative 104504
justice services" means the exercise by the county sheriff of all 104505
powers and duties vested in that office by law; the exercise by 104506
the county prosecuting attorney of all powers and duties vested in 104507
that office by law; the exercise by any court in the county of all 104508
powers and duties vested in that court; the exercise by the clerk 104509
of the court of common pleas, any clerk of a municipal court 104510
having jurisdiction throughout the county, or the clerk of any 104511
county court of all powers and duties vested in the clerk by law 104512
except, in the case of the clerk of the court of common pleas, the 104513
titling of motor vehicles or watercraft pursuant to Chapter 1548. 104514
or 4505. of the Revised Code; the exercise by the county coroner 104515
of all powers and duties vested in that office by law; making 104516
payments to any other public agency or a private, nonprofit 104517
agency, the purposes of which in the county include the diversion, 104518
adjudication, detention, or rehabilitation of criminals or 104519
juvenile offenders; the operation and maintenance of any detention 104520
facility, as defined in section 2921.01 of the Revised Code; and 104521
the construction, acquisition, equipping, or repair of such a 104522
detention facility, including the payment of any debt charges 104523
incurred in the issuance of securities pursuant to Chapter 133. of 104524
the Revised Code for the purpose of constructing, acquiring, 104525
equipping, or repairing such a facility. 104526

Sec. 5739.022. (A) The question of repeal of either a county 104527
permissive tax or an increase in the rate of a county permissive 104528
tax that was adopted as an emergency measure pursuant to section 104529

5739.021 or 5739.026 of the Revised Code may be initiated by 104530
filing with the board of elections of the county not less than 104531
ninety days before the general election in any year a petition 104532
requesting that an election be held on the question. The question 104533
of repealing an increase in the rate of the county permissive tax 104534
shall be submitted to the electors as a separate question from the 104535
repeal of the tax in effect prior to the increase in the rate. Any 104536
petition filed under this section shall be signed by qualified 104537
electors residing in the county equal in number to ten per cent of 104538
those voting for governor at the most recent gubernatorial 104539
election. 104540

After determination by it that the petition is valid, the 104541
board of elections shall submit the question to the electors of 104542
the county at the next general election. The election shall be 104543
conducted, canvassed, and certified in the same manner as regular 104544
elections for county offices in the county. The board of elections 104545
shall notify the tax commissioner, in writing, of the election 104546
upon determining that the petition is valid. Notice of the 104547
election shall also be published in a newspaper of general 104548
circulation in the district once a week for two consecutive weeks, 104549
or as provided in section 7.16 of the Revised Code, prior to the 104550
election, ~~and, if.~~ If the board of elections operates and 104551
maintains a web site, the board of elections shall post notice of 104552
the election on its web site for thirty days prior to the 104553
election. The notice shall state the purpose, time, and place of 104554
the election. The form of the ballot cast at the election shall be 104555
prescribed by the secretary of state; however, the ballot question 104556
shall read, "shall the tax (or, increase in the rate of the tax) 104557
be retained? 104558

	Yes
	No

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The question covered by the petition shall be submitted as a
separate proposition, but it may be printed on the same ballot
with any other proposition submitted at the same election other
than the election of officers.

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(B) If a majority of the qualified electors voting on the
question of repeal of either a county permissive tax or an
increase in the rate of a county permissive tax approve the
repeal, the board of elections shall notify the board of county
commissioners and the tax commissioner of the result of the
election immediately after the result has been declared. The board
of county commissioners shall, on the first day of the calendar
quarter following the expiration of sixty-five days after the date
the board and the tax commissioner receive the notice, in the case
of a repeal of a county permissive tax, cease to levy the tax, or,
in the case of a repeal of an increase in the rate of a county
permissive tax, levy the tax at the rate at which it was imposed
immediately prior to the increase in rate and cease to levy the
increased rate.

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(C) Upon receipt from a board of elections of a notice of the
results of an election required by division (B) of this section,
the tax commissioner shall provide notice of a tax repeal or rate
change in a manner that is reasonably accessible to all affected
vendors. The commissioner shall provide this notice at least sixty
days prior to the effective date of the rate change. The
commissioner, by rule, may establish the method by which notice
will be provided.

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(D) If a vendor that is registered with the central
electronic registration system provided for in section 5740.05 of
the Revised Code makes a sale in this state by printed catalog and
the consumer computed the tax on the sale based on local rates
published in the catalog, any tax repealed or rate changed under

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this section shall not apply to such a sale until the first day of 104594
a calendar quarter following the expiration of one hundred twenty 104595
days from the date of notice by the tax commissioner pursuant to 104596
division (C) of this section. 104597

Sec. 5739.026. (A) A board of county commissioners may levy a 104598
tax of one-fourth or one-half of one per cent on every retail sale 104599
in the county, except sales of watercraft and outboard motors 104600
required to be titled pursuant to Chapter 1548. of the Revised 104601
Code and sales of motor vehicles, and may increase an existing 104602
rate of one-fourth of one per cent to one-half of one per cent, to 104603
pay the expenses of administering the tax and, except as provided 104604
in division (A)(6) of this section, for any one or more of the 104605
following purposes provided that the aggregate levy for all such 104606
purposes does not exceed one-half of one per cent: 104607

(1) To provide additional revenues for the payment of bonds 104608
or notes issued in anticipation of bonds issued by a convention 104609
facilities authority established by the board of county 104610
commissioners under Chapter 351. of the Revised Code and to 104611
provide additional operating revenues for the convention 104612
facilities authority; 104613

(2) To provide additional revenues for a transit authority 104614
operating in the county; 104615

(3) To provide additional revenue for the county's general 104616
fund; 104617

(4) To provide additional revenue for permanent improvements 104618
within the county to be distributed by the community improvements 104619
board in accordance with section 307.283 and to pay principal, 104620
interest, and premium on bonds issued under section 307.284 of the 104621
Revised Code; 104622

(5) To provide additional revenue for the acquisition, 104623

construction, equipping, or repair of any specific permanent 104624
improvement or any class or group of permanent improvements, which 104625
improvement or class or group of improvements shall be enumerated 104626
in the resolution required by division (D) of this section, and to 104627
pay principal, interest, premium, and other costs associated with 104628
the issuance of bonds or notes in anticipation of bonds issued 104629
pursuant to Chapter 133. of the Revised Code for the acquisition, 104630
construction, equipping, or repair of the specific permanent 104631
improvement or class or group of permanent improvements; 104632

(6) To provide revenue for the implementation and operation 104633
of a 9-1-1 system in the county. If the tax is levied or the rate 104634
increased exclusively for such purpose, the tax shall not be 104635
levied or the rate increased for more than five years. At the end 104636
of the last year the tax is levied or the rate increased, any 104637
balance remaining in the special fund established for such purpose 104638
shall remain in that fund and be used exclusively for such purpose 104639
until the fund is completely expended, and, notwithstanding 104640
section 5705.16 of the Revised Code, the board of county 104641
commissioners shall not petition for the transfer of money from 104642
such special fund, and the tax commissioner shall not approve such 104643
a petition. 104644

If the tax is levied or the rate increased for such purpose 104645
for more than five years, the board of county commissioners also 104646
shall levy the tax or increase the rate of the tax for one or more 104647
of the purposes described in divisions (A)(1) to (5) of this 104648
section and shall prescribe the method for allocating the revenues 104649
from the tax each year in the manner required by division (C) of 104650
this section. 104651

(7) To provide additional revenue for the operation or 104652
maintenance of a detention facility, as that term is defined under 104653
division (F) of section 2921.01 of the Revised Code; 104654

(8) To provide revenue to finance the construction or 104655

renovation of a sports facility, but only if the tax is levied for 104656
that purpose in the manner prescribed by section 5739.028 of the 104657
Revised Code. 104658

As used in division (A)(8) of this section: 104659

(a) "Sports facility" means a facility intended to house 104660
major league professional athletic teams. 104661

(b) "Constructing" or "construction" includes providing 104662
fixtures, furnishings, and equipment. 104663

(9) To provide additional revenue for the acquisition of 104664
agricultural easements, as defined in section 5301.67 of the 104665
Revised Code; to pay principal, interest, and premium on bonds 104666
issued under section 133.60 of the Revised Code; and for the 104667
supervision and enforcement of agricultural easements held by the 104668
county; 104669

(10) To provide revenue for the provision of ambulance, 104670
paramedic, or other emergency medical services. 104671

Pursuant to section 755.171 of the Revised Code, a board of 104672
county commissioners may pledge and contribute revenue from a tax 104673
levied for the purpose of division (A)(5) of this section to the 104674
payment of debt charges on bonds issued under section 755.17 of 104675
the Revised Code. 104676

The rate of tax shall be a multiple of one-fourth of one per 104677
cent, unless a portion of the rate of an existing tax levied under 104678
section 5739.023 of the Revised Code has been reduced, and the 104679
rate of tax levied under this section has been increased, pursuant 104680
to section 5739.028 of the Revised Code, in which case the 104681
aggregate of the rates of tax levied under this section and 104682
section 5739.023 of the Revised Code shall be a multiple of 104683
one-fourth of one per cent. The tax shall be levied and the rate 104684
increased pursuant to a resolution adopted by a majority of the 104685
members of the board. The board shall deliver a certified copy of 104686

the resolution to the tax commissioner, not later than the 104687
sixty-fifth day prior to the date on which the tax is to become 104688
effective, which shall be the first day of a calendar quarter. 104689

Prior to the adoption of any resolution to levy the tax or to 104690
increase the rate of tax exclusively for the purpose set forth in 104691
division (A)(3) of this section, the board of county commissioners 104692
shall conduct two public hearings on the resolution, the second 104693
hearing to be no fewer than three nor more than ten days after the 104694
first. Notice of the date, time, and place of the hearings shall 104695
be given by publication in a newspaper of general circulation in 104696
the county, or as provided in section 7.16 of the Revised Code, 104697
once a week on the same day of the week for two consecutive weeks, 104698
~~the.~~ The second publication ~~being~~ shall be no fewer than ten nor 104699
more than thirty days prior to the first hearing. Except as 104700
provided in division (E) of this section, the resolution shall be 104701
subject to a referendum as provided in sections 305.31 to 305.41 104702
of the Revised Code. If the resolution is adopted as an emergency 104703
measure necessary for the immediate preservation of the public 104704
peace, health, or safety, it must receive an affirmative vote of 104705
all of the members of the board of county commissioners and shall 104706
state the reasons for the necessity. 104707

If the tax is for more than one of the purposes set forth in 104708
divisions (A)(1) to (7), (9), and (10) of this section, or is 104709
exclusively for one of the purposes set forth in division (A)(1), 104710
(2), (4), (5), (6), (7), (9), or (10) of this section, the 104711
resolution shall not go into effect unless it is approved by a 104712
majority of the electors voting on the question of the tax. 104713

(B) The board of county commissioners shall adopt a 104714
resolution under section 351.02 of the Revised Code creating the 104715
convention facilities authority, or under section 307.283 of the 104716
Revised Code creating the community improvements board, before 104717
adopting a resolution levying a tax for the purpose of a 104718

convention facilities authority under division (A)(1) of this 104719
section or for the purpose of a community improvements board under 104720
division (A)(4) of this section. 104721

(C)(1) If the tax is to be used for more than one of the 104722
purposes set forth in divisions (A)(1) to (7), (9), and (10) of 104723
this section, the board of county commissioners shall establish 104724
the method that will be used to determine the amount or proportion 104725
of the tax revenue received by the county during each year that 104726
will be distributed for each of those purposes, including, if 104727
applicable, provisions governing the reallocation of a convention 104728
facilities authority's allocation if the authority is dissolved 104729
while the tax is in effect. The allocation method may provide that 104730
different proportions or amounts of the tax shall be distributed 104731
among the purposes in different years, but it shall clearly 104732
describe the method that will be used for each year. Except as 104733
otherwise provided in division (C)(2) of this section, the 104734
allocation method established by the board is not subject to 104735
amendment during the life of the tax. 104736

(2) Subsequent to holding a public hearing on the proposed 104737
amendment, the board of county commissioners may amend the 104738
allocation method established under division (C)(1) of this 104739
section for any year, if the amendment is approved by the 104740
governing board of each entity whose allocation for the year would 104741
be reduced by the proposed amendment. In the case of a tax that is 104742
levied for a continuing period of time, the board may not so amend 104743
the allocation method for any year before the sixth year that the 104744
tax is in effect. 104745

(a) If the additional revenues provided to the convention 104746
facilities authority are pledged by the authority for the payment 104747
of convention facilities authority revenue bonds for as long as 104748
such bonds are outstanding, no reduction of the authority's 104749
allocation of the tax shall be made for any year except to the 104750

extent that the reduced authority allocation, when combined with 104751
the authority's other revenues pledged for that purpose, is 104752
sufficient to meet the debt service requirements for that year on 104753
such bonds. 104754

(b) If the additional revenues provided to the county are 104755
pledged by the county for the payment of bonds or notes described 104756
in division (A)(4) or (5) of this section, for as long as such 104757
bonds or notes are outstanding, no reduction of the county's or 104758
the community improvements board's allocation of the tax shall be 104759
made for any year, except to the extent that the reduced county or 104760
community improvements board allocation is sufficient to meet the 104761
debt service requirements for that year on such bonds or notes. 104762

(c) If the additional revenues provided to the transit 104763
authority are pledged by the authority for the payment of revenue 104764
bonds issued under section 306.37 of the Revised Code, for as long 104765
as such bonds are outstanding, no reduction of the authority's 104766
allocation of tax shall be made for any year, except to the extent 104767
that the authority's reduced allocation, when combined with the 104768
authority's other revenues pledged for that purpose, is sufficient 104769
to meet the debt service requirements for that year on such bonds. 104770

(d) If the additional revenues provided to the county are 104771
pledged by the county for the payment of bonds or notes issued 104772
under section 133.60 of the Revised Code, for so long as the bonds 104773
or notes are outstanding, no reduction of the county's allocation 104774
of the tax shall be made for any year, except to the extent that 104775
the reduced county allocation is sufficient to meet the debt 104776
service requirements for that year on the bonds or notes. 104777

(D)(1) The resolution levying the tax or increasing the rate 104778
of tax shall state the rate of the tax or the rate of the 104779
increase; the purpose or purposes for which it is to be levied; 104780
the number of years for which it is to be levied or that it is for 104781
a continuing period of time; the allocation method required by 104782

division (C) of this section; and if required to be submitted to 104783
the electors of the county under division (A) of this section, the 104784
date of the election at which the proposal shall be submitted to 104785
the electors of the county, which shall be not less than ninety 104786
days after the certification of a copy of the resolution to the 104787
board of elections and, if the tax is to be levied exclusively for 104788
the purpose set forth in division (A)(3) of this section, shall 104789
not occur in February or August of any year. Upon certification of 104790
the resolution to the board of elections, the board of county 104791
commissioners shall notify the tax commissioner in writing of the 104792
levy question to be submitted to the electors. If approved by a 104793
majority of the electors, the tax shall become effective on the 104794
first day of a calendar quarter next following the sixty-fifth day 104795
following the date the board of county commissioners and tax 104796
commissioner receive from the board of elections the certification 104797
of the results of the election, except as provided in division (E) 104798
of this section. 104799

(2)(a) A resolution specifying that the tax is to be used 104800
exclusively for the purpose set forth in division (A)(3) of this 104801
section that is not adopted as an emergency measure may direct the 104802
board of elections to submit the question of levying the tax or 104803
increasing the rate of the tax to the electors of the county at a 104804
special election held on the date specified by the board of county 104805
commissioners in the resolution, provided that the election occurs 104806
not less than ninety days after the resolution is certified to the 104807
board of elections and the election is not held in February or 104808
August of any year. Upon certification of the resolution to the 104809
board of elections, the board of county commissioners shall notify 104810
the tax commissioner in writing of the levy question to be 104811
submitted to the electors. No resolution adopted under division 104812
(D)(2)(a) of this section shall go into effect unless approved by 104813
a majority of those voting upon it and, except as provided in 104814
division (E) of this section, not until the first day of a 104815

calendar quarter following the expiration of sixty-five days from 104816
the date the tax commissioner receives notice from the board of 104817
elections of the affirmative vote. 104818

(b) A resolution specifying that the tax is to be used 104819
exclusively for the purpose set forth in division (A)(3) of this 104820
section that is adopted as an emergency measure shall become 104821
effective as provided in division (A) of this section, but may 104822
direct the board of elections to submit the question of repealing 104823
the tax or increase in the rate of the tax to the electors of the 104824
county at the next general election in the county occurring not 104825
less than ninety days after the resolution is certified to the 104826
board of elections. Upon certification of the resolution to the 104827
board of elections, the board of county commissioners shall notify 104828
the tax commissioner in writing of the levy question to be 104829
submitted to the electors. The ballot question shall be the same 104830
as that prescribed in section 5739.022 of the Revised Code. The 104831
board of elections shall notify the board of county commissioners 104832
and the tax commissioner of the result of the election immediately 104833
after the result has been declared. If a majority of the qualified 104834
electors voting on the question of repealing the tax or increase 104835
in the rate of the tax vote for repeal of the tax or repeal of the 104836
increase, the board of county commissioners, on the first day of a 104837
calendar quarter following the expiration of sixty-five days after 104838
the date the board and tax commissioner received notice of the 104839
result of the election, shall, in the case of a repeal of the tax, 104840
cease to levy the tax, or, in the case of a repeal of an increase 104841
in the rate of the tax, cease to levy the increased rate and levy 104842
the tax at the rate at which it was imposed immediately prior to 104843
the increase in rate. 104844

(c) A board of county commissioners, by resolution, may 104845
reduce the rate of a tax levied exclusively for the purpose set 104846
forth in division (A)(3) of this section to a lower rate 104847

authorized by this section. Any such reduction shall be made 104848
effective on the first day of the calendar quarter next following 104849
the sixty-fifth day after the tax commissioner receives a 104850
certified copy of the resolution from the board. 104851

(E) If a vendor that is registered with the central 104852
electronic registration system provided for in section 5740.05 of 104853
the Revised Code makes a sale in this state by printed catalog and 104854
the consumer computed the tax on the sale based on local rates 104855
published in the catalog, any tax levied or repealed or rate 104856
changed under this section shall not apply to such a sale until 104857
the first day of a calendar quarter following the expiration of 104858
one hundred twenty days from the date of notice by the tax 104859
commissioner pursuant to division (G) of this section. 104860

(F) The tax levied pursuant to this section shall be in 104861
addition to the tax levied by section 5739.02 of the Revised Code 104862
and any tax levied pursuant to section 5739.021 or 5739.023 of the 104863
Revised Code. 104864

A county that levies a tax pursuant to this section shall 104865
levy a tax at the same rate pursuant to section 5741.023 of the 104866
Revised Code. 104867

The additional tax levied by the county shall be collected 104868
pursuant to section 5739.025 of the Revised Code. 104869

Any tax levied pursuant to this section is subject to the 104870
exemptions provided in section 5739.02 of the Revised Code and in 104871
addition shall not be applicable to sales not within the taxing 104872
power of a county under the Constitution of the United States or 104873
the Ohio Constitution. 104874

(G) Upon receipt from a board of county commissioners of a 104875
certified copy of a resolution required by division (A) of this 104876
section, or from the board of elections a notice of the results of 104877
an election required by division (D)(1), (2)(a), (b), or (c) of 104878

this section, the tax commissioner shall provide notice of a tax 104879
rate change in a manner that is reasonably accessible to all 104880
affected vendors. The commissioner shall provide this notice at 104881
least sixty days prior to the effective date of the rate change. 104882
The commissioner, by rule, may establish the method by which 104883
notice will be provided. 104884

Sec. 5739.101. (A) The legislative authority of a municipal 104885
corporation, by ordinance, or of a township, by resolution, may 104886
declare the municipal corporation or township to be a resort area 104887
for the purposes of this section, if all of the following criteria 104888
are met: 104889

(1) According to statistics published by the federal 104890
government based on data compiled during the most recent decennial 104891
census of the United States, at least sixty-two per cent of total 104892
housing units in the municipal corporation or township are 104893
classified as "for seasonal, recreational, or occasional use"; 104894

(2) Entertainment and recreation facilities are provided 104895
within the municipal corporation or township that are primarily 104896
intended to provide seasonal leisure time activities for persons 104897
other than permanent residents of the municipal corporation or 104898
township; 104899

(3) The municipal corporation or township experiences 104900
seasonal peaks of employment and demand for government services as 104901
a direct result of the seasonal population increase. 104902

(B) For the purpose of providing revenue for its general 104903
fund, the legislative authority of a municipal corporation or 104904
township, in its ordinance or resolution declaring itself a resort 104905
area under this section, may levy a tax on the privilege of 104906
engaging in the business of either of the following: 104907

(1) Making sales in the municipal corporation or township, 104908

whether wholesale or retail, but including sales of food only to 104909
the extent such sales are subject to the tax levied under section 104910
5739.02 of the Revised Code; 104911

(2) Intrastate transportation of passengers or property 104912
primarily to or from the municipal corporation or township by a 104913
railroad, watercraft, or motor vehicle subject to regulation by 104914
the public utilities commission, except not including 104915
transportation of passengers as part of a tour or cruise in which 104916
the passengers will stay in the municipal corporation or township 104917
for no more than one hour. 104918

The tax is imposed upon and shall be paid by the person 104919
making the sales or transporting the passengers or property. The 104920
rate of the tax shall be one-half, one, or one and one-half per 104921
cent of the person's gross receipts derived from making the sales 104922
or transporting the passengers or property to or from the 104923
municipal corporation or township. 104924

(C) The tax shall take effect on the first day of the month 104925
that begins at least sixty days after the effective date of the 104926
ordinance or resolution in which it is levied. The legislative 104927
authority shall certify copies of the ordinance or resolution to 104928
the tax commissioner and treasurer of state within five days after 104929
its adoption. In addition, one time each week during the two weeks 104930
following the adoption of the ordinance or resolution, the 104931
legislative authority shall cause to be published in a newspaper 104932
of general circulation in the municipal corporation or township or 104933
as provided in section 7.16 of the Revised Code, a notice 104934
explaining the tax and stating the rate of the tax, the date it 104935
will take effect, and that persons subject to the tax must 104936
register with the tax commissioner under section 5739.103 of the 104937
Revised Code. 104938

(D) No more than once a year, and subject to the rates 104939
prescribed in division (B) of this section, the legislative 104940

authority of the municipal corporation or township, by ordinance 104941
or resolution, may increase or decrease the rate of a tax levied 104942
under this section. The legislative authority, by ordinance or 104943
resolution, at any time may repeal such a tax. The legislative 104944
authority shall certify to the tax commissioner and treasurer of 104945
state copies of the ordinance or resolution repealing or changing 104946
the rate of the tax within five days after its adoption. In 104947
addition, one time each week during the two weeks following the 104948
adoption of the ordinance or resolution, the legislative authority 104949
shall cause to be published in a newspaper of general circulation 104950
in the municipal corporation or township or as provided in section 104951
7.16 of the Revised Code, notice of the repeal or change. 104952

Sec. 5747.01. Except as otherwise expressly provided or 104953
clearly appearing from the context, any term used in this chapter 104954
that is not otherwise defined in this section has the same meaning 104955
as when used in a comparable context in the laws of the United 104956
States relating to federal income taxes or if not used in a 104957
comparable context in those laws, has the same meaning as in 104958
section 5733.40 of the Revised Code. Any reference in this chapter 104959
to the Internal Revenue Code includes other laws of the United 104960
States relating to federal income taxes. 104961

As used in this chapter: 104962

(A) "Adjusted gross income" or "Ohio adjusted gross income" 104963
means federal adjusted gross income, as defined and used in the 104964
Internal Revenue Code, adjusted as provided in this section: 104965

(1) Add interest or dividends on obligations or securities of 104966
any state or of any political subdivision or authority of any 104967
state, other than this state and its subdivisions and authorities. 104968

(2) Add interest or dividends on obligations of any 104969
authority, commission, instrumentality, territory, or possession 104970
of the United States to the extent that the interest or dividends 104971

are exempt from federal income taxes but not from state income taxes. 104972
104973

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States. 104974
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(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income. 104980
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(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code. 104982
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(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. 104986
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"Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by 104995
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reason of a prior accumulation distribution. Any undistributed net 105004
income included in the adjusted gross income of a beneficiary 105005
shall reduce the undistributed net income of the trust commencing 105006
with the earliest years of the accumulation period. 105007

(7) Deduct the amount of wages and salaries, if any, not 105008
otherwise allowable as a deduction but that would have been 105009
allowable as a deduction in computing federal adjusted gross 105010
income for the taxable year, had the targeted jobs credit allowed 105011
and determined under sections 38, 51, and 52 of the Internal 105012
Revenue Code not been in effect. 105013

(8) Deduct any interest or interest equivalent on public 105014
obligations and purchase obligations to the extent that the 105015
interest or interest equivalent is included in federal adjusted 105016
gross income. 105017

(9) Add any loss or deduct any gain resulting from the sale, 105018
exchange, or other disposition of public obligations to the extent 105019
that the loss has been deducted or the gain has been included in 105020
computing federal adjusted gross income. 105021

(10) Deduct or add amounts, as provided under section 5747.70 105022
of the Revised Code, related to contributions to variable college 105023
savings program accounts made or tuition units purchased pursuant 105024
to Chapter 3334. of the Revised Code. 105025

(11)(a) Deduct, to the extent not otherwise allowable as a 105026
deduction or exclusion in computing federal or Ohio adjusted gross 105027
income for the taxable year, the amount the taxpayer paid during 105028
the taxable year for medical care insurance and qualified 105029
long-term care insurance for the taxpayer, the taxpayer's spouse, 105030
and dependents. No deduction for medical care insurance under 105031
division (A)(11) of this section shall be allowed either to any 105032
taxpayer who is eligible to participate in any subsidized health 105033
plan maintained by any employer of the taxpayer or of the 105034

taxpayer's spouse, or to any taxpayer who is entitled to, or on 105035
application would be entitled to, benefits under part A of Title 105036
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 105037
301, as amended. For the purposes of division (A)(11)(a) of this 105038
section, "subsidized health plan" means a health plan for which 105039
the employer pays any portion of the plan's cost. The deduction 105040
allowed under division (A)(11)(a) of this section shall be the net 105041
of any related premium refunds, related premium reimbursements, or 105042
related insurance premium dividends received during the taxable 105043
year. 105044

(b) Deduct, to the extent not otherwise deducted or excluded 105045
in computing federal or Ohio adjusted gross income during the 105046
taxable year, the amount the taxpayer paid during the taxable 105047
year, not compensated for by any insurance or otherwise, for 105048
medical care of the taxpayer, the taxpayer's spouse, and 105049
dependents, to the extent the expenses exceed seven and one-half 105050
per cent of the taxpayer's federal adjusted gross income. 105051

(c) Deduct, to the extent not otherwise deducted or excluded 105052
in computing federal or Ohio adjusted gross income, any amount 105053
included in federal adjusted gross income under section 105 or not 105054
excluded under section 106 of the Internal Revenue Code solely 105055
because it relates to an accident and health plan for a person who 105056
otherwise would be a "qualifying relative" and thus a "dependent" 105057
under section 152 of the Internal Revenue Code but for the fact 105058
that the person fails to meet the income and support limitations 105059
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 105060

(d) For purposes of division (A)(11) of this section, 105061
"medical care" has the meaning given in section 213 of the 105062
Internal Revenue Code, subject to the special rules, limitations, 105063
and exclusions set forth therein, and "qualified long-term care" 105064
has the same meaning given in section 7702B(c) of the Internal 105065
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 105066

of this section, "dependent" includes a person who otherwise would 105067
be a "qualifying relative" and thus a "dependent" under section 105068
152 of the Internal Revenue Code but for the fact that the person 105069
fails to meet the income and support limitations under section 105070
152(d)(1)(B) and (C) of the Internal Revenue Code. 105071

(12)(a) Deduct any amount included in federal adjusted gross 105072
income solely because the amount represents a reimbursement or 105073
refund of expenses that in any year the taxpayer had deducted as 105074
an itemized deduction pursuant to section 63 of the Internal 105075
Revenue Code and applicable United States department of the 105076
treasury regulations. The deduction otherwise allowed under 105077
division (A)(12)(a) of this section shall be reduced to the extent 105078
the reimbursement is attributable to an amount the taxpayer 105079
deducted under this section in any taxable year. 105080

(b) Add any amount not otherwise included in Ohio adjusted 105081
gross income for any taxable year to the extent that the amount is 105082
attributable to the recovery during the taxable year of any amount 105083
deducted or excluded in computing federal or Ohio adjusted gross 105084
income in any taxable year. 105085

(13) Deduct any portion of the deduction described in section 105086
1341(a)(2) of the Internal Revenue Code, for repaying previously 105087
reported income received under a claim of right, that meets both 105088
of the following requirements: 105089

(a) It is allowable for repayment of an item that was 105090
included in the taxpayer's adjusted gross income for a prior 105091
taxable year and did not qualify for a credit under division (A) 105092
or (B) of section 5747.05 of the Revised Code for that year; 105093

(b) It does not otherwise reduce the taxpayer's adjusted 105094
gross income for the current or any other taxable year. 105095

(14) Deduct an amount equal to the deposits made to, and net 105096
investment earnings of, a medical savings account during the 105097

taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income. 105098
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(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code; 105103
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(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year. 105109
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(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following: 105112
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(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code; 105115
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(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code. 105119
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(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the 105122
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amount deducted under division (A)(17) of this section. 105129

(18) Beginning in taxable year 2001 but not for any taxable 105130
year beginning after December 31, 2005, if the taxpayer is married 105131
and files a joint return and the combined federal adjusted gross 105132
income of the taxpayer and the taxpayer's spouse for the taxable 105133
year does not exceed one hundred thousand dollars, or if the 105134
taxpayer is single and has a federal adjusted gross income for the 105135
taxable year not exceeding fifty thousand dollars, deduct amounts 105136
paid during the taxable year for qualified tuition and fees paid 105137
to an eligible institution for the taxpayer, the taxpayer's 105138
spouse, or any dependent of the taxpayer, who is a resident of 105139
this state and is enrolled in or attending a program that 105140
culminates in a degree or diploma at an eligible institution. The 105141
deduction may be claimed only to the extent that qualified tuition 105142
and fees are not otherwise deducted or excluded for any taxable 105143
year from federal or Ohio adjusted gross income. The deduction may 105144
not be claimed for educational expenses for which the taxpayer 105145
claims a credit under section 5747.27 of the Revised Code. 105146

(19) Add any reimbursement received during the taxable year 105147
of any amount the taxpayer deducted under division (A)(18) of this 105148
section in any previous taxable year to the extent the amount is 105149
not otherwise included in Ohio adjusted gross income. 105150

(20)(a)(i) Add five-sixths of the amount of depreciation 105151
expense allowed by subsection (k) of section 168 of the Internal 105152
Revenue Code, including the taxpayer's proportionate or 105153
distributive share of the amount of depreciation expense allowed 105154
by that subsection to a pass-through entity in which the taxpayer 105155
has a direct or indirect ownership interest. 105156

(ii) Add five-sixths of the amount of qualifying section 179 105157
depreciation expense, including a person's proportionate or 105158
distributive share of the amount of qualifying section 179 105159
depreciation expense allowed to any pass-through entity in which 105160

the person has a direct or indirect ownership. For the purposes of 105161
this division, "qualifying section 179 depreciation expense" means 105162
the difference between (I) the amount of depreciation expense 105163
directly or indirectly allowed to the taxpayer under section 179 105164
of the Internal Revenue Code, and (II) the amount of depreciation 105165
expense directly or indirectly allowed to the taxpayer under 105166
section 179 of the Internal Revenue Code as that section existed 105167
on December 31, 2002. 105168

The tax commissioner, under procedures established by the 105169
commissioner, may waive the add-backs related to a pass-through 105170
entity if the taxpayer owns, directly or indirectly, less than 105171
five per cent of the pass-through entity. 105172

(b) Nothing in division (A)(20) of this section shall be 105173
construed to adjust or modify the adjusted basis of any asset. 105174

(c) To the extent the add-back required under division 105175
(A)(20)(a) of this section is attributable to property generating 105176
nonbusiness income or loss allocated under section 5747.20 of the 105177
Revised Code, the add-back shall be situated to the same location 105178
as the nonbusiness income or loss generated by the property for 105179
the purpose of determining the credit under division (A) of 105180
section 5747.05 of the Revised Code. Otherwise, the add-back shall 105181
be apportioned, subject to one or more of the four alternative 105182
methods of apportionment enumerated in section 5747.21 of the 105183
Revised Code. 105184

(d) For the purposes of division (A) of this section, net 105185
operating loss carryback and carryforward shall not include 105186
five-sixths of the allowance of any net operating loss deduction 105187
carryback or carryforward to the taxable year to the extent such 105188
loss resulted from depreciation allowed by section 168(k) of the 105189
Internal Revenue Code and by the qualifying section 179 105190
depreciation expense amount. 105191

(21)(a) If the taxpayer was required to add an amount under 105192
division (A)(20)(a) of this section for a taxable year, deduct 105193
one-fifth of the amount so added for each of the five succeeding 105194
taxable years. 105195

(b) If the amount deducted under division (A)(21)(a) of this 105196
section is attributable to an add-back allocated under division 105197
(A)(20)(c) of this section, the amount deducted shall be sitused 105198
to the same location. Otherwise, the add-back shall be apportioned 105199
using the apportionment factors for the taxable year in which the 105200
deduction is taken, subject to one or more of the four alternative 105201
methods of apportionment enumerated in section 5747.21 of the 105202
Revised Code. 105203

(c) No deduction is available under division (A)(21)(a) of 105204
this section with regard to any depreciation allowed by section 105205
168(k) of the Internal Revenue Code and by the qualifying section 105206
179 depreciation expense amount to the extent that such 105207
depreciation resulted in or increased a federal net operating loss 105208
carryback or carryforward to a taxable year to which division 105209
(A)(20)(d) of this section does not apply. 105210

(22) Deduct, to the extent not otherwise deducted or excluded 105211
in computing federal or Ohio adjusted gross income for the taxable 105212
year, the amount the taxpayer received during the taxable year as 105213
reimbursement for life insurance premiums under section 5919.31 of 105214
the Revised Code. 105215

(23) Deduct, to the extent not otherwise deducted or excluded 105216
in computing federal or Ohio adjusted gross income for the taxable 105217
year, the amount the taxpayer received during the taxable year as 105218
a death benefit paid by the adjutant general under section 5919.33 105219
of the Revised Code. 105220

(24) Deduct, to the extent included in federal adjusted gross 105221
income and not otherwise allowable as a deduction or exclusion in 105222

computing federal or Ohio adjusted gross income for the taxable 105223
year, military pay and allowances received by the taxpayer during 105224
the taxable year for active duty service in the United States 105225
army, air force, navy, marine corps, or coast guard or reserve 105226
components thereof or the national guard. The deduction may not be 105227
claimed for military pay and allowances received by the taxpayer 105228
while the taxpayer is stationed in this state. 105229

(25) Deduct, to the extent not otherwise allowable as a 105230
deduction or exclusion in computing federal or Ohio adjusted gross 105231
income for the taxable year and not otherwise compensated for by 105232
any other source, the amount of qualified organ donation expenses 105233
incurred by the taxpayer during the taxable year, not to exceed 105234
ten thousand dollars. A taxpayer may deduct qualified organ 105235
donation expenses only once for all taxable years beginning with 105236
taxable years beginning in 2007. 105237

For the purposes of division (A)(25) of this section: 105238

(a) "Human organ" means all or any portion of a human liver, 105239
pancreas, kidney, intestine, or lung, and any portion of human 105240
bone marrow. 105241

(b) "Qualified organ donation expenses" means travel 105242
expenses, lodging expenses, and wages and salary forgone by a 105243
taxpayer in connection with the taxpayer's donation, while living, 105244
of one or more of the taxpayer's human organs to another human 105245
being. 105246

(26) Deduct, to the extent not otherwise deducted or excluded 105247
in computing federal or Ohio adjusted gross income for the taxable 105248
year, amounts received by the taxpayer as retired military 105249
personnel pay for service in the United States army, navy, air 105250
force, coast guard, or marine corps or reserve components thereof, 105251
or the national guard, or received by the surviving spouse or 105252
former spouse of such a taxpayer under the survivor benefit plan 105253

on account of such a taxpayer's death. If the taxpayer receives 105254
income on account of retirement paid under the federal civil 105255
service retirement system or federal employees retirement system, 105256
or under any successor retirement program enacted by the congress 105257
of the United States that is established and maintained for 105258
retired employees of the United States government, and such 105259
retirement income is based, in whole or in part, on credit for the 105260
taxpayer's military service, the deduction allowed under this 105261
division shall include only that portion of such retirement income 105262
that is attributable to the taxpayer's military service, to the 105263
extent that portion of such retirement income is otherwise 105264
included in federal adjusted gross income and is not otherwise 105265
deducted under this section. Any amount deducted under division 105266
(A)(26) of this section is not included in a taxpayer's adjusted 105267
gross income for the purposes of section 5747.055 of the Revised 105268
Code. No amount may be deducted under division (A)(26) of this 105269
section on the basis of which a credit was claimed under section 105270
5747.055 of the Revised Code. 105271

(27) Deduct, to the extent not otherwise deducted or excluded 105272
in computing federal or Ohio adjusted gross income for the taxable 105273
year, the amount the taxpayer received during the taxable year 105274
from the military injury relief fund created in section 5101.98 of 105275
the Revised Code. 105276

(28) Deduct, to the extent not otherwise deducted or excluded 105277
in computing federal or Ohio adjusted gross income for the taxable 105278
year, the amount the taxpayer received as a veterans bonus during 105279
the taxable year from the Ohio department of veterans services as 105280
authorized by Section 2r of Article VIII, Ohio Constitution. 105281

(29) Deduct, to the extent not otherwise deducted or excluded 105282
in computing federal or Ohio adjusted gross income for the taxable 105283
year, any loss from wagering transactions that is allowed as an 105284
itemized deduction under section 165 of the Internal Revenue Code 105285

and that the taxpayer deducted in computing federal taxable 105286
income. 105287

(30) Deduct, to the extent not otherwise deducted or excluded 105288
in computing federal or Ohio adjusted gross income for the taxable 105289
year, any income derived from providing public services under a 105290
contract through a project owned by the state, as described in 105291
section 126.604 of the Revised Code or derived from a contract 105292
entered into under section 9.06 of the Revised Code and described 105293
in division (J) of that section, or derived from a transfer 105294
agreement or from the enterprise transferred under that agreement 105295
under section 4313.02 of the Revised Code. 105296

(B) "Business income" means income, including gain or loss, 105297
arising from transactions, activities, and sources in the regular 105298
course of a trade or business and includes income, gain, or loss 105299
from real property, tangible property, and intangible property if 105300
the acquisition, rental, management, and disposition of the 105301
property constitute integral parts of the regular course of a 105302
trade or business operation. "Business income" includes income, 105303
including gain or loss, from a partial or complete liquidation of 105304
a business, including, but not limited to, gain or loss from the 105305
sale or other disposition of goodwill. 105306

(C) "Nonbusiness income" means all income other than business 105307
income and may include, but is not limited to, compensation, rents 105308
and royalties from real or tangible personal property, capital 105309
gains, interest, dividends and distributions, patent or copyright 105310
royalties, or lottery winnings, prizes, and awards. 105311

(D) "Compensation" means any form of remuneration paid to an 105312
employee for personal services. 105313

(E) "Fiduciary" means a guardian, trustee, executor, 105314
administrator, receiver, conservator, or any other person acting 105315
in any fiduciary capacity for any individual, trust, or estate. 105316

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	105317 105318
(G) "Individual" means any natural person.	105319
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	105320 105321
(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	105322 105323 105324
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	105325 105326
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.	105327 105328 105329 105330
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	105331 105332 105333
For the purposes of division (I)(3) of this section:	105334
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	105335 105336 105337 105338 105339 105340
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;	105341 105342 105343 105344
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly	105345 105346

transferred assets to an irrevocable trust, but only if at least 105347
one of the trust's qualifying beneficiaries is domiciled in this 105348
state for the purposes of this chapter during all or some portion 105349
of the trust's current taxable year; 105350

(iii) A person who was domiciled in this state for the 105351
purposes of this chapter when the trust document or instrument or 105352
part of the trust document or instrument became irrevocable, but 105353
only if at least one of the trust's qualifying beneficiaries is a 105354
resident domiciled in this state for the purposes of this chapter 105355
during all or some portion of the trust's current taxable year. If 105356
a trust document or instrument became irrevocable upon the death 105357
of a person who at the time of death was domiciled in this state 105358
for purposes of this chapter, that person is a person described in 105359
division (I)(3)(a)(iii) of this section. 105360

(b) A trust is irrevocable to the extent that the transferor 105361
is not considered to be the owner of the net assets of the trust 105362
under sections 671 to 678 of the Internal Revenue Code. 105363

(c) With respect to a trust other than a charitable lead 105364
trust, "qualifying beneficiary" has the same meaning as "potential 105365
current beneficiary" as defined in section 1361(e)(2) of the 105366
Internal Revenue Code, and with respect to a charitable lead trust 105367
"qualifying beneficiary" is any current, future, or contingent 105368
beneficiary, but with respect to any trust "qualifying 105369
beneficiary" excludes a person or a governmental entity or 105370
instrumentality to any of which a contribution would qualify for 105371
the charitable deduction under section 170 of the Internal Revenue 105372
Code. 105373

(d) For the purposes of division (I)(3)(a) of this section, 105374
the extent to which a trust consists directly or indirectly, in 105375
whole or in part, of assets, net of any related liabilities, that 105376
were transferred directly or indirectly, in whole or part, to the 105377
trust by any of the sources enumerated in that division shall be 105378

ascertained by multiplying the fair market value of the trust's 105379
assets, net of related liabilities, by the qualifying ratio, which 105380
shall be computed as follows: 105381

(i) The first time the trust receives assets, the numerator 105382
of the qualifying ratio is the fair market value of those assets 105383
at that time, net of any related liabilities, from sources 105384
enumerated in division (I)(3)(a) of this section. The denominator 105385
of the qualifying ratio is the fair market value of all the 105386
trust's assets at that time, net of any related liabilities. 105387

(ii) Each subsequent time the trust receives assets, a 105388
revised qualifying ratio shall be computed. The numerator of the 105389
revised qualifying ratio is the sum of (1) the fair market value 105390
of the trust's assets immediately prior to the subsequent 105391
transfer, net of any related liabilities, multiplied by the 105392
qualifying ratio last computed without regard to the subsequent 105393
transfer, and (2) the fair market value of the subsequently 105394
transferred assets at the time transferred, net of any related 105395
liabilities, from sources enumerated in division (I)(3)(a) of this 105396
section. The denominator of the revised qualifying ratio is the 105397
fair market value of all the trust's assets immediately after the 105398
subsequent transfer, net of any related liabilities. 105399

(iii) Whether a transfer to the trust is by or from any of 105400
the sources enumerated in division (I)(3)(a) of this section shall 105401
be ascertained without regard to the domicile of the trust's 105402
beneficiaries. 105403

(e) For the purposes of division (I)(3)(a)(i) of this 105404
section: 105405

(i) A trust is described in division (I)(3)(e)(i) of this 105406
section if the trust is a testamentary trust and the testator of 105407
that testamentary trust was domiciled in this state at the time of 105408
the testator's death for purposes of the taxes levied under 105409

Chapter 5731. of the Revised Code. 105410

(ii) A trust is described in division (I)(3)(e)(ii) of this 105411
section if the transfer is a qualifying transfer described in any 105412
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 105413
irrevocable inter vivos trust, and at least one of the trust's 105414
qualifying beneficiaries is domiciled in this state for purposes 105415
of this chapter during all or some portion of the trust's current 105416
taxable year. 105417

(f) For the purposes of division (I)(3)(e)(ii) of this 105418
section, a "qualifying transfer" is a transfer of assets, net of 105419
any related liabilities, directly or indirectly to a trust, if the 105420
transfer is described in any of the following: 105421

(i) The transfer is made to a trust, created by the decedent 105422
before the decedent's death and while the decedent was domiciled 105423
in this state for the purposes of this chapter, and, prior to the 105424
death of the decedent, the trust became irrevocable while the 105425
decedent was domiciled in this state for the purposes of this 105426
chapter. 105427

(ii) The transfer is made to a trust to which the decedent, 105428
prior to the decedent's death, had directly or indirectly 105429
transferred assets, net of any related liabilities, while the 105430
decedent was domiciled in this state for the purposes of this 105431
chapter, and prior to the death of the decedent the trust became 105432
irrevocable while the decedent was domiciled in this state for the 105433
purposes of this chapter. 105434

(iii) The transfer is made on account of a contractual 105435
relationship existing directly or indirectly between the 105436
transferor and either the decedent or the estate of the decedent 105437
at any time prior to the date of the decedent's death, and the 105438
decedent was domiciled in this state at the time of death for 105439
purposes of the taxes levied under Chapter 5731. of the Revised 105440

Code. 105441

(iv) The transfer is made to a trust on account of a 105442
contractual relationship existing directly or indirectly between 105443
the transferor and another person who at the time of the 105444
decedent's death was domiciled in this state for purposes of this 105445
chapter. 105446

(v) The transfer is made to a trust on account of the will of 105447
a testator who was domiciled in this state at the time of the 105448
testator's death for purposes of the taxes levied under Chapter 105449
5731. of the Revised Code. 105450

(vi) The transfer is made to a trust created by or caused to 105451
be created by a court, and the trust was directly or indirectly 105452
created in connection with or as a result of the death of an 105453
individual who, for purposes of the taxes levied under Chapter 105454
5731. of the Revised Code, was domiciled in this state at the time 105455
of the individual's death. 105456

(g) The tax commissioner may adopt rules to ascertain the 105457
part of a trust residing in this state. 105458

(J) "Nonresident" means an individual or estate that is not a 105459
resident. An individual who is a resident for only part of a 105460
taxable year is a nonresident for the remainder of that taxable 105461
year. 105462

(K) "Pass-through entity" has the same meaning as in section 105463
5733.04 of the Revised Code. 105464

(L) "Return" means the notifications and reports required to 105465
be filed pursuant to this chapter for the purpose of reporting the 105466
tax due and includes declarations of estimated tax when so 105467
required. 105468

(M) "Taxable year" means the calendar year or the taxpayer's 105469
fiscal year ending during the calendar year, or fractional part 105470

thereof, upon which the adjusted gross income is calculated 105471
pursuant to this chapter. 105472

(N) "Taxpayer" means any person subject to the tax imposed by 105473
section 5747.02 of the Revised Code or any pass-through entity 105474
that makes the election under division (D) of section 5747.08 of 105475
the Revised Code. 105476

(O) "Dependents" means dependents as defined in the Internal 105477
Revenue Code and as claimed in the taxpayer's federal income tax 105478
return for the taxable year or which the taxpayer would have been 105479
permitted to claim had the taxpayer filed a federal income tax 105480
return. 105481

(P) "Principal county of employment" means, in the case of a 105482
nonresident, the county within the state in which a taxpayer 105483
performs services for an employer or, if those services are 105484
performed in more than one county, the county in which the major 105485
portion of the services are performed. 105486

(Q) As used in sections 5747.50 to 5747.55 of the Revised 105487
Code: 105488

(1) "Subdivision" means any county, municipal corporation, 105489
park district, or township. 105490

(2) "Essential local government purposes" includes all 105491
functions that any subdivision is required by general law to 105492
exercise, including like functions that are exercised under a 105493
charter adopted pursuant to the Ohio Constitution. 105494

(R) "Overpayment" means any amount already paid that exceeds 105495
the figure determined to be the correct amount of the tax. 105496

(S) "Taxable income" or "Ohio taxable income" applies only to 105497
estates and trusts, and means federal taxable income, as defined 105498
and used in the Internal Revenue Code, adjusted as follows: 105499

(1) Add interest or dividends, net of ordinary, necessary, 105500

and reasonable expenses not deducted in computing federal taxable 105501
income, on obligations or securities of any state or of any 105502
political subdivision or authority of any state, other than this 105503
state and its subdivisions and authorities, but only to the extent 105504
that such net amount is not otherwise includible in Ohio taxable 105505
income and is described in either division (S)(1)(a) or (b) of 105506
this section: 105507

(a) The net amount is not attributable to the S portion of an 105508
electing small business trust and has not been distributed to 105509
beneficiaries for the taxable year; 105510

(b) The net amount is attributable to the S portion of an 105511
electing small business trust for the taxable year. 105512

(2) Add interest or dividends, net of ordinary, necessary, 105513
and reasonable expenses not deducted in computing federal taxable 105514
income, on obligations of any authority, commission, 105515
instrumentality, territory, or possession of the United States to 105516
the extent that the interest or dividends are exempt from federal 105517
income taxes but not from state income taxes, but only to the 105518
extent that such net amount is not otherwise includible in Ohio 105519
taxable income and is described in either division (S)(1)(a) or 105520
(b) of this section; 105521

(3) Add the amount of personal exemption allowed to the 105522
estate pursuant to section 642(b) of the Internal Revenue Code; 105523

(4) Deduct interest or dividends, net of related expenses 105524
deducted in computing federal taxable income, on obligations of 105525
the United States and its territories and possessions or of any 105526
authority, commission, or instrumentality of the United States to 105527
the extent that the interest or dividends are exempt from state 105528
taxes under the laws of the United States, but only to the extent 105529
that such amount is included in federal taxable income and is 105530
described in either division (S)(1)(a) or (b) of this section; 105531

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable

year. 105564

(b) Add any amount not otherwise included in Ohio taxable 105565
income for any taxable year to the extent that the amount is 105566
attributable to the recovery during the taxable year of any amount 105567
deducted or excluded in computing federal or Ohio taxable income 105568
in any taxable year, but only to the extent such amount has not 105569
been distributed to beneficiaries for the taxable year. 105570

(10) Deduct any portion of the deduction described in section 105571
1341(a)(2) of the Internal Revenue Code, for repaying previously 105572
reported income received under a claim of right, that meets both 105573
of the following requirements: 105574

(a) It is allowable for repayment of an item that was 105575
included in the taxpayer's taxable income or the decedent's 105576
adjusted gross income for a prior taxable year and did not qualify 105577
for a credit under division (A) or (B) of section 5747.05 of the 105578
Revised Code for that year. 105579

(b) It does not otherwise reduce the taxpayer's taxable 105580
income or the decedent's adjusted gross income for the current or 105581
any other taxable year. 105582

(11) Add any amount claimed as a credit under section 105583
5747.059 of the Revised Code to the extent that the amount 105584
satisfies either of the following: 105585

(a) The amount was deducted or excluded from the computation 105586
of the taxpayer's federal taxable income as required to be 105587
reported for the taxpayer's taxable year under the Internal 105588
Revenue Code; 105589

(b) The amount resulted in a reduction in the taxpayer's 105590
federal taxable income as required to be reported for any of the 105591
taxpayer's taxable years under the Internal Revenue Code. 105592

(12) Deduct any amount, net of related expenses deducted in 105593

computing federal taxable income, that a trust is required to 105594
report as farm income on its federal income tax return, but only 105595
if the assets of the trust include at least ten acres of land 105596
satisfying the definition of "land devoted exclusively to 105597
agricultural use" under section 5713.30 of the Revised Code, 105598
regardless of whether the land is valued for tax purposes as such 105599
land under sections 5713.30 to 5713.38 of the Revised Code. If the 105600
trust is a pass-through entity investor, section 5747.231 of the 105601
Revised Code applies in ascertaining if the trust is eligible to 105602
claim the deduction provided by division (S)(12) of this section 105603
in connection with the pass-through entity's farm income. 105604

Except for farm income attributable to the S portion of an 105605
electing small business trust, the deduction provided by division 105606
(S)(12) of this section is allowed only to the extent that the 105607
trust has not distributed such farm income. Division (S)(12) of 105608
this section applies only to taxable years of a trust beginning in 105609
2002 or thereafter. 105610

(13) Add the net amount of income described in section 641(c) 105611
of the Internal Revenue Code to the extent that amount is not 105612
included in federal taxable income. 105613

(14) Add or deduct the amount the taxpayer would be required 105614
to add or deduct under division (A)(20) or (21) of this section if 105615
the taxpayer's Ohio taxable income were computed in the same 105616
manner as an individual's Ohio adjusted gross income is computed 105617
under this section. In the case of a trust, division (S)(14) of 105618
this section applies only to any of the trust's taxable years 105619
beginning in 2002 or thereafter. 105620

(T) "School district income" and "school district income tax" 105621
have the same meanings as in section 5748.01 of the Revised Code. 105622

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 105623
of this section, "public obligations," "purchase obligations," and 105624

"interest or interest equivalent" have the same meanings as in 105625
section 5709.76 of the Revised Code. 105626

(V) "Limited liability company" means any limited liability 105627
company formed under Chapter 1705. of the Revised Code or under 105628
the laws of any other state. 105629

(W) "Pass-through entity investor" means any person who, 105630
during any portion of a taxable year of a pass-through entity, is 105631
a partner, member, shareholder, or equity investor in that 105632
pass-through entity. 105633

(X) "Banking day" has the same meaning as in section 1304.01 105634
of the Revised Code. 105635

(Y) "Month" means a calendar month. 105636

(Z) "Quarter" means the first three months, the second three 105637
months, the third three months, or the last three months of the 105638
taxpayer's taxable year. 105639

(AA)(1) "Eligible institution" means a state university or 105640
state institution of higher education as defined in section 105641
3345.011 of the Revised Code, or a private, nonprofit college, 105642
university, or other post-secondary institution located in this 105643
state that possesses a certificate of authorization issued by the 105644
Ohio board of regents pursuant to Chapter 1713. of the Revised 105645
Code or a certificate of registration issued by the state board of 105646
career colleges and schools under Chapter 3332. of the Revised 105647
Code. 105648

(2) "Qualified tuition and fees" means tuition and fees 105649
imposed by an eligible institution as a condition of enrollment or 105650
attendance, not exceeding two thousand five hundred dollars in 105651
each of the individual's first two years of post-secondary 105652
education. If the individual is a part-time student, "qualified 105653
tuition and fees" includes tuition and fees paid for the academic 105654
equivalent of the first two years of post-secondary education 105655

during a maximum of five taxable years, not exceeding a total of 105656
five thousand dollars. "Qualified tuition and fees" does not 105657
include: 105658

(a) Expenses for any course or activity involving sports, 105659
games, or hobbies unless the course or activity is part of the 105660
individual's degree or diploma program; 105661

(b) The cost of books, room and board, student activity fees, 105662
athletic fees, insurance expenses, or other expenses unrelated to 105663
the individual's academic course of instruction; 105664

(c) Tuition, fees, or other expenses paid or reimbursed 105665
through an employer, scholarship, grant in aid, or other 105666
educational benefit program. 105667

(BB)(1) "Modified business income" means the business income 105668
included in a trust's Ohio taxable income after such taxable 105669
income is first reduced by the qualifying trust amount, if any. 105670

(2) "Qualifying trust amount" of a trust means capital gains 105671
and losses from the sale, exchange, or other disposition of equity 105672
or ownership interests in, or debt obligations of, a qualifying 105673
investee to the extent included in the trust's Ohio taxable 105674
income, but only if the following requirements are satisfied: 105675

(a) The book value of the qualifying investee's physical 105676
assets in this state and everywhere, as of the last day of the 105677
qualifying investee's fiscal or calendar year ending immediately 105678
prior to the date on which the trust recognizes the gain or loss, 105679
is available to the trust. 105680

(b) The requirements of section 5747.011 of the Revised Code 105681
are satisfied for the trust's taxable year in which the trust 105682
recognizes the gain or loss. 105683

Any gain or loss that is not a qualifying trust amount is 105684
modified business income, qualifying investment income, or 105685

modified nonbusiness income, as the case may be. 105686

(3) "Modified nonbusiness income" means a trust's Ohio 105687
taxable income other than modified business income, other than the 105688
qualifying trust amount, and other than qualifying investment 105689
income, as defined in section 5747.012 of the Revised Code, to the 105690
extent such qualifying investment income is not otherwise part of 105691
modified business income. 105692

(4) "Modified Ohio taxable income" applies only to trusts, 105693
and means the sum of the amounts described in divisions (BB)(4)(a) 105694
to (c) of this section: 105695

(a) The fraction, calculated under section 5747.013, and 105696
applying section 5747.231 of the Revised Code, multiplied by the 105697
sum of the following amounts: 105698

(i) The trust's modified business income; 105699

(ii) The trust's qualifying investment income, as defined in 105700
section 5747.012 of the Revised Code, but only to the extent the 105701
qualifying investment income does not otherwise constitute 105702
modified business income and does not otherwise constitute a 105703
qualifying trust amount. 105704

(b) The qualifying trust amount multiplied by a fraction, the 105705
numerator of which is the sum of the book value of the qualifying 105706
investee's physical assets in this state on the last day of the 105707
qualifying investee's fiscal or calendar year ending immediately 105708
prior to the day on which the trust recognizes the qualifying 105709
trust amount, and the denominator of which is the sum of the book 105710
value of the qualifying investee's total physical assets 105711
everywhere on the last day of the qualifying investee's fiscal or 105712
calendar year ending immediately prior to the day on which the 105713
trust recognizes the qualifying trust amount. If, for a taxable 105714
year, the trust recognizes a qualifying trust amount with respect 105715
to more than one qualifying investee, the amount described in 105716

division (BB)(4)(b) of this section shall equal the sum of the 105717
products so computed for each such qualifying investee. 105718

(c)(i) With respect to a trust or portion of a trust that is 105719
a resident as ascertained in accordance with division (I)(3)(d) of 105720
this section, its modified nonbusiness income. 105721

(ii) With respect to a trust or portion of a trust that is 105722
not a resident as ascertained in accordance with division 105723
(I)(3)(d) of this section, the amount of its modified nonbusiness 105724
income satisfying the descriptions in divisions (B)(2) to (5) of 105725
section 5747.20 of the Revised Code, except as otherwise provided 105726
in division (BB)(4)(c)(ii) of this section. With respect to a 105727
trust or portion of a trust that is not a resident as ascertained 105728
in accordance with division (I)(3)(d) of this section, the trust's 105729
portion of modified nonbusiness income recognized from the sale, 105730
exchange, or other disposition of a debt interest in or equity 105731
interest in a section 5747.212 entity, as defined in section 105732
5747.212 of the Revised Code, without regard to division (A) of 105733
that section, shall not be allocated to this state in accordance 105734
with section 5747.20 of the Revised Code but shall be apportioned 105735
to this state in accordance with division (B) of section 5747.212 105736
of the Revised Code without regard to division (A) of that 105737
section. 105738

If the allocation and apportionment of a trust's income under 105739
divisions (BB)(4)(a) and (c) of this section do not fairly 105740
represent the modified Ohio taxable income of the trust in this 105741
state, the alternative methods described in division (C) of 105742
section 5747.21 of the Revised Code may be applied in the manner 105743
and to the same extent provided in that section. 105744

(5)(a) Except as set forth in division (BB)(5)(b) of this 105745
section, "qualifying investee" means a person in which a trust has 105746
an equity or ownership interest, or a person or unit of government 105747
the debt obligations of either of which are owned by a trust. For 105748

the purposes of division (BB)(2)(a) of this section and for the 105749
purpose of computing the fraction described in division (BB)(4)(b) 105750
of this section, all of the following apply: 105751

(i) If the qualifying investee is a member of a qualifying 105752
controlled group on the last day of the qualifying investee's 105753
fiscal or calendar year ending immediately prior to the date on 105754
which the trust recognizes the gain or loss, then "qualifying 105755
investee" includes all persons in the qualifying controlled group 105756
on such last day. 105757

(ii) If the qualifying investee, or if the qualifying 105758
investee and any members of the qualifying controlled group of 105759
which the qualifying investee is a member on the last day of the 105760
qualifying investee's fiscal or calendar year ending immediately 105761
prior to the date on which the trust recognizes the gain or loss, 105762
separately or cumulatively own, directly or indirectly, on the 105763
last day of the qualifying investee's fiscal or calendar year 105764
ending immediately prior to the date on which the trust recognizes 105765
the qualifying trust amount, more than fifty per cent of the 105766
equity of a pass-through entity, then the qualifying investee and 105767
the other members are deemed to own the proportionate share of the 105768
pass-through entity's physical assets which the pass-through 105769
entity directly or indirectly owns on the last day of the 105770
pass-through entity's calendar or fiscal year ending within or 105771
with the last day of the qualifying investee's fiscal or calendar 105772
year ending immediately prior to the date on which the trust 105773
recognizes the qualifying trust amount. 105774

(iii) For the purposes of division (BB)(5)(a)(iii) of this 105775
section, "upper level pass-through entity" means a pass-through 105776
entity directly or indirectly owning any equity of another 105777
pass-through entity, and "lower level pass-through entity" means 105778
that other pass-through entity. 105779

An upper level pass-through entity, whether or not it is also 105780

a qualifying investee, is deemed to own, on the last day of the 105781
upper level pass-through entity's calendar or fiscal year, the 105782
proportionate share of the lower level pass-through entity's 105783
physical assets that the lower level pass-through entity directly 105784
or indirectly owns on the last day of the lower level pass-through 105785
entity's calendar or fiscal year ending within or with the last 105786
day of the upper level pass-through entity's fiscal or calendar 105787
year. If the upper level pass-through entity directly and 105788
indirectly owns less than fifty per cent of the equity of the 105789
lower level pass-through entity on each day of the upper level 105790
pass-through entity's calendar or fiscal year in which or with 105791
which ends the calendar or fiscal year of the lower level 105792
pass-through entity and if, based upon clear and convincing 105793
evidence, complete information about the location and cost of the 105794
physical assets of the lower pass-through entity is not available 105795
to the upper level pass-through entity, then solely for purposes 105796
of ascertaining if a gain or loss constitutes a qualifying trust 105797
amount, the upper level pass-through entity shall be deemed as 105798
owning no equity of the lower level pass-through entity for each 105799
day during the upper level pass-through entity's calendar or 105800
fiscal year in which or with which ends the lower level 105801
pass-through entity's calendar or fiscal year. Nothing in division 105802
(BB)(5)(a)(iii) of this section shall be construed to provide for 105803
any deduction or exclusion in computing any trust's Ohio taxable 105804
income. 105805

(b) With respect to a trust that is not a resident for the 105806
taxable year and with respect to a part of a trust that is not a 105807
resident for the taxable year, "qualifying investee" for that 105808
taxable year does not include a C corporation if both of the 105809
following apply: 105810

(i) During the taxable year the trust or part of the trust 105811
recognizes a gain or loss from the sale, exchange, or other 105812

disposition of equity or ownership interests in, or debt obligations of, the C corporation.	105813 105814
(ii) Such gain or loss constitutes nonbusiness income.	105815
(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.	105816 105817 105818 105819
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	105820 105821
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	105822 105823
(EE)(1) For the purposes of division (EE) of this section:	105824
(a) "Qualifying person" means any person other than a qualifying corporation.	105825 105826
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	105827 105828 105829
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	105830 105831 105832 105833
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	105834 105835 105836 105837
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	105838 105839 105840
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	105841 105842

(1) "Trust" does not include a qualified pre-income tax trust. 105843
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(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section. 105845
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(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust. 105848
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 105859
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(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 105861
105862

(b) The trust became irrevocable upon the creation of the trust; and 105863
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(c) The grantor was domiciled in this state at the time the trust was created. 105865
105866

Sec. 5747.058. (A) A refundable income tax credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall 105867
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be considered to be paid to this state on the first day of the 105873
taxable year. The refundable credit shall not be claimed for any 105874
taxable years ending with or following the calendar year in which 105875
a relocation of employment positions occurs in violation of an 105876
agreement entered into under section 122.171 of the Revised Code. 105877

(B) A nonrefundable income tax credit granted by the tax 105878
credit authority under division (B)(1) of section 122.171 of the 105879
Revised Code may be claimed under this chapter, in the order 105880
required under section 5747.98 of the Revised Code. 105881

Sec. 5747.113. (A) Any taxpayer claiming a refund under 105882
section 5747.11 of the Revised Code ~~for taxable years ending on or~~ 105883
~~after October 14, 1983,~~ who wishes to contribute any part of the 105884
taxpayer's refund to the natural areas and preserves fund created 105885
in section 1517.11 of the Revised Code, the nongame and endangered 105886
wildlife fund created in section 1531.26 of the Revised Code, the 105887
military injury relief fund created in section 5101.98 of the 105888
Revised Code, the Ohio historical society income tax contribution 105889
fund created in section 149.308 of the Revised Code, or all of 105890
those funds, may designate on the taxpayer's income tax return the 105891
amount that the taxpayer wishes to contribute to the fund or 105892
funds. A designated contribution is irrevocable upon the filing of 105893
the return and shall be made in the full amount designated if the 105894
refund found due the taxpayer upon the initial processing of the 105895
taxpayer's return, after any deductions including those required 105896
by section 5747.12 of the Revised Code, is greater than or equal 105897
to the designated contribution. If the refund due as initially 105898
determined is less than the designated contribution, the 105899
contribution shall be made in the full amount of the refund. The 105900
tax commissioner shall subtract the amount of the contribution 105901
from the amount of the refund initially found due the taxpayer and 105902
shall certify the difference to the director of budget and 105903
management and treasurer of state for payment to the taxpayer in 105904

accordance with section 5747.11 of the Revised Code. For the 105905
purpose of any subsequent determination of the taxpayer's net tax 105906
payment, the contribution shall be considered a part of the refund 105907
paid to the taxpayer. 105908

(B) The tax commissioner shall provide a space on the income 105909
tax return form in which a taxpayer may indicate that the taxpayer 105910
wishes to make a donation in accordance with this section. The tax 105911
commissioner shall also print in the instructions accompanying the 105912
income tax return form a description of the purposes for which the 105913
natural areas and preserves fund, the nongame and endangered 105914
wildlife fund, ~~and~~ the military injury relief fund, and the Ohio 105915
historical society income tax contribution fund were created and 105916
the use of moneys from the income tax refund contribution system 105917
established in this section. No person shall designate on the 105918
person's income tax return any part of a refund claimed under 105919
section 5747.11 of the Revised Code as a contribution to any fund 105920
other than the natural areas and preserves fund, the nongame and 105921
endangered wildlife fund, the military injury relief fund, ~~or all~~ 105922
~~of those funds~~ the Ohio historical society income tax contribution 105923
fund. 105924

(C) The money collected under the income tax refund 105925
contribution system established in this section shall be deposited 105926
by the tax commissioner into the natural areas and preserves fund, 105927
the nongame and endangered wildlife fund, ~~and~~ the military injury 105928
relief fund, and the Ohio historical society income tax 105929
contribution fund in the amounts designated on the tax returns. 105930

(D) No later than the thirtieth day of September each year, 105931
the tax commissioner shall determine the total amount contributed 105932
to each fund under this section during the preceding eight months, 105933
any adjustments to prior months, and the cost to the department of 105934
taxation of administering the income tax refund contribution 105935
system during that eight-month period. The commissioner shall make 105936

an additional determination no later than the thirty-first day of 105937
January of each year of the total amount contributed to each fund 105938
under this section during the preceding four calendar months, any 105939
adjustments to prior years made during that four-month period, and 105940
the cost to the department of taxation of administering the income 105941
tax contribution system during that period. The cost of 105942
administering the income tax contribution system shall be 105943
certified by the tax commissioner to the director of budget and 105944
management, who shall transfer an amount equal to ~~one-third~~ 105945
one-fourth of such administrative costs from the natural areas and 105946
preserves fund, ~~one-third~~ one-fourth of such costs from the 105947
nongame and endangered wildlife fund, ~~and one-third~~ one-fourth of 105948
such costs from the military injury relief fund, and one-fourth of 105949
such costs from the Ohio historical society income tax 105950
contribution fund to the litter control and natural resource tax 105951
administration fund, which is hereby created, provided that the 105952
moneys that the department receives to pay the cost of 105953
administering the income tax refund contribution system in any 105954
year shall not exceed two and one-half per cent of the total 105955
amount contributed under that system during that year. 105956

(E)(1) The director of natural resources, in January of every 105957
odd-numbered year, shall report to the general assembly on the 105958
effectiveness of the income tax refund contribution system as it 105959
pertains to the natural areas and preserves fund and the nongame 105960
and endangered wildlife fund. The report shall include the amount 105961
of money contributed to each fund in each of the previous five 105962
years, the amount of money contributed directly to each fund in 105963
addition to or independently of the income tax refund contribution 105964
system in each of the previous five years, and the purposes for 105965
which the money was expended. 105966

(2) The director of job and family services and the director 105967
of the Ohio historical society, in January of every odd-numbered 105968

year, each shall report to the general assembly on the 105969
effectiveness of the income tax refund contribution system as it 105970
pertains to the military injury relief fund and the Ohio 105971
historical society income tax contribution fund, respectively. The 105972
report shall include the amount of money contributed to the fund 105973
in each of the previous five years, the amount of money 105974
contributed directly to the fund in addition to or independently 105975
of the income tax refund contribution system in each of the 105976
previous five years, and the purposes for which the money was 105977
expended. 105978

Sec. 5747.451. (A) The mere retirement from business or 105979
voluntary dissolution of a domestic or foreign qualifying entity 105980
does not exempt it from the requirements to make reports as 105981
required under sections 5747.42 to 5747.44 or to pay the taxes 105982
imposed under section 5733.41 or 5747.41 of the Revised Code. If 105983
any qualifying entity subject to the taxes imposed under section 105984
5733.41 or 5747.41 of the Revised Code sells its business or stock 105985
of merchandise or quits its business, the taxes required to be 105986
paid prior to that time, together with any interest or penalty 105987
thereon, become due and payable immediately, and the qualifying 105988
entity shall make a final return within fifteen days after the 105989
date of selling or quitting business. The successor of the 105990
qualifying entity shall withhold a sufficient amount of the 105991
purchase money to cover the amount of such taxes, interest, and 105992
penalties due and unpaid until the qualifying entity produces a 105993
receipt from the tax commissioner showing that the taxes, 105994
interest, and penalties have been paid, or a certificate 105995
indicating that no taxes are due. If the purchaser of the business 105996
or stock of goods fails to withhold purchase money, the purchaser 105997
is personally liable for the payment of the taxes, interest, and 105998
penalties accrued and unpaid during the operation of the business 105999
by the qualifying entity. If the amount of those taxes, interest, 106000

and penalty unpaid at the time of the purchase exceeds the total 106001
purchase money, the tax commissioner may adjust the qualifying 106002
entity's liability for those taxes, interest, and penalty, or 106003
adjust the responsibility of the purchaser to pay that liability, 106004
in a manner calculated to maximize the collection of those 106005
liabilities. 106006

(B) Annually, on the last day of each qualifying taxable year 106007
of a qualifying entity, the taxes imposed under section 5733.41 or 106008
5747.41 of the Revised Code, together with any penalties 106009
subsequently accruing thereon, become a lien on all property in 106010
this state of the qualifying entity, whether such property is 106011
employed by the qualifying entity in the prosecution of its 106012
business or is in the hands of an assignee, trustee, or receiver 106013
for the benefit of the qualifying entity's creditors and 106014
investors. The lien shall continue until those taxes, together 106015
with any penalties subsequently accruing, are paid. 106016

Upon failure of such a qualifying entity to pay those taxes 106017
on the day fixed for payment, the treasurer of state shall 106018
thereupon notify the tax commissioner, and the commissioner may 106019
file in the office of the county recorder in each county in this 106020
state in which the qualifying entity owns or has a beneficial 106021
interest in real estate, notice of the lien containing a brief 106022
description of such real estate. No fee shall be charged for such 106023
a filing. The lien is not valid as against any mortgagee, 106024
purchaser, or judgment creditor whose rights have attached prior 106025
to the time the notice is so filed in the county in which the real 106026
estate which is the subject of such mortgage, purchase, or 106027
judgment lien is located. The notice shall be recorded in a book 106028
kept by the recorder, called the qualifying entity tax lien 106029
record, and indexed under the name of the qualifying entity 106030
charged with the tax. When the tax, together with any penalties 106031
subsequently accruing thereon, have been paid, the tax 106032

commissioner shall furnish to the qualifying entity an 106033
acknowledgment of such payment that the qualifying entity may 106034
record with the recorder of each county in which notice of such 106035
lien has been filed, for which recording the recorder shall charge 106036
and receive a fee of two dollars. 106037

(C) In addition to all other remedies for the collection of 106038
any taxes or penalties due under law, whenever any taxes, 106039
interest, or penalties due from any qualifying entity under 106040
section 5733.41 of the Revised Code or this chapter have remained 106041
unpaid for a period of ninety days, or whenever any qualifying 106042
entity has failed for a period of ninety days to make any report 106043
or return required by law, or to pay any penalty for failure to 106044
make or file such report or return, the attorney general, upon the 106045
request of the tax commissioner, shall file a petition in the 106046
court of common pleas in the county of the state in which such 106047
qualifying entity has its principal place of business for a 106048
judgment for the amount of the taxes, interest, or penalties 106049
appearing to be due, the enforcement of any lien in favor of the 106050
state, and an injunction to restrain such qualifying entity and 106051
its officers, directors, and managing agents from the transaction 106052
of any business within this state, other than such acts as are 106053
incidental to liquidation or winding up, until the payment of such 106054
taxes, interest, and penalties, and the costs of the proceeding 106055
fixed by the court, or the making and filing of such report or 106056
return. 106057

The petition shall be in the name of the state. Any of the 106058
qualifying entities having its principal places of business in the 106059
county may be joined in one suit. On the motion of the attorney 106060
general, the court of common pleas shall enter an order requiring 106061
all defendants to answer by a day certain, and may appoint a 106062
special master commissioner to take testimony, with such other 106063
power and authority as the court confers, and permitting process 106064

to be served by registered mail and by publication in a newspaper 106065
of general circulation ~~published~~ in the county, which publication 106066
need not be made more than once, setting forth the name of each 106067
delinquent qualifying entity, the matter in which the qualifying 106068
entity is delinquent, the names of its officers, directors, and 106069
managing agents, if set forth in the petition, and the amount of 106070
any taxes, fees, or penalties claimed to be owing by the 106071
qualifying entity. 106072

All or any of the trustees or other fiduciaries, officers, 106073
directors, investors, beneficiaries, or managing agents of any 106074
qualifying entity may be joined as defendants with the qualifying 106075
entity. 106076

If it appears to the court upon hearing that any qualifying 106077
entity that is a party to the proceeding is indebted to the state 106078
for taxes imposed under section 5733.41 or 5747.41 of the Revised 106079
Code, or interest or penalties thereon, judgment shall be entered 106080
therefor with interest; and if it appears that any qualifying 106081
entity has failed to make or file any report or return, a 106082
mandatory injunction may be issued against the qualifying entity, 106083
its trustees or other fiduciaries, officers, directors, and 106084
managing agents, enjoining them from the transaction of any 106085
business within this state, other than acts incidental to 106086
liquidation or winding up, until the making and filing of all 106087
proper reports or returns and until the payment in full of all 106088
taxes, interest, and penalties. 106089

If the trustees or other fiduciaries, officers, directors, 106090
investors, beneficiaries, or managing agents of a qualifying 106091
entity are not made parties in the first instance, and a judgment 106092
or an injunction is rendered or issued against the qualifying 106093
entity, those officers, directors, investors, or managing agents 106094
may be made parties to such proceedings upon the motion of the 106095
attorney general, and, upon notice to them of the form and terms 106096

of such injunction, they shall be bound thereby as fully as if 106097
they had been made parties in the first instance. 106098

In any action authorized by this division, a statement of the 106099
tax commissioner, or the secretary of state, when duly certified, 106100
shall be prima-facie evidence of the amount of taxes, interest, or 106101
penalties due from any qualifying entity, or of the failure of any 106102
qualifying entity to file with the commissioner or the secretary 106103
of state any report required by law, and any such certificate of 106104
the commissioner or the secretary of state may be required in 106105
evidence in any such proceeding. 106106

On the application of any defendant and for good cause shown, 106107
the court may order a separate hearing of the issues as to any 106108
defendant. 106109

The costs of the proceeding shall be apportioned among the 106110
parties as the court deems proper. 106111

The court in such proceeding may make, enter, and enforce 106112
such other judgments and orders and grant such other relief as is 106113
necessary or incidental to the enforcement of the claims and lien 106114
of the state. 106115

In the performance of the duties enjoined upon the attorney 106116
general by this division, the attorney general may direct any 106117
prosecuting attorney to bring an action, as authorized by this 106118
division, in the name of the state with respect to any delinquent 106119
qualifying entities within the prosecuting attorney's county, and 106120
like proceedings and orders shall be had as if such action were 106121
instituted by the attorney general. 106122

(D) If any qualifying entity fails to make and file the 106123
reports or returns required under this chapter, or to pay the 106124
penalties provided by law for failure to make and file such 106125
reports or returns for a period of ninety days after the time 106126
prescribed by this chapter, the attorney general, on the request 106127

of the tax commissioner, shall commence an action in quo warranto 106128
in the court of appeals of the county in which that qualifying 106129
entity has its principal place of business to forfeit and annul 106130
its privileges and franchises. If the court is satisfied that any 106131
such qualifying entity is in default, it shall render judgment 106132
ousting such qualifying entity from the exercise of its privileges 106133
and franchises within this state, and shall otherwise proceed as 106134
provided in sections 2733.02 to 2733.39 of the Revised Code. 106135

Sec. 5747.46. As used in sections 5747.46 and 5747.47 of the 106136
Revised Code: 106137

(A) "Year's fund balance" means the amount credited to the 106138
public library fund during a calendar year. 106139

(B) "Distribution year" means the calendar year during which 106140
a year's fund balance is distributed under section 5747.47 of the 106141
Revised Code. 106142

(C) "CPI" means the consumer price index for all urban 106143
consumers (United States city average, all items), prepared by the 106144
United States department of labor, bureau of labor statistics. 106145

(D) "Inflation factor" means the quotient obtained by 106146
dividing the CPI for May of the year preceding the distribution 106147
year by the CPI for May of the second preceding year. If the 106148
quotient so obtained is less than one, the inflation factor shall 106149
equal one. 106150

(E) "Population" means whichever of the following has most 106151
recently been issued, as of the first day of June preceding the 106152
distribution year: 106153

(1) The most recent decennial census figures that include 106154
population figures for each county in the state; 106155

(2) The most current issue of "Current Population Reports: 106156
Local Population Estimates" issued by the United States bureau of 106157

the census that contains population estimates for each county in the state and the state. 106158
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(F) "County's equalization ratio for a distribution year" means a percentage computed for that county as follows: 106160
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(1) Square the per cent that the county's population is of the state's population; 106162
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(2) Divide the product so obtained by the per cent that the county's total entitlement for the preceding year is of all counties' total entitlements for the preceding year; 106164
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(3) Divide the quotient so obtained by the sum of the quotients so obtained for all counties. 106167
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(G) "Total entitlement" means, with respect to a distribution year, the sum of a county's guaranteed share plus its share of the excess. For the 2012 distribution year, "total entitlement" equals the sum of payments made to a county public library fund during that year. 106169
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(1) "Guaranteed share" means, for a distribution year, the product obtained by multiplying a county's total entitlement for the preceding distribution year by the ~~inflation~~ inflation factor. If the sum of the guaranteed shares for all counties exceeds the year's fund balance, the guaranteed shares of all counties shall be reduced by a percentage that will result in the sum of such guaranteed shares being equal to the year's fund balance. 106174
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(2) "Share of excess" means, for a distribution year, the product obtained by multiplying a county's equalization ratio by the difference between the year's fund balance and the sum of the guaranteed shares for all counties. If the sum of the guaranteed shares for all counties exceeds the year's fund balance the share of the excess for all counties is zero. 106182
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(H) "Net distribution" means the sum of the payments made to a county's public library fund during a distribution year, adjusted as follows:

(1) If the county received an overpayment during the preceding distribution year, add the amount of the overpayment;

(2) If the county received an underpayment during the preceding distribution year, deduct the amount of the underpayment.

(I) "Overpayment" or "underpayment" for a distribution year means the amount by which the net distribution to a county's public library fund during that distribution year exceeded or was less than the county's total entitlement for that year.

All computations made under this section shall be rounded to the nearest one-hundredth of one per cent.

Sec. 5747.51. (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall make and certify to the county auditor of each county an estimate of the amount of the local government fund to be allocated to the undivided local government fund of each county for the ensuing calendar year ~~and the estimated amount to be received by the undivided local government fund of each county from the taxes levied pursuant to section 5707.03 of the Revised Code for the ensuing calendar year.~~

(B) At each annual regular session of the county budget commission convened pursuant to section 5705.27 of the Revised Code, each auditor shall present to the commission the certificate of the commissioner, the annual tax budget and estimates, and the records showing the action of the commission in its last preceding regular session. ~~The estimates shown on the certificate of the commissioner of the amount to be allocated from the local government fund and the amount to be received from taxes levied~~

~~pursuant to section 5707.03 of the Revised Code shall be combined~~ 106218
~~into one total comprising the estimate of the undivided local~~ 106219
~~government fund of the county.~~ The commission, after extending to 106220
the representatives of each subdivision an opportunity to be 106221
heard, under oath administered by any member of the commission, 106222
and considering all the facts and information presented to it by 106223
the auditor, shall determine the amount of the undivided local 106224
government fund needed by and to be apportioned to each 106225
subdivision for current operating expenses, as shown in the tax 106226
budget of the subdivision. This determination shall be made 106227
pursuant to divisions (C) to (I) of this section, unless the 106228
commission has provided for a formula pursuant to section 5747.53 106229
of the Revised Code. 106230

Nothing in this section prevents the budget commission, for 106231
the purpose of apportioning the undivided local government fund, 106232
from inquiring into the claimed needs of any subdivision as stated 106233
in its tax budget, or from adjusting claimed needs to reflect 106234
actual needs. For the purposes of this section, "current operating 106235
expenses" means the lawful expenditures of a subdivision, except 106236
those for permanent improvements and except payments for interest, 106237
sinking fund, and retirement of bonds, notes, and certificates of 106238
indebtedness of the subdivision. 106239

(C) The commission shall determine the combined total of the 106240
estimated expenditures, including transfers, from the general fund 106241
and any special funds other than special funds established for 106242
road and bridge; street construction, maintenance, and repair; 106243
state highway improvement; and gas, water, sewer, and electric 106244
public utilities operated by a subdivision, as shown in the 106245
subdivision's tax budget for the ensuing calendar year. 106246

(D) From the combined total of expenditures calculated 106247
pursuant to division (C) of this section, the commission shall 106248
deduct the following expenditures, if included in these funds in 106249

the tax budget:	106250
(1) Expenditures for permanent improvements as defined in division (E) of section 5705.01 of the Revised Code;	106251 106252
(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair fund and the state highway improvement fund;	106253 106254 106255 106256
(3) Expenditures for the payment of debt charges;	106257
(4) Expenditures for the payment of judgments.	106258
(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant to division (C) of this section:	106259 106260 106261 106262 106263
(1) Taxes levied within the ten-mill limitation, as defined in section 5705.02 of the Revised Code;	106264 106265
(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;	106266 106267 106268
(3) Estimated unencumbered balances as shown on the tax budget as of the thirty-first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;	106269 106270 106271 106272
(4) Revenue, including transfers, shown in the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities, from all other sources except those that a subdivision receives from an additional tax or service charge voted by its electorate or receives from special assessment or	106273 106274 106275 106276 106277 106278 106279

revenue bond collection. For the purposes of this division, where 106280
the charter of a municipal corporation prohibits the levy of an 106281
income tax, an income tax levied by the legislative authority of 106282
such municipal corporation pursuant to an amendment of the charter 106283
of that municipal corporation to authorize such a levy represents 106284
an additional tax voted by the electorate of that municipal 106285
corporation. For the purposes of this division, any measure 106286
adopted by a board of county commissioners pursuant to section 106287
322.02, 324.02, 4504.02, or 5739.021 of the Revised Code, 106288
including those measures upheld by the electorate in a referendum 106289
conducted pursuant to section 322.021, 324.021, 4504.021, or 106290
5739.022 of the Revised Code, shall not be considered an 106291
additional tax voted by the electorate. 106292

Subject to division (G) of section 5705.29 of the Revised 106293
Code, money in a reserve balance account established by a county, 106294
township, or municipal corporation under section 5705.13 of the 106295
Revised Code shall not be considered an unencumbered balance or 106296
revenue under division (E)(3) or (4) of this section. Money in a 106297
reserve balance account established by a township under section 106298
5705.132 of the Revised Code shall not be considered an 106299
unencumbered balance or revenue under division (E)(3) or (4) of 106300
this section. 106301

If a county, township, or municipal corporation has created 106302
and maintains a nonexpendable trust fund under section 5705.131 of 106303
the Revised Code, the principal of the fund, and any additions to 106304
the principal arising from sources other than the reinvestment of 106305
investment earnings arising from such a fund, shall not be 106306
considered an unencumbered balance or revenue under division 106307
(E)(3) or (4) of this section. Only investment earnings arising 106308
from investment of the principal or investment of such additions 106309
to principal may be considered an unencumbered balance or revenue 106310
under those divisions. 106311

(F) The total expenditures calculated pursuant to division 106312
(C) of this section, less the deductions authorized in divisions 106313
(D) and (E) of this section, shall be known as the "relative need" 106314
of the subdivision, for the purposes of this section. 106315

(G) The budget commission shall total the relative need of 106316
all participating subdivisions in the county, and shall compute a 106317
relative need factor by dividing the total estimate of the 106318
undivided local government fund by the total relative need of all 106319
participating subdivisions. 106320

(H) The relative need of each subdivision shall be multiplied 106321
by the relative need factor to determine the proportionate share 106322
of the subdivision in the undivided local government fund of the 106323
county; provided, that the maximum proportionate share of a county 106324
shall not exceed the following maximum percentages of the total 106325
estimate of the undivided local government fund governed by the 106326
relationship of the percentage of the population of the county 106327
that resides within municipal corporations within the county to 106328
the total population of the county as reported in the reports on 106329
population in Ohio by the department of development as of the 106330
twentieth day of July of the year in which the tax budget is filed 106331
with the budget commission: 106332

Percentage of municipal 106333 population within the county:	Percentage share of the county shall not exceed:
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Less than forty-one per cent	Sixty per cent	106334
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Forty-one per cent or more but	Fifty per cent	106335
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less than eighty-one per cent		106336
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Eighty-one per cent or more	Thirty per cent	106337
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Where the proportionate share of the county exceeds the 106338
limitations established in this division, the budget commission 106339
shall adjust the proportionate shares determined pursuant to this 106340
division so that the proportionate share of the county does not 106341

exceed these limitations, and it shall increase the proportionate 106342
shares of all other subdivisions on a pro rata basis. In counties 106343
having a population of less than one hundred thousand, not less 106344
than ten per cent shall be distributed to the townships therein. 106345

(I) The proportionate share of each subdivision in the 106346
undivided local government fund determined pursuant to division 106347
(H) of this section for any calendar year shall not be less than 106348
the product of the average of the percentages of the undivided 106349
local government fund of the county as apportioned to that 106350
subdivision for the calendar years 1968, 1969, and 1970, 106351
multiplied by the total amount of the undivided local government 106352
fund of the county apportioned pursuant to former section 5735.23 106353
of the Revised Code for the calendar year 1970. For the purposes 106354
of this division, the total apportioned amount for the calendar 106355
year 1970 shall be the amount actually allocated to the county in 106356
1970 from the state collected intangible tax as levied by section 106357
5707.03 of the Revised Code and distributed pursuant to section 106358
5725.24 of the Revised Code, plus the amount received by the 106359
county in the calendar year 1970 pursuant to division (B)(1) of 106360
former section 5739.21 of the Revised Code, and distributed 106361
pursuant to former section 5739.22 of the Revised Code. If the 106362
total amount of the undivided local government fund for any 106363
calendar year is less than the amount of the undivided local 106364
government fund apportioned pursuant to former section 5739.23 of 106365
the Revised Code for the calendar year 1970, the minimum amount 106366
guaranteed to each subdivision for that calendar year pursuant to 106367
this division shall be reduced on a basis proportionate to the 106368
amount by which the amount of the undivided local government fund 106369
for that calendar year is less than the amount of the undivided 106370
local government fund apportioned for the calendar year 1970. 106371

(J) On the basis of such apportionment, the county auditor 106372
shall compute the percentage share of each such subdivision in the 106373

undivided local government fund and shall at the same time certify 106374
to the tax commissioner the percentage share of the county as a 106375
subdivision. No payment shall be made from the undivided local 106376
government fund, except in accordance with such percentage shares. 106377

Within ten days after the budget commission has made its 106378
apportionment, whether conducted pursuant to section 5747.51 or 106379
5747.53 of the Revised Code, the auditor shall publish a list of 106380
the subdivisions and the amount each is to receive from the 106381
undivided local government fund and the percentage share of each 106382
subdivision, in a newspaper or newspapers of countywide 106383
circulation, and send a copy of such allocation to the tax 106384
commissioner. 106385

The county auditor shall also send by certified mail, return 106386
receipt requested, a copy of such allocation to the fiscal officer 106387
of each subdivision entitled to participate in the allocation of 106388
the undivided local government fund of the county. This copy shall 106389
constitute the official notice of the commission action referred 106390
to in section 5705.37 of the Revised Code. 106391

All money received into the treasury of a subdivision from 106392
the undivided local government fund in a county treasury shall be 106393
paid into the general fund and used for the current operating 106394
expenses of the subdivision. 106395

If a municipal corporation maintains a municipal university, 106396
such municipal university, when the board of trustees so requests 106397
the legislative authority of the municipal corporation, shall 106398
participate in the money apportioned to such municipal corporation 106399
from the total local government fund, however created and 106400
constituted, in such amount as requested by the board of trustees, 106401
provided such sum does not exceed nine per cent of the total 106402
amount paid to the municipal corporation. 106403

If any public official fails to maintain the records required 106404

by sections 5747.50 to 5747.55 of the Revised Code or by the rules 106405
issued by the tax commissioner, the auditor of state, or the 106406
treasurer of state pursuant to such sections, or fails to comply 106407
with any law relating to the enforcement of such sections, the 106408
local government fund money allocated to the county may be 106409
withheld until such time as the public official has complied with 106410
such sections or such law or the rules issued pursuant thereto. 106411

Sec. 5748.02. (A) The board of education of any school 106412
district, except a joint vocational school district, may declare, 106413
by resolution, the necessity of raising annually a specified 106414
amount of money for school district purposes. The resolution shall 106415
specify whether the income that is to be subject to the tax is 106416
taxable income of individuals and estates as defined in divisions 106417
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 106418
taxable income of individuals as defined in division (E)(1)(b) of 106419
that section. A copy of the resolution shall be certified to the 106420
tax commissioner no later than one hundred days prior to the date 106421
of the election at which the board intends to propose a levy under 106422
this section. Upon receipt of the copy of the resolution, the tax 106423
commissioner shall estimate both of the following: 106424

(1) The property tax rate that would have to be imposed in 106425
the current year by the district to produce an equivalent amount 106426
of money; 106427

(2) The income tax rate that would have had to have been in 106428
effect for the current year to produce an equivalent amount of 106429
money from a school district income tax. 106430

Within ten days of receiving the copy of the board's 106431
resolution, the commissioner shall prepare these estimates and 106432
certify them to the board. Upon receipt of the certification, the 106433
board may adopt a resolution proposing an income tax under 106434
division (B) of this section at the estimated rate contained in 106435

the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

(B)(1) Upon the receipt of a certification from the tax commissioner under division (A) of this section, a majority of the members of a board of education may adopt a resolution proposing the levy of an annual tax for school district purposes on school district income. The proposed levy may be for a continuing period of time or for a specified number of years. The resolution shall set forth the purpose for which the tax is to be imposed, the rate of the tax, which shall be the rate set forth in the commissioner's certification rounded to the nearest one-fourth of one per cent, the number of years the tax will be levied or that it will be levied for a continuing period of time, the date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted, and the date of the election at which the proposal shall be submitted to the electors of the district, which shall be on the date of a primary, general, or special election the date of which is consistent with section 3501.01 of the Revised Code. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

If the tax is to be levied for current expenses and permanent

improvements, the resolution shall apportion the annual rate of 106468
the tax. The apportionment may be the same or different for each 106469
year the tax is levied, but the respective portions of the rate 106470
actually levied each year for current expenses and for permanent 106471
improvements shall be limited by the apportionment. 106472

If the board of education currently imposes an income tax 106473
pursuant to this chapter that is due to expire and a question is 106474
submitted under this section for a proposed income tax to take 106475
effect upon the expiration of the existing tax, the board may 106476
specify in the resolution that the proposed tax renews the 106477
expiring tax. Two or more expiring income taxes may be renewed 106478
under this paragraph if the taxes are due to expire on the same 106479
date. If the tax rate being proposed is no higher than the total 106480
tax rate imposed by the expiring tax or taxes, the resolution may 106481
state that the proposed tax is not an additional income tax. 106482

(2) A board of education adopting a resolution under division 106483
(B)(1) of this section proposing a school district income tax for 106484
a continuing period of time and limited to the purpose of current 106485
expenses may propose in that resolution to reduce the rate or 106486
rates of one or more of the school district's property taxes 106487
levied for a continuing period of time in excess of the ten-mill 106488
limitation for the purpose of current expenses. The reduction in 106489
the rate of a property tax may be any amount, expressed in mills 106490
per one dollar in valuation, not exceeding the rate at which the 106491
tax is authorized to be levied. The reduction in the rate of a tax 106492
shall first take effect for the tax year that includes the day on 106493
which the school district income tax first takes effect, and shall 106494
continue for each tax year that both the school district income 106495
tax and the property tax levy are in effect. 106496

In addition to the matters required to be set forth in the 106497
resolution under division (B)(1) of this section, a resolution 106498
containing a proposal to reduce the rate of one or more property 106499

taxes shall state for each such tax the maximum rate at which it 106500
currently may be levied and the maximum rate at which the tax 106501
could be levied after the proposed reduction, expressed in mills 106502
per one dollar in valuation, and that the tax is levied for a 106503
continuing period of time. 106504

If a board of education proposes to reduce the rate of one or 106505
more property taxes under division (B)(2) of this section, the 106506
board, when it makes the certification required under division (A) 106507
of this section, shall designate the specific levy or levies to be 106508
reduced, the maximum rate at which each levy currently is 106509
authorized to be levied, and the rate by which each levy is 106510
proposed to be reduced. The tax commissioner, when making the 106511
certification to the board under division (A) of this section, 106512
also shall certify the reduction in the total effective tax rate 106513
for current expenses for each class of property that would have 106514
resulted if the proposed reduction in the rate or rates had been 106515
in effect the previous tax year. As used in this paragraph, 106516
"effective tax rate" has the same meaning as in section 323.08 of 106517
the Revised Code. 106518

(C) A resolution adopted under division (B) of this section 106519
shall go into immediate effect upon its passage, and no 106520
publication of the resolution shall be necessary other than that 106521
provided for in the notice of election. Immediately after its 106522
adoption and at least ninety days prior to the election at which 106523
the question will appear on the ballot, a copy of the resolution 106524
shall be certified to the board of elections of the proper county, 106525
which shall submit the proposal to the electors on the date 106526
specified in the resolution. The form of the ballot shall be as 106527
provided in section 5748.03 of the Revised Code. Publication of 106528
notice of the election shall be made in ~~one or more newspapers~~ a 106529
newspaper of general circulation in the county once a week for two 106530
consecutive weeks, or as provided in section 7.16 of the Revised 106531

~~Code,~~ prior to the election, ~~and, if.~~ If the board of elections 106532
operates and maintains a web site, the board of elections shall 106533
post notice of the election on its web site for thirty days prior 106534
to the election. The notice shall contain the time and place of 106535
the election and the question to be submitted to the electors. The 106536
question covered by the resolution shall be submitted as a 106537
separate proposition, but may be printed on the same ballot with 106538
any other proposition submitted at the same election, other than 106539
the election of officers. 106540

(D) No board of education shall submit the question of a tax 106541
on school district income to the electors of the district more 106542
than twice in any calendar year. If a board submits the question 106543
twice in any calendar year, one of the elections on the question 106544
shall be held on the date of the general election. 106545

(E)(1) No board of education may submit to the electors of 106546
the district the question of a tax on school district income on 106547
the taxable income of individuals as defined in division (E)(1)(b) 106548
of section 5748.01 of the Revised Code if that tax would be in 106549
addition to an existing tax on the taxable income of individuals 106550
and estates as defined in divisions (E)(1)(a) and (2) of that 106551
section. 106552

(2) No board of education may submit to the electors of the 106553
district the question of a tax on school district income on the 106554
taxable income of individuals and estates as defined in divisions 106555
(E)(1)(a) and (2) of section 5748.01 of the Revised Code if that 106556
tax would be in addition to an existing tax on the taxable income 106557
of individuals as defined in division (E)(1)(b) of that section. 106558

Sec. 5748.021. A board of education that levies a tax under 106559
section 5748.02 of the Revised Code on the school district income 106560
of individuals and estates as defined in divisions (G) and 106561
(E)(1)(a) and (2) of section 5748.01 of the Revised Code may 106562

declare, at any time, by a resolution adopted by a majority of its members, the necessity of raising annually a specified amount of money for school district purposes by replacing the existing tax with a tax on the school district income of individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code. The specified amount of money to be raised annually may be the same as, or more or less than, the amount of money raised annually by the existing tax.

The board shall certify a copy of the resolution to the tax commissioner not later than the eighty-fifth day before the date of the election at which the board intends to propose the replacement to the electors of the school district. Not later than the tenth day after receiving the resolution, the tax commissioner shall estimate the tax rate that would be required in the school district annually to raise the amount of money specified in the resolution. The tax commissioner shall certify the estimate to the board.

Upon receipt of the tax commissioner's estimate, the board may propose, by a resolution adopted by a majority of its members, to replace the existing tax on the school district income of individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code with the levy of an annual tax on the school district income of individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code. In the resolution, the board shall specify the rate of the replacement tax, whether the replacement tax is to be levied for a specified number of years or for a continuing time, the specific school district purposes for which the replacement tax is to be levied, the date on which the replacement tax will begin to be levied, the date of the election at which the question of the replacement is to be submitted to the electors of the school district, that the existing tax will cease to be levied and

the replacement tax will begin to be levied if the replacement is approved by a majority of the electors voting on the replacement, and that if the replacement is not approved by a majority of the electors voting on the replacement the existing tax will remain in effect under its original authority for the remainder of its previously approved term. The resolution goes into immediate effect upon its adoption. Publication of the resolution is not necessary, and the information that will be provided in the notice of election is sufficient notice. At least seventy-five days before the date of the election at which the question of the replacement will be submitted to the electors of the school district, the board shall certify a copy of the resolution to the board of elections.

The replacement tax shall have the same specific school district purposes as the existing tax, and its rate shall be the same as the tax commissioner's estimate rounded to the nearest one-fourth of one per cent. The replacement tax shall begin to be levied on the first day of January of the year following the year in which the question of the replacement is submitted to and approved by the electors of the school district or on the first day of January of a later year, as specified in the resolution. The date of the election shall be the date of an otherwise scheduled primary, general, or special election.

The board of elections shall make arrangements to submit the question of the replacement to the electors of the school district on the date specified in the resolution. The board of elections shall publish notice of the election on the question of the replacement in one ~~or more newspapers~~ newspaper of general circulation in the school district once a week for four consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall set forth the question to be submitted to the electors and the time and place of the election thereon.

The question shall be submitted to the electors of the school district as a separate proposition, but may be printed on the same ballot with other propositions that are submitted at the same election, other than the election of officers. The form of the ballot shall be substantially as follows:

"Shall the existing tax of (state the rate) on the school district income of individuals and estates imposed by (state the name of the school district) be replaced by a tax of (state the rate) on the earned income of individuals residing in the school district for (state the number of years the tax is to be in effect or that it will be in effect for a continuing time), beginning (state the date the new tax will take effect), for the purpose of (state the specific school district purposes of the tax)? If the new tax is not approved, the existing tax will remain in effect under its original authority, for the remainder of its previously approved term.

	For replacing the existing tax with the new tax
	Against replacing the existing tax with the new tax

The board of elections shall conduct and canvass the election in the same manner as regular elections in the school district for the election of county officers. The board shall certify the results of the election to the board of education and to the tax commissioner. If a majority of the electors voting on the question vote in favor of the replacement, the existing tax shall cease to be levied, and the replacement tax shall begin to be levied, on the date specified in the ballot question. If a majority of the electors voting on the question vote against the replacement, the existing tax shall continue to be levied under its original authority, for the remainder of its previously approved term.

A board of education may not submit the question of replacing a tax more than twice in a calendar year. If a board submits the question more than once, one of the elections at which the question is submitted shall be on the date of a general election.

If a board of education later intends to renew a replacement tax levied under this section, it shall repeat the procedure outlined in this section to do so, the replacement tax then being levied being the "existing tax" and the renewed replacement tax being the "replacement tax."

Sec. 5748.04. (A) The question of the repeal of a school district income tax levied for more than five years may be initiated not more than once in any five-year period by filing with the board of elections of the appropriate counties not later than ninety days before the general election in any year after the year in which it is approved by the electors a petition requesting that an election be held on the question. The petition shall be signed by qualified electors residing in the school district levying the income tax equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

The board of elections shall determine whether the petition is valid, and if it so determines, it shall submit the question to the electors of the district at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, time, and

place of the election. The form of the ballot cast at the election 106688
shall be as follows: 106689

"Shall the annual income tax of per cent, currently 106690
levied on the school district income of individuals and estates by 106691
..... (state the name of the school district) for the purpose 106692
of (state purpose of the tax), be repealed? 106693

	For repeal of the income tax	
	Against repeal of the income tax	"

106694

106695

106696

106697

(B)(1) If the tax is imposed on taxable income as defined in 106698
division (E)(1)(b) of section 5748.01 of the Revised Code, the 106699
form of the ballot shall be modified by stating that the tax 106700
currently is levied on the "earned income of individuals residing 106701
in the school district" in lieu of the "school district income of 106702
individuals and estates." 106703

(2) If the rate of one or more property tax levies was 106704
reduced for the duration of the income tax levy pursuant to 106705
division (B)(2) of section 5748.02 of the Revised Code, the form 106706
of the ballot shall be modified by adding the following language 106707
immediately after "repealed": ", and shall the rate of an existing 106708
tax on property for the purpose of current expenses, which rate 106709
was reduced for the duration of the income tax, be INCREASED from 106710
..... mills to mills per one dollar of valuation beginning 106711
in (state the first year for which the rate of the property 106712
tax will increase)." In lieu of "for repeal of the income tax" and 106713
"against repeal of the income tax," the phrases "for the issue" 106714
and "against the issue," respectively, shall be substituted. 106715

(3) If the rate of more than one property tax was reduced for 106716
the duration of the income tax, the ballot language shall be 106717
modified accordingly to express the rates at which those taxes 106718

currently are levied and the rates to which the taxes would be increased. 106719
106720

(C) The question covered by the petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question vote in favor of it, the result shall be certified immediately after the canvass by the board of elections to the board of education of the school district and the tax commissioner, who shall thereupon, after the current year, cease to levy the tax, except that if notes have been issued pursuant to section 5748.05 of the Revised Code the tax commissioner shall continue to levy and collect under authority of the election authorizing the levy an annual amount, rounded upward to the nearest one-fourth of one per cent, as will be sufficient to pay the debt charges on the notes as they fall due. 106721
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(D) If a school district income tax repealed pursuant to this section was approved in conjunction with a reduction in the rate of one or more school district property taxes as provided in division (B)(2) of section 5748.02 of the Revised Code, then each such property tax may be levied after the current year at the rate at which it could be levied prior to the reduction, subject to any adjustments required by the county budget commission pursuant to Chapter 5705. of the Revised Code. Upon the repeal of a school district income tax under this section, the board of education may resume levying a property tax, the rate of which has been reduced pursuant to a question approved under section 5748.02 of the Revised Code, at the rate the board originally was authorized to levy the tax. A reduction in the rate of a property tax under section 5748.02 of the Revised Code is a reduction in the rate at which a board of education may levy that tax only for the period 106736
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during which a school district income tax is levied prior to any 106751
repeal pursuant to this section. The resumption of the authority 106752
to levy the tax upon such a repeal does not constitute a tax 106753
levied in excess of the one per cent limitation prescribed by 106754
Section 2 of Article XII, Ohio Constitution, or in excess of the 106755
ten-mill limitation. 106756

(E) This section does not apply to school district income tax 106757
levies that are levied for five or fewer years. 106758

Sec. 5748.08. (A) The board of education of a city, local, or 106759
exempted village school district, at any time by a vote of 106760
two-thirds of all its members, may declare by resolution that it 106761
may be necessary for the school district to do all of the 106762
following: 106763

(1) Raise a specified amount of money for school district 106764
purposes by levying an annual tax on school district income; 106765

(2) Issue general obligation bonds for permanent 106766
improvements, stating in the resolution the necessity and purpose 106767
of the bond issue and the amount, approximate date, estimated rate 106768
of interest, and maximum number of years over which the principal 106769
of the bonds may be paid; 106770

(3) Levy a tax outside the ten-mill limitation to pay debt 106771
charges on the bonds and any anticipatory securities; 106772

(4) Submit the question of the school district income tax and 106773
bond issue to the electors of the district at a special election. 106774

The resolution shall specify whether the income that is to be 106775
subject to the tax is taxable income of individuals and estates as 106776
defined in divisions (E)(1)(a) and (2) of section 5748.01 of the 106777
Revised Code or taxable income of individuals as defined in 106778
division (E)(1)(b) of that section. 106779

On adoption of the resolution, the board shall certify a copy 106780

of it to the tax commissioner and the county auditor no later than 106781
one hundred five days prior to the date of the special election at 106782
which the board intends to propose the income tax and bond issue. 106783
Not later than ten days of receipt of the resolution, the tax 106784
commissioner, in the same manner as required by division (A) of 106785
section 5748.02 of the Revised Code, shall estimate the rates 106786
designated in divisions (A)(1) and (2) of that section and certify 106787
them to the board. Not later than ten days of receipt of the 106788
resolution, the county auditor shall estimate and certify to the 106789
board the average annual property tax rate required throughout the 106790
stated maturity of the bonds to pay debt charges on the bonds, in 106791
the same manner as under division (C) of section 133.18 of the 106792
Revised Code. 106793

(B) On receipt of the tax commissioner's and county auditor's 106794
certifications prepared under division (A) of this section, the 106795
board of education of the city, local, or exempted village school 106796
district, by a vote of two-thirds of all its members, may adopt a 106797
resolution proposing for a specified number of years or for a 106798
continuing period of time the levy of an annual tax for school 106799
district purposes on school district income and declaring that the 106800
amount of taxes that can be raised within the ten-mill limitation 106801
will be insufficient to provide an adequate amount for the present 106802
and future requirements of the school district; that it is 106803
necessary to issue general obligation bonds of the school district 106804
for specified permanent improvements and to levy an additional tax 106805
in excess of the ten-mill limitation to pay the debt charges on 106806
the bonds and any anticipatory securities; and that the question 106807
of the bonds and taxes shall be submitted to the electors of the 106808
school district at a special election, which shall not be earlier 106809
than ninety days after certification of the resolution to the 106810
board of elections, and the date of which shall be consistent with 106811
section 3501.01 of the Revised Code. The resolution shall specify 106812
all of the following: 106813

(1) The purpose for which the school district income tax is 106814
to be imposed and the rate of the tax, which shall be the rate set 106815
forth in the tax commissioner's certification rounded to the 106816
nearest one-fourth of one per cent; 106817

(2) Whether the income that is to be subject to the tax is 106818
taxable income of individuals and estates as defined in divisions 106819
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 106820
taxable income of individuals as defined in division (E)(1)(b) of 106821
that section. The specification shall be the same as the 106822
specification in the resolution adopted and certified under 106823
division (A) of this section. 106824

(3) The number of years the tax will be levied, or that it 106825
will be levied for a continuing period of time; 106826

(4) The date on which the tax shall take effect, which shall 106827
be the first day of January of any year following the year in 106828
which the question is submitted; 106829

(5) The county auditor's estimate of the average annual 106830
property tax rate required throughout the stated maturity of the 106831
bonds to pay debt charges on the bonds. 106832

(C) A resolution adopted under division (B) of this section 106833
shall go into immediate effect upon its passage, and no 106834
publication of the resolution shall be necessary other than that 106835
provided for in the notice of election. Immediately after its 106836
adoption and at least ninety days prior to the election at which 106837
the question will appear on the ballot, the board of education 106838
shall certify a copy of the resolution, along with copies of the 106839
auditor's estimate and its resolution under division (A) of this 106840
section, to the board of elections of the proper county. The board 106841
of education shall make the arrangements for the submission of the 106842
question to the electors of the school district, and the election 106843
shall be conducted, canvassed, and certified in the same manner as 106844

regular elections in the district for the election of county officers. 106845
106846

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax, the bond issue, and the levy to pay debt charges on the bonds and any anticipatory securities. The board of elections shall publish the notice of the election in ~~one or more newspapers~~ a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election ~~and, if,~~ if the board of elections operates and maintains a web site, it also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following: 106847
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(1) The questions to be submitted to the electors; 106859

(2) The rate of the school district income tax; 106860

(3) The principal amount of the proposed bond issue; 106861

(4) The permanent improvements for which the bonds are to be issued; 106862
106863

(5) The maximum number of years over which the principal of the bonds may be paid; 106864
106865

(6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor; 106866
106867
106868

(7) The time and place of the special election. 106869

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows: 106870
106871

"Shall the school district be authorized to do both of the following: 106872
106873

(1) Impose an annual income tax of (state the proposed 106874

rate of tax) on the school district income of individuals and of 106875
 estates, for (state the number of years the tax would be 106876
 levied, or that it would be levied for a continuing period of 106877
 time), beginning (state the date the tax would first take 106878
 effect), for the purpose of (state the purpose of the 106879
 tax)? 106880

(2) Issue bonds for the purpose of in the principal 106881
 amount of \$....., to be repaid annually over a maximum period of 106882
 years, and levy a property tax outside the ten-mill 106883
 limitation estimated by the county auditor to average over the 106884
 bond repayment period mills for each one dollar of tax 106885
 valuation, which amounts to (rate expressed in cents or 106886
 dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of 106887
 tax valuation, to pay the annual debt charges on the bonds, and to 106888
 pay debt charges on any notes issued in anticipation of those 106889
 bonds? 106890

	FOR THE INCOME TAX AND BOND ISSUE
	AGAINST THE INCOME TAX AND BOND ISSUE

"

(E) If the question submitted to electors proposes a school 106895
 district income tax only on the taxable income of individuals as 106896
 defined in division (E)(1)(b) of section 5748.01 of the Revised 106897
 Code, the form of the ballot shall be modified by stating that the 106898
 tax is to be levied on the "earned income of individuals residing 106899
 in the school district" in lieu of the "school district income of 106900
 individuals and of estates." 106901

(F) The board of elections promptly shall certify the results 106902
 of the election to the tax commissioner and the county auditor of 106903
 the county in which the school district is located. If a majority 106904
 of the electors voting on the question vote in favor of it, the 106905

income tax and the applicable provisions of Chapter 5747. of the 106906
Revised Code shall take effect on the date specified in the 106907
resolution, and the board of education may proceed with issuance 106908
of the bonds and with the levy and collection of the property 106909
taxes to pay debt charges on the bonds, at the additional rate or 106910
any lesser rate in excess of the ten-mill limitation. Any 106911
securities issued by the board of education under this section are 106912
Chapter 133. securities, as that term is defined in section 133.01 106913
of the Revised Code. 106914

(G) After approval of a question under this section, the 106915
board of education may anticipate a fraction of the proceeds of 106916
the school district income tax in accordance with section 5748.05 106917
of the Revised Code. Any anticipation notes under this division 106918
shall be issued as provided in section 133.24 of the Revised Code, 106919
shall have principal payments during each year after the year of 106920
their issuance over a period not to exceed five years, and may 106921
have a principal payment in the year of their issuance. 106922

(H) The question of repeal of a school district income tax 106923
levied for more than five years may be initiated and submitted in 106924
accordance with section 5748.04 of the Revised Code. 106925

(I) No board of education shall submit a question under this 106926
section to the electors of the school district more than twice in 106927
any calendar year. If a board submits the question twice in any 106928
calendar year, one of the elections on the question shall be held 106929
on the date of the general election. 106930

Sec. 5751.01. As used in this chapter: 106931

(A) "Person" means, but is not limited to, individuals, 106932
combinations of individuals of any form, receivers, assignees, 106933
trustees in bankruptcy, firms, companies, joint-stock companies, 106934
business trusts, estates, partnerships, limited liability 106935
partnerships, limited liability companies, associations, joint 106936

ventures, clubs, societies, for-profit corporations, S 106937
corporations, qualified subchapter S subsidiaries, qualified 106938
subchapter S trusts, trusts, entities that are disregarded for 106939
federal income tax purposes, and any other entities. 106940

(B) "Consolidated elected taxpayer" means a group of two or 106941
more persons treated as a single taxpayer for purposes of this 106942
chapter as the result of an election made under section 5751.011 106943
of the Revised Code. 106944

(C) "Combined taxpayer" means a group of two or more persons 106945
treated as a single taxpayer for purposes of this chapter under 106946
section 5751.012 of the Revised Code. 106947

(D) "Taxpayer" means any person, or any group of persons in 106948
the case of a consolidated elected taxpayer or combined taxpayer 106949
treated as one taxpayer, required to register or pay tax under 106950
this chapter. "Taxpayer" does not include excluded persons. 106951

(E) "Excluded person" means any of the following: 106952

(1) Any person with not more than one hundred fifty thousand 106953
dollars of taxable gross receipts during the calendar year. 106954
Division (E)(1) of this section does not apply to a person that is 106955
a member of a consolidated elected taxpayer; 106956

(2) A public utility that paid the excise tax imposed by 106957
section 5727.24 or 5727.30 of the Revised Code based on one or 106958
more measurement periods that include the entire tax period under 106959
this chapter, except that a public utility that is a combined 106960
company is a taxpayer with regard to the following gross receipts: 106961

(a) Taxable gross receipts directly attributed to a public 106962
utility activity, but not directly attributed to an activity that 106963
is subject to the excise tax imposed by section 5727.24 or 5727.30 106964
of the Revised Code; 106965

(b) Taxable gross receipts that cannot be directly attributed 106966

to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);

(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);

(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging

only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);

(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.

For the purposes of division (E)(8) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all

persons having such an interest in the organization; 107029

(d) In the case of multiple ownership, the ownership 107030
interests of more than one person may be aggregated to meet the 107031
fifty per cent ownership tests in this division only when each 107032
such owner is described in division (E)(3), (5), (6), or (7) of 107033
this section and is engaged in activities permissible for a 107034
financial holding company under 12 U.S.C. 1843(k) or is a person 107035
directly or indirectly owned by one or more insurance companies 107036
described in division (E)(9) of this section that is authorized to 107037
do the business of insurance in this state. 107038

(9) A domestic insurance company or foreign insurance 107039
company, as defined in section 5725.01 of the Revised Code, that 107040
paid the insurance company premiums tax imposed by section 5725.18 107041
or Chapter 5729. of the Revised Code based on one or more 107042
measurement periods that include the entire tax period under this 107043
chapter; 107044

(10) A person that solely facilitates or services one or more 107045
securitizations or similar transactions for any person described 107046
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 107047
For purposes of this division, "securitization" means transferring 107048
one or more assets to one or more persons and then issuing 107049
securities backed by the right to receive payment from the asset 107050
or assets so transferred. 107051

(11) Except as otherwise provided in this division, a 107052
pre-income tax trust as defined in division (FF)(4) of section 107053
5747.01 of the Revised Code and any pass-through entity of which 107054
such pre-income tax trust owns or controls, directly, indirectly, 107055
or constructively through related interests, more than five per 107056
cent of the ownership or equity interests. If the pre-income tax 107057
trust has made a qualifying pre-income tax trust election under 107058
division (FF)(3) of section 5747.01 of the Revised Code, then the 107059
trust and the pass-through entities of which it owns or controls, 107060

directly, indirectly, or constructively through related interests, 107061
more than five per cent of the ownership or equity interests, 107062
shall not be excluded persons for purposes of the tax imposed 107063
under section 5751.02 of the Revised Code. 107064

(12) Nonprofit organizations or the state and its agencies, 107065
instrumentalities, or political subdivisions. 107066

(F) Except as otherwise provided in divisions (F)(2), (3), 107067
and (4) of this section, "gross receipts" means the total amount 107068
realized by a person, without deduction for the cost of goods sold 107069
or other expenses incurred, that contributes to the production of 107070
gross income of the person, including the fair market value of any 107071
property and any services received, and any debt transferred or 107072
forgiven as consideration. In the case of a person that is a 107073
casino operator of casino facilities, as those terms are defined 107074
in section 3772.01 of the Revised Code, "gross receipts" for the 107075
purposes of this chapter only shall be determined without 107076
deduction for any winnings paid to wagerers. 107077

(1) The following are examples of gross receipts: 107078

(a) Amounts realized from the sale, exchange, or other 107079
disposition of the taxpayer's property to or with another; 107080

(b) Amounts realized from the taxpayer's performance of 107081
services for another; 107082

(c) Amounts realized from another's use or possession of the 107083
taxpayer's property or capital; 107084

(d) Any combination of the foregoing amounts. 107085

(2) "Gross receipts" excludes the following amounts: 107086

(a) Interest income except interest on credit sales; 107087

(b) Dividends and distributions from corporations, and 107088
distributive or proportionate shares of receipts and income from a 107089
pass-through entity as defined under section 5733.04 of the 107090

Revised Code; 107091

(c) Receipts from the sale, exchange, or other disposition of 107092
an asset described in section 1221 or 1231 of the Internal Revenue 107093
Code, without regard to the length of time the person held the 107094
asset. Notwithstanding section 1221 of the Internal Revenue Code, 107095
receipts from hedging transactions also are excluded to the extent 107096
the transactions are entered into primarily to protect a financial 107097
position, such as managing the risk of exposure to (i) foreign 107098
currency fluctuations that affect assets, liabilities, profits, 107099
losses, equity, or investments in foreign operations; (ii) 107100
interest rate fluctuations; or (iii) commodity price fluctuations. 107101
As used in division (F)(2)(c) of this section, "hedging 107102
transaction" has the same meaning as used in section 1221 of the 107103
Internal Revenue Code and also includes transactions accorded 107104
hedge accounting treatment under statement of financial accounting 107105
standards number 133 of the financial accounting standards board. 107106
For the purposes of division (F)(2)(c) of this section, the actual 107107
transfer of title of real or tangible personal property to another 107108
entity is not a hedging transaction. 107109

(d) Proceeds received attributable to the repayment, 107110
maturity, or redemption of the principal of a loan, bond, mutual 107111
fund, certificate of deposit, or marketable instrument; 107112

(e) The principal amount received under a repurchase 107113
agreement or on account of any transaction properly characterized 107114
as a loan to the person; 107115

(f) Contributions received by a trust, plan, or other 107116
arrangement, any of which is described in section 501(a) of the 107117
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 107118
1, Subchapter (D) of the Internal Revenue Code applies; 107119

(g) Compensation, whether current or deferred, and whether in 107120
cash or in kind, received or to be received by an employee, former 107121

employee, or the employee's legal successor for services rendered 107122
to or for an employer, including reimbursements received by or for 107123
an individual for medical or education expenses, health insurance 107124
premiums, or employee expenses, or on account of a dependent care 107125
spending account, legal services plan, any cafeteria plan 107126
described in section 125 of the Internal Revenue Code, or any 107127
similar employee reimbursement; 107128

(h) Proceeds received from the issuance of the taxpayer's own 107129
stock, options, warrants, puts, or calls, or from the sale of the 107130
taxpayer's treasury stock; 107131

(i) Proceeds received on the account of payments from 107132
insurance policies, except those proceeds received for the loss of 107133
business revenue; 107134

(j) Gifts or charitable contributions received; membership 107135
dues received by trade, professional, homeowners', or condominium 107136
associations; and payments received for educational courses, 107137
meetings, meals, or similar payments to a trade, professional, or 107138
other similar association; and fundraising receipts received by 107139
any person when any excess receipts are donated or used 107140
exclusively for charitable purposes; 107141

(k) Damages received as the result of litigation in excess of 107142
amounts that, if received without litigation, would be gross 107143
receipts; 107144

(l) Property, money, and other amounts received or acquired 107145
by an agent on behalf of another in excess of the agent's 107146
commission, fee, or other remuneration; 107147

(m) Tax refunds, other tax benefit recoveries, and 107148
reimbursements for the tax imposed under this chapter made by 107149
entities that are part of the same combined taxpayer or 107150
consolidated elected taxpayer group, and reimbursements made by 107151
entities that are not members of a combined taxpayer or 107152

consolidated elected taxpayer group that are required to be made 107153
for economic parity among multiple owners of an entity whose tax 107154
obligation under this chapter is required to be reported and paid 107155
entirely by one owner, pursuant to the requirements of sections 107156
5751.011 and 5751.012 of the Revised Code; 107157

(n) Pension reversions; 107158

(o) Contributions to capital; 107159

(p) Sales or use taxes collected as a vendor or an 107160
out-of-state seller on behalf of the taxing jurisdiction from a 107161
consumer or other taxes the taxpayer is required by law to collect 107162
directly from a purchaser and remit to a local, state, or federal 107163
tax authority; 107164

(q) In the case of receipts from the sale of cigarettes or 107165
tobacco products by a wholesale dealer, retail dealer, 107166
distributor, manufacturer, or seller, all as defined in section 107167
5743.01 of the Revised Code, an amount equal to the federal and 107168
state excise taxes paid by any person on or for such cigarettes or 107169
tobacco products under subtitle E of the Internal Revenue Code or 107170
Chapter 5743. of the Revised Code; 107171

(r) In the case of receipts from the sale of motor fuel by a 107172
licensed motor fuel dealer, licensed retail dealer, or licensed 107173
permissive motor fuel dealer, all as defined in section 5735.01 of 107174
the Revised Code, an amount equal to federal and state excise 107175
taxes paid by any person on such motor fuel under section 4081 of 107176
the Internal Revenue Code or Chapter 5735. of the Revised Code; 107177

(s) In the case of receipts from the sale of beer or 107178
intoxicating liquor, as defined in section 4301.01 of the Revised 107179
Code, by a person holding a permit issued under Chapter 4301. or 107180
4303. of the Revised Code, an amount equal to federal and state 107181
excise taxes paid by any person on or for such beer or 107182
intoxicating liquor under subtitle E of the Internal Revenue Code 107183

or Chapter 4301. or 4305. of the Revised Code; 107184

(t) Receipts realized by a new motor vehicle dealer or used 107185
motor vehicle dealer, as defined in section 4517.01 of the Revised 107186
Code, from the sale or other transfer of a motor vehicle, as 107187
defined in that section, to another motor vehicle dealer for the 107188
purpose of resale by the transferee motor vehicle dealer, but only 107189
if the sale or other transfer was based upon the transferee's need 107190
to meet a specific customer's preference for a motor vehicle; 107191

(u) Receipts from a financial institution described in 107192
division (E)(3) of this section for services provided to the 107193
financial institution in connection with the issuance, processing, 107194
servicing, and management of loans or credit accounts, if such 107195
financial institution and the recipient of such receipts have at 107196
least fifty per cent of their ownership interests owned or 107197
controlled, directly or constructively through related interests, 107198
by common owners; 107199

(v) Receipts realized from administering anti-neoplastic 107200
drugs and other cancer chemotherapy, biologicals, therapeutic 107201
agents, and supportive drugs in a physician's office to patients 107202
with cancer; 107203

(w) Funds received or used by a mortgage broker that is not a 107204
dealer in intangibles, other than fees or other consideration, 107205
pursuant to a table-funding mortgage loan or warehouse-lending 107206
mortgage loan. Terms used in division (F)(2)(w) of this section 107207
have the same meanings as in section 1322.01 of the Revised Code, 107208
except "mortgage broker" means a person assisting a buyer in 107209
obtaining a mortgage loan for a fee or other consideration paid by 107210
the buyer or a lender, or a person engaged in table-funding or 107211
warehouse-lending mortgage loans that are first lien mortgage 107212
loans. 107213

(x) Property, money, and other amounts received by a 107214

professional employer organization, as defined in section 4125.01 107215
of the Revised Code, from a client employer, as defined in that 107216
section, in excess of the administrative fee charged by the 107217
professional employer organization to the client employer; 107218

(y) In the case of amounts retained as commissions by a 107219
permit holder under Chapter 3769. of the Revised Code, an amount 107220
equal to the amounts specified under that chapter that must be 107221
paid to or collected by the tax commissioner as a tax and the 107222
amounts specified under that chapter to be used as purse money; 107223

(z) Qualifying distribution center receipts. 107224

(i) For purposes of division (F)(2)(z) of this section: 107225

(I) "Qualifying distribution center receipts" means receipts 107226
of a supplier from qualified property that is delivered to a 107227
qualified distribution center, multiplied by a quantity that 107228
equals one minus the Ohio delivery percentage. 107229

(II) "Qualified property" means tangible personal property 107230
delivered to a qualified distribution center that is shipped to 107231
that qualified distribution center solely for further shipping by 107232
the qualified distribution center to another location in this 107233
state or elsewhere. "Further shipping" includes storing and 107234
repackaging such property into smaller or larger bundles, so long 107235
as such property is not subject to further manufacturing or 107236
processing. 107237

(III) "Qualified distribution center" means a warehouse or 107238
other similar facility in this state that, for the qualifying 107239
year, is operated by a person that is not part of a combined 107240
taxpayer group and that has a qualifying certificate. However, all 107241
warehouses or other similar facilities that are operated by 107242
persons in the same taxpayer group and that are located within one 107243
mile of each other shall be treated as one qualified distribution 107244
center. 107245

(IV) "Qualifying year" means the calendar year to which the
qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of
July of the second year preceding the qualifying year through the
thirtieth day of June of the year preceding the qualifying year.

(VI) "Qualifying certificate" means the certificate issued by
the tax commissioner after the operator of a distribution center
files an annual application with the commissioner. The application
and annual fee shall be filed and paid for each qualified
distribution center on or before the first day of September before
the qualifying year or within forty-five days after the
distribution center opens, whichever is later.

The applicant must substantiate to the commissioner's
satisfaction that, for the qualifying period, all persons
operating the distribution center have more than fifty per cent of
the cost of the qualified property shipped to a location such that
it would be situated outside this state under the provisions of
division (E) of section 5751.033 of the Revised Code. The
applicant must also substantiate that the distribution center
cumulatively had costs from its suppliers equal to or exceeding
five hundred million dollars during the qualifying period. (For
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier"
excludes any person that is part of the consolidated elected
taxpayer group, if applicable, of the operator of the qualified
distribution center.) The commissioner may require the applicant
to have an independent certified public accountant certify that
the calculation of the minimum thresholds required for a qualified
distribution center by the operator of a distribution center has
been made in accordance with generally accepted accounting
principles. The commissioner shall issue or deny the issuance of a
certificate within sixty days after the receipt of the
application. A denial is subject to appeal under section 5717.02

of the Revised Code. If the operator files a timely appeal under 107278
section 5717.02 of the Revised Code, the operator shall be granted 107279
a qualifying certificate, provided that the operator is liable for 107280
any tax, interest, or penalty upon amounts claimed as qualifying 107281
distribution center receipts, other than those receipts exempt 107282
under division (C)(1) of section 5751.011 of the Revised Code, 107283
that would have otherwise not been owed by its suppliers if the 107284
qualifying certificate was valid. 107285

(VII) "Ohio delivery percentage" means the proportion of the 107286
total property delivered to a destination inside Ohio from the 107287
qualified distribution center during the qualifying period 107288
compared with total deliveries from such distribution center 107289
everywhere during the qualifying period. 107290

(ii) If the distribution center is new and was not open for 107291
the entire qualifying period, the operator of the distribution 107292
center may request that the commissioner grant a qualifying 107293
certificate. If the certificate is granted and it is later 107294
determined that more than fifty per cent of the qualified property 107295
during that year was not shipped to a location such that it would 107296
be situated outside of this state under the provisions of division 107297
(E) of section 5751.033 of the Revised Code or if it is later 107298
determined that the person that operates the distribution center 107299
had average monthly costs from its suppliers of less than forty 107300
million dollars during that year, then the operator of the 107301
distribution center shall be liable for any tax, interest, or 107302
penalty upon amounts claimed as qualifying distribution center 107303
receipts, other than those receipts exempt under division (C)(1) 107304
of section 5751.011 of the Revised Code, that would have not 107305
otherwise been owed by its suppliers during the qualifying year if 107306
the qualifying certificate was valid. (For purposes of division 107307
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 107308
is part of the consolidated elected taxpayer group, if applicable, 107309

of the operator of the qualified distribution center.) 107310

(iii) When filing an application for a qualifying certificate 107311
under division (F)(2)(z)(i)(VI) of this section, the operator of a 107312
qualified distribution center also shall provide documentation, as 107313
the commissioner requires, for the commissioner to ascertain the 107314
Ohio delivery percentage. The commissioner, upon issuing the 107315
qualifying certificate, also shall certify the Ohio delivery 107316
percentage. The operator of the qualified distribution center may 107317
appeal the commissioner's certification of the Ohio delivery 107318
percentage in the same manner as an appeal is taken from the 107319
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 107320
of this section. 107321

Within thirty days after all appeals have been exhausted, the 107322
operator of the qualified distribution center shall notify the 107323
affected suppliers of qualified property that such suppliers are 107324
required to file, within sixty days after receiving notice from 107325
the operator of the qualified distribution center, amended reports 107326
for the impacted calendar quarter or quarters or calendar year, 107327
whichever the case may be. Any additional tax liability or tax 107328
overpayment shall be subject to interest but shall not be subject 107329
to the imposition of any penalty so long as the amended returns 107330
are timely filed. The supplier of tangible personal property 107331
delivered to the qualified distribution center shall include in 107332
its report of taxable gross receipts the receipts from the total 107333
sales of property delivered to the qualified distribution center 107334
for the calendar quarter or calendar year, whichever the case may 107335
be, multiplied by the Ohio delivery percentage for the qualifying 107336
year. Nothing in division (F)(2)(z)(iii) of this section shall be 107337
construed as imposing liability on the operator of a qualified 107338
distribution center for the tax imposed by this chapter arising 107339
from any change to the Ohio delivery percentage. 107340

(iv) In the case where the distribution center is new and not 107341

open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. A person receiving a qualifying certificate is responsible for paying the tax, interest, and penalty upon amounts claimed as qualifying distribution center receipts that would not otherwise have been owed by the supplier if the qualifying certificate were available when it is later determined that the qualifying certificate should not have been issued because the statutory requirements were in fact not met.

(vi) The annual fee for a qualifying certificate shall be one

hundred thousand dollars for each qualified distribution center. 107374
If a qualifying certificate is not issued, the annual fee is 107375
subject to refund after the exhaustion of all appeals provided for 107376
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 107377
under this division may be assessed in the same manner as the tax 107378
imposed under this chapter. The first one hundred thousand dollars 107379
of the annual application fees collected each calendar year shall 107380
be credited to the commercial activity tax administrative fund. 107381
The remainder of the annual application fees collected shall be 107382
distributed in the same manner required under section 5751.20 of 107383
the Revised Code. 107384

(vii) The tax commissioner may require that adequate security 107385
be posted by the operator of the distribution center on appeal 107386
when the commissioner disagrees that the applicant has met the 107387
minimum thresholds for a qualified distribution center as set 107388
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 107389
section. 107390

(aa) Receipts of an employer from payroll deductions relating 107391
to the reimbursement of the employer for advancing moneys to an 107392
unrelated third party on an employee's behalf; 107393

(bb) Cash discounts allowed and taken; 107394

(cc) Returns and allowances; 107395

(dd) Bad debts from receipts on the basis of which the tax 107396
imposed by this chapter was paid in a prior quarterly tax payment 107397
period. For the purpose of this division, "bad debts" means any 107398
debts that have become worthless or uncollectible between the 107399
preceding and current quarterly tax payment periods, have been 107400
uncollected for at least six months, and that may be claimed as a 107401
deduction under section 166 of the Internal Revenue Code and the 107402
regulations adopted under that section, or that could be claimed 107403
as such if the taxpayer kept its accounts on the accrual basis. 107404

"Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to providing public services pursuant to a contract entered into under section 9.06 of the Revised Code and described in division (J) of that section, or pursuant to sections 126.60 to 126.605 of the Revised Code, or any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg) Any receipts for which the tax imposed by this chapter is prohibited by the Constitution or laws of the United States or the Constitution of Ohio.

~~(gg)~~(hh) Amounts realized by licensed motor fuel dealers or licensed permissive motor fuel dealers from the exchange of petroleum products, including motor fuel, between such dealers, provided that delivery of the petroleum products occurs at a refinery, terminal, pipeline, or marine vessel and that the exchanging dealers agree neither dealer shall require monetary compensation from the other for the value of the exchanged petroleum products other than such compensation for differences in product location or grade. Division (F)(2)~~(gg)~~(hh) of this section does not apply to amounts realized as a result of differences in location or grade of exchanged petroleum products or from handling, lubricity, dye, or other additive injections fees, pipeline security fees, or similar fees. As used in this division,

"motor fuel," "licensed motor fuel dealer," "licensed permissive motor fuel dealer," and "terminal" have the same meanings as in section 5735.01 of the Revised Code. 107437
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107439

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. 107440
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(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. 107448
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(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code. 107455
107456

(H) A person has "substantial nexus with this state" if any of the following applies. The person: 107457
107458

(1) Owns or uses a part or all of its capital in this state; 107459

(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state; 107460
107461

(3) Has bright-line presence in this state; 107462

(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States. 107463
107464
107465

(I) A person has "bright-line presence" in this state for a 107466

reporting period and for the remaining portion of the calendar 107467
year if any of the following applies. The person: 107468

(1) Has at any time during the calendar year property in this 107469
state with an aggregate value of at least fifty thousand dollars. 107470
For the purpose of division (I)(1) of this section, owned property 107471
is valued at original cost and rented property is valued at eight 107472
times the net annual rental charge. 107473

(2) Has during the calendar year payroll in this state of at 107474
least fifty thousand dollars. Payroll in this state includes all 107475
of the following: 107476

(a) Any amount subject to withholding by the person under 107477
section 5747.06 of the Revised Code; 107478

(b) Any other amount the person pays as compensation to an 107479
individual under the supervision or control of the person for work 107480
done in this state; and 107481

(c) Any amount the person pays for services performed in this 107482
state on its behalf by another. 107483

(3) Has during the calendar year taxable gross receipts of at 107484
least five hundred thousand dollars. 107485

(4) Has at any time during the calendar year within this 107486
state at least twenty-five per cent of the person's total 107487
property, total payroll, or total gross receipts. 107488

(5) Is domiciled in this state as an individual or for 107489
corporate, commercial, or other business purposes. 107490

(J) "Tangible personal property" has the same meaning as in 107491
section 5739.01 of the Revised Code. 107492

(K) "Internal Revenue Code" means the Internal Revenue Code 107493
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 107494
this chapter that is not otherwise defined has the same meaning as 107495
when used in a comparable context in the laws of the United States 107496

relating to federal income taxes unless a different meaning is 107497
clearly required. Any reference in this chapter to the Internal 107498
Revenue Code includes other laws of the United States relating to 107499
federal income taxes. 107500

(L) "Calendar quarter" means a three-month period ending on 107501
the thirty-first day of March, the thirtieth day of June, the 107502
thirtieth day of September, or the thirty-first day of December. 107503

(M) "Tax period" means the calendar quarter or calendar year 107504
on the basis of which a taxpayer is required to pay the tax 107505
imposed under this chapter. 107506

(N) "Calendar year taxpayer" means a taxpayer for which the 107507
tax period is a calendar year. 107508

(O) "Calendar quarter taxpayer" means a taxpayer for which 107509
the tax period is a calendar quarter. 107510

(P) "Agent" means a person authorized by another person to 107511
act on its behalf to undertake a transaction for the other, 107512
including any of the following: 107513

(1) A person receiving a fee to sell financial instruments; 107514

(2) A person retaining only a commission from a transaction 107515
with the other proceeds from the transaction being remitted to 107516
another person; 107517

(3) A person issuing licenses and permits under section 107518
1533.13 of the Revised Code; 107519

(4) A lottery sales agent holding a valid license issued 107520
under section 3770.05 of the Revised Code; 107521

(5) A person acting as an agent of the division of liquor 107522
control under section 4301.17 of the Revised Code. 107523

(Q) "Received" includes amounts accrued under the accrual 107524
method of accounting. 107525

(R) "Reporting person" means a person in a consolidated 107526
elected taxpayer or combined taxpayer group that is designated by 107527
that group to legally bind the group for all filings and tax 107528
liabilities and to receive all legal notices with respect to 107529
matters under this chapter, or, for the purposes of section 107530
5751.04 of the Revised Code, a separate taxpayer that is not a 107531
member of such a group. 107532

Sec. 5751.011. (A) A group of two or more persons may elect 107533
to be a consolidated elected taxpayer for the purposes of this 107534
chapter if the group satisfies all of the following requirements: 107535

(1) The group elects to include all persons, including 107536
persons enumerated in divisions (E)(2) to (10) of section 5751.01 107537
of the Revised Code, having at least eighty per cent, or having at 107538
least fifty per cent, of the value of their ownership interests 107539
owned or controlled, directly or constructively through related 107540
interests, by common owners during all or any portion of the tax 107541
period, together with the common owners. 107542

A group making its initial election on the basis of the 107543
eighty per cent ownership test may change its election so that its 107544
consolidated elected taxpayer group is formed on the basis of the 107545
fifty per cent ownership test if all of the following are 107546
satisfied: 107547

(a) When the initial election was made, the group did not 107548
have any persons satisfying the fifty per cent ownership test; 107549

(b) One or more of the persons in the initial group 107550
subsequently acquires ownership interests in a person such that 107551
the fifty per cent ownership test is satisfied, the eighty per 107552
cent ownership test is not satisfied, and the acquired person 107553
would be required to be included in a combined taxpayer group 107554
under section 5751.012 of the Revised Code; 107555

(c) The group requests the change in a written request to the tax commissioner on or before the due date for filing the first return due under section 5751.051 of the Revised Code after the date of the acquisition;

(d) The group has not previously changed its election.

At the election of the group, all entities that are not incorporated or formed under the laws of a state or of the United States and that meet the consolidated elected ownership test shall either be included in the group or all shall be excluded from the group. If, at the time of registration, the group does not include any such entities that meet the consolidated elected ownership test, the group shall elect to either include or exclude the newly acquired entities before the due date of the first return due after the date of the acquisition.

Each group shall notify the tax commissioner of the foregoing elections before the due date of the return for the period in which the election becomes binding. If fifty per cent of the value of a person's ownership interests is owned or controlled by each of two consolidated elected taxpayer groups formed under the fifty per cent ownership or control test, that person is a member of each group for the purposes of this section, and each group shall include in the group's taxable gross receipts fifty per cent of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. In no event shall the ownership or control of fifty per cent of the value of a person's ownership interests by two otherwise unrelated groups form the basis for consolidating the groups into a single consolidated elected taxpayer group or permit any exclusion under division (C) of this section of taxable gross receipts between members of the two groups. Division (A)(3) of this section applies with respect to the elections described in

this division. 107588

(2) The group makes the election to be treated as a 107589
consolidated elected taxpayer in the manner prescribed under 107590
division (D) of this section. 107591

(3) Subject to review and audit by the tax commissioner, the 107592
group agrees that all of the following apply: 107593

(a) The group shall file reports as a single taxpayer for at 107594
least the next eight calendar quarters following the election so 107595
long as at least two or more of the members of the group meet the 107596
requirements of division (A)(1) of this section. 107597

(b) Before the expiration of the eighth such calendar 107598
quarter, the group shall notify the commissioner if it elects to 107599
cancel its designation as a consolidated elected taxpayer. If the 107600
group does not so notify the tax commissioner, the election 107601
remains in effect for another eight calendar quarters. 107602

(c) If, at any time during any of those eight calendar 107603
quarters following the election, a former member of the group no 107604
longer meets the requirements under division (A)(1) of this 107605
section, that member shall report and pay the tax imposed under 107606
this chapter separately, as a member of a combined taxpayer, or, 107607
if the former member satisfies such requirements with respect to 107608
another consolidated elected group, as a member of that 107609
consolidated elected group. 107610

(d) The group agrees to the application of division (B) of 107611
this section. 107612

(B) A group of persons making the election under this section 107613
shall report and pay tax on all of the group's taxable gross 107614
receipts even if substantial nexus with this state does not exist 107615
for one or more persons in the group. 107616

(C)(1)(a) Members of a consolidated elected taxpayer group 107617

shall exclude gross receipts among persons included in the 107618
consolidated elected taxpayer group. 107619

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 107620
section, nothing in this section shall have the effect of 107621
requiring a consolidated elected taxpayer group to include gross 107622
receipts received by a person enumerated in divisions (E)(2) to 107623
(10) of section 5751.01 of the Revised Code if that person is a 107624
member of the group pursuant to the elections made by the group 107625
under division (A)(1) of this section. 107626

(c)(i) As used in division (C)(1)(c) of this section, "dealer 107627
transfer" means a transfer of property that satisfies both of the 107628
following: (I) the property is directly transferred by any means 107629
from one member of the group to another member of the group that 107630
is a dealer in intangibles but is not a qualifying dealer as 107631
defined in section ~~5725.24~~ 5707.031 of the Revised Code; and (II) 107632
the property is subsequently delivered by the dealer in 107633
intangibles to a person that is not a member of the group. 107634

(ii) In the event of a dealer transfer, a consolidated 107635
elected taxpayer group shall not exclude, under division (C) of 107636
this section, gross receipts from the transfer described in 107637
division (C)(1)(c)(i)(I) of this section. 107638

(2) Gross receipts related to the sale or transmission of 107639
electricity through the use of an intermediary regional 107640
transmission organization approved by the federal energy 107641
regulatory commission shall be excluded from taxable gross 107642
receipts under division (C)(1) of this section if all other 107643
requirements of that division are met, even if the receipts are 107644
from and to the same member of the group. 107645

(D) To make the election to be a consolidated elected 107646
taxpayer, a group of persons shall notify the tax commissioner of 107647
the election in the manner prescribed by the commissioner and pay 107648

the commissioner a registration fee equal to the lesser of two 107649
hundred dollars or twenty dollars for each person in the group. No 107650
additional fee shall be imposed for the addition of new members to 107651
the group once the group has remitted a fee in the amount of two 107652
hundred dollars. The election shall be made and the fee paid 107653
before the beginning of the first calendar quarter to which the 107654
election applies. The fee shall be collected and used in the same 107655
manner as provided in section 5751.04 of the Revised Code. 107656

The election shall be made on a form prescribed by the tax 107657
commissioner for that purpose and shall be signed by one or more 107658
individuals with authority, separately or together, to make a 107659
binding election on behalf of all persons in the group. 107660

Any person acquired or formed after the filing of the 107661
registration shall be included in the group if the person meets 107662
the requirements of division (A)(1) of this section, and the group 107663
shall notify the tax commissioner of any additions to the group 107664
with the next tax return it files with the commissioner. 107665

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 107666
the Revised Code: 107667

(1) "School district," "joint vocational school district," 107668
"local taxing unit," "recognized valuation," "fixed-rate levy," 107669
and "fixed-sum levy" have the same meanings as used in section 107670
5727.84 of the Revised Code. 107671

(2) "State education aid" for a school district means the 107672
following: 107673

(a) For fiscal years prior to fiscal year 2010, the sum of 107674
state aid amounts computed for the district under the following 107675
provisions, as they existed for the applicable fiscal year: 107676
division (A) of section 3317.022 of the Revised Code, including 107677
the amounts calculated under sections 3317.029 and 3317.0217 of 107678

the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of 107679
section 3317.022; divisions (B), (C), and (D) of section 3317.023; 107680
divisions (L) and (N) of section 3317.024; section 3317.0216; and 107681
any unit payments for gifted student services paid under sections 107682
3317.05, 3317.052, and 3317.053 of the Revised Code; except that, 107683
for fiscal years 2008 and 2009, the amount computed for the 107684
district under Section 269.20.80 of H.B. 119 of the 127th general 107685
assembly and as that section subsequently may be amended shall be 107686
substituted for the amount computed under division (D) of section 107687
3317.022 of the Revised Code, and the amount computed under 107688
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 107689
that section subsequently may be amended shall be included. 107690

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year~~ 107691
~~thereafter~~ 2011, the sum of the amounts computed under former 107692
sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 107693
3306.192 of the Revised Code; 107694

(c) For fiscal years 2012 and 2013, the amount paid in 107695
accordance with the section of H.B. 153 of the 129th general 107696
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 107697
SCHOOL DISTRICTS." 107698

(3) "State education aid" for a joint vocational school 107699
district means the following: 107700

(a) For fiscal years prior to fiscal year 2010, the sum of 107701
the state aid computed for the district under division (N) of 107702
section 3317.024 and section 3317.16 of the Revised Code, except 107703
that, for fiscal years 2008 and 2009, the amount computed under 107704
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 107705
that section subsequently may be amended shall be included. 107706

(b) For fiscal years 2010 and 2011, the amount paid in 107707
accordance with the section of ~~this act~~ H.B. 1 of the 128th 107708
general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 107709

DISTRICTS."	107710
<u>(c) For fiscal years 2012 and 2013, the amount paid in</u>	107711
<u>accordance with the section of H.B. 153 of the 129th general</u>	107712
<u>assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."</u>	107713
(4) "State education aid offset" means the amount determined	107714
for each school district or joint vocational school district under	107715
division (A)(1) of section 5751.21 of the Revised Code.	107716
(5) "Machinery and equipment property tax value loss" means	107717
the amount determined under division (C)(1) of this section.	107718
(6) "Inventory property tax value loss" means the amount	107719
determined under division (C)(2) of this section.	107720
(7) "Furniture and fixtures property tax value loss" means	107721
the amount determined under division (C)(3) of this section.	107722
(8) "Machinery and equipment fixed-rate levy loss" means the	107723
amount determined under division (D)(1) of this section.	107724
(9) "Inventory fixed-rate levy loss" means the amount	107725
determined under division (D)(2) of this section.	107726
(10) "Furniture and fixtures fixed-rate levy loss" means the	107727
amount determined under division (D)(3) of this section.	107728
(11) "Total fixed-rate levy loss" means the sum of the	107729
machinery and equipment fixed-rate levy loss, the inventory	107730
fixed-rate levy loss, the furniture and fixtures fixed-rate levy	107731
loss, and the telephone company fixed-rate levy loss.	107732
(12) "Fixed-sum levy loss" means the amount determined under	107733
division (E) of this section.	107734
(13) "Machinery and equipment" means personal property	107735
subject to the assessment rate specified in division (F) of	107736
section 5711.22 of the Revised Code.	107737
(14) "Inventory" means personal property subject to the	107738

assessment rate specified in division (E) of section 5711.22 of the Revised Code. 107739
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(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code. 107741
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(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010. 107744
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(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004. 107750
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(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section. 107754
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(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section. 107756
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(20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but before the reductions required by sections 319.302 and 323.152 of the Revised Code. 107758
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(21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of calendar years 2006, 2007, 2008, and 2009, the median of those distributions. In the case of a municipal corporation to which no distributions were made in one or more of those years, "median estate tax collections" means zero. 107762
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(22) "Total resources," in the case of a school district, 107769
means the sum of the amounts in divisions (A)(22)(a) to (h) of 107770
this section less any reduction required under division (A)(32) of 107771
this section. 107772

(a) The state education aid for fiscal year 2010; 107773

(b) The sum of the payments received by the school district 107774
in fiscal year 2010 for current expense levy losses pursuant to 107775
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 107776
section 5751.21 of the Revised Code, excluding the portion of such 107777
payments attributable to levies for joint vocational school 107778
district purposes; 107779

(c) The sum of fixed-sum levy loss payments received by the 107780
school district in fiscal year 2010 pursuant to division (E)(1) of 107781
section 5727.85 and division (E)(1) of section 5751.21 of the 107782
Revised Code for fixed-sum levies imposed for a purpose other than 107783
paying debt charges; 107784

(d) Fifty per cent of the school district's taxes charged and 107785
payable against all property on the tax list of real and public 107786
utility property for current expense purposes for tax year 2008, 107787
including taxes charged and payable from emergency levies imposed 107788
under section 5709.194 of the Revised Code and excluding taxes 107789
levied for joint vocational school district purposes; 107790

(e) Fifty per cent of the school district's taxes charged and 107791
payable against all property on the tax list of real and public 107792
utility property for current expenses for tax year 2009, including 107793
taxes charged and payable from emergency levies and excluding 107794
taxes levied for joint vocational school district purposes; 107795

(f) The school district's taxes charged and payable against 107796
all property on the general tax list of personal property for 107797
current expenses for tax year 2009, including taxes charged and 107798
payable from emergency levies; 107799

<u>(g) The amount certified for fiscal year 2010 under division</u>	107800
<u>(A)(2) of section 3317.08 of the Revised Code;</u>	107801
<u>(h) Distributions received during calendar year 2009 from</u>	107802
<u>taxes levied under section 718.09 of the Revised Code.</u>	107803
<u>(23) "Total resources," in the case of a joint vocational</u>	107804
<u>school district, means the sum of amounts in divisions (A)(23)(a)</u>	107805
<u>to (g) of this section less any reduction required under division</u>	107806
<u>(A)(32) of this section.</u>	107807
<u>(a) The state education aid for fiscal year 2010;</u>	107808
<u>(b) The sum of the payments received by the joint vocational</u>	107809
<u>school district in fiscal year 2010 for current expense levy</u>	107810
<u>losses pursuant to division (C)(2) of section 5727.85 and</u>	107811
<u>divisions (C)(8) and (9) of section 5751.21 of the Revised Code;</u>	107812
<u>(c) Fifty per cent of the joint vocational school district's</u>	107813
<u>taxes charged and payable against all property on the tax list of</u>	107814
<u>real and public utility property for current expense purposes for</u>	107815
<u>tax year 2008;</u>	107816
<u>(d) Fifty per cent of the joint vocational school district's</u>	107817
<u>taxes charged and payable against all property on the tax list of</u>	107818
<u>real and public utility property for current expenses for tax year</u>	107819
<u>2009;</u>	107820
<u>(e) Fifty per cent of a city, local, or exempted village</u>	107821
<u>school district's taxes charged and payable against all property</u>	107822
<u>on the tax list of real and public utility property for current</u>	107823
<u>expenses of the joint vocational school district for tax year</u>	107824
<u>2008;</u>	107825
<u>(f) Fifty per cent of a city, local, or exempted village</u>	107826
<u>school district's taxes charged and payable against all property</u>	107827
<u>on the tax list of real and public utility property for current</u>	107828
<u>expenses of the joint vocational school district for tax year</u>	107829

<u>2009;</u>	107830
<u>(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.</u>	107831 107832 107833
<u>(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.</u>	107834 107835 107836 107837
<u>(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and division (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;</u>	107838 107839 107840 107841 107842
<u>(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.</u>	107843 107844 107845 107846
<u>(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.</u>	107847 107848 107849 107850
<u>(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;</u>	107851 107852 107853 107854
<u>(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.</u>	107855 107856 107857 107858
<u>(26) "Total resources," in the case of county children's</u>	107859

services related functions, means the sum of the amounts in 107860
divisions (A)(26)(a) and (b) of this section less any reduction 107861
required under division (A)(32) of this section. 107862

(a) The sum of the payments received by the county for 107863
children's services related functions in calendar year 2010 under 107864
division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of 107865
section 5751.22 of the Revised Code as they existed at that time; 107866

(b) With respect to taxes levied by the county for children's 107867
services related purposes, the taxes charged and payable for such 107868
purposes against all property on the tax list of real and public 107869
utility property for tax year 2009. 107870

(27) "Total resources," in the case of county public health 107871
related functions, means the sum of the amounts in divisions 107872
(A)(27)(a) and (b) of this section less any reduction required 107873
under division (A)(32) of this section. 107874

(a) The sum of the payments received by the county for public 107875
health related functions in calendar year 2010 under division 107876
(A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 107877
5751.22 of the Revised Code as they existed at that time; 107878

(b) With respect to taxes levied by the county for public 107879
health related purposes, the taxes charged and payable for such 107880
purposes against all property on the tax list of real and public 107881
utility property for tax year 2009. 107882

(28) "Total resources," in the case of all county functions 107883
not included in divisions (A)(24) to (27) of this section, means 107884
the sum of the amounts in divisions (A)(28)(a) to (d) of this 107885
section less any reduction required under division (A)(32) of this 107886
section. 107887

(a) The sum of the payments received by the county for all 107888
other purposes in calendar year 2010 under division (A)(1) of 107889
section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of 107890

the Revised Code as they existed at that time; 107891

(b) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund; 107892
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(c) With respect to taxes levied by the county for all other purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009, excluding taxes charged and payable for the purpose of paying debt charges; 107899
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(d) The sum of the amounts distributed to the county in calendar year 2010 for the taxes levied pursuant to sections 5739.021 and 5741.021 of the Revised Code. 107904
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(29) "Total resources," in the case of a municipal corporation, means the sum of the amounts in divisions (A)(29)(a) to (g) of this section less any reduction required under division (A)(32) of this section. 107907
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107910

(a) The sum of the payments received by the municipal corporation in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 107911
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107914

(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund; 107915
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<u>(c) The sum of the amounts distributed to the municipal corporation in calendar year 2010 pursuant to section 5747.50 of the Revised Code;</u>	107922
	107923
	107924
<u>(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)(33) of this section, for tax year 2009;</u>	107925
	107926
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<u>(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;</u>	107930
	107931
	107932
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<u>(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;</u>	107935
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	107937
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<u>(g) The municipal corporation's median estate tax collections.</u>	107940
	107941
<u>(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section less any reduction required under division (A)(32) of this section.</u>	107942
	107943
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	107945
<u>(a) The sum of the payments received by the township in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time, excluding payments received for debt purposes;</u>	107946
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	107950
<u>(b) The township's percentage share of county undivided local government fund allocations as certified to the tax commissioner</u>	107951
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for calendar year 2010 by the county auditor under division (J) of 107953
section 5747.51 of the Revised Code or division (F) of section 107954
5747.53 of the Revised Code multiplied by the total amount 107955
actually distributed in calendar year 2010 from the county 107956
undivided local government fund; 107957

(c) With respect to taxes levied by the township, the taxes 107958
charged and payable against all property on the tax list of real 107959
and public utility property for tax year 2009 excluding taxes 107960
charged and payable for the purpose of paying debt charges. 107961

(31) "Total resources," in the case of a local taxing unit 107962
that is not a county, municipal corporation, or township, means 107963
the sum of the amounts in divisions (A)(31)(a) to (e) of this 107964
section less any reduction required under division (A)(32) of this 107965
section. 107966

(a) The sum of the payments received by the local taxing unit 107967
in calendar year 2010 pursuant to division (A)(1) of section 107968
5727.86 of the Revised Code and divisions (A)(1) and (2) of 107969
section 5751.22 of the Revised Code as they existed at that time; 107970

(b) The local taxing unit's percentage share of county 107971
undivided local government fund allocations as certified to the 107972
tax commissioner for calendar year 2010 by the county auditor 107973
under division (J) of section 5747.51 of the Revised Code or 107974
division (F) of section 5747.53 of the Revised Code multiplied by 107975
the total amount actually distributed in calendar year 2010 from 107976
the county undivided local government fund; 107977

(c) With respect to taxes levied by the local taxing unit, 107978
the taxes charged and payable against all property on the tax list 107979
of real and public utility property for tax year 2009 excluding 107980
taxes charged and payable for the purpose of paying debt charges; 107981

(d) The amount received from the tax commissioner during 107982
calendar year 2010 for sales or use taxes authorized under 107983

sections 5739.023 and 5741.022 of the Revised Code; 107984

(e) For institutions of higher education receiving tax 107985
revenue from a local levy, as identified in section 3358.02 of the 107986
Revised Code, the final state share of instruction allocation for 107987
fiscal year 2010 as calculated by the board of regents and 107988
reported to the state controlling board. 107989

(32) If a fixed-rate levy that is a qualifying levy is not 107990
imposed in any year after tax year 2010, "total resources" used to 107991
compute payments to be made under division (C)(12) of section 107992
5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the 107993
Revised Code in the tax years following the last year the levy is 107994
imposed shall be reduced by the amount of payments attributable to 107995
the fixed-rate levy loss of that levy as would be computed under 107996
division (C)(2) of section 5727.85, division (A)(1) of section 107997
5727.85, divisions (C)(8) and (9) of section 5751.21, or division 107998
(A)(1) of section 5751.22 of the Revised Code. 107999

(33) "Municipal current expense property tax levies" means 108000
all property tax levies of a municipality, except those with the 108001
following levy names: airport resurfacing; bond or any levy name 108002
including the word "bond"; capital improvement or any levy name 108003
including the word "capital"; debt or any levy name including the 108004
word "debt"; equipment or any levy name including the word 108005
"equipment," unless the levy is for combined operating and 108006
equipment; employee termination fund; fire pension or any levy 108007
containing the word "pension," including police pensions; 108008
fireman's fund or any practically similar name; sinking fund; road 108009
improvements or any levy containing the word "road"; fire truck or 108010
apparatus; flood or any levy containing the word "flood"; 108011
conservancy district; county health; note retirement; sewage, or 108012
any levy containing the words "sewage" or "sewer"; park 108013
improvement; parkland acquisition; storm drain; street or any levy 108014
name containing the word "street"; lighting, or any levy name 108015

containing the word "lighting"; and water. 108016

(34) "Current expense TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received by the school district in fiscal year 2011 pursuant to divisions (C)(10) and (11) of section 5751.21 of the Revised Code to the extent paid for current expense levies. In the case of a municipal corporation, "current expense TPP allocation" means the sum of the payments received by the municipal corporation in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code to the extent paid for municipal current expense property tax levies as defined in division (A)(33) of this section. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "current expense TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payments attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code. 108017
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(35) "TPP allocation" means the sum of payments received by a local taxing unit in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "TPP allocation" used to compute payments to be made under division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payment attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of that section. 108037
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(36) "Total TPP allocation" means, in the case of a school 108047

district or joint vocational school district, the sum of the 108048
amounts received in fiscal year 2011 pursuant to divisions (C)(10) 108049
and (11) and (D) of section 5751.21 of the Revised Code. In the 108050
case of a local taxing unit, "total TPP allocation" means the sum 108051
of payments received by the unit in calendar year 2010 pursuant to 108052
divisions (A)(1), (2), and (3) of section 5751.22 of the Revised 108053
Code. If a fixed-rate levy that is a qualifying levy is not 108054
imposed in any year after tax year 2010, "total TPP allocation" 108055
used to compute payments to be made under division (C)(12) of 108056
section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of 108057
the Revised Code in the tax years following the last year the levy 108058
is imposed shall be reduced by the amount of payments attributable 108059
to the fixed-rate levy loss of that levy as would be computed 108060
under divisions (C)(10) and (11) of section 5751.21 or division 108061
(A)(1) of section 5751.22 of the Revised Code. 108062

(37) "Non-current expense TPP allocation" means the 108063
difference of total TPP allocation minus the sum of current 108064
expense TPP allocation and the portion of total TPP allocation 108065
constituting reimbursement for debt levies, pursuant to division 108066
(D) of section 5751.21 of the Revised Code in the case of a school 108067
district or joint vocational school district and pursuant to 108068
division (A)(3) of section 5751.22 of the Revised Code in the case 108069
of a municipal corporation. 108070

(38) "Threshold per cent" means, in the case of a school 108071
district or joint vocational school district, two per cent for 108072
fiscal year 2012 and four per cent for fiscal years 2013 and 108073
thereafter. In the case of a local taxing unit, "threshold per 108074
cent" means two per cent for tax year 2011, four per cent for tax 108075
year 2012, and six per cent for tax years 2013 and thereafter. 108076

(B) The commercial activities tax receipts fund is hereby 108077
created in the state treasury and shall consist of money arising 108078
from the tax imposed under this chapter. Eighty-five 108079

one-hundredths of one per cent of the money credited to that fund 108080
shall be credited to the tax reform system implementation fund, 108081
which is hereby created in the state treasury, and shall be used 108082
to defray the costs incurred by the department of taxation in 108083
administering the tax imposed by this chapter and in implementing 108084
tax reform measures. Fifty million dollars shall be credited each 108085
fiscal year from the commercial activities tax receipts fund to 108086
the local government integrating and innovation fund created under 108087
section 164.30 of the Revised Code, beginning with fiscal year 108088
2012. The remainder in the commercial activities tax receipts fund 108089
shall be credited for each fiscal year in the following 108090
percentages to the general revenue fund, to the school district 108091
tangible property tax replacement fund, which is hereby created in 108092
the state treasury for the purpose of making the payments 108093
described in section 5751.21 of the Revised Code, and to the local 108094
government tangible property tax replacement fund, which is hereby 108095
created in the state treasury for the purpose of making the 108096
payments described in section 5751.22 of the Revised Code, in the 108097
following percentages: 108098

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
2006	67.7%	22.6%	9.7%	108100
2007	0%	70.0%	30.0%	108101
2008	0%	70.0%	30.0%	108102
2009	0%	70.0%	30.0%	108103
2010	0%	70.0%	30.0%	108104
2011	0%	70.0%	30.0%	108105
2012	5.3 <u>25.0%</u>	70.0 <u>52.5%</u>	24.7 <u>22.5%</u>	108106
2013 <u>and</u>	10.6 <u>50.0%</u>	70.0 <u>35.0%</u>	19.4 <u>15.0%</u>	108107
<u>thereafter</u>				
2014	14.1%	70.0%	15.9%	108108

2015	17.6%	70.0%%	12.4%	108109
2016	21.1%	70.0%%	8.9%	108110
2017	24.6%	70.0%%	5.4%	108111
2018	28.1%	70.0%%	1.9%	108112
2019 and	30%	70%%	0%	108113
thereafter				

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, thirty-three and eight-tenths per cent;

(b) For tax year 2007, sixty-one and three-tenths per cent;

(c) For tax year 2008, eighty-three per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;

(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;

(c) For tax year 2008, a fraction, the numerator of which is

thirteen and one-fourth and the denominator of which is	108138
twenty-three;	108139
(d) For tax year 2009 and thereafter a fraction, the	108140
numerator of which is seventeen and the denominator of which is	108141
twenty-three.	108142
(3) Furniture and fixtures property tax value loss is the	108143
taxable value of furniture and fixture property as reported by	108144
taxpayers for tax year 2004 multiplied by:	108145
(a) For tax year 2006, twenty-five per cent;	108146
(b) For tax year 2007, fifty per cent;	108147
(c) For tax year 2008, seventy-five per cent;	108148
(d) For tax year 2009 and thereafter, one hundred per cent.	108149
The taxable value of property reported by taxpayers used in	108150
divisions (C)(1), (2), and (3) of this section shall be such	108151
values as determined to be final by the tax commissioner as of	108152
August 31, 2005. Such determinations shall be final except for any	108153
correction of a clerical error that was made prior to August 31,	108154
2005, by the tax commissioner.	108155
(4) Telephone property tax value loss is the taxable value of	108156
telephone property as taxpayers would have reported that property	108157
for tax year 2004 if the assessment rate for all telephone	108158
property for that year were twenty-five per cent, multiplied by:	108159
(a) For tax year 2006, zero per cent;	108160
(b) For tax year 2007, zero per cent;	108161
(c) For tax year 2008, zero per cent;	108162
(d) For tax year 2009, sixty per cent;	108163
(e) For tax year 2010, eighty per cent;	108164
(f) For tax year 2011 and thereafter, one hundred per cent.	108165

(5) Division (C)(5) of this section applies to any school district, joint vocational school district, or local taxing unit in a county in which is located a facility currently or formerly devoted to the enrichment or commercialization of uranium or uranium products, and for which the total taxable value of property listed on the general tax list of personal property for any tax year from tax year 2001 to tax year 2004 was fifty per cent or less of the taxable value of such property listed on the general tax list of personal property for the next preceding tax year.

In computing the fixed-rate levy losses under divisions (D)(1), (2), and (3) of this section for any school district, joint vocational school district, or local taxing unit to which division (C)(5) of this section applies, the taxable value of such property as listed on the general tax list of personal property for tax year 2000 shall be substituted for the taxable value of such property as reported by taxpayers for tax year 2004, in the taxing district containing the uranium facility, if the taxable value listed for tax year 2000 is greater than the taxable value reported by taxpayers for tax year 2004. For the purpose of making the computations under divisions (D)(1), (2), and (3) of this section, the tax year 2000 valuation is to be allocated to machinery and equipment, inventory, and furniture and fixtures property in the same proportions as the tax year 2004 values. For the purpose of the calculations in division (A) of section 5751.21 of the Revised Code, the tax year 2004 taxable values shall be used.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss. Except as provided in division (F) of this section, such losses are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through ~~2017~~ 2010, the telephone property tax value loss of the district or unit

multiplied by the sum of the fixed-sum tax rates of qualifying 108229
levies. For 2006 through 2010, this computation shall include all 108230
qualifying levies remaining in effect for the current tax year and 108231
any school district levies imposed under section 5705.194 or 108232
5705.213 of the Revised Code that are qualifying levies not 108233
remaining in effect for the current year. For 2011 through 2017 in 108234
the case of school district levies imposed under section 5705.194 108235
or 5705.213 of the Revised Code and for all years after 2010 in 108236
the case of other fixed-sum levies, this computation shall include 108237
only qualifying levies remaining in effect for the current year. 108238
For purposes of this computation, a qualifying school district 108239
levy imposed under section 5705.194 or 5705.213 of the Revised 108240
Code remains in effect in a year after 2010 only if, for that 108241
year, the board of education levies a school district levy imposed 108242
under section 5705.194, 5705.199, 5705.213, or 5705.219 of the 108243
Revised Code for an annual sum at least equal to the annual sum 108244
levied by the board in tax year 2004 less the amount of the 108245
payment certified under this division for 2006. 108246

(2) The total taxable value in tax year 2004 less the sum of 108247
the machinery and equipment, inventory, furniture and fixtures, 108248
and telephone property tax value losses in each school district, 108249
joint vocational school district, and local taxing unit multiplied 108250
by one-half of one mill per dollar. 108251

(3) For the calculations in divisions (E)(1) and (2) of this 108252
section, the tax value losses are those that would be calculated 108253
for tax year 2009 under divisions (C)(1), (2), and (3) of this 108254
section and for tax year 2011 under division (C)(4) of this 108255
section. 108256

(4) To facilitate the calculation under divisions (D) and (E) 108257
of this section, not later than September 1, 2005, any school 108258
district, joint vocational school district, or local taxing unit 108259
that has a qualifying levy that was approved at an election 108260

conducted during 2005 before September 1, 2005, shall certify to 108261
the tax commissioner a copy of the county auditor's certificate of 108262
estimated property tax millage for such levy as required under 108263
division (B) of section 5705.03 of the Revised Code, which is the 108264
rate that shall be used in the calculations under such divisions. 108265

If the amount determined under division (E) of this section 108266
for any school district, joint vocational school district, or 108267
local taxing unit is greater than zero, that amount shall equal 108268
the reimbursement to be paid pursuant to division (E) of section 108269
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 108270
and the one-half of one mill that is subtracted under division 108271
(E)(2) of this section shall be apportioned among all contributing 108272
fixed-sum levies in the proportion that each levy bears to the sum 108273
of all fixed-sum levies within each school district, joint 108274
vocational school district, or local taxing unit. 108275

(F) If a school district levies a tax under section 5705.219 108276
of the Revised Code, the fixed-rate levy loss for qualifying 108277
levies, to the extent repealed under that section, shall equal the 108278
sum of the following amounts in lieu of the amounts computed for 108279
such levies under division (D) of this section: 108280

(1) The sum of the rates of qualifying levies to the extent 108281
so repealed multiplied by the sum of the machinery and equipment, 108282
inventory, and furniture and fixtures tax value losses for 2009 as 108283
determined under that division; 108284

(2) The sum of the rates of qualifying levies to the extent 108285
so repealed multiplied by the telephone property tax value loss 108286
for 2011 as determined under that division. 108287

The fixed-rate levy losses for qualifying levies to the 108288
extent not repealed under section 5705.219 of the Revised Code 108289
shall be as determined under division (D) of this section. The 108290
revised fixed-rate levy losses determined under this division and 108291

division (D) of this section first apply in the year following the 108292
first year the district levies the tax under section 5705.219 of 108293
the Revised Code. 108294

(G) Not later than October 1, 2005, the tax commissioner 108295
shall certify to the department of education for every school 108296
district and joint vocational school district the machinery and 108297
equipment, inventory, furniture and fixtures, and telephone 108298
property tax value losses determined under division (C) of this 108299
section, the machinery and equipment, inventory, furniture and 108300
fixtures, and telephone fixed-rate levy losses determined under 108301
division (D) of this section, and the fixed-sum levy losses 108302
calculated under division (E) of this section. The calculations 108303
under divisions (D) and (E) of this section shall separately 108304
display the levy loss for each levy eligible for reimbursement. 108305

(H) Not later than October 1, 2005, the tax commissioner 108306
shall certify the amount of the fixed-sum levy losses to the 108307
county auditor of each county in which a school district, joint 108308
vocational school district, or local taxing unit with a fixed-sum 108309
levy loss reimbursement has territory. 108310

(I) Not later than the twenty-eighth day of February each 108311
year beginning in 2011 and ending in 2014, the tax commissioner 108312
shall certify to the department of education for each school 108313
district first levying a tax under section 5705.219 of the Revised 108314
Code in the preceding year the revised fixed-rate levy losses 108315
determined under divisions (D) and (F) of this section. 108316

Sec. 5751.21. (A) Not later than the thirtieth day of July of 108317
2007 through ~~2017~~ 2010, the department of education shall consult 108318
with the director of budget and management and determine the 108319
following for each school district and each joint vocational 108320
school district eligible for payment under division (B) of this 108321
section: 108322

(1) The state education aid offset, which, except as provided 108323
in division (A)(1)(c) of this section, is the difference obtained 108324
by subtracting the amount described in division (A)(1)(b) of this 108325
section from the amount described in division (A)(1)(a) of this 108326
section: 108327

(a) The state education aid computed for the school district 108328
or joint vocational school district for the current fiscal year as 108329
of the thirtieth day of July; 108330

(b) The state education aid that would be computed for the 108331
school district or joint vocational school district for the 108332
current fiscal year as of the thirtieth day of July if the 108333
recognized valuation used in the calculation in division (B)(1) of 108334
section 3306.13 of the Revised Code as that division existed for 108335
fiscal years 2010 and 2011 included the machinery and equipment, 108336
inventory, furniture and fixtures, and telephone property tax 108337
value losses for the school district or joint vocational school 108338
district for the second preceding tax year, and if taxes charged 108339
and payable associated with the tax value losses are accounted for 108340
in any state education aid computation dependent on taxes charged 108341
and payable. 108342

(c) The state education aid offset for fiscal year 2010 and 108343
fiscal year 2011 equals the greater of the state education aid 108344
offset calculated for that fiscal year under divisions (A)(1)(a) 108345
and (b) of this section and the state education aid offset 108346
calculated for fiscal year 2009. For fiscal year 2012 and 2013, 108347
the state education aid offset equals the state education aid 108348
offset for fiscal year 2011. 108349

(2) The For fiscal years 2008 through 2011, the greater of 108350
zero or the difference obtained by subtracting the state education 108351
aid offset determined under division (A)(1) of this section from 108352
the sum of the machinery and equipment fixed-rate levy loss, the 108353
inventory fixed-rate levy loss, furniture and fixtures fixed-rate 108354

levy loss, and telephone property fixed-rate levy loss certified 108355
under divisions (G) and (I) of section 5751.20 of the Revised Code 108356
for all taxing districts in each school district and joint 108357
vocational school district for the second preceding tax year. 108358

By the thirtieth day of July of each such year, the 108359
department of education and the director of budget and management 108360
shall agree upon the amount to be determined under division (A)(1) 108361
of this section. 108362

(B) On or before the thirty-first day of August of ~~each year~~ 108363
~~beginning in 2008, 2009, and 2010,~~ the department of education 108364
shall recalculate the offset described under division (A) of this 108365
section for the previous fiscal year and recalculate the payments 108366
made under division (C) of this section in the preceding fiscal 108367
year using the offset calculated under this division. If the 108368
payments calculated under this division differ from the payments 108369
made under division (C) of this section in the preceding fiscal 108370
year, the difference shall either be paid to a school district or 108371
recaptured from a school district through an adjustment at the 108372
same times during the current fiscal year that the payments under 108373
division (C) of this section are made. In August and October of 108374
the current fiscal year, the amount of each adjustment shall be 108375
three-sevenths of the amount calculated under this division. In 108376
May of the current fiscal year, the adjustment shall be 108377
one-seventh of the amount calculated under this division. 108378

(C) The department of education shall pay from the school 108379
district tangible property tax replacement fund to each school 108380
district and joint vocational school district all of the following 108381
for fixed-rate levy losses certified under divisions (G) and (I) 108382
of section 5751.20 of the Revised Code: 108383

(1) On or before May 31, 2006, one-seventh of the total 108384
fixed-rate levy loss for tax year 2006; 108385

(2) On or before August 31, 2006, and October 31, 2006,	108386
one-half of six-sevenths of the total fixed-rate levy loss for tax	108387
year 2006;	108388
(3) On or before May 31, 2007, one-seventh of the total	108389
fixed-rate levy loss for tax year 2007;	108390
(4) On or before August 31, 2007, and October 31, 2007,	108391
forty-three per cent of the amount determined under division	108392
(A)(2) of this section for fiscal year 2008, but not less than	108393
zero, plus one-half of six-sevenths of the difference between the	108394
total fixed-rate levy loss for tax year 2007 and the total	108395
fixed-rate levy loss for tax year 2006.	108396
(5) On or before May 31, 2008, fourteen per cent of the	108397
amount determined under division (A)(2) of this section for fiscal	108398
year 2008, but not less than zero, plus one-seventh of the	108399
difference between the total fixed-rate levy loss for tax year	108400
2008 and the total fixed-rate levy loss for tax year 2006.	108401
(6) On or before August 31, 2008, and October 31, 2008,	108402
forty-three per cent of the amount determined under division	108403
(A)(2) of this section for fiscal year 2009, but not less than	108404
zero, plus one-half of six-sevenths of the difference between the	108405
total fixed-rate levy loss in tax year 2008 and the total	108406
fixed-rate levy loss in tax year 2007.	108407
(7) On or before May 31, 2009, fourteen per cent of the	108408
amount determined under division (A)(2) of this section for fiscal	108409
year 2009, but not less than zero, plus one-seventh of the	108410
difference between the total fixed-rate levy loss for tax year	108411
2009 and the total fixed-rate levy loss for tax year 2007.	108412
(8) On or before August 31, 2009, and October 31, 2009,	108413
forty-three per cent of the amount determined under division	108414
(A)(2) of this section for fiscal year 2010, but not less than	108415
zero, plus one-half of six-sevenths of the difference between the	108416

total fixed-rate levy loss in tax year 2009 and the total 108417
fixed-rate levy loss in tax year 2008. 108418

(9) On or before May 31, 2010, fourteen per cent of the 108419
amount determined under division (A)(2) of this section for fiscal 108420
year 2010, but not less than zero, plus one-seventh of the 108421
difference between the total fixed-rate levy loss in tax year 2010 108422
and the total fixed-rate levy loss in tax year 2008. 108423

(10) On or before August 31, 2010, and October 31, 2010, 108424
forty-three per cent of the amount determined under division 108425
(A)(2) of this section for fiscal year 2011, but not less than 108426
zero, plus one-half of six-sevenths of the difference between the 108427
telephone property fixed-rate levy loss for tax year 2010 and the 108428
telephone property fixed-rate levy loss for tax year 2009. 108429

(11) On or before May 31, 2011, fourteen per cent of the 108430
amount determined under division (A)(2) of this section for fiscal 108431
year 2011, but not less than zero, plus one-seventh of the 108432
difference between the telephone property fixed-rate levy loss for 108433
tax year 2011 and the telephone property fixed-rate levy loss for 108434
tax year 2009. 108435

~~(12) On or before August 31, 2011, and October 31, 2011,~~ 108436
~~forty three per cent of the amount determined under division~~ 108437
~~(A)(2) of this section, but not less than zero, plus one half of~~ 108438
~~six sevenths of the difference between the telephone property~~ 108439
~~fixed rate levy loss for tax year 2011 and the telephone property~~ 108440
~~fixed rate levy loss for tax year 2010.~~ 108441

~~(13) On or before May 31, 2012, fourteen per cent of the~~ 108442
~~amount determined under division (A)(2) of this section for fiscal~~ 108443
~~year 2012, but not less than zero, plus one seventh of the~~ 108444
~~difference between the telephone property fixed rate levy loss for~~ 108445
~~tax year 2011 and the telephone property fixed rate levy loss for~~ 108446
~~tax year 2010.~~ 108447

~~(14) On or before August 31, 2012, October 31, 2012, and May 31, 2013, the amount determined under division (A)(2) of this section but not less than zero, multiplied by one third.~~

~~(15) On or before August 31, 2013, October 31, 2013, and May 31, 2014, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is nine and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(16) On or before August 31, 2014, October 31, 2014, and May 31, 2015, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is seven and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(17) On or before August 31, 2015, October 31, 2015, and May 31, 2016, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is five and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(18) On or before August 31, 2016, October 31, 2016, and May 31, 2017, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is three and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(19) On or before August 31, 2017, October 31, 2017, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one third~~ For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this section shall be paid on or before the twentieth day of November and the last day of May:

(a) If the ratio of current expense TPP allocation to total resources is equal to or less than the threshold per cent, zero; 108479
108480

(b) If the ratio of current expense TPP allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of current expense TPP allocation minus the product of total resources multiplied by the threshold per cent; 108481
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(c) Fifty per cent of the product of non-current expense TPP allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter. 108485
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The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under divisions (G) and (I) of section 5751.20 of the Revised Code. 108488
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~~Any qualifying levy that is a fixed rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable.~~ 108493
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(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section. 108496
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(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined 108504
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under that division. The certification shall cover a time period 108510
sufficient to include all fixed-sum levies for which the 108511
commissioner made such a determination. ~~The~~ On or before the last 108512
day of May of the current year, the department shall pay from the 108513
school district property tax replacement fund to the school 108514
district or joint vocational school district one-third of the 108515
fixed-sum levy loss so certified ~~for each year~~, plus one-third of 108516
the amount certified under division (I) of section 5751.20 of the 108517
Revised Code, and on or before the ~~last~~ twentieth day of ~~May,~~ 108518
~~August, and October of the current year~~ November, two-thirds of 108519
the fixed-sum levy loss so certified, plus two-thirds of the 108520
amount certified under division (I) of section 5751.20 of the 108521
Revised Code. Payments under this division of the amounts 108522
certified under division (I) of section 5751.20 of the Revised 108523
Code shall continue until the levy adopted under section 5705.219 108524
of the Revised Code expires. 108525

(2) Beginning in 2006, by the first day of January of each 108526
year, the tax commissioner shall review the certification 108527
originally made under division (E)(1) of this section. If the 108528
commissioner determines that a debt levy that had been scheduled 108529
to be reimbursed in the current year has expired, a revised 108530
certification for that and all subsequent years shall be made to 108531
the department of education. 108532

(F) Beginning in September 2007 and through June ~~2018~~ 2013, 108533
the director of budget and management shall transfer from the 108534
school district tangible property tax replacement fund to the 108535
general revenue fund each of the following: 108536

(1) On the first day of September, one-fourth of the amount 108537
determined for that fiscal year under division (A)(1) of this 108538
section; 108539

(2) On the first day of December, one-fourth of the amount 108540
determined for that fiscal year under division (A)(1) of this 108541

section; 108542

(3) On the first day of March, one-fourth of the amount 108543
determined for that fiscal year under division (A)(1) of this 108544
section; 108545

(4) On the first day of June, one-fourth of the amount 108546
determined for that fiscal year under division (A)(1) of this 108547
section. 108548

If, when a transfer is required under division (F)(1), (2), 108549
(3), or (4) of this section, there is not sufficient money in the 108550
school district tangible property tax replacement fund to make the 108551
transfer in the required amount, the director shall transfer the 108552
balance in the fund to the general revenue fund and may make 108553
additional transfers on later dates as determined by the director 108554
in a total amount that does not exceed one-fourth of the amount 108555
determined for the fiscal year. 108556

(G) ~~For each of the fiscal years 2006 through 2018, if~~ If the 108557
total amount in the school district tangible property tax 108558
replacement fund is insufficient to make all payments under 108559
divisions (C), (D), and (E) of this section at the times the 108560
payments are to be made, the director of budget and management 108561
shall transfer from the general revenue fund to the school 108562
district tangible property tax replacement fund the difference 108563
between the total amount to be paid and the amount in the school 108564
district tangible property tax replacement fund. ~~For each fiscal~~ 108565
~~year after 2018, at the time payments under division (E) of this~~ 108566
~~section are to be made, the director of budget and management~~ 108567
~~shall transfer from the general revenue fund to the school~~ 108568
~~district property tax replacement fund the amount necessary to~~ 108569
~~make such payments.~~ 108570

(H)~~(1)~~ On the fifteenth day of June ~~of 2006 through 2011~~ of 108571
each year, the director of budget and management may transfer any 108572

balance in the school district tangible property tax replacement 108573
fund to the general revenue fund. ~~At the end of fiscal years 2012~~ 108574
~~through 2018, any balance in the school district tangible property~~ 108575
~~tax replacement fund shall remain in the fund to be used in future~~ 108576
~~fiscal years for school purposes.~~ 108577

~~(2) In each fiscal year beginning with fiscal year 2019, all~~ 108578
~~amounts credited to the school district tangible personal property~~ 108579
~~tax replacement fund shall be appropriated for school purposes.~~ 108580

(I) If all of the territory of a school district or joint 108581
vocational school district is merged with another district, or if 108582
a part of the territory of a school district or joint vocational 108583
school district is transferred to an existing or newly created 108584
district, the department of education, in consultation with the 108585
tax commissioner, shall adjust the payments made under this 108586
section as follows: 108587

(1) For a merger of two or more districts, ~~the machinery and~~ 108588
~~equipment, inventory, furniture and fixtures, and telephone~~ 108589
~~property fixed rate levy losses and the fixed-sum levy losses,~~ 108590
total resources, current expense TPP allocation, total TPP 108591
allocation, and non-current expense TPP allocation of the 108592
successor district shall be equal to the sum of ~~the machinery and~~ 108593
~~equipment, inventory, furniture and fixtures, and telephone~~ 108594
~~property fixed rate levy losses and debt levy losses as determined~~ 108595
~~in section 5751.20 of the Revised Code, such items~~ for each of the 108596
districts involved in the merger. 108597

(2) If property is transferred from one district to a 108598
previously existing district, the amount of ~~machinery and~~ 108599
~~equipment, inventory, furniture and fixtures, and telephone~~ 108600
~~property tax value losses and fixed rate levy losses~~ total 108601
resources, current expense TPP allocation, total TPP allocation, 108602
and non-current expense TPP allocation that shall be transferred 108603
to the recipient district shall be an amount equal to ~~the total~~ 108604

~~machinery and equipment, inventory, furniture and fixtures, and~~ 108605
~~telephone property fixed rate levy losses total resources, current~~ 108606
~~expense TPP allocation, total TPP allocation, and non-current~~ 108607
~~expense TPP allocation of the transferor district times a~~ 108608
~~fraction, the numerator of which is the value of business tangible~~ 108609
~~personal property on the land being transferred in the most recent~~ 108610
~~year for which data are available number of pupils being~~ 108611
~~transferred to the recipient district, measured, in the case of a~~ 108612
~~school district, by average daily membership as reported under~~ 108613
~~division (A) of section 3317.03 of the Revised Code or, in the~~ 108614
~~case of a joint vocational school district, by formula ADM as~~ 108615
~~reported in division (D) of that section, and the denominator of~~ 108616
~~which is the total value of business tangible personal property in~~ 108617
~~the district from which the land is being transferred in the most~~ 108618
~~recent year for which data are available. For each of the first~~ 108619
~~five years after the property is transferred, but not after fiscal~~ 108620
~~year 2012, if the tax rate in the recipient district is less than~~ 108621
~~the tax rate of the district from which the land was transferred,~~ 108622
~~one half of the payments arising from the amount of fixed rate~~ 108623
~~levy losses so transferred to the recipient district shall be paid~~ 108624
~~to the recipient district and one half of the payments arising~~ 108625
~~from the fixed rate levy losses so transferred shall be paid to~~ 108626
~~the district from which the land was transferred. Fixed rate levy~~ 108627
~~losses so transferred shall be computed on the basis of the sum of~~ 108628
~~the rates of fixed rate qualifying levies of the district from~~ 108629
~~which the land was transferred, notwithstanding division (E) of~~ 108630
~~this section average daily membership or formula ADM of the~~ 108631
~~transferor district.~~ 108632

(3) After December 31, ~~2004~~ 2010, if property is transferred 108633
from one or more districts to a district that is newly created out 108634
of the transferred property, the newly created district shall be 108635
deemed not to have any ~~machinery and equipment, inventory,~~ 108636
~~furniture and fixtures, or telephone property fixed rate levy~~ 108637

~~losses and the districts from which the property was transferred~~ 108638
~~shall have no reduction in their machinery and equipment,~~ 108639
~~inventory, furniture and fixtures, and telephone property~~ 108640
fixed rate levy losses total resources, current expense TPP 108641
allocation, total TPP allocation, or non-current expense TPP 108642
allocation. 108643

(4) If the recipient district under division (I)(2) of this 108644
section or the newly created district under division (I)(3) of 108645
this section is assuming debt from one or more of the districts 108646
from which the property was transferred and any of the districts 108647
losing the property had fixed-sum levy losses, the department of 108648
education, in consultation with the tax commissioner, shall make 108649
an equitable division of the fixed-sum levy loss reimbursements. 108650

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 108651
commissioner shall compute the payments to be made to each local 108652
taxing unit for each year according to divisions (A)(1), (2), (3), 108653
and (4) of this section as this section existed on that date, and 108654
shall distribute the payments in the manner prescribed by division 108655
(C) of this section. The calculation of the fixed-sum levy loss 108656
shall cover a time period sufficient to include all fixed-sum 108657
levies for which the commissioner determined, pursuant to division 108658
(E) of section 5751.20 of the Revised Code, that a fixed-sum levy 108659
loss is to be reimbursed. 108660

(1) Except as provided in division (A)~~(4)~~(3) of this section, 108661
for ~~machinery and equipment, inventory, and furniture and fixtures~~ 108662
fixed-rate levy losses determined under division (D) of section 108663
5751.20 of the Revised Code, payments shall be made in an amount 108664
equal to ~~each of those losses multiplied by~~ the following: 108665

(a) For tax years 2006 through 2010, one hundred per cent of 108666
such losses; 108667

(b) For the payment in tax year 2011, ~~a fraction, the~~ 108668

~~numerator of which is fourteen and the denominator of which is
seventeen;~~ 108669
108670

~~(c) For tax year 2012, a fraction, the numerator of which is
eleven and the denominator of which is seventeen;~~ 108671
108672

~~(d) For tax year 2013, a fraction, the numerator of which is
nine and the denominator of which is seventeen;~~ 108673
108674

~~(e) For tax year 2014, a fraction, the numerator of which is
seven and the denominator of which is seventeen;~~ 108675
108676

~~(f) For tax year 2015, a fraction, the numerator of which is
five and the denominator of which is seventeen;~~ 108677
108678

~~(g) For tax year 2016, a fraction, the numerator of which is
three and the denominator of which is seventeen;~~ 108679
108680

~~(h) For tax year 2017, a fraction, the numerator of which is
one and the denominator of which is seventeen;~~ 108681
108682

~~(i) For tax years 2018 and thereafter, no fixed rate payments
shall be made.~~ 108683
108684

~~Any qualifying levy that is a fixed rate levy that is not
applicable to a tax year after 2010 shall not qualify for any
reimbursement after the tax year to which it is last applicable.~~ 108685
108686
108687

~~(2) Except as provided in division (A)(4) of this section,
for telephone property fixed rate levy losses determined under
division (D)(4) of section 5751.20 of the Revised Code, payments
shall be made in an amount equal to each of those losses
multiplied by the following:~~ 108688
108689
108690
108691
108692

~~(a) For tax years 2009 through 2011, one hundred per cent;~~ 108693

~~(b) For tax year 2012, seven eighths;~~ 108694

~~(c) For tax year 2013, six eighths;~~ 108695

~~(d) For tax year 2014, five eighths;~~ 108696

~~(e) For tax year 2015, four eighths;~~ 108697

(f) For tax year 2016, three eighths;	108698
(g) For tax year 2017, two eighths;	108699
(h) For tax year 2018, one eighth;	108700
(i) For tax years 2019 and thereafter, no fixed rate payments	108701
shall be made to be made on or before the twentieth day of	108702
November, the sum of the amount in division (A)(1)(b)(i) or (ii)	108703
and division (A)(1)(b)(iii) of this section:	108704
(i) If the ratio of six-sevenths of the TPP allocation to	108705
total resources is equal to or less than the threshold per cent,	108706
zero;	108707
(ii) If the ratio of six-sevenths of the TPP allocation to	108708
total resources is greater than the threshold per cent, the	108709
difference of six-sevenths of the TPP allocation minus the product	108710
of total resources multiplied by the threshold per cent;	108711
(iii) In the case of a municipal corporation, six-sevenths of	108712
the product of the non-current expense TPP allocation multiplied	108713
by seventy-five per cent.	108714
(c) For tax years 2012 and thereafter, the sum of the amount	108715
in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of	108716
this section:	108717
(i) If the ratio of TPP allocation to total resources is	108718
equal to or less than the threshold per cent, zero;	108719
(ii) If the ratio of TPP allocation to total resources is	108720
greater than the threshold per cent, the TPP allocation minus the	108721
product of total resources multiplied by the threshold per cent;	108722
(iii) In the case of a municipal corporation, non-current	108723
expense TPP allocation multiplied by fifty per cent for tax year	108724
2012 and twenty-five per cent for tax years 2013 and thereafter.	108725
Any qualifying levy that is a fixed rate levy that is not	108726
applicable to a tax year after 2011 shall not qualify for any	108727

~~reimbursement after the tax year to which it is last applicable.~~ 108728

~~(3)(2)~~ For fixed-sum levy losses determined under division 108729
(E) of section 5751.20 of the Revised Code, payments shall be made 108730
in the amount of one hundred per cent of the fixed-sum levy loss 108731
for payments required to be made in 2006 and thereafter until the 108732
qualifying levy has expired. 108733

~~(4)(3)~~ For taxes levied within the ten-mill limitation or 108734
pursuant to a municipal charter for debt purposes in tax year 108735
2005, payments shall be made based on the schedule in division 108736
(A)(1) of this section for each of the calendar years 2006 through 108737
2010. For each of the calendar years 2011 through 2017, the 108738
percentages for calendar year 2010 shall be used for taxes levied 108739
within the ten-mill limitation or pursuant to a municipal charter 108740
for debt purposes in tax year 2010, as long as ~~the qualifying levy~~ 108741
~~continues~~ such levies continue to be used for debt purposes. If 108742
the purpose of such a qualifying levy is changed, that levy 108743
becomes subject to the payment schedules in divisions (A)(1)(a) to 108744
(h) of this section. No payments shall be made for such levies 108745
after calendar year 2017. For the purposes of this division, taxes 108746
levied pursuant to a municipal charter refer to taxes levied 108747
pursuant to a provision of a municipal charter that permits the 108748
tax to be levied without prior voter approval. 108749

(B) Beginning in 2007, by the thirty-first day of January of 108750
each year, the tax commissioner shall review the calculation 108751
originally made under division (A) of this section of the 108752
fixed-sum levy losses determined under division (E) of section 108753
5751.20 of the Revised Code. If the commissioner determines that a 108754
fixed-sum levy that had been scheduled to be reimbursed in the 108755
current year has expired, a revised calculation for that and all 108756
subsequent years shall be made. 108757

(C) Payments to local taxing units required to be made under 108758
division (A) of this section shall be paid from the local 108759

government tangible property tax replacement fund to the county 108760
undivided income tax fund in the proper county treasury. ~~Beginning~~ 108761
~~in~~ From May 2006 through November 2010, one-seventh of the amount 108762
~~certified~~ determined under that division shall be paid by the last 108763
day of May each year, and three-sevenths shall be paid by the last 108764
day of August and October each year. From May 2011 through 108765
November 2013, one-seventh of the amount determined under that 108766
division shall be paid on or before the last day of May each year, 108767
and six-sevenths shall be paid on or before the twentieth day of 108768
November each year, except that in November 2011, the payment 108769
shall equal one hundred per cent of the amount calculated for that 108770
payment. Beginning in May 2014, one-half of the amount determined 108771
under that division shall be paid on or before the last day of May 108772
each year, and one-half shall be paid on or before the twentieth 108773
day of November each year. Within ~~forty five~~ forty days after 108774
receipt of such payments, the county treasurer shall distribute 108775
amounts determined under division (A) of this section to the 108776
proper local taxing unit as if they had been levied and collected 108777
as taxes, and the local taxing unit shall apportion the amounts so 108778
received among its funds in the same proportions as if those 108779
amounts had been levied and collected as taxes. 108780

(D) For each of the fiscal years 2006 through ~~2019~~ 2018, if 108781
the total amount in the local government tangible property tax 108782
replacement fund is insufficient to make all payments under 108783
division (C) of this section at the times the payments are to be 108784
made, the director of budget and management shall transfer from 108785
the general revenue fund to the local government tangible property 108786
tax replacement fund the difference between the total amount to be 108787
paid and the amount in the local government tangible property tax 108788
replacement fund. For each fiscal year after ~~2019~~ 2018, at the 108789
time payments under division (A)(2) of this section are to be 108790
made, the director of budget and management shall transfer from 108791
the general revenue fund to the local government property tax 108792

replacement fund the amount necessary to make such payments. 108793

(E) On the fifteenth day of June of each year from 2006 108794
through 2018, the director of budget and management may transfer 108795
any balance in the local government tangible property tax 108796
replacement fund to the general revenue fund. 108797

(F) If all or a part of the territories of two or more local 108798
taxing units are merged, or unincorporated territory of a township 108799
is annexed by a municipal corporation, the tax commissioner shall 108800
adjust the payments made under this section to each of the local 108801
taxing units in proportion to the ~~tax value loss apportioned to~~ 108802
square mileage of the merged or annexed territory as a percentage 108803
of the total square mileage of the jurisdiction from which the 108804
territory originated, or as otherwise provided by a written 108805
agreement between the legislative authorities of the local taxing 108806
units certified to the commissioner not later than the first day 108807
of June of the calendar year in which the payment is to be made. 108808

Sec. 5751.23. (A) As used in this section: 108809

(1) "Administrative fees" means the dollar percentages 108810
allowed by the county auditor for services or by the county 108811
treasurer as fees, or paid to the credit of the real estate 108812
assessment fund, under divisions (A) and (C) of section 319.54 and 108813
division (A) of section 321.26 of the Revised Code. 108814

(2) "Administrative fee loss" means a county's loss of 108815
administrative fees due to its tax value loss, determined as 108816
follows: 108817

(a) For purposes of the determination made under division (B) 108818
of this section in the years 2006 through 2010, the administrative 108819
fee loss shall be computed by multiplying the amounts determined 108820
for all taxing districts in the county under divisions (D) and (E) 108821
of section 5751.20 of the Revised Code by nine thousand six 108822

hundred fifty-nine ten-thousandths of one per cent if total taxes 108823
collected in the county in 2004 exceeded one hundred fifty million 108824
dollars, or one and one thousand one hundred fifty-nine 108825
ten-thousandths of one per cent if total taxes collected in the 108826
county in 2004 were one hundred fifty million dollars or less; 108827

(b) For purposes of the determination under division (B) of 108828
this section in the years after 2010, the administrative fee 108829
~~losses shall be determined by multiplying loss equals~~ 108830
fourteen-seventeenths of the administrative fee losses loss 108831
calculated for 2010 ~~by the fractions in divisions (A)(1)(b) to (i)~~ 108832
of section 5751.22 of the Revised Code multiplied by the following 108833
percentages: 100% for 2011, 80% for 2012, 60% for 2013, 40% for 108834
2014, 20% for 2015, and 0% for 2016. 108835

(3) "Total taxes collected" means all money collected on any 108836
tax duplicate of the county, other than the estate tax duplicates. 108837
"Total taxes collected" does not include amounts received pursuant 108838
to divisions (F) and (G) of section 321.24 or section 323.156 of 108839
the Revised Code. 108840

(B) Not later than December 31, 2005, the tax commissioner 108841
shall certify to each county auditor the tax levy losses 108842
calculated under divisions (D) and (E) of section 5751.20 of the 108843
Revised Code for each school district, joint vocational school 108844
district, and local taxing unit in the county. Not later than the 108845
thirty-first day of January of 2006 through ~~2017~~ 2015, the county 108846
auditor shall determine the administrative fee loss for the county 108847
and apportion that loss ratably among the school districts, joint 108848
vocational school districts, and local taxing units on the basis 108849
of the tax levy losses certified under this division. 108850

(C) On or before each of the days prescribed for the 108851
settlements under divisions (A) and (C) of section 321.24 of the 108852
Revised Code in the years 2006 through ~~2017~~ 2015, the county 108853
treasurer shall deduct one-half of the amount apportioned to each 108854

school district, joint vocational school district, and local 108855
taxing unit from the portions of revenue payable to them. 108856

(D) On or before each of the days prescribed for settlements 108857
under divisions (A) and (C) of section 321.24 of the Revised Code 108858
in the years 2006 through ~~2017~~ 2015, the county auditor shall 108859
cause to be deposited an amount equal to one-half of the amount of 108860
the administrative fee loss in the same funds as if allowed as 108861
administrative fees. 108862

Sec. 5751.50. (A) For tax periods beginning on or after 108863
January 1, 2008, a refundable credit granted by the tax credit 108864
authority under section 122.17 or division (B)(2) or (3) of 108865
section 122.171 of the Revised Code may be claimed under this 108866
chapter in the order required under section 5751.98 of the Revised 108867
Code. For purposes of making tax payments under this chapter, 108868
taxes equal to the amount of the refundable credit shall be 108869
considered to be paid to this state on the first day of the tax 108870
period. A credit claimed in calendar year 2008 may not be applied 108871
against the tax otherwise due for a tax period beginning before 108872
July 1, 2008. The refundable credit shall not be claimed against 108873
the tax otherwise due for any tax period beginning after the date 108874
on which a relocation of employment positions occurs in violation 108875
of an agreement entered into under section 122.17 or 122.171 of 108876
the Revised Code. 108877

(B) For tax periods beginning on or after January 1, 2008, a 108878
nonrefundable credit granted by the tax credit authority under 108879
division (B)(1) of section 122.171 of the Revised Code may be 108880
claimed under this chapter in the order required under section 108881
5751.98 of the Revised Code. A credit claimed in calendar year 108882
2008 may not be applied against the tax otherwise due under this 108883
chapter for a tax period beginning before July 1, 2008. The credit 108884
shall not be claimed against the tax otherwise due for any tax 108885

period beginning after the date on which a relocation of 108886
employment positions occurs in violation of an agreement entered 108887
into under section 122.17 or 122.171 of the Revised Code. No 108888
credit shall be allowed under this chapter if the credit was 108889
available against the tax imposed by section 5733.06 or 5747.02 of 108890
the Revised Code, except to the extent the credit was not applied 108891
against such tax. 108892

Sec. 5753.01. As used in Chapter 5753. of the Revised Code 108893
and for no other purpose under Title LVII of the Revised Code: 108894

(A) "Casino facility" has the same meaning as in section 108895
3772.01 of the Revised Code. 108896

(B) "Casino gaming" has the same meaning as in section 108897
3772.01 of the Revised Code. 108898

(C) "Casino operator" has the same meaning as in section 108899
3772.01 of the Revised Code. 108900

(D) "Gross casino revenue" means the total amount of money 108901
exchanged for the purchase of chips, tokens, tickets, electronic 108902
cards, or similar objects by casino patrons, less winnings paid to 108903
wagerers. "Gross casino revenue" does not mean, and has no 108904
relation to or effect on, a casino operator's "gross receipts" as 108905
defined in division (F) of section 5751.01 of the Revised Code. 108906

(E) "Person" has the same meaning as in section 3772.01 of 108907
the Revised Code. 108908

(F) "Slot machine" has the same meaning as in section 3772.01 108909
of the Revised Code. 108910

(G) "Table game" has the same meaning as in section 3772.01 108911
of the Revised Code. 108912

(H) "Tax period" means one twenty-four-hour period with 108913
regard to which a casino operator is required to pay the tax 108914
levied by this chapter. 108915

Sec. 6101.16. When it is determined to let the work relating 108916
to the improvements for which a conservancy district was 108917
established by contract, contracts in amounts to exceed 108918
twenty-five thousand dollars shall be advertised after notice 108919
calling for bids has been published once a week for two 108920
consecutive weeks or as provided in section 7.16 of the Revised 108921
Code, with the last publication to occur at least eight days prior 108922
to the date on which bids will be accepted, in a newspaper of 108923
general circulation within the conservancy district where the work 108924
is to be done. If the bids are for a contract for the 108925
construction, demolition, alteration, repair, or reconstruction of 108926
an improvement, the board of directors of the conservancy district 108927
may let the contract to the lowest responsive and most responsible 108928
bidder who meets the requirements of section 153.54 of the Revised 108929
Code. If the bids are for a contract for any other work relating 108930
to the improvements for which a conservancy district was 108931
established, the board of directors of the district may let the 108932
contract to the lowest responsive and most responsible bidder who 108933
gives a good and approved bond, with ample security, conditioned 108934
on the carrying out of the contract. The contract shall be in 108935
writing and shall be accompanied by or refer to plans and 108936
specifications for the work to be done prepared by the chief 108937
engineer. The plans and specifications shall at all times be made 108938
and considered a part of the contract. The contract shall be 108939
approved by the board and signed by the president of the board and 108940
by the contractor and shall be executed in duplicate. In case of 108941
sudden emergency when it is necessary in order to protect the 108942
district, the advertising of contracts may be waived upon the 108943
consent of the board, with the approval of the court or a judge of 108944
the court of common pleas of the county in which the office of the 108945
district is located. 108946

Sec. 6103.04. (A) Whenever any portion of a county sewer 108947
district is incorporated as, or annexed to, a municipal 108948
corporation, the area so incorporated or annexed shall remain 108949
under the jurisdiction of the board of county commissioners for 108950
purposes of the acquisition and construction of water supply 108951
improvements until all of the improvements for the area for which 108952
a resolution described in division (A) or (E) of section 6103.05 108953
of the Revised Code has been adopted by the board have been 108954
acquired or completed or until the board has abandoned the 108955
improvements. The board, unless and until a conveyance is made to 108956
a municipal corporation in accordance with division (B) of this 108957
section, shall continue to have jurisdiction in the area so 108958
incorporated or annexed with respect to the management, 108959
maintenance, and operation of all water supply improvements so 108960
acquired or completed, or previously acquired or completed, 108961
including the right to establish rules and rates and charges for 108962
the use of, and connections to, the improvements. The 108963
incorporation or annexation of any part of a district shall not 108964
affect the legality or enforceability of any public obligations 108965
issued or incurred by the county for purposes of this chapter to 108966
provide for the payment of the cost of acquisition, construction, 108967
maintenance, or operation of any water supply improvements within 108968
the area, or the validity of any assessments levied or to be 108969
levied upon properties within the area to provide for the payment 108970
of the cost of acquisition, construction, maintenance, or 108971
operation of the improvements. 108972

(B) Any A board may convey, by mutual agreement, to a 108973
municipal corporation any of the following: 108974

(1) Any completed water supply facilities acquired or 108975
constructed by a county under this chapter for the use of, or 108976
service of property located in, any county sewer district, or any 108977
part of those facilities, that are located within a the municipal 108978

corporation or within any area that is incorporated as, or annexed to, a the municipal corporation, ~~or any~~; 108979
108980

(2) Any part of the water supply facilities that provide water for a the municipal corporation or ~~such an area, may be conveyed, by mutual agreement between the board and the municipal corporation, to the municipal corporation on any area that is incorporated as, or annexed to, the municipal corporation;~~ 108981
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(3) Any part of the water supply facilities that are connected to water supply facilities of the municipal corporation. 108986
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The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the facilities in accordance with the agreement. The board may retain the right to joint use of all or part of any facilities so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the payment of the cost of the acquisition, construction, maintenance, or operation of the facilities or any part of them shall be affected by the conveyance. 108988
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Sec. 6103.05. (A) After the establishment of any county sewer district, the board of county commissioners, if a water supply improvement is to be undertaken, may have the county sanitary engineer prepare, or otherwise cause to be prepared, for the district, or revise as needed, a general plan of water supply that is as complete as can be developed at the time. After the general plan, in original or revised form, has been approved by the board, it may adopt a resolution generally describing the water supply improvement that is necessary to be acquired or constructed in accordance with the plan, declaring that the improvement is necessary for the preservation and promotion of the public health 108999
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and welfare, and determining whether or not special assessments 109010
are to be levied and collected to pay any part of the cost of the 109011
improvement. 109012

(B) If special assessments are not to be levied and collected 109013
to pay any part of the cost of the improvement, the board, in the 109014
resolution provided for in division (A) of this section or in a 109015
subsequent resolution, including a resolution authorizing the 109016
issuance or incurrence of public obligations for the improvement, 109017
may authorize the improvement and the expenditure of the funds 109018
required for its acquisition or construction and may proceed with 109019
the improvement without regard to the procedures otherwise 109020
required by divisions (C), (D), and (E) of this section and by 109021
sections 6103.06, 6103.07, and 6117.09 to 6117.24 of the Revised 109022
Code. Those procedures shall be required only for improvements for 109023
which special assessments are to be levied and collected. 109024

(C) If special assessments are to be levied and collected 109025
pursuant to a determination made in the resolution provided for in 109026
division (A) of this section or in a subsequent resolution, the 109027
procedures referred to in division (B) of this section as being 109028
required for that purpose shall apply, and the board may have the 109029
county sanitary engineer prepare, or otherwise cause to be 109030
prepared, detailed plans, specifications, and an estimate of cost 109031
for the improvement, together with a tentative assessment of the 109032
cost based on the estimate. The tentative assessment shall be for 109033
the information of property owners and shall not be levied or 109034
certified to the county auditor for collection. The detailed 109035
plans, specifications, estimate of cost, and tentative assessment, 109036
if approved by the board, shall be carefully preserved in the 109037
office of the board or the county sanitary engineer and shall be 109038
open to the inspection of all persons interested in the 109039
improvement. 109040

(D) After the board's approval of the detailed plans, 109041
specifications, estimate of cost, and tentative assessment, and at 109042
least twenty-four days before adopting a resolution pursuant to 109043
division (E) of this section, the board, except to the extent that 109044
appropriate waivers of notice are obtained from affected owners, 109045
shall cause to be sent a notice of its intent to adopt a 109046
resolution to each owner of property proposed to be assessed that 109047
is listed on the records of the county auditor for current 109048
agricultural use value taxation pursuant to section 5713.31 of the 109049
Revised Code and that is not located in an agricultural district 109050
established under section 929.02 of the Revised Code. The notice 109051
shall satisfy all of the following: 109052

(1) Be sent by first class or certified mail; 109053

(2) Specify the proposed date of the adoption of the 109054
resolution; 109055

(3) Contain a statement that the improvement will be financed 109056
in whole or in part by special assessments and that all properties 109057
not located in an agricultural district established pursuant to 109058
section 929.02 of the Revised Code may be subject to a special 109059
assessment; 109060

(4) Contain a statement that an agricultural district may be 109061
established by filing an application with the county auditor. 109062

If it appears, by the return of the mailed notices or by 109063
other means, that one or more of the affected owners cannot be 109064
found or are not served by the mailed notice, the board shall 109065
cause the notice to be published once in a newspaper of general 109066
circulation in the county not later than ten days before the 109067
adoption of the resolution. 109068

(E) After complying with divisions (A), (C), and (D) of this 109069
section, the board may adopt a resolution declaring that the 109070
improvement, which shall be described as to its nature and its 109071

location, route, and termini, is necessary for the preservation 109072
and promotion of the public health and welfare, referring to the 109073
plans, specifications, estimate of cost, and tentative assessment, 109074
stating the place where they are on file and may be examined, and 109075
providing that the entire cost or a lesser designated part of the 109076
cost will be specially assessed against the benefited properties 109077
within the district and that any balance will be paid by the 109078
county at large from other available funds. The resolution also 109079
shall contain a description of the boundaries of that part of the 109080
district to be assessed and shall designate a time and place for 109081
objections to the improvement, to the tentative assessment, or to 109082
the boundaries of the assessment district to be heard by the 109083
board. The date of that hearing shall be not less than twenty-four 109084
days after the date of the first publication of the notice of the 109085
hearing required by this division. 109086

The board shall cause a notice of the hearing to be published 109087
once a week for two consecutive weeks in a newspaper of general 109088
circulation in the county or as provided in section 7.16 of the 109089
Revised Code, and on or before the date of the second publication, 109090
it shall cause to be sent by first class or certified mail a copy 109091
of the notice to every owner of property to be assessed for the 109092
improvement whose address is known. 109093

The notice shall set forth the time and place of the hearing, 109094
a summary description of the proposed improvement, including its 109095
general route and termini, a summary description of the area 109096
constituting the assessment district, and the place where the 109097
plans, specifications, estimate of cost, and tentative assessment 109098
are on file and may be examined. Each mailed notice also shall 109099
include a statement that the property of the addressee will be 109100
assessed for the improvement. The notice also shall be sent by 109101
first class or certified mail, on or before the date of the second 109102
publication, to the clerk, or the official discharging the duties 109103

of a clerk, of any municipal corporation any part of which lies 109104
within the assessment district and shall state whether or not any 109105
property belonging to the municipal corporation is to be assessed 109106
and, if so, shall identify that property. 109107

At the hearing, or at any adjournment of the hearing, of 109108
which no further published or mailed notice need be given, the 109109
board shall hear all parties whose properties are proposed to be 109110
assessed. Written objections to or endorsements of the proposed 109111
improvement, its character and termini, the boundaries of the 109112
assessment district, or the tentative assessment shall be received 109113
by the board for a period of five days after the completion of the 109114
hearing, and no action shall be taken by the board in the matter 109115
until after that period has elapsed. The minutes of the hearing 109116
shall be entered on the journal of the board showing the persons 109117
who appear in person or by attorney, and all written objections 109118
shall be preserved and filed in the office of the board. 109119

Sec. 6103.06. After the expiration of the period of five days 109120
provided in section 6103.05 of the Revised Code for the filing of 109121
written objections, the board of county commissioners shall 109122
determine whether it will proceed with the construction of the 109123
proposed improvement. If it decides to proceed therewith, the 109124
board shall ratify or amend the plans for the improvement, the 109125
character and termini thereof, the boundaries of the assessment 109126
district, and the tentative assessment, and may cause such 109127
revision of plans, boundaries, or assessments as is necessary to 109128
be made by the county sanitary engineer. If the boundaries of the 109129
assessment district are amended so as to include any property not 109130
included within the boundaries as established by the resolution of 109131
necessity, provided for in section 6103.05 of the Revised Code, 109132
the owners of all such property shall be notified by mail if their 109133
addresses are known, and notice shall be published once a week for 109134
two consecutive weeks in a newspaper of general circulation within 109135

the county or as provided in section 7.16 of the Revised Code, 109136
that such amendments have been adopted and that a hearing will be 109137
given by the board at a time and place stated in such notice at 109138
which all persons interested will be heard by the board. The date 109139
of such hearing shall be not less than twenty-four days after the 109140
first publication of such notice, and the hearing shall be 109141
conducted and records kept in the same manner as the first 109142
hearing. Five days shall be allowed for the filing of written 109143
objections as provided in section 6103.05 of the Revised Code for 109144
the first hearing and after the expiration of such five day period 109145
the board shall ratify the plans for the improvement, the 109146
character and termini thereof, the boundaries of the assessment 109147
district, and the tentative assessment, or shall further amend the 109148
same. If the boundaries of the assessment district are amended so 109149
as to include any property not included in the assessment district 109150
as originally established or previously amended, further notice 109151
and hearing shall be given to the owners of such property in the 109152
same manner as for the first amendment of such boundaries, and the 109153
same procedure shall be repeated until all property owners 109154
affected have been given an opportunity to be heard. If the owners 109155
of all property added to an assessment district by amendment of 109156
the original boundaries thereof waive objection to such amendment 109157
in writing, no further notice or hearing shall be given. After the 109158
board has ratified the plans for the improvement, the character 109159
and termini thereof, the boundaries of the assessment district, 109160
and the tentative assessment, either as originally presented or as 109161
amended, and if it decides to proceed therewith, the board shall 109162
adopt a resolution, to be known as the improvement resolution. 109163
Said improvement resolution shall declare the determination of 109164
such board to proceed with the construction of the improvement 109165
provided for in the resolution of necessity, in accordance with 109166
the plans and specification provided for such improvement, as 109167
ratified or amended, and whether bonds or certificates of 109168

indebtedness shall be issued in anticipation of the collection of 109169
special assessments, or that money in the county treasury 109170
unappropriated for any other purpose shall be appropriated to pay 109171
for said improvement. 109172

Sec. 6103.081. (A) After the establishment of any county 109173
sewer district, the board of county commissioners may determine by 109174
resolution that it is necessary to provide water supply 109175
improvements and to maintain and operate the improvements within 109176
the district or a designated portion of the district, that the 109177
improvements, which shall be generally described in the 109178
resolution, shall be constructed, that funds are required to pay 109179
the preliminary costs of the improvements to be incurred prior to 109180
the commencement of the proceedings for their construction, and 109181
that those funds shall be provided in accordance with this 109182
section. 109183

(B) Prior to the adoption of the resolution, the board shall 109184
give notice of its pendency and of the proposed determination of 109185
the necessity of the improvements generally described in the 109186
resolution. The notice shall set forth a description of the 109187
properties to be benefited by the improvements and the time and 109188
place of a hearing of objections to and endorsements of the 109189
improvements. The notice shall be given either by publication in a 109190
newspaper of general circulation in the county once a week for two 109191
consecutive weeks, by publication as provided in section 7.16 of 109192
the Revised Code, or by mailing a copy of the notice by first 109193
class or certified mail to the owners of the properties proposed 109194
to be assessed at their respective tax mailing addresses, or by 109195
~~both~~ a combination of these manners, the first publication to be 109196
made or the mailing to occur at least two weeks prior to the date 109197
set for the hearing. At the hearing, or at any adjournment of the 109198
hearing, of which no further published or mailed notice need be 109199
given, the board shall hear all persons whose properties are 109200

proposed to be assessed and the evidence it considers to be 109201
necessary. The board then shall determine the necessity of the 109202
proposed improvements and whether the improvements shall be made 109203
by the board and, if they are to be made, shall direct the 109204
preparation of tentative assessments upon the benefited properties 109205
and by whom they shall be prepared. 109206

(C) In order to obtain funds for the preparation of a general 109207
or revised general plan of water supply for the district or part 109208
of the district, for the preparation of the detailed plans, 109209
specifications, estimate of cost, and tentative assessment for the 109210
proposed improvements, and for the cost of financing and legal 109211
services incident to the preparation of all of those plans and a 109212
plan of financing the proposed improvements, the board may levy 109213
upon the properties to be benefited in the district a preliminary 109214
assessment apportioned according to benefits or to tax valuation 109215
or partly by one method and partly by the other method as the 109216
board may determine. The assessments shall be in the amount 109217
determined to be necessary to obtain funds for the general and 109218
detailed plans and the cost of financing and legal services and 109219
shall be payable in the number of years that the board shall 109220
determine, not to exceed twenty years, together with interest on 109221
any public obligations that may be issued or incurred in 109222
anticipation of the collection of the assessments. 109223

(D) The board shall have power at any time to levy additional 109224
assessments according to benefits or to tax valuation or partly by 109225
one method and partly by the other method as the board may 109226
determine for the purposes described in division (C) of this 109227
section upon the benefited properties to complete the payment of 109228
the costs described in division (C) of this section or to pay the 109229
cost of any additional plans, specifications, estimate of cost, or 109230
tentative assessment and the cost of financing and legal services 109231
incident to the preparation of those plans and the plan of 109232

financing, which additional assessments shall be payable in the 109233
number of years that the board shall determine, not to exceed 109234
twenty years, together with interest on any public obligations 109235
that may be issued or incurred in anticipation of the collection 109236
of the additional assessments. 109237

(E) Prior to the adoption of a resolution levying assessments 109238
under this section, the board shall give notice either by one 109239
publication in a newspaper of general circulation in the county, 109240
or by mailing a copy of the notice by first class or certified 109241
mail to the owners of the properties proposed to be assessed at 109242
their respective tax mailing addresses, or by both manners, the 109243
publication to be made or the mailing to occur at least ten days 109244
prior to the date of the meeting at which the resolution shall be 109245
taken up for consideration; that notice shall state the time and 109246
place of the meeting at which the resolution is to be considered. 109247
At the time and place of the meeting, or at any adjournment of the 109248
meeting, of which no further published or mailed notice need be 109249
given, the board shall hear all persons whose properties are 109250
proposed to be assessed, shall correct any errors and make any 109251
revisions that appear to be necessary or just, and then may adopt 109252
a resolution levying upon the properties determined to be 109253
benefited the assessments as so corrected and revised. 109254

The assessments levied by the resolution shall be certified 109255
to the county auditor for collection in the same manner as taxes 109256
in the year or years in which they are payable. 109257

(F) Upon the adoption of the resolution described in division 109258
(E) of this section, no further action shall be taken or work done 109259
until ten days have elapsed. If, at the expiration of that period, 109260
no appeal has been effected by any property owner as provided in 109261
this division, the action of the board shall be final. If, at the 109262
end of that ten days, any owner of property to be assessed for the 109263
improvements has effected an appeal, no further action shall be 109264

taken and no work done in connection with the improvements under 109265
the resolution until the matters appealed from have been disposed 109266
of in court. 109267

Any owner of property to be assessed may appeal as provided 109268
and upon the grounds stated in sections 6117.09 to 6117.24 of the 109269
Revised Code. 109270

If no appeal has been perfected or if on appeal the 109271
resolution of the board is sustained, the board may authorize and 109272
enter into contracts to carry out the purpose for which the 109273
assessments have been levied without the prior issuance of notes, 109274
provided that the payments under those contracts do not fall due 109275
prior to the time by which the assessments are to be collected. 109276
The board may issue and sell bonds with a maximum maturity of 109277
twenty years in anticipation of the collection of the assessments 109278
and may issue notes in anticipation of the issuance of the bonds, 109279
which notes and bonds, as public obligations, shall be issued and 109280
sold as provided in Chapter 133. of the Revised Code. 109281

Sec. 6103.31. (A) If the board of county commissioners 109282
determines by resolution that the best interests of the county and 109283
the users of water supply facilities of the county serving a sewer 109284
district so require, the board may sell or otherwise dispose of 109285
the facilities to another public agency or a person. The 109286
resolution declaring the necessity of that disposition shall 109287
recite the reasons for the sale or other disposition and shall 109288
establish any conditions or terms that the board may impose, 109289
including, but not limited to, a minimum sales price if a sale is 109290
proposed, a requirement for the submission by bidders of the 109291
schedule of water rates and charges initially proposed to be paid 109292
by the users of the facilities, and other pertinent conditions or 109293
terms relating to the sale or other disposition. The resolution 109294
also shall designate a time and place for the hearing of 109295

objections to the sale or other disposition by the board. Notice 109296
of the adoption of the resolution and the time and place of the 109297
hearing shall be published as provided in section 7.16 of the 109298
Revised Code, or once a week for two consecutive weeks, in a 109299
newspaper of general circulation in the sewer district and in the 109300
county. The public hearing on the sale or other disposition shall 109301
be held not less than twenty-four days following the date of first 109302
publication of the notice. A copy of the notice also shall be sent 109303
by first class or certified mail, on or before the date of the 109304
second publication, to any public agency within the area served by 109305
the facilities. At the public hearing, or at any adjournment of 109306
it, of which no further published or mailed notice need be given, 109307
the board shall hear all interested parties. A period of five days 109308
shall be given following the completion of the hearing for the 109309
filing of written objections by any interested persons or public 109310
agencies to the sale or other disposition, after which the board 109311
shall consider any objections and by resolution determine whether 109312
or not to proceed with the sale or other disposition. If the board 109313
determines to proceed with the sale or other disposition, it shall 109314
receive bids after advertising once a week for four consecutive 109315
weeks in a newspaper of general circulation in the county or as 109316
provided in section 7.16 of the Revised Code and, subject to the 109317
right of the board to reject any or all bids, may make an award to 109318
a responsible bidder whose proposal is determined by the board to 109319
be in the best interests of the county and the users of the 109320
facilities. 109321

(B) A conveyance of water supply facilities by a county to a 109322
municipal corporation, in accordance with division (B) of section 109323
6103.04 of the Revised Code, may be made without regard to 109324
division (A) of this section. 109325

Sec. 6105.131. The board of directors of a watershed district 109326

may designate a specific reach in the channel of any watercourse 109327
within the territorial boundaries of the district as a restricted 109328
channel, when the construction or alteration of structures or 109329
obstructions within such channel will restrict its capacity so as 109330
to constitute an unreasonable hazard to the safety of life and 109331
property in times of flood, or designate any area outside the 109332
banks of a restricted channel as a restricted floodway when such 109333
area is reasonably necessary to the efficiency of a restricted 109334
channel as a means of carrying off flood waters. Such designation 109335
of a restricted channel or restricted floodway shall be made in 109336
the following manner: 109337

(A) The board shall adopt a resolution stating its intent to 109338
designate a specific reach in a channel of a watercourse as a 109339
restricted channel or a specific area as a restricted floodway. 109340
Such resolution shall contain a description of the reach of the 109341
channel to be designated as a restricted channel or description of 109342
the area to be designated as a restricted floodway and the reasons 109343
of the board for making such designation. 109344

(B) The board shall cause such resolution to be published as 109345
provided in section 7.16 of the Revised Code or once a week for 109346
two consecutive weeks in a newspaper of general circulation in the 109347
county or counties in which such restricted channel or restricted 109348
floodway is located, together with a notice of the time and place 109349
where a hearing will be held by the board on the question of 109350
designating such channel as a restricted channel or such area as a 109351
restricted floodway ~~and~~. The board also shall give not less than 109352
ten days notice of said hearing by first class mail to all owners 109353
of property within the area proposed to be designated as a 109354
restricted floodway. The date of such hearing shall be not less 109355
than ten days after the completion of the publication provided for 109356
by this division. 109357

(C) The board shall hold a hearing at the time and place 109358

designated in the notice published under division (B) of this section at which time indorsements of and objections to the designation of such channel as a restricted channel or such area as a restricted floodway shall be heard.

(D) The board may, after the completion of the hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or relocation, alteration, restriction, deposit, or encroachment within the designated reach of such channel will restrict its capacity so as to constitute an unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the reach of the channel described in the resolution of intent adopted under division (A) of this section or any modification thereof as a restricted channel.

(E) In like manner the board may, after completion of a hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or change of grade within a designated floodway area will restrict its capacity or efficiency as a means of carrying off flood water so as to constitute an unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the area described in the resolution of intent adopted under division (A) of this section, or any modification thereof, as a restricted floodway.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, 109390
not later than January 31, 1994; 109391

(2) If the public water system is not a community water 109392
system and serves a nontransient population, not later than 109393
January 31, 1994; 109394

(3) If the public water system is not a community water 109395
system and serves a transient population, not later than January 109396
31, 1995. 109397

A person proposing to operate or maintain a new public water 109398
system after January 1, 1994, in addition to complying with 109399
section 6109.07 of the Revised Code and rules adopted under it, 109400
shall submit an application for an initial license under this 109401
section to the director prior to commencing operation of the 109402
system. 109403

A license or license renewal issued under this section shall 109404
be renewed annually. Such a license or license renewal shall 109405
expire on the thirtieth day of January in the year following its 109406
issuance. A license holder that proposes to continue operating the 109407
public water system for which the license or license renewal was 109408
issued shall apply for a license renewal at least thirty days 109409
prior to that expiration date. 109410

The director shall adopt, and may amend and rescind, rules in 109411
accordance with Chapter 119. of the Revised Code establishing 109412
procedures governing and information to be included on 109413
applications for licenses and license renewals under this section. 109414
Through June 30, ~~2012~~ 2014, each application shall be accompanied 109415
by the appropriate fee established under division (M) of section 109416
3745.11 of the Revised Code, provided that an applicant for an 109417
initial license who is proposing to operate or maintain a new 109418
public water system after January 1, 1994, shall submit a fee that 109419
equals a prorated amount of the appropriate fee established under 109420

that division for the remainder of the licensing year. 109421

(B) Not later than thirty days after receiving a completed 109422
application and the appropriate license fee for an initial license 109423
under division (A) of this section, the director shall issue the 109424
license for the public water system. Not later than thirty days 109425
after receiving a completed application and the appropriate 109426
license fee for a license renewal under division (A) of this 109427
section, the director shall do one of the following: 109428

(1) Issue the license renewal for the public water system; 109429

(2) Issue the license renewal subject to terms and conditions 109430
that the director determines are necessary to ensure compliance 109431
with this chapter and rules adopted under it; 109432

(3) Deny the license renewal if the director finds that the 109433
public water system was not operated in substantial compliance 109434
with this chapter and rules adopted under it. 109435

(C) The director may suspend or revoke a license or license 109436
renewal issued under this section if the director finds that the 109437
public water system was not operated in substantial compliance 109438
with this chapter and rules adopted under it. The director shall 109439
adopt, and may amend and rescind, rules in accordance with Chapter 109440
119. of the Revised Code governing such suspensions and 109441
revocations. 109442

(D)(1) As used in division (D) of this section, "church" 109443
means a fellowship of believers, congregation, society, 109444
corporation, convention, or association that is formed primarily 109445
or exclusively for religious purposes and that is not formed or 109446
operated for the private profit of any person. 109447

(2) This section does not apply to a church that operates or 109448
maintains a public water system solely to provide water for that 109449
church or for a campground that is owned by the church and 109450
operated primarily or exclusively for members of the church and 109451

their families. A church that, on or before March 5, 1996, has
obtained a license under this section for such a public water
system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic
school that meets minimum standards of the state board of
education that operates or maintains a public water system solely
to provide water for that school.

(F) The environmental protection agency shall collect well
log filing fees on behalf of the division of soil and water
resources in the department of natural resources in accordance
with section 1521.05 of the Revised Code and rules adopted under
it. The fees shall be submitted to the division quarterly as
provided in those rules.

Sec. 6111.038. There is hereby created in the state treasury
the surface water protection fund, consisting of moneys
distributed to it. The director of environmental protection shall
use moneys in the fund solely for administration and
implementation of surface water protection programs, including at
least programs required under the "Federal Water Pollution Control
Act" and programs necessary to carry out the purposes of this
chapter. Those programs shall include at least the development of
water quality standards; the development of wasteload allocations;
the establishment of water quality-based effluent limits; the
monitoring and analysis of chemical, physical, and biological
surface water quality; the issuance, modification, and renewal of
NPDES permits and permits to install; the ensurance of compliance
with permit conditions; the management and oversight of
pretreatment programs; the provision of technical assistance to
publicly owned treatment works; and the administration of the
water pollution control loan fund created in section 6111.036 of
the Revised Code.

~~Moneys in the fund shall not be used to meet any state matching requirements that are necessary to obtain federal grants.~~

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Sec. 6111.044. Upon receipt of an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit, the director of environmental protection shall determine whether the application is complete and demonstrates that the activities for which the permit, renewal permit, or modification is requested will comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it. If the application demonstrates that the proposed activities will not comply or will pose an unreasonable risk of inducing seismic activity, inducing geologic fracturing, or contamination of an underground source of drinking water, the director shall deny the application. If the application does not make the required demonstrations, the director shall return it to the applicant with an indication of those matters about which a required demonstration was not made. If the director determines that the application makes the required demonstrations, the director shall transmit copies of the application and all of the accompanying maps, data, samples, and information to the chief of the division of ~~mineral~~ oil and gas resources management, the chief of the division of geological survey, ~~and~~ the chief of the division of soil and water resources, and, if the well is or is to be located in a coal bearing township designated under section 1561.06 of the Revised Code, the chief of the division of mineral resources management in the department of natural resources.

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The chief of the division of geological survey shall comment 109514

upon the application if the chief determines that the proposed well or injection will present an unreasonable risk of loss or damage to valuable mineral resources. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the geological factors upon which the comments are based, including fractures, faults, earthquake potential, and the porosity and permeability of the injection zone and confining zone, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation of geologic factors and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of ~~mineral~~ oil and gas resources management shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk that waste or contamination of recoverable oil or gas in the earth will occur. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the oil or gas reserves that, in the best professional judgment of the chief, are recoverable and will be adversely affected by the proposed well or injection, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of soil and water resources shall 109547
assist the director in determining whether all underground sources 109548
of drinking water in the area of review of the proposed well or 109549
injection have been identified and correctly delineated in the 109550
application. If the application fails to identify or correctly 109551
delineate an underground source of drinking water, the chief shall 109552
provide written notice of that fact to the director. 109553

The chief of the division of mineral resources management 109554
~~also~~ shall review the application as follows: 109555

If the application concerns the drilling or conversion of a 109556
well or the injection into a well that is not or is not to be 109557
located within five thousand feet of the excavation and workings 109558
of a mine, the chief of the division of mineral resources 109559
management shall note upon the application that it has been 109560
examined by the division of mineral resources management, retain a 109561
copy of the application and map, and immediately return a copy of 109562
the application to the director. 109563

If the application concerns the drilling or conversion of a 109564
well or the injection into a well that is or is to be located 109565
within five thousand feet, but more than five hundred feet from 109566
the surface excavations and workings of a mine, the chief of the 109567
division of mineral resources management immediately shall notify 109568
the owner or lessee of the mine that the application has been 109569
filed and send to the owner or lessee a copy of the map 109570
accompanying the application setting forth the location of the 109571
well. The chief of the division of mineral resources management 109572
shall note on the application that the notice has been sent to the 109573
owner or lessee of the mine, retain a copy of the application and 109574
map, and immediately return a copy of the application to the 109575
director with the chief's notation on it. 109576

If the application concerns the drilling or conversion of a 109577
well or the injection into a well that is or is to be located 109578

within five thousand feet of the underground excavations and 109579
workings of a mine or within five hundred feet of the surface 109580
excavations and workings of a mine, the chief of the division of 109581
mineral resources management immediately shall notify the owner or 109582
lessee of the mine that the application has been filed and send to 109583
the owner or lessee a copy of the map accompanying the application 109584
setting forth the location of the well. If the owner or lessee 109585
objects to the application, the owner or lessee shall notify the 109586
chief of the division of mineral resources management of the 109587
objection, giving the reasons, within six days after the receipt 109588
of the notice. If the chief of the division of mineral resources 109589
management receives no objections from the owner or lessee of the 109590
mine within ten days after the receipt of the notice by the owner 109591
or lessee, or if in the opinion of the chief of the division of 109592
mineral resources management the objections offered by the owner 109593
or lessee are not sufficiently well founded, the chief shall 109594
retain a copy of the application and map and return a copy of the 109595
application to the director with any applicable notes concerning 109596
it. 109597

If the chief of the division of mineral resources management 109598
receives an objection from the owner or lessee of the mine as to 109599
the application, within ten days after receipt of the notice by 109600
the owner or lessee, and if in the opinion of the chief the 109601
objection is well founded, the chief shall disapprove the 109602
application and immediately return it to the director together 109603
with the chief's reasons for the disapproval. The director 109604
promptly shall notify the applicant for the permit, renewal 109605
permit, or modification of the disapproval. The applicant may 109606
appeal the disapproval of the application by the chief of the 109607
division of mineral resources management to the reclamation 109608
commission created under section 1513.05 of the Revised Code, and 109609
the commission shall hear the appeal in accordance with section 109610
1513.13 of the Revised Code. The appeal shall be filed within 109611

thirty days from the date the applicant receives notice of the 109612
disapproval. No comments concerning or disapproval of an 109613
application shall be delayed by the chief of the division of 109614
mineral resources management for more than fifteen days from the 109615
date of sending of notice to the mine owner or lessee as required 109616
by this section. 109617

The director shall not approve an application for an 109618
injection well drilling permit, an injection well operating 109619
permit, a renewal of an injection well operating permit, or a 109620
modification of an injection well drilling permit, operating 109621
permit, or renewal of an operating permit for a well that is or is 109622
to be located within three hundred feet of any opening of any mine 109623
used as a means of ingress, egress, or ventilation for persons 109624
employed in the mine, nor within one hundred feet of any building 109625
or flammable structure connected with the mine and actually used 109626
as a part of the operating equipment of the mine, unless the chief 109627
of the division of mineral resources management determines that 109628
life or property will not be endangered by drilling and operating 109629
the well in that location. 109630

Upon review by the chief of the division of ~~mineral~~ oil and 109631
gas resources management, the chief of the division of geological 109632
survey, and the chief of the division of soil and water resources, 109633
and if the chief of the division of mineral resources management 109634
has not disapproved the application, the director shall issue a 109635
permit, renewal permit, or modification with any terms and 109636
conditions that may be necessary to comply with the Federal Water 109637
Pollution Control Act and regulations adopted under it; the "Safe 109638
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as 109639
amended, and regulations adopted under it; and this chapter and 109640
the rules adopted under it. The director shall not issue a permit, 109641
renewal permit, or modification to an applicant if the applicant 109642
or persons associated with the applicant have engaged in or are 109643

engaging in a substantial violation of this chapter that is 109644
endangering or may endanger human health or the environment or if, 109645
in the case of an applicant for an injection well drilling permit, 109646
the applicant, at the time of applying for the permit, did not 109647
hold an injection well operating permit or renewal of an injection 109648
well drilling permit and failed to demonstrate sufficient 109649
expertise and competency to operate the well in compliance with 109650
the applicable provisions of this chapter. 109651

If the director receives a disapproval from the chief of the 109652
division of mineral resources management regarding an application 109653
for an injection well drilling or operating permit, renewal 109654
permit, or modification, if required, the director shall issue an 109655
order denying the application. 109656

The director need not issue a proposed action under section 109657
3745.07 of the Revised Code or hold an adjudication hearing under 109658
that section and Chapter 119. of the Revised Code before issuing 109659
or denying a permit, renewal permit, or modification of a permit 109660
or renewal permit. Before issuing or renewing a permit to drill or 109661
operate a class I injection well or a modification of it, the 109662
director shall propose the permit, renewal permit, or modification 109663
in draft form and shall hold a public hearing to receive public 109664
comment on the draft permit, renewal permit, or modification. At 109665
least fifteen days before the public hearing on a draft permit, 109666
renewal permit, or modification, the director shall publish notice 109667
of the date, time, and location of the public hearing in at least 109668
one newspaper of general circulation serving the area where the 109669
well is or is to be located. The proposing of such a draft permit, 109670
renewal permit, or modification does not constitute the issuance 109671
of a proposed action under section 3745.07 of the Revised Code, 109672
and the holding of the public hearing on such a draft permit, 109673
renewal permit, or modification does not constitute the holding of 109674
an adjudication hearing under that section and Chapter 119. of the 109675

Revised Code. Appeals of orders other than orders of the chief of 109676
the division of mineral resources management shall be taken under 109677
sections 3745.04 to 3745.08 of the Revised Code. 109678

The director may order that an injection well drilling permit 109679
or an injection well operating permit or renewal permit be 109680
suspended and that activities under it cease after determining 109681
that those activities are occurring in violation of law, rule, 109682
order, or term or condition of the permit. Upon service of a copy 109683
of the order upon the permit holder or the permit holder's 109684
authorized agent or assignee, the permit and activities under it 109685
shall be suspended immediately without prior hearing and shall 109686
remain suspended until the violation is corrected and the order of 109687
suspension is lifted. If a violation is the second within a 109688
one-year period, the director, after a hearing, may revoke the 109689
permit. 109690

The director may order that an injection well drilling permit 109691
or an injection well operating permit or renewal permit be 109692
suspended and that activities under it cease if the director has 109693
reasonable cause to believe that the permit would not have been 109694
issued if the information available at the time of suspension had 109695
been available at the time a determination was made by one of the 109696
agencies acting under authority of this section. Upon service of a 109697
copy of the order upon the permit holder or the permit holder's 109698
authorized agent or assignee, the permit and activities under it 109699
shall be suspended immediately without prior hearing, but a permit 109700
may not be suspended for that reason without prior hearing unless 109701
immediate suspension is necessary to prevent waste or 109702
contamination of oil or gas, comply with the Federal Water 109703
Pollution Control Act and regulations adopted under it; the "Safe 109704
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as 109705
amended, and regulations adopted under it; and this chapter and 109706
the rules adopted under it, or prevent damage to valuable mineral 109707

resources, prevent contamination of an underground source of 109708
drinking water, or prevent danger to human life or health. If 109709
after a hearing the director determines that the permit would not 109710
have been issued if the information available at the time of the 109711
hearing had been available at the time a determination was made by 109712
one of the agencies acting under authority of this section, the 109713
director shall revoke the permit. 109714

When a permit has been revoked, the permit holder or other 109715
person responsible for it immediately shall plug the well in the 109716
manner required by the director. 109717

The director may issue orders to prevent or require cessation 109718
of violations of this section, section 6111.043, 6111.045, 109719
6111.046, or 6111.047 of the Revised Code, rules adopted under any 109720
of those sections, and terms or conditions of permits issued under 109721
any of them. The orders may require the elimination of conditions 109722
caused by the violation. 109723

Sec. 6111.46. (A) The environmental protection agency shall 109724
exercise general supervision of the treatment and disposal of 109725
sewage and industrial wastes and the operation and maintenance of 109726
works or means installed for the collection, treatment, and 109727
disposal of sewage and industrial wastes. Such general supervision 109728
shall apply to all features of construction, operation, and 109729
maintenance of the works or means that do or may affect the proper 109730
treatment and disposal of sewage and industrial wastes. 109731

(B)(1) The agency shall investigate the works or means 109732
employed in the collection, treatment, and disposal of sewage and 109733
industrial wastes whenever considered necessary or whenever 109734
requested to do so by local health officials and may issue and 109735
enforce orders and shall adopt rules governing the operation and 109736
maintenance of the works or means of treatment and disposal of 109737
such sewage and industrial wastes. In adopting rules under this 109738

section, the agency shall establish standards governing the 109739
construction, operation, and maintenance of the works or means of 109740
collection, treatment, and disposal of sewage that is generated at 109741
recreational vehicle parks, recreation camps, combined park-camps, 109742
and temporary park-camps that are separate from such standards 109743
relative to manufactured home parks. 109744

(2) As used in division (B)(1) of this section: 109745

(a) "Manufactured home parks" has the same meaning as in 109746
section ~~3733.01~~ 4781.01 of the Revised Code. 109747

(b) "Recreational vehicle parks," "recreation camps," 109748
"combined park-camps," and "temporary park-camps" have the same 109749
meanings as in section 3729.01 of the Revised Code. 109750

(C) The agency may require the submission of records and data 109751
of construction, operation, and maintenance, including plans and 109752
descriptions of existing works or means of treatment and disposal 109753
of such sewage and industrial wastes. When the agency requires the 109754
submission of such records or information, the public officials or 109755
person, firm, or corporation having the works in charge shall 109756
comply promptly with that order. 109757

Sec. 6115.01. As used in sections 6115.01 to 6115.79 of the 109758
Revised Code: 109759

(A) "Publication" means once a week for three consecutive 109760
weeks in ~~each of two newspapers of different political~~ 109761
~~affiliations, if there are such newspapers, and a newspaper~~ 109762
of general circulation in the counties wherein publication is to be 109763
made or as provided in section 7.16 of the Revised Code. 109764
Publication need not be made on the same day of the week in each 109765
of the ~~three~~ weeks; but not less than fourteen days, excluding the 109766
day of first publication, shall intervene between the first 109767
publication and the last publication. Publication shall be 109768

complete on the date of the last publication. 109769

(B) "Person" means person, firm, partnership, association, or 109770
corporation, other than county, township, municipal corporation, 109771
or other political subdivision. 109772

(C) "Public corporation" means counties, townships, municipal 109773
corporations, school districts, road districts, ditch districts, 109774
park districts, levee districts, and all other governmental 109775
agencies clothed with the power of levying general or special 109776
taxes. 109777

(D) "Court" means the court of common pleas in which the 109778
petition for the organization of a sanitary district was filed and 109779
granted. In the case of a district lying in more than one county, 109780
"court" means the court comprised of one judge of the court of 109781
common pleas from each county as provided in section 6115.04 of 109782
the Revised Code. 109783

(E) "Land" or "property," unless otherwise specified, means 109784
real property, as "real property" is used in and defined by the 109785
laws of this state, and embraces all railroads, tramroads, roads, 109786
electric railroads, street and interurban railroads, streets and 109787
street improvements, telephones, telegraph, and transmission 109788
lines, gas, sewerage, and water systems, pipelines and 109789
rights-of-way of public service corporations, and all other real 109790
property whether public or private. 109791

(F) "Board of directors" applies to the duties of one 109792
director appointed in accordance with section 6115.10 of the 109793
Revised Code in a district lying wholly within one county. 109794

(G) "Biting arthropods" include mosquitoes, ticks, biting 109795
flies, or other biting arthropods capable of transmitting disease 109796
to humans. 109797

(H) "Bond" or "bonds" means bonds, notes, certificates of 109798
indebtedness, certificates of participation, commercial paper, and 109799

other instruments in writing, including, unless the context does 109800
not admit, bonds or notes issued in anticipation of the issuance 109801
of other bonds, issued by a sanitary district to evidence its 109802
obligation to repay money borrowed, or to pay interest, by, or to 109803
pay at any future time other money obligations of, the sanitary 109804
district. 109805

(I) "Financing costs" has the same meaning as in division (K) 109806
of section 133.01 of the Revised Code. 109807

Sec. 6115.20. (A) When it is determined to let the work 109808
relating to the improvements for which a sanitary district was 109809
established by contract, contracts in amounts to exceed ten 109810
thousand dollars shall be advertised after notice calling for bids 109811
has been published once a week for five consecutive weeks 109812
completed on the date of last publication or as provided in 109813
section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of 109814
general circulation within the sanitary district where the work is 109815
to be done. The board of directors of the sanitary district shall 109816
let bids as provided in this section or, if applicable, section 109817
9.312 of the Revised Code. If the bids are for a contract for the 109818
construction, demolition, alteration, repair, or reconstruction of 109819
an improvement, the board of directors of the sanitary district 109820
shall let the contract to the lowest or best bidder who meets the 109821
requirements of section 153.54 of the Revised Code. If the bids 109822
are for a contract for any other work relating to the improvements 109823
for which a sanitary district was established, the board of 109824
directors of the sanitary district shall let the contract to the 109825
lowest or best bidder who gives a good and approved bond, with 109826
ample security, conditioned on the carrying out of the contract 109827
and the payment for all labor and material. The contract shall be 109828
in writing and shall be accompanied by or shall refer to plans and 109829
specifications for the work to be done prepared by the chief 109830
engineer. The plans and specifications at all times shall be made 109831

and considered a part of the contract. The contract shall be 109832
approved by the board and signed by the president of the board and 109833
by the contractor and shall be executed in duplicate. In case of 109834
emergency the advertising of contracts may be waived upon the 109835
consent of the board with the approval of the court or judge in 109836
vacation. 109837

(B) In the case of a sanitary district organized wholly for 109838
the purpose of providing a water supply for domestic, municipal, 109839
and public use that includes two municipal corporations in two 109840
counties, any service to be purchased, including the services of 109841
an accountant, architect, attorney at law, physician, or 109842
professional engineer, at a cost in excess of ten thousand dollars 109843
shall be obtained in the manner provided in sections 153.65 to 109844
~~153.71~~ 153.73 of the Revised Code. For the purposes of the 109845
application of those sections to division (B) of this section, all 109846
of the following apply: 109847

(1) "Public authority," as used in those sections, shall be 109848
deemed to mean a sanitary district organized wholly for the 109849
purpose of providing a water supply for domestic, municipal, and 109850
public use that includes two municipal corporations in two 109851
counties; 109852

(2) "Professional design firm," as used in those sections, 109853
shall be deemed to mean any person legally engaged in rendering 109854
professional design services as defined in division (B)(3) of this 109855
section; 109856

(3) "Professional design services," as used in those 109857
sections, shall be deemed to mean accounting, architectural, 109858
legal, medical, or professional engineering services; 109859

(4) The use of other terms in those sections shall be adapted 109860
accordingly, including, without limitation, for the purposes of 109861
division (D)~~(2)~~ of section 153.67 of the Revised Code; 109862

(5) Divisions (A) to (C) of section 153.71 of the Revised Code do not apply. 109863
109864

(C) The board of directors of a district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use may contract for, purchase, or otherwise procure for the benefit of employees of the district and pay all or any part of the cost of group insurance policies that may provide benefits, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, or prescription drugs. Any group insurance policy purchased under this division shall be purchased from the health care corporation that the board of directors determines offers the most cost-effective group insurance policy. 109865
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Sec. 6117.05. (A) Whenever any portion of a sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the board of county commissioners for purposes of the acquisition and construction of sanitary and drainage facility and prevention or replacement facility improvements until all of those improvements for the area for which a resolution described in division (A) or (E) of section 6117.06 of the Revised Code has been adopted by the board have been acquired or completed or until the board has abandoned the improvements. The board, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all sanitary and drainage facilities and prevention or replacement facilities so acquired or completed, or previously acquired or completed, including the right to establish rules and rates and charges for the use of, and connections to, the facilities. The incorporation or annexation of any part of a district shall not 109876
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affect the legality or enforceability of any public obligations 109895
issued or incurred by the county for purposes of this chapter to 109896
provide for the payment of the cost of acquisition, construction, 109897
maintenance, or operation of any sanitary or drainage facilities 109898
or prevention or replacement facilities within the area, or the 109899
validity of any assessments levied or to be levied upon properties 109900
within the area to provide for the payment of the cost of 109901
acquisition, construction, maintenance, or operation of the 109902
facilities. 109903

(B) ~~Any~~ A board may convey, by mutual agreement, to a 109904
municipal corporation any of the following: 109905

(1) Any completed sanitary or drainage facilities or 109906
prevention or replacement facilities acquired or constructed by a 109907
county under this chapter for the use of, or service of property 109908
located in, any county sewer district, or any part of those 109909
facilities, that are located within a the municipal corporation or 109910
within any area that is incorporated as, or annexed to, a the 109911
municipal corporation, ~~or any;~~ 109912

(2) Any part of the sanitary, drainage, prevention, or 109913
replacement facilities that serve a the municipal corporation or 109914
~~such an area, may be conveyed, by mutual agreement between the~~ 109915
~~board and the municipal corporation, to the municipal corporation~~ 109916
~~on any area that is incorporated as, or annexed to, the municipal~~ 109917
corporation; 109918

(3) Any part of the sanitary, drainage, prevention, or 109919
replacement facilities that are connected to facilities of the 109920
municipal corporation. 109921

The conveyance shall be completed with terms and for 109922
consideration as may be negotiated. Upon and after the conveyance, 109923
the municipal corporation shall manage, maintain, and operate the 109924
facilities in accordance with the agreement. The board may retain 109925

the right to joint use of all or part of any facilities so 109926
conveyed for the benefit of the district. Neither the validity of 109927
any assessment levied or to be levied, nor the legality or 109928
enforceability of any public obligations issued or incurred, to 109929
provide for the payment of the cost of the acquisition, 109930
construction, maintenance, or operation of the facilities or any 109931
part of them, shall be affected by the conveyance. 109932

Sec. 6117.06. (A) After the establishment of any sewer 109933
district, the board of county commissioners, if a sanitary or 109934
drainage facility or prevention or replacement facility 109935
improvement is to be undertaken, may have the county sanitary 109936
engineer prepare, or otherwise cause to be prepared, for the 109937
district, or revise as needed, a general plan of sewerage or 109938
drainage that is as complete in each case as can be developed at 109939
the time and that is devised with regard to any existing sanitary 109940
or drainage facilities or prevention or replacement facilities in 109941
the district and present as well as prospective needs for 109942
additional sanitary or drainage facilities or prevention or 109943
replacement facilities in the district. After the general plan, in 109944
original or revised form, has been approved by the board, it may 109945
adopt a resolution generally describing the improvement that is 109946
necessary to be acquired or constructed in accordance with the 109947
particular plan, declaring that the improvement is necessary for 109948
the preservation and promotion of the public health and welfare, 109949
and determining whether or not special assessments are to be 109950
levied and collected to pay any part of the cost of the 109951
improvement. 109952

(B) If special assessments are not to be levied and collected 109953
to pay any part of the cost of the improvement, the board, in the 109954
resolution provided for in division (A) of this section or in a 109955
subsequent resolution, including a resolution authorizing the 109956
issuance or incurrence of public obligations for the improvement, 109957

may authorize the improvement and the expenditure of the funds 109958
required for its acquisition or construction and may proceed with 109959
the improvement without regard to the procedures otherwise 109960
required by divisions (C), (D), and (E) of this section and by 109961
sections 6117.07 to 6117.24 of the Revised Code. Those procedures 109962
are required only for improvements for which special assessments 109963
are to be levied and collected. 109964

(C) If special assessments are to be levied and collected 109965
pursuant to a determination made in the resolution provided for in 109966
division (A) of this section or in a subsequent resolution, the 109967
procedures referred to in division (B) of this section as being 109968
required for that purpose shall apply, and the board may have the 109969
county sanitary engineer prepare, or otherwise cause to be 109970
prepared, detailed plans, specifications, and an estimate of cost 109971
for the improvement, together with a tentative assessment of the 109972
cost based on the estimate. The tentative assessment shall be for 109973
the information of property owners and shall not be levied or 109974
certified to the county auditor for collection. The detailed 109975
plans, specifications, estimate of cost, and tentative assessment, 109976
if approved by the board, shall be carefully preserved in the 109977
office of the board or the county sanitary engineer and shall be 109978
open to the inspection of all persons interested in the 109979
improvement. 109980

(D) After the board's approval of the detailed plans, 109981
specifications, estimate of cost, and tentative assessment, and at 109982
least twenty-four days before adopting a resolution pursuant to 109983
division (E) of this section, the board, except to the extent that 109984
appropriate waivers of notice are obtained from affected owners, 109985
shall cause to be sent a notice of its intent to adopt the 109986
resolution to each owner of property proposed to be assessed that 109987
is listed on the records of the county auditor for current 109988
agricultural use value taxation pursuant to section 5713.31 of the 109989

Revised Code and that is not located in an agricultural district 109990
established under section 929.02 of the Revised Code. The notice 109991
shall satisfy all of the following: 109992

(1) Be sent by first class or certified mail; 109993

(2) Specify the proposed date of the adoption of the 109994
resolution; 109995

(3) Contain a statement that the improvement will be financed 109996
in whole or in part by special assessments and that all properties 109997
not located in an agricultural district established pursuant to 109998
section 929.02 of the Revised Code may be subject to a special 109999
assessment; 110000

(4) Contain a statement that an agricultural district may be 110001
established by filing an application with the county auditor. 110002

If it appears, by the return of the mailed notices or by 110003
other means, that one or more of the affected owners cannot be 110004
found or are not served by the mailed notice, the board shall 110005
cause the notice to be published once in a newspaper of general 110006
circulation in the county not later than ten days before the 110007
adoption of the resolution. 110008

(E) After complying with divisions (A), (C), and (D) of this 110009
section, the board may adopt a resolution declaring that the 110010
improvement, which shall be described as to its nature and its 110011
location, route, and termini, is necessary for the preservation 110012
and promotion of the public health and welfare, referring to the 110013
plans, specifications, estimate of cost, and tentative assessment, 110014
stating the place where they are on file and may be examined, and 110015
providing that the entire cost or a lesser designated part of the 110016
cost will be specially assessed against the benefited properties 110017
within the district and that any balance will be paid by the 110018
county at large from other available funds. The resolution also 110019
shall contain a description of the boundaries of that part of the 110020

district to be assessed and shall designate a time and place for 110021
objections to the improvement, to the tentative assessment, or to 110022
the boundaries of the assessment district to be heard by the 110023
board. The date of that hearing shall be not less than twenty-four 110024
days after the date of the first publication of the notice of the 110025
hearing required by this division. 110026

The board shall cause a notice of the hearing to be published 110027
once a week for two consecutive weeks in a newspaper of general 110028
circulation in the county, ~~and on~~ or as provided in section 7.16 110029
of the Revised Code. On or before the date of the second 110030
publication, ~~it~~ the board shall cause to be sent by first class or 110031
certified mail a copy of the notice to every owner of property to 110032
be assessed for the improvement whose address is known. 110033

The notice shall set forth the time and place of the hearing, 110034
a summary description of the proposed improvement, including its 110035
general route and termini, a summary description of the area 110036
constituting the assessment district, and the place where the 110037
plans, specifications, estimate of cost, and tentative assessment 110038
are on file and may be examined. Each mailed notice also shall 110039
include a statement that the property of the addressee will be 110040
assessed for the improvement. The notice also shall be sent by 110041
first class or certified mail, on or before the date of the second 110042
publication, to the clerk, or to the official discharging the 110043
duties of a clerk, of any municipal corporation any part of which 110044
lies within the assessment district and shall state whether or not 110045
any property belonging to the municipal corporation is to be 110046
assessed and, if so, shall identify that property. 110047

At the hearing, or at any adjournment of the hearing, of 110048
which no further published or mailed notice need be given, the 110049
board shall hear all parties whose properties are proposed to be 110050
assessed. Written objections to or endorsements of the proposed 110051
improvement, its character and termini, the boundaries of the 110052

assessment district, or the tentative assessment shall be received 110053
by the board for a period of five days after the completion of the 110054
hearing, and no action shall be taken by the board in the matter 110055
until after that period has elapsed. The minutes of the hearing 110056
shall be entered on the journal of the board, showing the persons 110057
who appear in person or by attorney, and all written objections 110058
shall be preserved and filed in the office of the board. 110059

Sec. 6117.07. After the expiration of the period of five days 110060
provided for in section 6117.06 of the Revised Code for the filing 110061
of written objections, the board of county commissioners shall 110062
determine whether or not it will proceed with the construction of 110063
the improvement mentioned in such section. Notice of the time and 110064
place of each meeting of the board of county commissioners, at 110065
which the resolution to proceed with the construction of such 110066
improvement will be considered, shall be given in writing to all 110067
persons who filed written objections as provided in section 110068
6117.06 of the Revised Code. Such notice shall contain the 110069
following language in addition to the time and place of the 110070
meeting of the board: "any person, firm, or corporation desiring 110071
to appeal from the final order or judgment of the board upon any 110072
of the questions mentioned in section 6117.09 of the Revised Code 110073
shall, on or before the date of the passage of the improvement 110074
resolution, give notice in writing of an intention to appeal, 110075
specifying therein the matters to be appealed from." If it decides 110076
to proceed therewith, the board shall ratify or amend the plans 110077
for the improvement and the character and termini thereof, the 110078
boundaries of the assessment district, and the tentative 110079
assessment, and may cause such revision of plans, boundaries, or 110080
assessments as the board considers necessary to be made by the 110081
county sanitary engineer. If the boundaries of the assessment 110082
district are amended so as to include any property not included 110083
within the boundaries as established by the resolution of 110084

necessity provided for in section 6117.06 of the Revised Code, the owners of all such property shall be notified by mail if their addresses are known, and notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code that such amendments have been adopted and that a hearing will be given by the board at a time and place stated in such notice, at which all persons interested will be heard by the board. The date of such hearing shall be not less than twenty-four days after the first publication of such notice, and the hearing shall be conducted and records kept in the same manner as the first hearing. Five days shall be allowed for the filing of written objections as provided in such section for the first hearing.

After the expiration of such five day period, the board shall ratify the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, or shall further amend the same. If the boundaries of the assessment district are amended so as to include any property not included in the assessment district as originally established or previously amended, further notice and hearing shall be given to the owners of such property in the same manner as for the first amendment of such boundaries, and the same procedure shall be repeated until all property owners affected have been given an opportunity to be heard. If the owners of all property added to an assessment district by amendment of the original boundaries thereof waive objection to such amendment in writing, no further notice or hearing shall be given.

After the board has ratified the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution to be known as the

improvement resolution. Said improvement resolution shall declare 110117
the determination of such board to proceed with the construction 110118
of the improvement provided for in the resolution of necessity, in 110119
accordance with the plans and specifications provided for such 110120
improvement as ratified or amended, and whether bonds or 110121
certificates of indebtedness shall be issued in anticipation of 110122
the collection of special assessments, as provided in section 110123
6117.08 to 6117.45, inclusive, of the Revised Code, or that money 110124
in the county treasury unappropriated for any other purpose shall 110125
be appropriated to pay for said improvement. 110126

Sec. 6117.251. (A) After the establishment of any county 110127
sewer district, the board of county commissioners may determine by 110128
resolution that it is necessary to provide sanitary or drainage 110129
facility improvements or prevention or replacement facility 110130
improvements and to maintain and operate the improvements within 110131
the district or a designated portion of the district, that the 110132
improvements, which shall be generally described in the 110133
resolution, shall be constructed, that funds are required to pay 110134
the preliminary costs of the improvements to be incurred prior to 110135
the commencement of the proceedings for their construction, and 110136
that those funds shall be provided in accordance with this 110137
section. 110138

(B) Prior to the adoption of the resolution, the board shall 110139
give notice of its pendency and of the proposed determination of 110140
the necessity of the improvements generally described in the 110141
resolution. The notice shall set forth a description of the 110142
properties to be benefited by the improvements and the time and 110143
place of a hearing of objections to and endorsements of the 110144
improvements. The notice shall be given ~~either~~ by publication in a 110145
newspaper of general circulation in the county once a week for two 110146
consecutive weeks, ~~or by publication as provided in section 7.16~~ 110147
of the Revised Code, by mailing a copy of the notice by first 110148

class or certified mail to the owners of the properties proposed 110149
to be assessed at their respective tax mailing addresses, or by 110150
~~both~~ a combination of these manners, the first publication to be 110151
made or the mailing to occur at least two weeks prior to the date 110152
set for the hearing. At the hearing, or at any adjournment of the 110153
hearing, of which no further published or mailed notice need be 110154
given, the board shall hear all persons whose properties are 110155
proposed to be assessed and the evidence it considers to be 110156
necessary. The board then shall determine the necessity of the 110157
proposed improvements and whether the improvements shall be made 110158
by the board and, if they are to be made, shall direct the 110159
preparation of tentative assessments upon the benefited properties 110160
and by whom they shall be prepared. 110161

(C) In order to obtain funds for the preparation of a general 110162
or revised general plan of sewerage or drainage for the district 110163
or part of the district, for the preparation of the detailed 110164
plans, specifications, estimate of cost, and tentative assessment 110165
for the proposed improvements, and for the cost of financing and 110166
legal services incident to the preparation of all of those plans 110167
and a plan of financing the proposed improvements, the board may 110168
levy upon the properties to be benefited in the district a 110169
preliminary assessment apportioned according to benefits or to tax 110170
valuation or partly by one method and partly by the other method 110171
as the board may determine. The assessments shall be in the amount 110172
determined to be necessary to obtain funds for the general and 110173
detailed plans and the cost of financing and legal services and 110174
shall be payable in the number of years that the board shall 110175
determine, not to exceed twenty years, together with interest on 110176
any public obligations that may be issued or incurred in 110177
anticipation of the collection of the assessments. 110178

(D) The board shall have power at any time to levy additional 110179
assessments according to benefits or to tax valuation or partly by 110180

one method and partly by the other method as the board may 110181
determine for the purposes described in division (C) of this 110182
section upon the benefited properties to complete the payment of 110183
the costs described in division (C) of this section or to pay the 110184
cost of any additional plans, specifications, estimate of cost, or 110185
tentative assessment and the cost of financing and legal services 110186
incident to the preparation of those plans and the plan of 110187
financing, which additional assessments shall be payable in the 110188
number of years that the board shall determine, not to exceed 110189
twenty years, together with interest on any public obligations 110190
that may be issued or incurred in anticipation of the collection 110191
of the additional assessments. 110192

(E) Prior to the adoption of a resolution levying assessments 110193
under this section, the board shall give notice either by one 110194
publication in a newspaper of general circulation in the county, 110195
or by mailing a copy of the notice by first class or certified 110196
mail to the owners of the properties proposed to be assessed at 110197
their respective tax mailing addresses, or by both manners, the 110198
publication to be made or the mailing to occur at least ten days 110199
prior to the date of the meeting at which the resolution shall be 110200
taken up for consideration; that notice shall state the time and 110201
place of the meeting at which the resolution is to be considered. 110202
At the time and place of the meeting, or at any adjournment of the 110203
meeting, of which no further published or mailed notice need be 110204
given, the board shall hear all persons whose properties are 110205
proposed to be assessed, shall correct any errors and make any 110206
revisions that appear to be necessary or just, and then may adopt 110207
a resolution levying upon the properties determined to be 110208
benefited the assessments as so corrected and revised. 110209

The assessments levied by the resolution shall be certified 110210
to the county auditor for collection in the same manner as taxes 110211
in the year or years in which they are payable. 110212

(F) Upon the adoption of the resolution described in division 110213
(E) of this section, no further action shall be taken or work done 110214
until ten days have elapsed. If, at the expiration of that period, 110215
no appeal has been effected by any property owner as provided in 110216
this division, the action of the board shall be final. If, at the 110217
end of that ten days, any owner of property to be assessed for the 110218
improvements has effected an appeal, no further action shall be 110219
taken and no work done in connection with the improvements under 110220
the resolution until the matters appealed from have been disposed 110221
of in court. 110222

Any owner of property to be assessed may appeal as provided 110223
and upon the grounds stated in sections 6117.09 to 6117.24 of the 110224
Revised Code. 110225

If no appeal has been perfected or if on appeal the 110226
resolution of the board is sustained, the board may authorize and 110227
enter into contracts to carry out the purposes for which the 110228
assessments have been levied without the prior issuance of notes, 110229
provided that the payments under those contracts do not fall due 110230
prior to the time by which the assessments are to be collected. 110231
The board may issue and sell bonds with a maximum maturity of 110232
twenty years in anticipation of the collection of the assessments 110233
and may issue notes in anticipation of the issuance of the bonds, 110234
which notes and bonds, as public obligations, shall be issued and 110235
sold as provided in Chapter 133. of the Revised Code. 110236

Sec. 6117.49. (A) If the board of county commissioners 110237
determines by resolution that the best interests of the county and 110238
those served by the sanitary or drainage facilities or the 110239
prevention or replacement facilities of a county sewer district so 110240
require, the board may sell or otherwise dispose of the facilities 110241
to another public agency or a person. The resolution declaring the 110242
necessity of that disposition shall recite the reasons for the 110243

sale or other disposition and shall establish any conditions or 110244
terms that the board may impose, including, but not limited to, a 110245
minimum sales price if a sale is proposed, a requirement for the 110246
submission by bidders of the schedule of rates and charges 110247
initially proposed to be paid for the services of the facilities, 110248
and other pertinent conditions or terms relating to the sale or 110249
other disposition. The resolution also shall designate a time and 110250
place for the hearing of objections to the sale or other 110251
disposition by the board. Notice of the adoption of the resolution 110252
and the time and place of the hearing shall be published as 110253
provided in section 7.16 of the Revised Code or once a week for 110254
two consecutive weeks, in a newspaper of general circulation in 110255
the sewer district and in the county. The public hearing on the 110256
sale or other disposition shall be held not less than twenty-four 110257
days following the date of first publication of the notice. A copy 110258
of the notice also shall be sent by first class or certified mail, 110259
on or before the date of the second publication, to any public 110260
agency within the area served by the facilities. At the public 110261
hearing, or at any adjournment of it, of which no further 110262
published or mailed notice need be given, the board shall hear all 110263
interested parties. A period of five days shall be given following 110264
the completion of the hearing for the filing of written objections 110265
by any interested persons or public agencies to the sale or other 110266
disposition, after which the board shall consider any objections 110267
and by resolution determine whether or not to proceed with the 110268
sale or other disposition. If the board determines to proceed with 110269
the sale or other disposition, it shall receive bids after 110270
advertising once a week for four consecutive weeks or as provided 110271
in section 7.16 of the Revised Code, in a newspaper of general 110272
circulation in the county and, subject to the right of the board 110273
to reject any or all bids, may make an award to a responsible 110274
bidder whose proposal is determined by the board to be in the best 110275
interests of the county and those served by the facilities. 110276

(B) A conveyance of sanitary or drainage facilities or of prevention or replacement facilities by a county to a municipal corporation in accordance with division (B) of section 6117.05 of the Revised Code may be made without regard to division (A) of this section.

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Sec. 6119.10. The board of trustees of a regional water and sewer district or any officer or employee designated by the board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed twenty-five thousand dollars. When an expenditure, other than for the acquisition of real estate and interests in real estate, the discharge of noncontractual claims, personal services, the joint use of facilities or the exercise of powers with other political subdivisions, or the product or services of public utilities, exceeds twenty-five thousand dollars, the expenditures shall be made only after a notice calling for bids has been published ~~not less than~~ two consecutive weeks in ~~at least~~ one newspaper ~~having a~~ of general circulation within the district or as provided in section 7.16 of the Revised Code. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board may let the contract to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a regional water and sewer district was established, the board of trustees of the regional water and sewer district may let the contract to the lowest or best bidder who gives a good and approved bond with ample security conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered

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part of the contract. The contract shall be approved by the board 110309
and signed by its president or other duly authorized officer and 110310
by the contractor. In case of a real and present emergency, the 110311
board of trustees of the district, by two-thirds vote of all 110312
members, may authorize the president or other duly authorized 110313
officer to enter into a contract for work to be done or for the 110314
purchase of supplies or materials without formal bidding or 110315
advertising. All contracts shall have attached the certificate 110316
required by section 5705.41 of the Revised Code duly executed by 110317
the secretary of the board of trustees of the district. The 110318
district may make improvements by force account or direct labor, 110319
provided that, if the estimated cost of supplies or material for 110320
any such improvement exceeds twenty-five thousand dollars, bids 110321
shall be received as provided in this section. For the purposes of 110322
the competitive bidding requirements of this section, the board 110323
shall not sever a contract for supplies or materials and labor 110324
into separate contracts for labor, supplies, or materials if the 110325
contracts are in fact a part of a single contract required to be 110326
bid competitively under this section. 110327

Sec. 6119.18. The board of trustees of a regional water and 110328
sewer district, by a vote of two-thirds of all its members, may 110329
declare by resolution that it is necessary to levy a tax in excess 110330
of the ten-mill limitation for the purpose of providing funds to 110331
pay current expenses of the district or for the purpose of paying 110332
any portion of the cost of one or more water resource projects or 110333
parts thereof or for both of such purposes, and that the question 110334
of such tax levy shall be submitted to the electors of the 110335
district at a general or primary election. Such resolution shall 110336
conform to the requirements of section 5705.19 of the Revised 110337
Code, except as otherwise permitted by this section and except 110338
that such levy may be for a period not longer than ten years. The 110339
resolution shall go into immediate effect upon its passage and no 110340

publication of the resolution is necessary other than that 110341
provided for in the notice of election. A copy of such resolution 110342
shall, immediately after its passage, be certified to the board of 110343
elections of the proper county or counties in the manner provided 110344
by section 5705.25 of the Revised Code, and such section shall 110345
govern the arrangements for the submission of such question and 110346
other matters with respect to such election to which such section 110347
refers. Publication of the notice of that election shall be made 110348
in one ~~or more newspapers having a~~ newspaper of general 110349
circulation in the district once a week for two consecutive weeks 110350
prior to the election, ~~and, if~~ or as provided in section 7.16 of 110351
the Revised Code. If the board of elections operates and maintains 110352
a web site, the board of elections shall post notice of the 110353
election on its web site for thirty days prior to the election. 110354

If a majority of the electors voting on the question vote in 110355
favor thereof, the board may make the necessary levy within the 110356
district at the additional rate or at any lesser rate on the tax 110357
list and duplicate for the purpose or purposes stated in the 110358
resolution. 110359

The taxes realized from such levy shall be collected at the 110360
same time and in the same manner as other taxes on such tax list 110361
and duplicate and such taxes, when collected, shall be paid to the 110362
district and deposited by it in a special fund which shall be 110363
established by the district for all revenues derived from such 110364
levy and for the proceeds of anticipation notes which shall be 110365
deposited in such fund. 110366

After the approval of such levy, the district may anticipate 110367
a fraction of the proceeds of such levy and, from time to time, 110368
during the life of such levy, issue anticipation notes in an 110369
amount not exceeding fifty per cent of the estimated proceeds of 110370
such levy to be collected in each year up to a period of five 110371
years after the date of issuance of such notes, less an amount 110372

equal to the proceeds of such levy previously obligated for each 110373
year by the issuance of anticipation notes, provided that the 110374
total amount maturing in any one year shall not exceed fifty per 110375
cent of the anticipated proceeds of such levy for that year. Each 110376
issue of notes shall be sold as provided in Chapter 133. of the 110377
Revised Code, and shall, except for such limitation that the total 110378
amount of such notes maturing in any one year shall not exceed 110379
fifty per cent of the anticipated proceeds of such levy for that 110380
year, mature serially in substantially equal installments during 110381
each year over a period not to exceed five years after their 110382
issuance. 110383

Sec. 6119.22. When a plan of sewerage devised in accordance 110384
with section 6119.19 of the Revised Code has been prepared, the 110385
board of trustees of the regional water and sewer district shall 110386
give at least ten days' notice in one newspaper of general 110387
circulation in such area or give notice as provided in section 110388
7.16 of the Revised Code, stating that such plans have been 110389
prepared and are filed in the office of the secretary of the board 110390
for examination and inspection by the parties interested. 110391

Any objection to such plan shall then be made to the board 110392
and it may amend or correct such plan, and shall thereupon file it 110393
as amended, or if no amendments are made, it shall file the 110394
original plan in the office of the secretary. 110395

Sec. 6119.25. When the board of trustees of a regional water 110396
and sewer district deems it necessary to construct all or a part 110397
of the sewers provided for in the plan devised in accordance with 110398
section 6119.19 of the Revised Code, the board shall declare by 110399
resolution the necessity thereof. Such resolution shall contain a 110400
declaration of the necessity of such improvement, a statement of 110401
the districts, areas, or parts thereof proposed to be constructed, 110402
the character of the materials to be used, a reference to the 110403

plans and specifications, where they are on file, and the mode of 110404
payment therefor, and shall publish the resolution once a week for 110405
not less than two nor more than four consecutive weeks in one 110406
newspaper of general circulation in the area or as provided in 110407
section 7.16 of the Revised Code. 110408

Sec. 6119.58. In order to obtain funds for the preparation of 110409
plans, specifications, estimates of cost, tentative assessments, 110410
and a plan of financing for any water resource project or part 110411
thereof, the board of trustees of a regional water and sewer 110412
district may levy upon the property in such district to be 110413
benefited by such project assessments apportioned in accordance 110414
with one or more of the methods set forth in section 6119.42 of 110415
the Revised Code. The aggregate of such assessments shall not 110416
exceed the amount determined by the board of trustees to be 110417
necessary for such purpose, including costs of financing, legal 110418
services, and other incidental costs, and shall be payable in such 110419
number of annual installments, not less than one, as the board of 110420
trustees prescribes, together with interest on any water resource 110421
revenue notes and bonds which may be issued in anticipation of the 110422
collection of such assessments. 110423

If the board of trustees proposes to obtain funds in 110424
accordance with this section, it shall determine by resolution 110425
that it is necessary to construct the water resource project and 110426
to maintain and operate the same on behalf of the district. 110427

Prior to the adoption of the resolution making such 110428
determination, the board of trustees shall give notice of the 110429
pendency thereof and of the proposed determination of the 110430
necessity of the construction of such project therein generally 110431
described, and such notice shall set forth a description of the 110432
properties to be benefited by such project and the time and place 110433
of a hearing of objections to, and endorsements of, such project. 110434

Such notice shall be given by publication in ~~at least~~ one 110435
newspaper ~~having a~~ of general circulation in the district once a 110436
week for two consecutive weeks or as provided in section 7.16 of 110437
the Revised Code, the first publication to be at least two weeks 110438
prior to the date set for the hearing, provided that the board of 110439
trustees may give, or cause to be given, such alternative or 110440
further notice of such hearing as it finds to be necessary or 110441
appropriate. At such hearing, or at any adjournment thereof, of 110442
which no further notice need be given, the board of trustees shall 110443
hear all owners whose properties are proposed to be assessed and 110444
such other evidence as is considered to be necessary, and may then 110445
adopt its resolution determining that the proposed project is 110446
necessary and should be undertaken by the district. In such 110447
resolution, the board of trustees shall direct the preparation of 110448
the estimated assessments upon the benefited properties and by 110449
whom they shall be prepared. 110450

After such assessments have been prepared and filed in the 110451
office of the secretary of the board of trustees and prior to the 110452
adoption of the resolution levying such assessments, the board of 110453
trustees shall give notice of the pendency of such resolution and 110454
of the proposed determination to levy such assessments, and such 110455
notice shall set forth the time and place of a hearing of 110456
objections to such assessments. Such notice shall be given by 110457
publication once in ~~at least~~ one newspaper ~~having a~~ of general 110458
circulation in the district, such publication to be made at least 110459
ten days prior to the date set for the hearing, provided that the 110460
board of trustees may give or cause to be given, such alternative 110461
of further notice of such hearing as it finds to be necessary or 110462
appropriate. At such hearing, or at any adjournment thereof, of 110463
which no further notice need be given, the board of trustees shall 110464
hear all persons whose properties are proposed to be assessed, 110465
shall correct any errors and make any revisions in the estimated 110466
assessments that appear to be necessary or just, and may then 110467

adopt a resolution levying upon the properties determined to be 110468
benefited the assessments as originally prepared or as so 110469
corrected and revised. 110470

The board of trustees shall have the power at any time to 110471
levy additional assessments upon such properties to complete the 110472
payment of the costs for which the original assessments were 110473
levied or to provide funds for any additional plans, 110474
specifications, estimates of cost, tentative assessments, and 110475
other incidental costs, provided that the board shall first have 110476
held a hearing on objections to such additional assessments in the 110477
same manner as required by this section with respect to such 110478
original assessments. Such additional assessments shall be payable 110479
in such number of annual installments, not less than one, as the 110480
board of trustees prescribes, together with interest on any water 110481
resource revenue notes and bonds which may be issued in 110482
anticipation of the collection of such assessments. 110483

The board of trustees may authorize contracts to carry out 110484
the purposes for which such assessments have been levied without 110485
the prior issuance of water resource revenue notes and bonds, 110486
provided that the payments to be made by the district do not fall 110487
due prior to the times when such assessments shall be collected. 110488

Section 101.02. That existing sections 7.10, 7.11, 7.12, 110489
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3793.06, 3793.21, 3901.3814, 3903.01, 3923.28, 3923.281, 3923.30, 110597
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4115.034, 4115.04, 4115.10, 4115.101, 4115.16, 4116.01, 4117.01, 110599
4117.03, 4117.06, 4123.27, 4131.03, 4141.08, 4141.11, 4141.33, 110600
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4510.038, 4511.191, 4511.193, 4513.62, 4517.01, 4517.04, 4517.09, 110604
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5111.251, 5111.254, 5111.258, 5111.261, 5111.27, 5111.28, 5111.33, 110620
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5573.10, 5575.01, 5575.02, 5591.15, 5593.08, 5701.13, 5703.05, 110640
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5705.211, 5705.218, 5705.25, 5705.251, 5705.261, 5705.314, 110642
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5739.026, 5739.101, 5747.01, 5747.058, 5747.113, 5747.451, 110649
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5751.011, 5751.20, 5751.21, 5751.22, 5751.23, 5751.50, 5753.01, 110651
6101.16, 6103.04, 6103.05, 6103.06, 6103.081, 6103.31, 6105.131, 110652
6109.21, 6111.038, 6111.044, 6111.46, 6115.01, 6115.20, 6117.05, 110653
6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 6119.22, 110654
6119.25, and 6119.58 of the Revised Code are hereby repealed. 110655

Section 105.01. That sections 7.14, 9.901, 122.0818, 122.121, 110656
122.452, 126.04, 126.501, 126.502, 126.507, 165.031, 340.08, 110657

701.04, 1501.031, 1551.13, 2151.56, 2151.57, 2151.58, 2151.59, 110658
2151.60, 2151.61, 2301.19, 3123.52, 3123.61, 3123.612, 3123.613, 110659
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3306.091, 3306.10, 3306.11, 3306.13, 3306.19, 3306.191, 3306.192, 110662
3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3306.51, 3306.52, 110663
3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3306.59, 110664
3311.059, 3313.202, 3314.014, 3314.016, 3314.017, 3314.025, 110665
3314.082, 3314.085, 3314.402, 3317.011, 3317.016, 3317.017, 110666
3317.0216, 3317.04, 3317.17, 3319.112, 3319.161, 3329.16, 110667
3349.242, 3706.042, 3721.56, 3722.99, 3733.031, 3733.07, 3923.90, 110668
3923.91, 4115.032, 4582.37, 4981.23, 5101.5211, 5101.5212, 110669
5101.5213, 5101.5214, 5101.5215, 5101.5216, 5111.243, 5111.34, 110670
5111.861, 5111.893, 5111.971, 5122.36, 5123.172, 5123.181, 110671
5123.193, 5123.211, 5123.601, 5123.602, 5123.603, 5123.604, 110672
5123.605, 5126.18, and 5126.19 of the Revised Code are hereby 110673
repealed. 110674

Section 105.10. That sections 126.60, 126.601, 126.602, 110675
126.603, 126.604, and 126.605 of the Revised Code, as enacted by 110676
this act, are hereby repealed, effective June 30, 2013. 110677

Section 120.10. That the version of section 5111.913 of the 110678
Revised Code that results from Section 101.01 of this act be 110679
amended to read as follows: 110680

Sec. 5111.913. If the department of job and family services 110681
enters into a contract with the department of alcohol and drug 110682
addiction services under section 5111.91 of the Revised Code, 110683
~~boards of alcohol, drug addiction, and mental health~~ the 110684
department of job and family services shall pay the nonfederal 110685
share of any medicaid payment to a provider for services under the 110686
component, or aspect of the component, the department of alcohol 110687

and drug addiction services administrators. ~~A board shall use funds~~ 110688
~~allocated to the board under section 3793.04 of the Revised Code~~ 110689
~~to pay the nonfederal share. If necessary, the director of job and~~ 110690
family services shall submit a medicaid state plan amendment to 110691
the United States secretary of health and human services regarding 110692
the department of job and family services' duty under this 110693
section. 110694

Section 120.11. That the existing version of section 5111.913 110695
of the Revised Code that results from Section 101.01 of this act 110696
is hereby repealed. 110697

Section 120.12. That Sections 120.10 and 120.11 of this act 110698
take effect July 1, 2012. 110699

Section 201.10. Except as otherwise provided in this act, all 110700
appropriation items in this act are appropriated out of any moneys 110701
in the state treasury to the credit of the designated fund that 110702
are not otherwise appropriated. For all appropriations made in 110703
this act, the amounts in the first column are for fiscal year 2012 110704
and the amounts in the second column are for fiscal year 2013. 110705
110706

Section 203.10. ACC ACCOUNTANCY BOARD OF OHIO 110707

General Services Fund Group					110708
4J80 889601 CPA Education	\$	200,000	\$	200,000	110709
Assistance					
4K90 889609 Operating Expenses	\$	977,200	\$	977,500	110710
TOTAL GSF General Services Fund					110711
Group	\$	1,177,200	\$	1,177,500	110712
TOTAL ALL BUDGET FUND GROUPS	\$	1,177,200	\$	1,177,500	110713

Section 205.10. ADJ ADJUTANT GENERAL				110715
General Revenue Fund				110716
GRF	745401	Ohio Military Reserve	\$ 12,308 \$	12,308 110717
GRF	745404	Air National Guard	\$ 1,810,606 \$	1,810,606 110718
GRF	745407	National Guard	\$ 400,000 \$	400,000 110719
Benefits				
GRF	745409	Central	\$ 2,692,098 \$	2,692,098 110720
Administration				
GRF	745499	Army National Guard	\$ 3,687,888 \$	3,689,871 110721
TOTAL GRF General Revenue Fund			\$ 8,602,900 \$	8,604,883 110722
General Services Fund Group				110723
5340	745612	Property Operations	\$ 534,304 \$	534,304 110724
Management				
5360	745605	Marksmanship	\$ 128,600 \$	128,600 110725
Activities				
5360	745620	Camp Perry and	\$ 1,178,311 \$	978,846 110726
Buckeye Inn				
Operations				
5370	745604	Ohio National Guard	\$ 62,000 \$	62,000 110727
Facilities				
Maintenance				
TOTAL GSF General Services Fund			\$ 1,903,215 \$	1,703,750 110728
Group				
Federal Special Revenue Fund Group				110729
3410	745615	Air National Guard	\$ 2,977,692 \$	2,977,692 110730
Base Security				
3420	745616	Army National Guard	\$ 10,970,050 \$	10,970,050 110731
Service Agreement				
3E80	745628	Air National Guard	\$ 16,958,595 \$	16,958,595 110732
Operations and				
Maintenance				

3R80 745603	Counter Drug Operations	\$	25,000	\$	25,000	110733
TOTAL FED	Federal Special Revenue Fund Group	\$	30,931,337	\$	30,931,337	110734
	State Special Revenue Fund Group					110735
5U80 745613	Community Match Armories	\$	250,000	\$	250,000	110736
TOTAL SSR	State Special Revenue Fund Group	\$	250,000	\$	250,000	110737
TOTAL ALL BUDGET FUND GROUPS		\$	41,687,452	\$	41,489,970	110738
	NATIONAL GUARD BENEFITS					110739
	The foregoing appropriation item 745407, National Guard					110740
	Benefits, shall be used for purposes of sections 5919.31 and					110741
	5919.33 of the Revised Code, and for administrative costs of the					110742
	associated programs.					110743
	For active duty members of the Ohio National Guard who died					110744
	after October 7, 2001, while performing active duty, the death					110745
	benefit, pursuant to section 5919.33 of the Revised Code, shall be					110746
	paid to the beneficiary or beneficiaries designated on the					110747
	member's Servicemembers' Group Life Insurance Policy.					110748
	STATE ACTIVE DUTY COSTS					110749
	Of the foregoing appropriation item 745409, Central					110750
	Administration, \$50,000 in each fiscal year shall be used for the					110751
	purpose of paying expenses related to state active duty of members					110752
	of the Ohio organized militia, in accordance with a proclamation					110753
	of the Governor. Expenses include, but are not limited to, the					110754
	cost of equipment, supplies, and services, as determined by the					110755
	Adjutant General's Department.					110756
	Section 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES					110757
	General Revenue Fund					110758

GRF	100403	Public Employees Health Care Program	\$	400,000	\$	400,000	110759
GRF	100415	OAKS Rental Payments	\$	23,024,500	\$	23,006,300	110760
GRF	100416	STARS Lease Rental Payments	\$	4,970,700	\$	4,971,300	110761
GRF	100418	Web Sites and Business Gateway	\$	2,495,063	\$	2,395,176	110762
GRF	100419	IT Security Infrastructure	\$	742,535	\$	742,648	110763
GRF	100439	Equal Opportunity Certification Programs	\$	625,000	\$	625,000	110764
GRF	100447	OBA - Building Rent Payments	\$	53,260,000	\$	83,504,200	110765
GRF	100448	OBA - Building Operating Payments	\$	21,000,000	\$	21,000,000	110766
GRF	100449	DAS - Building Operating Payments	\$	7,551,245	\$	7,551,571	110767
GRF	100451	Minority Affairs	\$	24,016	\$	24,016	110768
GRF	102321	Construction Compliance	\$	920,000	\$	920,000	110769
GRF	130321	State Agency Support Services	\$	2,500,000	\$	2,500,000	110770
TOTAL GRF		General Revenue Fund	\$	117,513,059	\$	147,640,211	110771
		General Services Fund Group					110772
1120	100616	DAS Administration	\$	5,974,625	\$	5,886,524	110773
1150	100632	Central Service Agency	\$	911,995	\$	912,305	110774
1170	100644	General Services Division - Operating	\$	14,452,167	\$	14,171,070	110775
1220	100637	Fleet Management	\$	3,978,827	\$	4,204,066	110776
1250	100622	Human Resources Division - Operating	\$	16,922,295	\$	16,717,009	110777
1250	100657	Benefits Communication	\$	925,586	\$	921,531	110778
1280	100620	Collective Bargaining	\$	3,462,529	\$	3,464,148	110779

1300	100606	Risk Management Reserve	\$	10,349,494	\$	12,149,884	110780
1310	100639	State Architect's Office	\$	9,812,132	\$	9,813,342	110781
1320	100631	DAS Building Management	\$	16,779,091	\$	16,781,574	110782
1330	100607	IT Services Delivery	\$	58,088,940	\$	58,103,005	110783
1880	100649	Equal Opportunity Division - Operating	\$	939,559	\$	863,013	110784
2100	100612	State Printing	\$	28,277,561	\$	28,279,452	110785
2290	100630	IT Governance	\$	15,130,023	\$	15,134,993	110786
2290	100640	Leveraged Enterprise Purchases	\$	6,129,500	\$	6,129,500	110787
4270	100602	Investment Recovery	\$	5,576,230	\$	5,576,664	110788
4N60	100617	Major IT Purchases	\$	1,950,000	\$	4,950,000	110789
4P30	100603	DAS Information Services	\$	5,047,565	\$	4,979,392	110790
5C20	100605	MARCS Administration	\$	14,075,705	\$	14,077,467	110791
5C30	100608	Skilled Trades	\$	404,297	\$	404,375	110792
5EB0	100635	OAKS Support Organization	\$	19,000,539	\$	19,003,108	110793
5EB0	100656	OAKS Updates and Developments	\$	12,265,952	\$	8,743,462	110794
5HU0	100655	Construction Reform Demo Compliance	\$	150,000	\$	150,000	110795
5L70	100610	Professional Development	\$	2,496,679	\$	2,496,760	110796
5V60	100619	Employee Educational Development	\$	1,047,022	\$	935,049	110797
5X30	100634	Centralized Gateway Enhancement	\$	2,052,308	\$	2,052,308	110798
TOTAL	GSF	General Services Fund					110799
Group			\$	256,200,621	\$	256,900,001	110800

Federal Special Revenue Fund Group				110801
3AJ0 100654	ARRA Broadband Mapping	\$	270,756	\$ 106,347 110802
	Grant			
TOTAL FED Federal Special Revenue				110803
Fund Group		\$	270,756	\$ 106,347 110804
State Special Revenue Fund Group				110805
5JQ0 100658	Professions Licensing	\$	2,000,000	\$ 1,000,000 110806
	System			
TOTAL SSR State Special Revenue				110807
Fund Group		\$	2,000,000	\$ 1,000,000 110808
TOTAL ALL BUDGET FUND GROUPS		\$	375,984,436	\$ 405,646,559 110809

Section 207.10.10. PUBLIC EMPLOYEES HEALTH CARE PROGRAM 110811

The foregoing appropriation item 100403, Public Employees 110812
Health Care Program, shall be used by the Department of 110813
Administrative Services to carry out its duties prescribed in 110814
section 9.901 of the Revised Code. 110815

Section 207.10.20. OHIO ADMINISTRATIVE KNOWLEDGE SYSTEM 110816

The Ohio Administrative Knowledge System (OAKS) is an 110817
enterprise resource planning system that replaced the state's 110818
central services infrastructure systems, including, but not 110819
limited to, the Central Accounting System, the Human 110820
Resources/Payroll System, the Capital Improvements Projects 110821
Tracking System, the Fixed Assets Management System, and the 110822
Procurement System. The Department of Administrative Services, in 110823
conjunction with the Office of Budget and Management, may update 110824
or add functionality to the OAKS system that will support shared 110825
services, financial or human resources functions, and enterprise 110826
applications that improve the state's operational efficiency. This 110827
includes, but is not limited to, the installation and 110828
implementation of hardware and software. Any lease-purchase 110829

arrangement entered into under Chapter 125. of the Revised Code to 110830
finance the OAKS system and the enhancements described above, 110831
including any fractionalized interest therein, as defined in 110832
division (N) of section 133.01 of the Revised Code, shall provide 110833
that at the end of the lease period, the financed asset becomes 110834
the property of the state. 110835

Section 207.10.30. OAKS LEASE RENTAL PAYMENTS 110836

The foregoing appropriation item 100415, OAKS Rental 110837
Payments, shall be used for payments at the times they are 110838
required to be made for the period from July 1, 2011, through June 110839
30, 2013, pursuant to leases and agreements entered into under 110840
Chapter 125. of the Revised Code, as supplemented by Section 110841
281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and 110842
other prior acts of the General Assembly, with respect to 110843
financing the costs associated with the acquisition, development, 110844
installation, and implementation of the Ohio Administrative 110845
Knowledge System. If it is determined that additional 110846
appropriations are necessary for this purpose, the amounts are 110847
hereby appropriated. 110848

Section 207.10.40. STATE TAXATION ACCOUNTING AND REVENUE 110849
SYSTEM 110850

The Department of Administrative Services, in conjunction 110851
with the Department of Taxation, may acquire the State Taxation 110852
Accounting and Revenue System (STARS) pursuant to Chapter 125. of 110853
the Revised Code, including, but not limited to, the application 110854
hardware and software and installation and implementation thereof, 110855
for the use of the Department of Taxation. STARS is an integrated 110856
tax collection and audit system that will replace all of the 110857
state's existing separate tax software and administration systems 110858
for the various taxes collected by the state. Any lease-purchase 110859

arrangement used under Chapter 125. of the Revised Code to acquire 110860
STARS, including any fractionalized interests therein as defined 110861
in division (N) of section 133.01 of the Revised Code, shall 110862
provide that at the end of the lease period, STARS becomes the 110863
property of the state. 110864

Section 207.10.50. STARS LEASE RENTAL PAYMENTS 110865

The foregoing appropriation item 100416, STARS Lease Rental 110866
Payments, shall be used for payments at the times they are 110867
required to be made for the period from July 1, 2011, through June 110868
30, 2013, pursuant to leases and agreements entered into under 110869
Chapter 125. of the Revised Code, as supplemented by Section 110870
207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and 110871
other prior acts of the General Assembly, with respect to 110872
financing the cost for the acquisition, development, installation, 110873
and implementation of the State Taxation Accounting and Revenue 110874
System (STARS). If it is determined that additional appropriations 110875
are necessary for this purpose, the amounts are appropriated. 110876

Section 207.10.60. EQUAL OPPORTUNITY CERTIFICATION PROGRAMS 110877

The foregoing appropriation item 100439, Equal Opportunity 110878
Certification Programs, shall be used to pay costs associated with 110879
the equal employment opportunity project tracking software that 110880
were formerly paid from appropriation item 100423, EEO Project 110881
Tracking Software. 110882

Section 207.10.70. BUILDING RENT PAYMENTS 110883

The foregoing appropriation item 100447, OBA - Building Rent 110884
Payments, shall be used to meet all payments at the times they are 110885
required to be made during the period from July 1, 2011, through 110886
June 30, 2013, by the Department of Administrative Services to the 110887
Ohio Building Authority pursuant to leases and agreements under 110888

Chapter 152. of the Revised Code. These appropriations are the 110889
source of funds pledged for bond service charges on obligations 110890
issued pursuant to Chapter 152. of the Revised Code. 110891

The foregoing appropriation item 100448, OBA - Building 110892
Operating Payments, shall be used to meet all payments at the 110893
times that they are required to be made during the period from 110894
July 1, 2011, through June 30, 2013, by the Department of 110895
Administrative Services to the Ohio Building Authority pursuant to 110896
leases and agreements under Chapter 152. of the Revised Code, but 110897
limited to the aggregate amount of \$42,800,000. 110898

The payments to the Ohio Building Authority are for paying 110899
the expenses of agencies that occupy space in various state 110900
facilities. The Department of Administrative Services may enter 110901
into leases and agreements with the Ohio Building Authority 110902
providing for the payment of these expenses. The Ohio Building 110903
Authority shall report to the Department of Administrative 110904
Services and the Office of Budget and Management not later than 110905
five months after the start of each fiscal year the actual 110906
expenses incurred by the Ohio Building Authority in operating the 110907
facilities and any balances remaining from payments and rentals 110908
received in the prior fiscal year. The Department of 110909
Administrative Services shall reduce subsequent payments by the 110910
amount of the balance reported to it by the Ohio Building 110911
Authority. 110912

Section 207.10.80. DAS - BUILDING OPERATING PAYMENTS 110913

The foregoing appropriation item 100449, DAS - Building 110914
Operating Payments, shall be used to pay the rent expenses of 110915
veterans organizations pursuant to section 123.024 of the Revised 110916
Code in fiscal years 2012 and 2013. 110917

The foregoing appropriation item, 100449, DAS - Building 110918
Operating Payments, also may be used to provide funding for the 110919

cost of property appraisals or building studies that the 110920
Department of Administrative Services may be required to obtain 110921
for property that is being sold by the state or property under 110922
consideration to be renovated or purchased by the state. 110923

Notwithstanding section 125.28 of the Revised Code, the 110924
remaining portion of the appropriation may be used to pay the 110925
operating expenses of state facilities maintained by the 110926
Department of Administrative Services that are not billed to 110927
building tenants. These expenses may include, but are not limited 110928
to, the costs for vacant space and space undergoing renovation, 110929
and the rent expenses of tenants that are relocated because of 110930
building renovations. These payments shall be processed by the 110931
Department of Administrative Services through intrastate transfer 110932
vouchers and placed in the Building Management Fund (Fund 1320). 110933

Section 207.10.90. CENTRAL SERVICE AGENCY FUND 110934

The appropriation item 100632, Central Service Agency, shall 110935
be used to purchase the equipment, products, and services that are 110936
needed to maintain existing automated applications for the 110937
professional licensing boards and to support board licensing 110938
functions in fiscal years 2012 and 2013 until these functions are 110939
replaced by the Ohio Professionals Licensing System. The 110940
Department of Administrative Services shall establish charges for 110941
recovering the costs of carrying out these functions. The charges 110942
shall be billed to the professional licensing boards and deposited 110943
via intrastate transfer vouchers to the credit of the Central 110944
Service Agency Fund (Fund 1150). 110945

Section 207.20.10. GENERAL SERVICE CHARGES 110946

The Department of Administrative Services, with the approval 110947
of the Director of Budget and Management, shall establish charges 110948
for recovering the costs of administering the programs funded by 110949

the General Services Fund (Fund 1170) and the State Printing Fund 110950
(Fund 2100). Such charges within Fund 1170 may be used to recover 110951
the cost of paying a vendor to establish reduced pricing for 110952
contracted supplies or services. 110953

If the Director of Administrative Services determines that 110954
additional amounts are necessary to pay for consulting and 110955
administrative costs related to securing lower pricing, the 110956
Director of Administrative Services may request that the Director 110957
of Budget and Management approve additional expenditures. Such 110958
approved additional amounts are appropriated to appropriation item 110959
100644, General Services Division-Operating. 110960

Section 207.20.20. COLLECTIVE BARGAINING ARBITRATION EXPENSES 110961

With approval of the Director of Budget and Management, the 110962
Department of Administrative Services may seek reimbursement from 110963
state agencies for the actual costs and expenses the Department 110964
incurs in the collective bargaining arbitration process. The 110965
reimbursements shall be processed through intrastate transfer 110966
vouchers and credited to the Collective Bargaining Fund (Fund 110967
1280). 110968

Section 207.20.30. EQUAL OPPORTUNITY PROGRAM 110969

The Department of Administrative Services, with the approval 110970
of the Director of Budget and Management, shall establish charges 110971
for recovering the costs of administering the activities supported 110972
by the State EEO Fund (Fund 1880). These charges shall be 110973
deposited to the credit of the State EEO Fund (Fund 1880) upon 110974
payment made by state agencies, state-supported or state-assisted 110975
institutions of higher education, and tax-supported agencies, 110976
municipal corporations, and other political subdivisions of the 110977
state, for services rendered. 110978

Section 207.20.40. INVESTMENT RECOVERY FUND 110979

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 4270) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code. 110980
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Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the Asset Management Services Program, including, but not limited to, the cost of establishing and maintaining procedures for inventory records for state property as described in section 125.16 of the Revised Code. 110985
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Of the foregoing appropriation item 100602, Investment Recovery, up to \$2,092,697 in fiscal year 2012 and up to \$2,092,697 in fiscal year 2013 may be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the Asset Management Services Program under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code. 110991
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Of the foregoing appropriation item 100602, Investment Recovery, \$3,500,000 in each fiscal year shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to authorize additional amounts. Such authorized 111001
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additional amounts are hereby appropriated. 111010

Section 207.20.50. DAS INFORMATION SERVICES 111011

There is hereby established in the State Treasury the DAS 111012
Information Services Fund. The foregoing appropriation item 111013
100603, DAS Information Services, shall be used to pay the costs 111014
of providing information systems and services in the Department of 111015
Administrative Services. Any state agency, board, or commission 111016
may use DAS Information Services by paying for the services 111017
rendered. 111018

The Department of Administrative Services shall establish 111019
user charges for all information systems and services that are 111020
allowable in the statewide indirect cost allocation plan submitted 111021
annually to the United States Department of Health and Human 111022
Services. These charges shall comply with federal regulations and 111023
shall be deposited to the credit of the DAS Information Services 111024
Fund (Fund 4P30). 111025

Section 207.20.60. PROFESSIONAL DEVELOPMENT FUND 111026

The foregoing appropriation item 100610, Professional 111027
Development, shall be used to make payments from the Professional 111028
Development Fund (Fund 5L70) under section 124.182 of the Revised 111029
Code. If it is determined by the Director of Administrative 111030
Services that additional amounts are necessary, the Director of 111031
Administrative Services may request that the Director of Budget 111032
and Management approve additional amounts. Such approved 111033
additional amounts are hereby appropriated. 111034

Section 207.20.70. EMPLOYEE EDUCATIONAL DEVELOPMENT 111035

The foregoing appropriation item 100619, Employee Educational 111036
Development, shall be used to make payments from the Employee 111037
Educational Development Fund (Fund 5V60) under section 124.86 of 111038

the Revised Code. The fund shall be used to pay the costs of 111039
administering educational programs under existing collective 111040
bargaining agreements with District 1199, the Health Care and 111041
Social Service Union; State Council of Professional Educators; 111042
Ohio Education Association and National Education Association; the 111043
Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio 111044
State Troopers Association, Units 1 and 15. 111045

If it is determined by the Director of Administrative 111046
Services that additional amounts are necessary, the Director of 111047
Administrative Services may request that the Director of Budget 111048
and Management approve additional amounts. Such approved 111049
additional amounts are hereby appropriated. 111050

Section 207.20.80. CENTRALIZED GATEWAY ENHANCEMENT FUND 111051

(A) As used in this section, "Ohio Business Gateway" refers 111052
to the internet-based system operated by the Department of 111053
Administrative Services with the advice of the Ohio Business 111054
Gateway Steering Committee established under section 5703.57 of 111055
the Revised Code. The Ohio Business Gateway is established to 111056
provide businesses a central web site where various filings and 111057
payments are submitted online to government. The information is 111058
then distributed to the various government entities that interact 111059
with the business community. 111060

(B) As used in this section: 111061

(1) "State Portal" refers to the official web site of the 111062
state, operated by the Department of Administrative Services. 111063

(2) "Shared Hosting Environment" refers to the computerized 111064
system operated by the Department of Administrative Services for 111065
the purpose of providing capability for state agencies to host web 111066
sites. 111067

(C) There is hereby created in the state treasury the 111068

Centralized Gateway Enhancement Fund (Fund 5X30). The foregoing 111069
appropriation item 100634, Centralized Gateway Enhancement, shall 111070
be used by the Department of Administrative Services to pay the 111071
costs of enhancing, expanding, and operating the infrastructure of 111072
the Ohio Business Gateway, State Portal, and Shared Hosting 111073
Environment. The Director of Administrative Services shall submit 111074
spending plans to the Director of Budget and Management to justify 111075
operating transfers to the fund from the General Revenue Fund. 111076
Upon approval, the Director of Budget and Management shall 111077
transfer approved amounts to the fund, not to exceed the amount of 111078
the annual appropriation in each fiscal year. The spending plans 111079
may be based on the recommendations of the Ohio Business Gateway 111080
Steering Committee or its successor. 111081

Section 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES 111082
FUND 111083

Upon request of the Director of Administrative Services, the 111084
Director of Budget and Management may make the following transfers 111085
from the Major IT Purchases Fund (Fund 4N60): 111086

(1) Up to \$2,800,000 in each fiscal year of the biennium to 111087
the State Architect's Fund (Fund 1310) to support the OAKS Capital 111088
Improvements Module and other costs of the State Architect's 111089
Office that are not directly related to capital projects managed 111090
by the State Architect; 111091

(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in 111092
fiscal year 2013 to the Director's Office Fund (Fund 1120) to 111093
support operating expenses of the Accountability and Results 111094
Initiative. 111095

Section 207.30.10. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 111096
DEBT SERVICE PAYMENTS 111097

The Director of Administrative Services, in consultation with 111098

the Multi-Agency Radio Communication System (MARCS) Steering 111099
Committee and the Director of Budget and Management, shall 111100
determine the share of debt service payments attributable to 111101
spending for MARCS components that are not specific to any one 111102
agency and that shall be charged to agencies supported by the 111103
motor fuel tax. Such share of debt service payments shall be 111104
calculated for MARCS capital disbursements made beginning July 1, 111105
1997. Within thirty days of any payment made from appropriation 111106
item 100447, OBA - Building Rent Payments, the Director of 111107
Administrative Services shall certify to the Director of Budget 111108
and Management the amount of this share. The Director of Budget 111109
and Management shall transfer such amounts to the General Revenue 111110
Fund from the State Highway Safety Fund (Fund 7036) established in 111111
section 4501.06 of the Revised Code. 111112

The Director of Administrative Services shall consider 111113
renting or leasing existing tower sites at reasonable or current 111114
market rates, so long as these existing sites are equipped with 111115
the technical capabilities to support the MARCS project. 111116

Section 207.30.20. OHIO PROFESSIONALS LICENSING SYSTEM 111117

There is hereby created in the state treasury the Ohio 111118
Professionals Licensing System Fund (Fund 5JQ0). Appropriation 111119
item 100658, Ohio Professionals Licensing System, shall be used to 111120
make payments from the fund. The fund shall be used to purchase 111121
the equipment, products, and services necessary to develop and 111122
maintain a replacement automated licensing system for the 111123
professional licensing boards. The Director of Budget and 111124
Management may transfer up to \$2,670,000 in cash from the 111125
Occupational Licensing and Regulatory Fund (4K90) and up to 111126
\$330,000 from the State Medical Board Operating Fund (Fund 5C60) 111127
to the Ohio Professionals Licensing System Fund during the FY 111128
2012-FY 2013 biennium. The purpose of this cash transfer is to 111129

fund the initial acquisition and development of the system. Any 111130
cash balances not expended in fiscal year 2012 are reappropriated 111131
in fiscal year 2013. 111132

Effective with the implementation of the replacement 111133
licensing system, the Department of Administrative Services shall 111134
establish charges for recovering the costs of ongoing maintenance 111135
of the system. The charges shall be billed to the professional 111136
licensing boards and deposited via intrastate transfer vouchers to 111137
the credit of the Ohio Professionals Licensing System Fund. 111138

Section 207.30.30. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 111139

Whenever the Director of Administrative Services declares a 111140
"public exigency," as provided in division (C) of section 123.15 111141
of the Revised Code, the Director shall also notify the members of 111142
the Controlling Board. 111143

Section 209.10. AGE DEPARTMENT OF AGING 111144

General Revenue Fund 111145

GRF	490321	Operating Expenses	\$	1,501,616	\$	1,502,442	111146
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GRF	490410	Long-Term Care	\$	482,271	\$	482,271	111147
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Ombudsman

GRF	490411	Senior Community	\$	7,130,952	\$	7,131,236	111148
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Services

GRF	490414	Alzheimer's Respite	\$	1,917,740	\$	1,917,757	111149
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GRF	490423	Long Term Care Budget	\$	3,419,250	\$	3,419,250	111150
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- State

GRF	490506	National Senior	\$	241,413	\$	241,413	111151
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Service Corps

TOTAL GRF	General Revenue Fund	\$	14,693,242	\$	14,694,369	111152
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General Services Fund Group 111153

4800	490606	Senior Community	\$	372,518	\$	372,523	111154
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Outreach and

Education

TOTAL GSF General Services Fund				111155
Group	\$	372,518	\$ 372,523	111156
Federal Special Revenue Fund Group				111157
3220 490618 Federal Aging Grants	\$	14,000,000	\$ 14,000,000	111158
3C40 490623 Long Term Care Budget	\$	3,525,000	\$ 3,525,000	111159
3M40 490612 Federal Independence	\$	63,655,080	\$ 63,655,080	111160
Services				
TOTAL FED Federal Special Revenue				111161
Fund Group	\$	81,180,080	\$ 81,180,080	111162
State Special Revenue Fund Group				111163
4C40 490609 Regional Long-Term	\$	935,000	\$ 935,000	111164
Care Ombudsman				
Program				
5BA0 490620 Ombudsman Support	\$	750,000	\$ 750,000	111165
5K90 490613 Long Term Care	\$	1,059,400	\$ 1,059,400	111166
Consumers Guide				
5W10 490616 Resident Services	\$	344,692	\$ 344,700	111167
Coordinator Program				
TOTAL SSR State Special Revenue				111168
Fund Group	\$	3,089,092	\$ 3,089,100	111169
TOTAL ALL BUDGET FUND GROUPS	\$	99,334,932	\$ 99,336,072	111170

Section 209.20. LONG-TERM CARE 111172

Pursuant to an interagency agreement, the Department of Job 111173
and Family Services shall designate the Department of Aging to 111174
perform assessments under section 5111.204 of the Revised Code. 111175
The Department of Aging shall provide long-term care consultations 111176
under section 173.42 of the Revised Code to assist individuals in 111177
planning for their long-term health care needs. 111178

The Department of Aging shall administer the Medicaid 111179
waiver-funded PASSPORT Home Care Program, the Choices Program, the 111180

Assisted Living Program, and the PACE Program as delegated by the 111181
Department of Job and Family Services in an interagency agreement. 111182
The foregoing appropriation items 490423, Long Term Care Budget - 111183
State, and 490623, Long Term Care Budget, may be used to support 111184
the Department of Aging's administrative costs associated with 111185
operating the PASSPORT, Choices, Assisted Living, and PACE 111186
programs. 111187

Section 209.30. LONG-TERM CARE OMBUDSMAN 111188

The foregoing appropriation item 490410, Long-Term Care 111189
Ombudsman, shall be used for a program to fund ombudsman program 111190
activities as authorized in sections 173.14 to 173.27 and section 111191
173.99 of the Revised Code. 111192

SENIOR COMMUNITY SERVICES 111193

The foregoing appropriation item 490411, Senior Community 111194
Services, shall be used for services designated by the Department 111195
of Aging, including, but not limited to, home-delivered and 111196
congregate meals, transportation services, personal care services, 111197
respite services, adult day services, home repair, care 111198
coordination, and decision support systems. Service priority shall 111199
be given to low income, frail, and cognitively impaired persons 60 111200
years of age and over. The department shall promote cost sharing 111201
by service recipients for those services funded with senior 111202
community services funds, including, when possible, sliding-fee 111203
scale payment systems based on the income of service recipients. 111204

ALZHEIMER'S RESPITE 111205

The foregoing appropriation item 490414, Alzheimer's Respite, 111206
shall be used to fund only Alzheimer's disease services under 111207
section 173.04 of the Revised Code. 111208

SENIOR COMMUNITY OUTREACH AND EDUCATION 111209

The foregoing appropriation item 490606, Senior Community 111210

Outreach and Education, may be used to provide training to workers 111211
in the field of aging pursuant to division (G) of section 173.02 111212
of the Revised Code. 111213

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES 111214
AND FEDERAL AGING GRANTS 111215

At the request of the Director of Aging, the Director of 111216
Budget and Management may transfer appropriation between 111217
appropriation items 490612, Federal Independence Services, and 111218
490618, Federal Aging Grants. The amounts transferred shall not 111219
exceed 30 per cent of the appropriation from which the transfer is 111220
made. Any transfers shall be reported by the Department of Aging 111221
to the Controlling Board at the next scheduled meeting of the 111222
board. 111223

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 111224

The foregoing appropriation item 490609, Regional Long-Term 111225
Care Ombudsman Program, shall be used to pay the costs of 111226
operating the regional long-term care ombudsman programs 111227
designated by the Long-Term Care Ombudsman. 111228

TRANSFER OF RESIDENT PROTECTION FUNDS 111229

In each fiscal year, the Director of Budget and Management 111230
may transfer up to \$750,000 cash from the Resident Protection Fund 111231
(Fund 4E30), which is used by the Department of Job and Family 111232
Services, to the Ombudsman Support Fund (Fund 5BA0), which is used 111233
by the Department of Aging. The moneys in the Ombudsman Support 111234
Fund may be used by the state office of the Long-Term Care 111235
Ombudsman Program and by regional ombudsman programs to promote 111236
person-centered care in nursing homes. 111237

On July 1, 2011, or as soon as possible thereafter, the 111238
Department of Aging shall certify to the Director of Budget and 111239
Management the amount of the cash balance in the Ombudsman Support 111240
Fund at the end of fiscal year 2011. 111241

LONG-TERM CARE CONSUMERS GUIDE				111242	
The foregoing appropriation item 490613, Long-Term Care				111243	
Consumers Guide, shall be used to conduct annual customer				111244	
satisfaction surveys and to pay for other administrative expenses				111245	
related to the publication of the Ohio Long-Term Care Consumer				111246	
Guide.				111247	
During fiscal year 2012 and fiscal year 2013, the Department				111248	
of Aging shall identify methods and tools for assessing consumer				111249	
satisfaction with adult care facilities and with the providers of				111250	
home and community-based services. The Department shall also				111251	
consider the development of a provider fee structure to support				111252	
the inclusion of information about adult care facilities and				111253	
providers of home and community-based services among the types of				111254	
providers reviewed in the Ohio Long-Term Care Consumer Guide.				111255	
Section 211.10. AGR DEPARTMENT OF AGRICULTURE				111256	
General Revenue Fund				111257	
GRF 700401 Animal Disease Control	\$	3,936,687	\$	3,936,687	111258
GRF 700403 Dairy Division	\$	1,088,115	\$	1,088,115	111259
GRF 700404 Ohio Proud	\$	50,000	\$	50,000	111260
GRF 700406 Consumer Analytical	\$	1,287,556	\$	1,287,556	111261
Lab					
GRF 700407 Food Safety	\$	848,792	\$	848,792	111262
GRF 700409 Farmland Preservation	\$	72,750	\$	72,750	111263
GRF 700412 Weights and Measures	\$	600,000	\$	600,000	111264
GRF 700415 Poultry Inspection	\$	392,978	\$	392,978	111265
GRF 700418 Livestock Regulation	\$	1,108,071	\$	1,108,071	111266
Program					
GRF 700424 Livestock Testing and	\$	102,770	\$	102,770	111267
Inspections					
GRF 700499 Meat Inspection	\$	4,175,097	\$	4,175,097	111268
Program - State Share					

GRF 700501	County Agricultural Societies	\$	391,413	\$	391,413	111269
TOTAL GRF General Revenue Fund		\$	14,054,229	\$	14,054,229	111270
General Services Fund Group						111271
5DA0 700644	Laboratory Administration Support	\$	1,094,867	\$	1,094,867	111272
5GH0 700655	Central Support Indirect Cost	\$	4,456,842	\$	4,456,842	111273
TOTAL GSF General Services Fund Group		\$	5,551,709	\$	5,551,709	111274
Federal Special Revenue Fund Group						111275
3260 700618	Meat Inspection Program - Federal Share	\$	4,950,000	\$	4,950,000	111276
3360 700617	Ohio Farm Loan Revolving Fund	\$	150,000	\$	150,000	111277
3820 700601	Cooperative Contracts	\$	2,000,000	\$	2,000,000	111278
3AB0 700641	Agricultural Easement	\$	1,000,000	\$	1,000,000	111279
3J40 700607	Indirect Cost	\$	600,000	\$	600,000	111280
3R20 700614	Federal Plant Industry	\$	1,000,000	\$	1,000,000	111281
TOTAL FED Federal Special Revenue Fund Group		\$	9,700,000	\$	9,700,000	111282
State Special Revenue Fund Group						111283
4960 700626	Ohio Grape Industries	\$	846,611	\$	846,611	111284
4970 700627	Commodity Handlers Regulatory Program	\$	483,402	\$	483,402	111285
4C90 700605	Commercial Feed and Seed	\$	1,816,897	\$	1,816,897	111286
4D20 700609	Auction Education	\$	41,000	\$	41,000	111287
4E40 700606	Utility Radiological	\$	131,785	\$	131,785	111288

		Safety				
4P70	700610	Food Safety	\$	1,085,836	\$	1,085,836 111290
		Inspection				
4R00	700636	Ohio Proud Marketing	\$	30,500	\$	30,500 111291
4R20	700637	Dairy Industry	\$	1,758,247	\$	1,758,247 111292
		Inspection				
4T60	700611	Poultry and Meat	\$	180,000	\$	180,000 111293
		Inspection				
4T70	700613	Ohio Proud	\$	50,000	\$	50,000 111294
		International and Domestic Market Development				
5780	700620	Ride Inspection Fees	\$	1,175,142	\$	1,175,142 111295
5B80	700629	Auctioneers	\$	359,823	\$	359,823 111296
5FC0	700648	Plant Pest Program	\$	1,164,000	\$	1,164,000 111297
5H20	700608	Metrology Lab and	\$	750,000	\$	750,000 111298
		Scale Certification				
5HP0	700656	Livestock Care	\$	80,000	\$	80,000 111299
		Standards Board				
5L80	700604	Livestock Management	\$	584,000	\$	584,000 111300
		Program				
6520	700634	Animal and Consumer	\$	4,366,383	\$	4,366,383 111301
		Analytical Laboratory				
6690	700635	Pesticide,	\$	3,418,041	\$	3,418,041 111302
		Fertilizer, and Lime Inspection Program				
TOTAL SSR	State Special Revenue					111303
Fund Group			\$	18,321,667	\$	18,321,667 111304
Clean Ohio Conservation Fund Group						111305
7057	700632	Clean Ohio	\$	310,000	\$	310,000 111306
		Agricultural Easement				
TOTAL CLF	Clean Ohio Conservation		\$	310,000	\$	310,000 111307
Fund Group						

TOTAL ALL BUDGET FUND GROUPS	\$	47,937,605	\$	47,937,605	111308
COUNTY AGRICULTURAL SOCIETIES					111309
The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities.					111310 111311 111312 111313
CLEAN OHIO AGRICULTURAL EASEMENT					111314
The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.					111315 111316 111317 111318 111319
Section 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY					111320
General Services Fund Group					111321
5EG0 898608 Energy Strategy Development	\$	240,382	\$	240,681	111322
TOTAL GSF General Services Fund	\$	240,382	\$	240,681	111323
Agency Fund Group					111324
4Z90 898602 Small Business Ombudsman	\$	288,050	\$	288,232	111325
5700 898601 Operating Expenses	\$	323,980	\$	323,980	111326
5A00 898603 Small Business Assistance	\$	71,087	\$	71,087	111327
TOTAL AGY Agency Fund Group	\$	683,117	\$	683,299	111328
TOTAL ALL BUDGET FUND GROUPS	\$	923,499	\$	923,980	111329
Section 213.20. ENERGY STRATEGY DEVELOPMENT					111331
The Ohio Air Quality Development Authority shall establish the Energy Strategy Development Program for the purpose of developing energy initiatives, projects, and policy for the state.					111332 111333 111334

Issues addressed by such initiatives, projects, and policy shall 111335
 not be limited to those governed by Chapter 3706. of the Revised 111336
 Code. 111337

There is hereby created in the state treasury the Energy 111338
 Strategy Development Fund (Fund 5EG0). The fund shall consist of 111339
 money credited to it and money obtained for advanced energy 111340
 projects from federal or private grants, loans, or other sources. 111341
 Money in the fund shall be used to carry out the purposes of the 111342
 program. Interest earned on the money in the fund shall be 111343
 credited to the General Revenue Fund. 111344

On July 1 of each fiscal year, or as soon as possible 111345
 thereafter, the Director of Budget and Management may transfer 111346
 cash from the funds specified below, in the amounts specified 111347
 below, to the Energy Strategy Development Fund. Fund 5EG0 may 111348
 accept contributions and transfers made to the fund. On July 1, 111349
 2013, or as soon as possible thereafter, the Director shall 111350
 transfer to the General Revenue Fund all cash credited to Fund 111351
 5EG0. Upon completion of the transfer, Fund 5EG0 is abolished. 111352

<u>Fund</u>	<u>Fund Name</u>	<u>User</u>	<u>FY 2012</u>	<u>FY 2013</u>	
1170	Office Services	Department of Administrative Services	\$27,405	\$27,439	111353 111354
5GH0	Central Support Indirect Cost	Department of Agriculture	\$27,405	\$27,439	111355
1350	Supportive Services	Department of Development	\$27,405	\$27,439	111356
2190	Central Support Indirect Cost	Environmental Protection Agency	\$27,405	\$27,439	111357
1570	Central Support Indirect Chargeback	Department of Natural Resources	\$27,405	\$27,439	111358
7002	Highway Operating	Department of	\$39,150	\$39,199	111359

Transportation

Section 213.30.	REIMBURSEMENT TO AIR QUALITY DEVELOPMENT				111360
	AUTHORITY TRUST ACCOUNT				111361
	Notwithstanding any other provision of law to the contrary,				111362
	the Air Quality Development Authority may reimburse the Air				111363
	Quality Development Authority trust account established under				111364
	section 3706.10 of the Revised Code from all operating funds of				111365
	the agency for expenses pertaining to the administration and				111366
	shared costs incurred by the Air Quality Development Authority in				111367
	the execution of responsibilities as prescribed in Chapter 3706.				111368
	of the Revised Code. Reimbursement shall be made by voucher and				111369
	completed in accordance with the administrative indirect costs				111370
	allocation plan approved by the Office of Budget and Management.				111371
Section 215.10.	ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION				111372
	SERVICES				111373
	General Revenue Fund				111374
GRF	038401 Treatment Services	\$	35,184,703	\$	7,020,974
					111375
GRF	038404 Prevention Services	\$	868,659	\$	868,659
					111376
TOTAL GRF	General Revenue Fund	\$	36,053,362	\$	7,889,633
					111377
	General Services Fund				111378
5T90	038616 Problem Gambling	\$	335,000	\$	335,000
					111379
	Services				
TOTAL GSF	General Services Fund	\$	335,000	\$	335,000
					111380
	Group				
	Federal Special Revenue Fund Group				111381
3G40	038614 Substance Abuse Block	\$	69,000,000	\$	69,000,000
					111382
	Grant				
3H80	038609 Demonstration Grants	\$	8,675,580	\$	8,675,580
					111383
3J80	038610 Medicaid	\$	69,200,000	\$	0
					111384
3N80	038611 Administrative	\$	300,000	\$	300,000
					111385

Reimbursement				
TOTAL FED Federal Special Revenue				111386
Fund Group	\$	147,175,580	\$	77,975,580 111387
State Special Revenue Fund Group				111388
4750 038621 Statewide Treatment	\$	16,000,000	\$	14,000,000 111389
and Prevention				
5JW0 038615 Board Match	\$	3,000,000	\$	3,000,000 111390
Reimbursement				
6890 038604 Education and	\$	150,000	\$	150,000 111391
Conferences				
TOTAL SSR State Special Revenue				111392
Fund Group	\$	19,150,000	\$	17,150,000 111393
TOTAL ALL BUDGET FUND GROUPS	\$	202,713,942	\$	103,350,213 111394
 Section 217.10. ARC ARCHITECTS BOARD				111396
General Services Fund Group				111397
4K90 891609 Operating Expenses	\$	494,459	\$	478,147 111398
TOTAL GSF General Services Fund				111399
Group	\$	494,459	\$	478,147 111400
TOTAL ALL BUDGET FUND GROUPS	\$	494,459	\$	478,147 111401
 Section 219.10. ART OHIO ARTS COUNCIL				111403
General Revenue Fund				111404
GRF 370321 Operating Expenses	\$	1,305,704	\$	1,305,704 111405
GRF 370502 State Program	\$	5,000,000	\$	6,000,000 111406
Subsidies				
TOTAL GRF General Revenue Fund	\$	6,305,704	\$	7,305,704 111407
General Services Fund Group				111408
4600 370602 Management Expenses	\$	247,000	\$	247,000 111409
and Donations				
4B70 370603 Percent for Art	\$	247,000	\$	247,000 111410
Acquisitions				

TOTAL GSF General Services Fund	\$	494,000	\$	494,000	111411
Group					
Federal Special Revenue Fund Group					111412
3140 370601 Federal Support	\$	1,000,000	\$	1,000,000	111413
TOTAL FED Federal Special Revenue	\$	1,000,000	\$	1,000,000	111414
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	7,799,704	\$	8,799,704	111415
Section 221.10. ATH ATHLETIC COMMISSION					111417
General Services Fund Group					111418
4K90 175609 Operating Expenses	\$	281,904	\$	292,509	111419
TOTAL GSF General Services Fund	\$	281,904	\$	292,509	111420
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	281,904	\$	292,509	111421
Section 223.10. AGO ATTORNEY GENERAL					111423
General Revenue Fund					111424
GRF 055321 Operating Expenses	\$	42,514,169	\$	42,514,169	111425
GRF 055405 Law-Related Education	\$	100,000	\$	100,000	111426
GRF 055411 County Sheriffs' Pay	\$	757,921	\$	757,921	111427
Supplement					
GRF 055415 County Prosecutors'	\$	831,499	\$	831,499	111428
Pay Supplement					
TOTAL GRF General Revenue Fund	\$	44,203,589	\$	44,203,589	111429
General Services Fund Group					111430
1060 055612 General Reimbursement	\$	43,197,968	\$	43,011,277	111431
1950 055660 Workers' Compensation	\$	8,415,504	\$	8,415,504	111432
Section					
4180 055615 Charitable	\$	7,286,000	\$	7,286,000	111433
Foundations					
4200 055603 Attorney General	\$	1,871,674	\$	1,839,074	111434
Antitrust					

4210	055617	Police Officers' Training Academy Fee	\$	2,124,942	\$	2,088,805	111435
4Z20	055609	BCI Asset Forfeiture and Cost Reimbursement	\$	1,529,685	\$	1,521,731	111436
5900	055633	Peace Officer Private Security Fund	\$	98,370	\$	98,370	111437
5A90	055618	Telemarketing Fraud Enforcement	\$	7,500	\$	7,500	111438
5L50	055619	Law Enforcement Assistance Program	\$	300,222	\$	0	111439
6310	055637	Consumer Protection Enforcement	\$	3,799,115	\$	3,718,973	111440
TOTAL GSF General Services Fund Group							111441
			\$	68,630,980	\$	67,987,234	111442
Federal Special Revenue Fund Group							111443
3060	055620	Medicaid Fraud Control	\$	4,211,235	\$	4,122,399	111444
3810	055611	Civil Rights Legal Service	\$	402,540	\$	402,540	111445
3830	055634	Crime Victims Assistance	\$	13,000,000	\$	13,000,000	111446
3E50	055638	Attorney General Pass-Through Funds	\$	1,223,606	\$	1,222,172	111447
3R60	055613	Attorney General Federal Funds	\$	3,823,251	\$	3,673,251	111448
TOTAL FED Federal Special Revenue Fund Group							111449
			\$	22,660,632	\$	22,420,362	111450
State Special Revenue Fund Group							111451
4020	055616	Victims of Crime	\$	26,000,000	\$	26,000,000	111452
4170	055621	Domestic Violence Shelter	\$	25,000	\$	25,000	111453

4190	055623	Claims Section	\$	44,197,843	\$	41,953,025	111454
4L60	055606	DARE Programs	\$	4,477,962	\$	4,477,962	111455
4Y70	055608	Title Defect Recision	\$	600,000	\$	600,000	111456
6590	055641	Solid and Hazardous Waste Background Investigations	\$	662,227	\$	651,049	111457
TOTAL SSR State Special Revenue							111458
Fund Group			\$	75,963,032	\$	73,707,036	111459
Holding Account Redistribution Fund Group							111460
R004	055631	General Holding Account	\$	1,000,000	\$	1,000,000	111461
R005	055632	Antitrust Settlements	\$	1,000	\$	1,000	111462
R018	055630	Consumer Frauds	\$	750,000	\$	750,000	111463
R042	055601	Organized Crime Commission Distributions	\$	25,025	\$	25,025	111464
R054	055650	Collection Outside Counsel Payments	\$	4,500,000	\$	4,500,000	111465
TOTAL 090 Holding Account							111466
Redistribution Fund Group			\$	6,276,025	\$	6,276,025	111467
Tobacco Master Settlement Agreement Fund Group							111468
J087	055635	Law Enforcement Technology, Training, and Facility Enhancements	\$	2,300,000	\$	0	111469
U087	055402	Tobacco Settlement Oversight, Administration, and Enforcement	\$	2,527,992	\$	2,514,690	111470
TOTAL TSF Tobacco Master Settlement Agreement Fund Group							111471
TOTAL ALL BUDGET FUND GROUPS			\$	222,562,250	\$	217,108,936	111472

COUNTY SHERIFFS' PAY SUPPLEMENT 111473

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 111474
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At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 111478
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COUNTY PROSECUTORS' PAY SUPPLEMENT 111484

The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code. 111485
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At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code. 111489
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WORKERS' COMPENSATION SECTION 111496

The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment. 111497
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In addition, the Bureau of Workers' Compensation shall 111504
transfer payments at the beginning of each quarter for the support 111505
of the Workers' Compensation Fraud Unit. 111506

All amounts shall be mutually agreed upon by the Attorney 111507
General, the Bureau of Workers' Compensation, and the Ohio 111508
Industrial Commission. 111509

ATTORNEY GENERAL PASS-THROUGH FUNDS 111510

The foregoing appropriation item 055638, Attorney General 111511
Pass-Through Funds, shall be used to receive federal grant funds 111512
provided to the Attorney General by other state agencies, 111513
including, but not limited to, the Department of Youth Services 111514
and the Department of Public Safety. 111515

GENERAL HOLDING ACCOUNT 111516

The foregoing appropriation item 055631, General Holding 111517
Account, shall be used to distribute moneys under the terms of 111518
relevant court orders or other settlements received in a variety 111519
of cases involving the Office of the Attorney General. If it is 111520
determined that additional amounts are necessary for this purpose, 111521
the amounts are hereby appropriated. 111522

ANTITRUST SETTLEMENTS 111523

The foregoing appropriation item 055632, Antitrust 111524
Settlements, shall be used to distribute moneys under the terms of 111525
relevant court orders or other out of court settlements in 111526
antitrust cases or antitrust matters involving the Office of the 111527
Attorney General. If it is determined that additional amounts are 111528
necessary for this purpose, the amounts are hereby appropriated. 111529

CONSUMER FRAUDS 111530

The foregoing appropriation item 055630, Consumer Frauds, 111531
shall be used for distribution of moneys from court-ordered 111532
judgments against sellers in actions brought by the Office of 111533

Attorney General under sections 1334.08 and 4549.48 and division 111534
 (B) of section 1345.07 of the Revised Code. These moneys shall be 111535
 used to provide restitution to consumers victimized by the fraud 111536
 that generated the court-ordered judgments. If it is determined 111537
 that additional amounts are necessary for this purpose, the 111538
 amounts are hereby appropriated. 111539

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 111540

The foregoing appropriation item 055601, Organized Crime 111541
 Commission Distributions, shall be used by the Organized Crime 111542
 Investigations Commission, as provided by section 177.011 of the 111543
 Revised Code, to reimburse political subdivisions for the expenses 111544
 the political subdivisions incur when their law enforcement 111545
 officers participate in an organized crime task force. If it is 111546
 determined that additional amounts are necessary for this purpose, 111547
 the amounts are hereby appropriated. 111548

COLLECTION OUTSIDE COUNSEL PAYMENTS 111549

The foregoing appropriation item 055650, Collection Outside 111550
 Counsel Payments, shall be used for the purpose of paying 111551
 contingency counsel fees for cases where debtors mistakenly paid 111552
 the client agencies instead of the Attorney General's Revenue 111553
 Recovery/Collections Enforcement Section. If it is determined that 111554
 additional amounts are necessary for this purpose, the amounts are 111555
 hereby appropriated. 111556

Section 225.10. AUD AUDITOR OF STATE 111557

General Revenue Fund 111558

GRF 070321	Operating Expenses	\$	27,434,452	\$	27,434,452	111559
GRF 070403	Fiscal	\$	800,000	\$	800,000	111560

Watch/Emergency
 Technical Assistance

TOTAL GRF General Revenue Fund	\$	28,234,452	\$	28,234,452	111561
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Auditor of State Fund Group					111562
1090 070601 Public Audit Expense	\$	9,000,000	\$	8,700,000	111563
- Intra-State					
4220 070602 Public Audit Expense	\$	31,422,959	\$	31,052,999	111564
- Local Government					
5840 070603 Training Program	\$	181,250	\$	181,250	111565
5JZ0 070606 LEAP Revolving Loans	\$	850,000	\$	650,000	111566
6750 070605 Uniform Accounting	\$	3,500,000	\$	3,500,000	111567
Network					
TOTAL AUD Auditor of State Fund					111568
Group	\$	44,954,209	\$	44,084,249	111569
TOTAL ALL BUDGET FUND GROUPS	\$	73,188,661	\$	72,318,701	111570
FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE					111571
The foregoing appropriation item 070403, Fiscal					111572
Watch/Emergency Technical Assistance, shall be used for expenses					111573
incurred by the Office of the Auditor of State in its role					111574
relating to fiscal watch or fiscal emergency activities under					111575
Chapters 118. and 3316. of the Revised Code. Expenses include, but					111576
are not limited to, the following: duties related to the					111577
determination or termination of fiscal watch or fiscal emergency					111578
of municipal corporations, counties, townships, or school					111579
districts; development of preliminary accounting reports;					111580
performance of annual forecasts; provision of performance audits;					111581
and supervisory, accounting, or auditing services for the					111582
municipal corporations, counties, townships, or school districts.					111583
An amount equal to the unexpended, unencumbered portion of					111584
appropriation item 070403, Fiscal Watch/Emergency Technical					111585
Assistance, at the end of fiscal year 2012 is hereby					111586
reappropriated for the same purpose in fiscal year 2013.					111587
Section 227.10. BRB BOARD OF BARBER EXAMINERS					111588
General Services Fund Group					111589

4K90 877609	Operating Expenses	\$	656,320	\$	649,211	111590
TOTAL GSF General Services Fund						111591
Group		\$	656,320	\$	649,211	111592
TOTAL ALL BUDGET FUND GROUPS						111593
Section 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT						111595
General Revenue Fund						111596
GRF 042321	Budget Development	\$	2,362,025	\$	2,378,166	111597
	and Implementation					
GRF 042416	Office of Health	\$	306,285	\$	0	111598
	Transformation					
GRF 042422	Pension Shift	\$	23,436,402	\$	22,348,323	111599
	Replacement					
TOTAL GRF General Revenue Fund						111600
General Services Fund Group						111601
1050 042603	State Accounting and	\$	21,917,230	\$	22,006,331	111602
	Budgeting					
5N40 042602	OAKS Project	\$	1,358,000	\$	1,309,500	111603
	Implementation					
5Z80 042608	Office of Health	\$	57,752	\$	0	111604
	Transformation					
	Administration					
TOTAL GSF General Services Fund						111605
Group						
Federal Special Revenue Fund Group						111606
3CM0 042606	Office of Health	\$	384,037	\$	145,500	111607
	Transformation -					
	Federal					
TOTAL FED Federal Special Revenue						111608
Fund Group						
Agency Fund Group						111609
5EH0 042604	Forgery Recovery	\$	50,000	\$	50,000	111610

TOTAL AGY Agency Fund Group	\$	50,000	\$	50,000	111611
TOTAL ALL BUDGET FUND GROUPS	\$	49,871,731	\$	48,237,820	111612

AUDIT COSTS AND DUES 111613

All centralized audit costs associated with either Single 111614
Audit Schedules or financial statements prepared in conformance 111615
with generally accepted accounting principles for the state shall 111616
be paid from the foregoing appropriation item 042603, State 111617
Accounting and Budgeting. 111618

Costs associated with the audit of the Auditor of State and 111619
national association dues shall be paid from the foregoing 111620
appropriation item 042321, Budget Development and Implementation. 111621

PENSION SHIFT REPLACEMENT 111622

Notwithstanding any provision of law to the contrary, the 111623
foregoing appropriation item 042422, Pension Shift Replacement, 111624
shall be used by the Director of Budget and Management to help 111625
state agencies fully fund the employer's share of public 111626
retirement system contributions for state employees who are paid 111627
directly by warrant of the Director of Budget and Management. 111628

The Director of Budget and Management may authorize 111629
additional expenditures from various non-GRF appropriation items 111630
in order to fully fund the employer's share of public retirement 111631
system contributions for state employees who are paid directly by 111632
warrant of the Director of Budget and Management. Any additional 111633
expenditures authorized by the Director of Budget and Management 111634
under this paragraph are hereby appropriated. 111635

SHARED SERVICES CENTER 111636

The Director of Budget and Management shall use the OAKS 111637
Project Implementation Fund (Fund 5N40) and the Accounting and 111638
Budgeting Fund (Fund 1050) to support a Shared Services Center 111639
within the Office of Budget and Management for the purpose of 111640
consolidating statewide business functions and common 111641

transactional processes. 111642

The Director of Budget and Management shall include the 111643
recovery of costs to operate the Shared Services Center in the 111644
accounting and budgeting services payroll rate and through a 111645
direct charge using intrastate transfer vouchers to agencies for 111646
services rendered. The Director of Budget and Management shall 111647
determine the cost recovery methodology. Such cost recovery 111648
revenues shall be deposited to the credit of Fund 1050. 111649

INTERNAL CONTROL AND AUDIT OVERSIGHT 111650

The Director of Budget and Management shall include the 111651
recovery of costs to operate the Internal Control and Audit 111652
Oversight Program in the accounting and budgeting services payroll 111653
rate and through a direct charge using intrastate transfer 111654
vouchers to agencies reviewed by the program. The Director of 111655
Budget and Management, with advice from the Internal Audit 111656
Advisory Council, shall determine the cost recovery methodology. 111657
Such cost recovery revenues shall be deposited to the credit of 111658
the Accounting and Budgeting Fund (Fund 1050). 111659

FORGERY RECOVERY 111660

The foregoing appropriation item 042604, Forgery Recovery, 111661
shall be used to reissue warrants that have been certified as 111662
forgeries by the rightful recipient as determined by the Bureau of 111663
Criminal Identification and Investigation and the Treasurer of 111664
State. Upon receipt of funds to cover the reissuance of the 111665
warrant, the Director of Budget and Management shall reissue a 111666
state warrant of the same amount. 111667

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 111668

On July 1 of each fiscal year, or as soon as possible 111669
thereafter, the Director of Budget and Management shall transfer 111670
an amount not to exceed \$1,100,000 in cash from the General 111671
Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 111672

Section 231.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD				111673
General Revenue Fund				111674
GRF	874100	Personal Services	\$ 1,272,017 \$ 1,272,017	111675
GRF	874320	Maintenance and Equipment	\$ 529,391 \$ 529,391	111676
TOTAL GRF General Revenue Fund				111677
				111678
General Services Fund Group				111679
4G50	874603	Capitol Square Education Center and Arts	\$ 15,000 \$ 15,000	111679
4S70	874602	Statehouse Gift Shop/Events	\$ 686,708 \$ 686,708	111680
TOTAL GSF General Services Fund Group				111681
				111682
Underground Parking Garage				111683
2080	874601	Underground Parking Garage Operations	\$ 3,290,052 \$ 3,186,573	111684
TOTAL UPG Underground Parking Garage				111685
				111686
TOTAL ALL BUDGET FUND GROUPS				111687
WAREHOUSE PAYMENTS				111688
Of the foregoing appropriation item 874601, Underground Parking Garage Operations, \$48,000 in each fiscal year shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, to the Ohio Building Authority for bond service charges relating to the purchase and improvement of a warehouse acquired pursuant to section 105.41 of the Revised Code, in which to store items of the Capitol Collection Trust and, whenever necessary, equipment or other property of the Board.				111689 111690 111691 111692 111693 111694 111695 111696 111697

BOILER REPLACEMENT PAYMENTS				111698
Of the foregoing appropriation item 874601, Underground				111699
Parking Garage Operations, \$100,000 in each fiscal year shall be				111700
used to meet all payments at the time they are required to be made				111701
during the period from July 1, 2011, through June 30, 2013, to the				111702
Ohio Building Authority for bond service charges relating to				111703
appropriation item C87416, Statehouse Boiler Replacement.				111704
UNDERGROUND PARKING GARAGE FUND				111705
Notwithstanding division (G) of section 105.41 of the Revised				111706
Code and any other provision to the contrary, moneys in the				111707
Underground Parking Garage Fund (Fund 2080) may be used for				111708
personnel and operating costs related to the operations of the				111709
Statehouse and the Statehouse Underground Parking Garage.				111710
Section 233.10. SCR STATE BOARD OF CAREER COLLEGES AND				111711
SCHOOLS				111712
General Services Fund Group				111713
4K90 233601 Operating Expenses	\$	558,658	\$ 579,328	111714
TOTAL GSF General Services Fund	\$	558,658	\$ 579,328	111715
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	558,658	\$ 579,328	111716
Section 235.10. CAC CASINO CONTROL COMMISSION				111718
State Special Revenue Fund Group				111719
5HS0 955321 Casino Control -	\$	8,263,312	\$ 13,121,283	111720
Operating				
TOTAL SSR State Special Revenue	\$	8,263,312	\$ 13,121,283	111721
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	8,263,312	\$ 13,121,283	111722
Section 237.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD				111724

General Services Fund Group				111725
4K90 930609 Operating Expenses	\$	433,734	\$ 417,827	111726
TOTAL GSF General Services Fund	\$	433,734	\$ 417,827	111727
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	433,734	\$ 417,827	111728

Section 239.10. CHR STATE CHIROPRACTIC BOARD 111730

General Services Fund Group				111731
4K90 878609 Operating Expenses	\$	592,916	\$ 584,925	111732
TOTAL GSF General Services Fund	\$	592,916	\$ 584,925	111733
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	592,916	\$ 584,925	111734

Section 241.10. CIV OHIO CIVIL RIGHTS COMMISSION 111736

General Revenue Fund				111737
GRF 876321 Operating Expenses	\$	4,725,784	\$ 4,725,784	111738
TOTAL GRF General Revenue Fund	\$	4,725,784	\$ 4,725,784	111739
General Services Fund Group				111740
2170 876604 Operations Support	\$	8,000	\$ 8,000	111741
TOTAL GSF General Services				111742
Fund Group	\$	8,000	\$ 8,000	111743
Federal Special Revenue Fund Group				111744
3340 876601 Federal Programs	\$	2,762,000	\$ 2,762,000	111745
TOTAL FED Federal Special Revenue				111746
Fund Group	\$	2,762,000	\$ 2,762,000	111747
TOTAL ALL BUDGET FUND GROUPS	\$	7,495,784	\$ 7,495,784	111748

Section 243.10. COM DEPARTMENT OF COMMERCE 111750

General Services Fund Group				111751
1630 800620 Division of	\$	7,305,337	\$ 7,328,301	111752
Administration				

1630	800637	Information	\$	5,999,892	\$	6,011,977	111753
		Technology					
5430	800602	Unclaimed	\$	7,836,107	\$	7,841,473	111754
		Funds-Operating					
5430	800625	Unclaimed	\$	69,700,000	\$	69,800,000	111755
		Funds-Claims					
5F10	800635	Small Government Fire	\$	300,000	\$	300,000	111756
		Departments					
TOTAL GSF General Services Fund							111757
Group			\$	91,141,336	\$	91,281,751	111758
Federal Special Revenue Fund Group							111759
3480	800622	Underground Storage	\$	1,129,518	\$	1,129,518	111760
		Tanks					
3480	800624	Leaking Underground	\$	1,556,211	\$	1,556,211	111761
		Storage Tanks					
TOTAL FED Federal Special Revenue							111762
Fund Group			\$	2,685,729	\$	2,685,729	111763
State Special Revenue Fund Group							111764
4B20	800631	Real Estate Appraisal	\$	35,000	\$	35,000	111765
		Recovery					
4H90	800608	Cemeteries	\$	268,067	\$	268,293	111766
4X20	800619	Financial Institutions	\$	2,186,271	\$	1,990,693	111767
5440	800612	Banks	\$	7,242,364	\$	6,942,336	111768
5450	800613	Savings Institutions	\$	2,257,220	\$	2,259,536	111769
5460	800610	Fire Marshal	\$	16,523,862	\$	15,501,562	111770
5460	800639	Fire Department Grants	\$	1,698,802	\$	1,698,802	111771
5470	800603	Real Estate	\$	125,000	\$	125,000	111772
		Education/Research					
5480	800611	Real Estate Recovery	\$	25,000	\$	25,000	111773
5490	800614	Real Estate	\$	3,413,708	\$	3,332,308	111774
5500	800617	Securities	\$	4,312,434	\$	4,314,613	111775
5520	800604	Credit Union	\$	3,450,390	\$	3,450,390	111776

5530 800607	Consumer Finance	\$	3,613,016	\$	3,516,861	111777
5560 800615	Industrial Compliance	\$	27,639,372	\$	27,664,695	111778
5FW0 800616	Financial Literacy	\$	240,000	\$	240,000	111779
	Education					
5GK0 800609	Securities Investor	\$	1,135,000	\$	485,000	111780
	Education/Enforcement					
5HV0 800641	Cigarette Enforcement	\$	120,000	\$	120,000	111781
5X60 800623	Video Service	\$	340,299	\$	340,630	111782
6530 800629	UST	\$	1,854,675	\$	1,509,653	111783
	Registration/Permit					
	Fee					
6A40 800630	Real Estate	\$	699,565	\$	648,890	111784
	Appraiser-Operating					
TOTAL SSR State Special Revenue						111785
Fund Group		\$	77,180,045	\$	74,469,262	111786
Liquor Control Fund Group						111787
7043 800601	Merchandising	\$	472,209,274	\$	0	111788
7043 800627	Liquor Control	\$	13,398,274	\$	10,110,479	111789
	Operating					
7043 800633	Development Assistance	\$	51,973,200	\$	0	111790
	Debt Service					
7043 800636	Revitalization Debt	\$	21,129,800	\$	0	111791
	Service					
TOTAL LCF Liquor Control						111792
Fund Group		\$	558,710,548	\$	10,110,479	111793
TOTAL ALL BUDGET FUND GROUPS		\$	729,717,658		178,547,221	111794
SMALL GOVERNMENT FIRE DEPARTMENTS						111795
Notwithstanding section 3737.17 of the Revised Code, the						111796
foregoing appropriation item 800635, Small Government Fire						111797
Departments, may be used to provide loans to private fire						111798
departments.						111799
UNCLAIMED FUNDS PAYMENTS						111800

The foregoing appropriation item 800625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are appropriated.

UNCLAIMED FUNDS TRANSFERS

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after June 1, 2012, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$115,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2012.

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after June 1, 2013, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$100,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2013.

FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800639, Fire Department Grants, up to \$1,647,140 in each fiscal year shall be used to make annual grants to volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships, local units of government responsible for such fire departments, and local units of

government responsible for the provision of fire protection 111832
services for small municipalities or small townships. 111833

The grants shall be used by recipients to purchase 111834
firefighting or rescue equipment or gear or similar items, to 111835
provide full or partial reimbursement for the documented costs of 111836
firefighter training, or, at the discretion of the State Fire 111837
Marshal, to cover fire department costs for providing fire 111838
protection services in that grant recipient's jurisdiction. 111839

Grant awards for firefighting or rescue equipment or gear or 111840
for fire department costs of providing fire protection services 111841
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 111842
fiscal year if an eligible entity serves a jurisdiction in which 111843
the Governor declared a natural disaster during the preceding or 111844
current fiscal year in which the grant was awarded. In addition to 111845
any grant funds awarded for rescue equipment or gear, or for fire 111846
department costs associated with the provision of fire protection 111847
services, an eligible entity may receive a grant for up to \$15,000 111848
per fiscal year for full or partial reimbursement of the 111849
documented costs of firefighter training. For each fiscal year, 111850
the State Fire Marshal shall determine the total amounts to be 111851
allocated for each eligible purpose. 111852

The grant program shall be administered by the State Fire 111853
Marshal in accordance with rules the State Fire Marshal adopts as 111854
part of the state fire code adopted pursuant to section 3737.82 of 111855
the Revised Code that are necessary for the administration and 111856
operation of the grant program. The rules may further define the 111857
entities eligible to receive grants and establish criteria for the 111858
awarding and expenditure of grant funds, including methods the 111859
State Fire Marshal may use to verify the proper use of grant funds 111860
or to obtain reimbursement for or the return of equipment for 111861
improperly used grant funds. Any amounts in appropriation item 111862
800639, Fire Department Grants, in excess of the amount allocated 111863

for these grants may be used for the administration of the grant 111864
program. 111865

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR 111866
EDUCATION AND ENFORCEMENT EXPENSE FUND 111867

The Director of Budget and Management, upon the request of 111868
the Director of Commerce, shall transfer up to \$485,000 in cash in 111869
each fiscal year from the Division of Securities Fund (Fund 5500) 111870
to the Division of Securities Investor Education and Enforcement 111871
Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised 111872
Code. 111873

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND 111874

The Director of Budget and Management, upon the request of 111875
the Director of Commerce, shall transfer up to \$340,000 in cash in 111876
each fiscal year from the Division of Administration Fund (Fund 111877
1630) to the Video Service Authorization Fund (Fund 5X60). 111878

INCREASED APPROPRIATION - MERCHANDISING 111879

The foregoing appropriation item 800601, Merchandising, shall 111880
be used under section 4301.12 of the Revised Code. If it is 111881
determined that additional expenditures are necessary, the amounts 111882
are hereby appropriated. 111883

DEVELOPMENT ASSISTANCE DEBT SERVICE 111884

The foregoing appropriation item 800633, Development 111885
Assistance Debt Service, shall be used to pay debt service and 111886
related financing costs at the times they are required to be made 111887
during the period from July 1, 2011, to June 30, 2012, for bond 111888
service charges on obligations issued under Chapter 166. of the 111889
Revised Code. If it is determined that additional appropriations 111890
are necessary for this purpose, such amounts are appropriated, 111891
subject to the limitations set forth in section 166.11 of the 111892
Revised Code. An appropriation for this purpose is not required, 111893

but is made in this form and in this act for record purposes only. 111894

REVITALIZATION DEBT SERVICE 111895

The foregoing appropriation item 800636, Revitalization Debt 111896
Service, shall be used to pay debt service and related financing 111897
costs at the times they are required to be made pursuant to 111898
sections 151.01 and 151.40 of the Revised Code during the period 111899
from July 1, 2011, to June 30, 2012. If it is determined that 111900
additional appropriations are necessary for this purpose, such 111901
amounts are hereby appropriated. The General Assembly acknowledges 111902
the priority of the pledge of a portion of receipts from that 111903
source to obligations issued and to be issued under Chapter 166. 111904
of the Revised Code. 111905

LIQUOR CONTROL FUND TRANSFER 111906

On January 1, 2012, or as soon as possible thereafter, the 111907
Director of Budget and Management may transfer up to \$7,390,407 in 111908
cash from the General Revenue Fund to the Liquor Control Fund 111909
(Fund 7043) for the liquor permitting and compliance functions of 111910
the Division of Liquor Control in the Department of Commerce and 111911
for the operations of the Liquor Control Commission and the 111912
Department of Public Safety pursuant to Chapter 4301. of the 111913
Revised Code. 111914

On July 1, 2012, or as soon as possible thereafter, the 111915
Director of Budget and Management may transfer up to \$15,582,085 111916
in cash from the General Revenue Fund to the Liquor Control Fund 111917
(Fund 7043) for the liquor permitting and compliance functions of 111918
the Division of Liquor Control in the Department of Commerce and 111919
for the operations of the Liquor Control Commission and the 111920
Department of Public Safety pursuant to Chapter 4301. of the 111921
Revised Code. 111922

ADMINISTRATIVE ASSESSMENTS 111923

Notwithstanding any other provision of law to the contrary, 111924

the Division of Administration Fund (Fund 1630) is entitled to 111925
 receive assessments from all operating funds of the Department in 111926
 accordance with procedures prescribed by the Director of Commerce 111927
 and approved by the Director of Budget and Management. 111928

Section 245.10. OCC OFFICE OF CONSUMERS' COUNSEL 111929

General Services Fund Group 111930
 5F50 053601 Operating Expenses \$ 4,141,093 \$ 4,142,070 111931
 TOTAL GSF General Services Fund \$ 4,141,093 \$ 4,142,070 111932
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 4,141,093 \$ 4,142,070 111933

Section 247.10. CEB CONTROLLING BOARD 111935

General Revenue Fund 111936
 GRF 911401 Emergency \$ 5,000,000 \$ 5,000,000 111937
 Purposes/Contingencies
 GRF 911441 Ballot Advertising \$ 475,000 \$ 475,000 111938
 Costs
 TOTAL GRF General Revenue Fund \$ 5,475,000 \$ 5,475,000 111939
 TOTAL ALL BUDGET FUND GROUPS \$ 5,475,000 \$ 5,475,000 111940

DISASTER SERVICES FUND TRANSFERS TO THE EMERGENCY 111941

PURPOSES/CONTINGENCIES APPROPRIATION LINE ITEM 111942

The Controlling Board may, at the request of any state agency 111943
 or the Director of Budget and Management, transfer all or part of 111944
 the appropriation in appropriation item 911401, Emergency 111945
 Purposes/Contingencies, for the purpose of providing disaster and 111946
 emergency situation aid to state agencies and political 111947
 subdivisions in the event of disasters and emergency situations or 111948
 for the other purposes noted in this section, including, but not 111949
 limited to, costs related to the disturbance that occurred on 111950
 April 11, 1993, at the Southern Ohio Correctional Facility in 111951
 Lucasville, Ohio. 111952

FEDERAL SHARE 111953

In transferring appropriations to or from appropriation items 111954
that have federal shares identified in this act, the Controlling 111955
Board shall add or subtract corresponding amounts of federal 111956
matching funds at the percentages indicated by the state and 111957
federal division of the appropriations in this act. Such changes 111958
are hereby appropriated. 111959

DISASTER ASSISTANCE 111960

Pursuant to requests submitted by the Department of Public 111961
Safety, the Controlling Board may approve transfers from 111962
appropriation item 911401, Emergency Purposes/Contingencies, to 111963
appropriation items used by the Department of Public Safety to 111964
provide funding for assistance to political subdivisions and 111965
individuals made necessary by natural disasters or emergencies. 111966
Such transfers may be requested and approved prior to or following 111967
the occurrence of any specific natural disasters or emergencies in 111968
order to facilitate the provision of timely assistance. 111969

DISASTER SERVICES 111970

Pursuant to requests submitted by the Department of Public 111971
Safety, the Controlling Board may approve transfers from the 111972
Disaster Services Fund (5E20) to a fund and appropriation item 111973
used by the Department of Public Safety to provide for assistance 111974
to political subdivisions made necessary by natural disasters or 111975
emergencies. These transfers may be requested and approved prior 111976
to the occurrence of any specific natural disasters or emergencies 111977
in order to facilitate the provision of timely assistance. The 111978
Emergency Management Agency of the Department of Public Safety 111979
shall use the funding to fund the State Disaster Relief Program 111980
for disasters that have been declared by the Governor, and the 111981
State Individual Assistance Program for disasters that have been 111982
declared by the Governor and the federal Small Business 111983

Administration. The Ohio Emergency Management Agency shall publish 111984
and make available application packets outlining procedures for 111985
the State Disaster Relief Program and the State Individual 111986
Assistance Program. 111987

Fund 5E20 shall be used by the Controlling Board, pursuant to 111988
requests submitted by state agencies, to transfer cash and 111989
appropriations to any fund and appropriation item for the payment 111990
of state agency disaster relief program expenses for disasters 111991
declared by the Governor, if the Director of Budget and Management 111992
determines that sufficient funds exist. 111993

SOUTHERN OHIO CORRECTIONAL FACILITY COST 111994

The Division of Criminal Justice Services in the Department 111995
of Public Safety and the Public Defender Commission may each 111996
request, upon approval of the Director of Budget and Management, 111997
additional funds from appropriation item 911401, Emergency 111998
Purposes/Contingencies, for costs related to the disturbance that 111999
occurred on April 11, 1993, at the Southern Ohio Correctional 112000
Facility in Lucasville, Ohio. 112001

BALLOT ADVERTISING COSTS 112002

Pursuant to section 3501.17 of the Revised Code, and upon 112003
requests submitted by the Secretary of State, the Controlling 112004
Board shall approve transfers from the foregoing appropriation 112005
item 911441, Ballot Advertising Costs, to appropriation item 112006
050621, Statewide Ballot Advertising, in order to pay for the cost 112007
of public notices associated with statewide ballot initiatives. 112008

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS 112009
ELIGIBILITY 112010

A state agency director shall request that the Controlling 112011
Board increase the amount of the agency's capital appropriations 112012
if the director determines such an increase is necessary for the 112013
agency to receive and use funds under the federal American 112014

Recovery and Reinvestment Act of 2009. The Controlling Board may 112015
 increase the capital appropriations pursuant to the request up to 112016
 the exact amount necessary under the federal act if the Board 112017
 determines it is necessary for the agency to receive and use those 112018
 federal funds. 112019

Section 249.10. COS STATE BOARD OF COSMETOLOGY 112020

General Services Fund Group 112021
 4K90 879609 Operating Expenses \$ 3,439,545 \$ 3,364,030 112022
 TOTAL GSF General Services Fund 112023
 Group \$ 3,439,545 \$ 3,364,030 112024
 TOTAL ALL BUDGET FUND GROUPS \$ 3,439,545 \$ 3,364,030 112025

Section 251.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE 112027

AND FAMILY THERAPIST BOARD 112028
 General Services Fund Group 112029
 4K90 899609 Operating Expenses \$ 1,204,235 \$ 1,234,756 112030
 TOTAL GSF General Services Fund 112031
 Group \$ 1,204,235 \$ 1,234,756 112032
 TOTAL ALL BUDGET FUND GROUPS \$ 1,204,235 \$ 1,234,756 112033

Section 253.10. CLA COURT OF CLAIMS 112035

General Revenue Fund 112036
 GRF 015321 Operating Expenses \$ 2,573,508 \$ 2,501,052 112037
 TOTAL GRF General Revenue Fund \$ 2,573,508 \$ 2,501,052 112038
 State Special Revenue Fund Group 112039
 5K20 015603 CLA Victims of Crime \$ 1,582,684 \$ 1,582,684 112040
 TOTAL SSR State Special Revenue 112041
 Fund Group \$ 1,582,684 \$ 1,582,684 112042
 TOTAL ALL BUDGET FUND GROUPS \$ 4,156,192 \$ 4,083,736 112043

Section 255.10. AFC OHIO CULTURAL FACILITIES COMMISSION 112045

General Revenue Fund				112046
GRF 371321	Operating Expenses	\$ 98,636	\$ 98,636	112047
GRF 371401	Lease Rental Payments	\$ 27,804,900	\$ 28,465,000	112048
TOTAL GRF	General Revenue Fund	\$ 27,903,536	\$ 28,563,636	112049
State Special Revenue Fund Group				112050
4T80 371601	Riffe Theatre	\$ 80,891	\$ 80,891	112051
	Equipment Maintenance			
4T80 371603	Project	\$ 1,200,000	\$ 1,200,000	112052
	Administration			
	Services			
TOTAL SSR	State Special Revenue	\$ 1,280,891	\$ 1,280,891	112053
Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 29,184,427	\$ 29,844,527	112054
LEASE RENTAL PAYMENTS				112055
The foregoing appropriation item 371401, Lease Rental				112056
Payments, shall be used to meet all payments at the times they are				112057
required to be made during the period from July 1, 2011 through				112058
June 30, 2013, from the Ohio Cultural Facilities Commission under				112059
the primary leases and agreements for those arts and sports				112060
facilities made under Chapters 152. and 154. of the Revised Code.				112061
These appropriations are the source of funds pledged for bond				112062
service charges on related obligations issued under Chapters 152.				112063
and 154. of the Revised Code.				112064
OPERATING EXPENSES				112065
The foregoing appropriation item 371321, Operating Expenses,				112066
shall be used by the Ohio Cultural Facilities Commission to carry				112067
out its responsibilities under this section and Chapter 3383. of				112068
the Revised Code.				112069
The foregoing appropriation item 371603, Project				112070
Administration Services, shall be used by the Ohio Cultural				112071
Facilities Commission in administering Cultural and Sports				112072

Facilities Building Fund (Fund 7030) projects pursuant to Chapter 112073
3383. of the Revised Code. 112074

By the tenth day following each calendar quarter in each 112075
fiscal year, or as soon as possible thereafter, the Director of 112076
Budget and Management shall determine the amount of cash from 112077
interest earnings to be transferred from the Cultural and Sports 112078
Facilities Building Fund (Fund 7030) to the Cultural Facilities 112079
Commission Administration Fund (Fund 4T80). 112080

As soon as possible after each bond issuance made on behalf 112081
of the Cultural Facilities Commission, the Director of Budget and 112082
Management shall determine the amount of cash from any premium 112083
paid on each issuance that is available to be transferred, after 112084
all issuance costs have been paid, from the Cultural and Sports 112085
Facilities Building Fund (Fund 7030) to the Cultural Facilities 112086
Commission Administration Fund (Fund 4T80). 112087

CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS 112088

The Executive Director of the Cultural Facilities Commission 112089
shall certify to the Director of Budget and Management the amount 112090
of cash receipts and related investment income, irrevocable 112091
letters of credit from a bank, or certification of the 112092
availability of funds that have been received from a county or a 112093
municipal corporation for deposit into the Capital Donations Fund 112094
(Fund 5A10) and that are related to an anticipated project. These 112095
amounts are hereby appropriated to appropriation item C37146, 112096
Capital Donations. Prior to certifying these amounts to the 112097
Director, the Executive Director shall make a written agreement 112098
with the participating entity on the necessary cash flows required 112099
for the anticipated construction or equipment acquisition project. 112100

Section 257.10. DEN STATE DENTAL BOARD 112101

General Services Fund Group 112102

4K90 880609	Operating Expenses	\$	1,574,715	\$	1,545,684	112103
TOTAL GSF General Services Fund						112104
Group		\$	1,574,715	\$	1,545,684	112105
TOTAL ALL BUDGET FUND GROUPS						112106

Section 259.10. BDP BOARD OF DEPOSIT 112108

General Services Fund Group						112109
4M20 974601	Board of Deposit	\$	1,876,000	\$	1,876,000	112110
TOTAL GSF General Services Fund						112111
Group		\$	1,876,000	\$	1,876,000	112112
TOTAL ALL BUDGET FUND GROUPS						112113

BOARD OF DEPOSIT EXPENSE FUND 112114

Upon receiving certification of expenses from the Treasurer 112115
of State, the Director of Budget and Management shall transfer 112116
cash from the Investment Earnings Redistribution Fund (Fund 6080) 112117
to the Board of Deposit Expense Fund (Fund 4M20). The latter fund 112118
shall be used pursuant to section 135.02 of the Revised Code to 112119
pay for any and all necessary expenses of the Board of Deposit or 112120
for banking charges and fees required for the operation of the 112121
State of Ohio Regular Account. 112122

Section 261.10. DEV DEPARTMENT OF DEVELOPMENT 112123

General Revenue Fund						112124
GRF 195401	Thomas Edison Program	\$	13,820,354	\$	0	112125
GRF 195402	Coal Development	\$	260,983	\$	261,205	112126
Office						
GRF 195404	Small Business	\$	1,565,770	\$	0	112127
Development						
GRF 195405	Minority Business	\$	1,118,528	\$	0	112128
Enterprise Division						
GRF 195407	Travel and Tourism	\$	5,000,000	\$	0	112129
GRF 195412	Rapid Outreach Grants	\$	9,000,000	\$	0	112130

Sub. H. B. No. 153
As Reported by the House Finance and Appropriations Committee

GRF	195415	Strategic Business Investment Division and Regional Offices	\$	4,500,000	\$	0	112131
GRF	195416	Governor's Office of Appalachia	\$	3,700,000	\$	0	112132
GRF	195422	Technology Action	\$	547,341	\$	0	112133
GRF	195426	Clean Ohio Implementation	\$	468,365	\$	0	112134
GRF	195432	Global Markets	\$	3,500,000	\$	0	112135
GRF	195434	Industrial Training Grants	\$	10,000,000	\$	0	112136
GRF	195497	CDBG Operating Match	\$	1,015,000	\$	0	112137
GRF	195501	Appalachian Local Development Districts	\$	391,482	\$	0	112138
GRF	195502	Appalachian Regional Commission Dues	\$	195,000	\$	0	112139
GRF	195528	Economic Development Projects	\$	0	\$	30,230,000	112140
GRF	195901	Coal Research & Development General Obligation Debt Service	\$	7,861,100	\$	5,577,700	112141
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	29,323,300	\$	63,640,300	112142
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	9,859,200	\$	15,680,500	112143
TOTAL GRF		General Revenue Fund	\$	102,126,423	\$	115,389,705	112144
		General Services Fund Group					112145

1350	195684	Supportive Services	\$	13,312,881	\$	12,326,381	112146
4W10	195646	Minority Business Enterprise Loan	\$	2,500,000	\$	2,500,000	112147
5AD0	195633	Legacy Projects	\$	15,000,000	\$	15,000,000	112148
5AD0	195677	Economic Development Contingency	\$	10,000,000	\$	0	112149
5W50	195690	Travel and Tourism Cooperative Projects	\$	100,000	\$	100,000	112150
6850	195636	Direct Cost Recovery Expenditures	\$	900,000	\$	900,000	112151
TOTAL GSF General Services Fund							112152
Group			\$	41,812,881	\$	30,826,381	112153
Federal Special Revenue Fund Group							112154
3080	195602	Appalachian Regional Commission	\$	475,000	\$	475,000	112155
3080	195603	Housing and Urban Development	\$	6,000,000	\$	6,000,000	112156
3080	195605	Federal Projects	\$	85,028,606	\$	85,470,106	112157
3080	195609	Small Business Administration	\$	6,438,143	\$	5,511,381	112158
3080	195618	Energy Federal Grants	\$	38,000,000	\$	3,400,000	112159
3350	195610	Energy Conservation and Emerging Technology	\$	1,100,000	\$	1,100,000	112160
3AE0	195643	Workforce Development Initiatives	\$	16,300,000	\$	16,300,000	112161
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$	3,000,000	\$	42,485	112162
3EG0	195608	Federal Energy Training	\$	5,000,000	\$	1,344,056	112163
3K80	195613	Community Development	\$	76,795,818	\$	65,210,000	112164

		Block Grant				
3K90	195611	Home Energy	\$	115,743,608	\$	115,743,608 112165
		Assistance Block				
		Grant				
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000 112166
3L00	195612	Community Services	\$	27,240,217	\$	27,240,217 112167
		Block Grant				
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000 112168
TOTAL FED		Federal Special Revenue				112169
Fund Group			\$	443,121,392	\$	389,836,853 112170
State Special Revenue Fund Group						112171
4500	195624	Minority Business	\$	160,110	\$	159,069 112172
		Bonding Program				
		Administration				
4510	195625	Economic Development	\$	3,400,000	\$	3,400,000 112173
		Financing Operating				
4F20	195639	State Special	\$	180,437	\$	180,436 112174
		Projects				
4F20	195676	Marketing	\$	5,000,000	\$	0 112175
		Initiatives				
4F20	195699	Utility Provided	\$	500,000	\$	500,000 112176
		Funds				
4S00	195630	Tax Incentive	\$	650,800	\$	650,800 112177
		Programs				
5HJ0	195604	Motion Picture Tax	\$	50,000	\$	50,000 112178
		Credit Program				
5HR0	195526	Ohio Workforce Job	\$	20,000,000	\$	30,000,000 112179
		Training				
5JR0	195656	New Market Tax	\$	50,000	\$	50,000 112180
		Credit Program				
5KD0	195621	Brownfield	\$	50,000	\$	50,000 112181
		Stormwater Loan				
5M40	195659	Low Income Energy	\$	245,000,000	\$	245,000,000 112182

		Assistance				
5M50	195660	Advanced Energy	\$	8,000,000	\$	8,000,000 112183
		Programs				
5W60	195691	International Trade	\$	160,000	\$	160,000 112184
		Cooperative Projects				
6170	195654	Volume Cap	\$	94,397	\$	92,768 112185
		Administration				
6460	195638	Low- and Moderate-	\$	53,000,000	\$	53,000,000 112186
		Income Housing Trust				
		Fund				
TOTAL SSR		State Special Revenue				112187
Fund Group			\$	336,295,744	\$	341,293,073 112188
		Facilities Establishment Fund Group				112189
5S90	195628	Capital Access Loan	\$	2,000,000	\$	2,000,000 112190
		Program				
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000 112191
7010	195665	Research and	\$	22,000,000	\$	22,000,000 112192
		Development				
7037	195615	Facilities	\$	65,000,000	\$	65,000,000 112193
		Establishment				
TOTAL 037		Facilities				112194
Establishment		Fund Group	\$	104,000,000	\$	104,000,000 112195
		Clean Ohio Revitalization Fund				112196
7003	195663	Clean Ohio Operating	\$	950,000	\$	950,000 112197
TOTAL 7003		Clean Ohio	\$	950,000	\$	950,000 112198
		Revitalization Fund				
		Third Frontier Research & Development Fund Group				112199
7011	195686	Third Frontier	\$	1,149,750	\$	1,149,750 112200
		Operating				
7011	195687	Third Frontier	\$	183,850,250	\$	133,850,250 112201
		Research &				
		Development Projects				

7014	195620	Third Frontier Operating - Tax	\$	1,700,000	\$	1,700,000	112202
7014	195692	Research & Development Taxable Bond Projects	\$	38,300,000	\$	38,300,000	112203
TOTAL	011	Third Frontier Research & Development Fund Group	\$	225,000,000	\$	175,000,000	112204
		Job Ready Site Development Fund Group					112205
7012	195688	Job Ready Site Operating	\$	800,000	\$	800,000	112206
TOTAL	012	Job Ready Site Development Fund Group	\$	800,000	\$	800,000	112207
		Tobacco Master Settlement Agreement Fund Group					112208
M087	195435	Biomedical Research and Technology Transfer	\$	1,999,224	\$	1,999,224	112209
TOTAL	TSF	Tobacco Master Settlement Agreement Fund Group	\$	1,999,224	\$	1,999,224	112210
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,256,105,664	\$	1,160,095,236	112211

Section 261.10.10. THOMAS EDISON PROGRAM 112213

The foregoing appropriation item 195401, Thomas Edison 112214
Program, shall be used for the purposes of sections 122.28 to 112215
122.38 of the Revised Code. Of the foregoing appropriation item 112216
195401, Thomas Edison Program, not more than ten per cent in each 112217
fiscal year shall be used for operating expenditures in 112218
administering the programs of the Technology and Innovation 112219
Division. 112220

Section 261.10.20. SMALL BUSINESS DEVELOPMENT 112221

The foregoing appropriation item 195404, Small Business 112222
Development, shall be used as matching funds for grants from the 112223

United States Small Business Administration and other federal 112224
agencies, pursuant to Pub. L. No. 96-302 (1980) as amended by Pub. 112225
L. No. 98-395 (1984), and regulations and policy guidelines for 112226
the programs pursuant thereto. This appropriation item also may be 112227
used to provide grants to local organizations to support the 112228
operation of small business development centers and other local 112229
economic development activities that promote small business 112230
development and entrepreneurship. 112231

Section 261.10.30. RAPID OUTREACH GRANTS 112232

Appropriation item 195412, Rapid Outreach Grants, shall be 112233
used as an incentive for attracting, expanding, and retaining 112234
business opportunities for the state in accordance with Chapter 112235
166. of the Revised Code. Of the amount appropriated, no more than 112236
five per cent in each fiscal year shall be used for administrative 112237
costs of the Rapid Outreach Program. 112238

The department shall award funds directly to business 112239
entities considering Ohio for their expansion or new site location 112240
opportunities. Rapid Outreach grants shall be used by recipients 112241
to purchase equipment, make infrastructure improvements, make real 112242
property improvements, or fund other fixed assets. To meet the 112243
particular needs of economic development in a region, the 112244
department may elect to award funds directly to a political 112245
subdivision to assist with making on- or off-site infrastructure 112246
improvements to water and sewage treatment facilities, electric or 112247
gas service connections, fiber optic access, rail facilities, site 112248
preparation, and parking facilities. The Director of Development 112249
may recommend that the funds be used for alternative purposes when 112250
considered appropriate to satisfy an economic development 112251
opportunity or need deemed extraordinary in nature by the Director 112252
including, but not limited to, construction, rehabilitation, and 112253
acquisition projects for rail freight assistance as requested by 112254

the Department of Transportation. The Director of Transportation 112255
shall submit the proposed projects to the Director of Development 112256
for an evaluation of potential economic benefit. 112257

Moneys awarded directly to business entities from the 112258
foregoing appropriation item 195412, Rapid Outreach Grants, may be 112259
expended only after the submission of a request to the Controlling 112260
Board by the Department of Development outlining the planned use 112261
of the funds, and the subsequent approval of the request by the 112262
Controlling Board. 112263

Section 261.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND 112264
REGIONAL OFFICES 112265

The foregoing appropriation item 195415, Strategic Business 112266
Investment Division and Regional Offices, shall be used for the 112267
operating expenses of the Strategic Business Investment Division 112268
and the regional economic development offices and for grants for 112269
cooperative economic development ventures. 112270

Section 261.10.50. GOVERNOR'S OFFICE OF APPALACHIA 112271

The foregoing appropriation item 195416, Governor's Office of 112272
Appalachia, may be used for the administrative costs of planning 112273
and liaison activities for the Governor's Office of Appalachia, to 112274
provide financial assistance to projects in Ohio's Appalachian 112275
counties, and to match federal funds from the Appalachian Regional 112276
Commission. 112277

It is the intent of the General Assembly to appropriate for 112278
fiscal year 2013 the same amounts appropriated for fiscal year 112279
2012 in the foregoing appropriation items 195416, Governor's 112280
Office of Appalachia; 195501, Appalachian Local Development 112281
Districts; and 195502, Appalachian Regional Commission Dues. 112282

Section 261.10.60. TECHNOLOGY ACTION 112283

The foregoing appropriation item 195422, Technology Action, 112284
shall be used for operating expenses the Department of Development 112285
incurs for administering sections 184.10 to 184.20 of the Revised 112286
Code. If the appropriation is insufficient to cover the operating 112287
expenses, the Department may request Controlling Board approval to 112288
appropriate the additional amount needed in appropriation item 112289
195686, Third Frontier Operating. The Department shall not request 112290
an amount in excess of the amount needed. 112291

Section 261.10.70. CLEAN OHIO IMPLEMENTATION 112292

The foregoing appropriation item 195426, Clean Ohio 112293
Implementation, shall be used to fund the costs of administering 112294
the Clean Ohio Revitalization program and other urban 112295
revitalization programs that may be implemented by the Department 112296
of Development. 112297

Section 261.10.80. GLOBAL MARKETS 112298

The foregoing appropriation item 195432, Global Markets, 112299
shall be used to administer Ohio's foreign trade and investment 112300
programs, including operation and maintenance of Ohio's 112301
out-of-state trade and investment offices. This appropriation item 112302
also shall be used to fund the Global Markets Division and to 112303
assist Ohio manufacturers, agricultural producers, and service 112304
providers in exporting to foreign countries and to assist in the 112305
attraction of foreign direct investment. 112306

Of the foregoing appropriation item 195432, Global Markets, 112307
\$100,000 in fiscal year 2012 shall be used to support the Negev 112308
Foundation as part of the Ohio-Israel Initiative. 112309

Section 261.10.90. OHIO WORKFORCE GUARANTEE PROGRAM 112310

The foregoing appropriation item 195434, Industrial Training 112311
Grants, may be used for the Ohio Workforce Guarantee Program to 112312

promote training through grants to businesses and, in the case of 112313
a business consortium, training and education providers for the 112314
reimbursement of eligible training expenses. 112315

Section 261.20.10. ECONOMIC DEVELOPMENT PROJECTS 112316

The foregoing appropriation item 195528, Economic Development 112317
Projects, may be used for the purposes of Chapter 122. of the 112318
Revised Code. This appropriation item is made in anticipation of 112319
the evaluation of all powers, functions, and duties of the 112320
Department of Development by the Director of Development, as 112321
prescribed in Section 187.05 of the Revised Code. It is the intent 112322
of the General Assembly that the appropriations in the 112323
appropriation item be reallocated upon completion of the 112324
evaluation. 112325

Of the foregoing appropriation item 195528, Economic 112326
Development Projects, \$100,000 in fiscal year 2013 shall be used 112327
to support the Negev Foundation as part of the Ohio-Israel 112328
Initiative. 112329

Section 261.20.20. OHIO FILM OFFICE 112330

The Ohio Film Office shall promote media productions in the 112331
state and help the industry optimize its production experience in 112332
the state by enhancing local economies through increased 112333
employment and tax revenues and ensuring an accurate portrayal of 112334
Ohio. The Office shall serve as an informational clearinghouse and 112335
provide technical assistance to the media production industry and 112336
business entities engaged in media production in the state. The 112337
Office shall promote Ohio as the ideal site for media production 112338
and help those in the industry benefit from their experience in 112339
the state. 112340

The primary objective of the Office shall be to encourage 112341
development of a strong capital base for electronic media 112342

production in order to achieve an independent, self-supporting	112343
industry in Ohio. Other objectives shall include:	112344
(A) Attracting private investment for the electronic media	112345
production industry;	112346
(B) Developing a tax infrastructure that encourages private	112347
investment; and	112348
(C) Encouraging increased employment opportunities within	112349
this sector and increased competition with other states.	112350
Section 261.20.30. COAL RESEARCH AND DEVELOPMENT GENERAL	112351
OBLIGATION DEBT SERVICE	112352
The foregoing appropriation line item 195901, Coal Research	112353
and Development General Obligation Debt Service, shall be used to	112354
pay all debt service and related financing costs during the period	112355
July 1, 2011, through June 30, 2013 for obligations issued under	112356
sections 151.01 and 151.07 of the Revised Code.	112357
THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT	112358
SERVICE	112359
The foregoing appropriation item 195905, Third Frontier	112360
Research & Development General Obligation Debt Service, shall be	112361
used to pay all debt service and related financing costs during	112362
the period from July 1, 2011, through June 30, 2013, on	112363
obligations issued for research and development purposes under	112364
sections 151.01 and 151.10 of the Revised Code.	112365
JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE	112366
The foregoing appropriation item 195912, Job Ready Site	112367
Development General Obligation Debt Service, shall be used to pay	112368
all debt service and related financing costs during the period	112369
from July 1, 2011, through June 30, 2013, on obligations issued	112370
for job ready site development purposes under sections 151.01 and	112371
151.11 of the Revised Code.	112372

Section 261.20.40. SUPPORTIVE SERVICES	112373
The Director of Development may assess divisions of the	112374
department for the cost of central service operations. An	112375
assessment shall contain the characteristics of administrative	112376
ease and uniform application. A division's payments shall be	112377
credited to the Supportive Services Fund (Fund 1350) using an	112378
intrastate transfer voucher.	112379
ECONOMIC DEVELOPMENT CONTINGENCY	112380
The foregoing appropriation item 195677, Economic Development	112381
Contingency, may be used to award funds directly to either (1)	112382
business entities considering Ohio for expansion or new site	112383
location opportunities or (2) political subdivisions to assist	112384
with necessary costs involved in attracting a business entity. In	112385
addition, the Director of Development may award funds for	112386
alternative purposes when appropriate to satisfy an economic	112387
development opportunity or need deemed extraordinary in nature by	112388
the Director.	112389
DIRECT COST RECOVERY EXPENDITURES	112390
The foregoing appropriation item 195636, Direct Cost Recovery	112391
Expenditures, shall be used for reimbursable costs. Revenues to	112392
the General Reimbursement Fund (Fund 6850) shall consist of moneys	112393
charged for administrative costs that are not central service	112394
costs.	112395
Section 261.20.50. HEAP WEATHERIZATION	112396
Up to fifteen per cent of the federal funds deposited to the	112397
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90)	112398
may be expended from appropriation item 195614, HEAP	112399
Weatherization, to provide home weatherization services in the	112400
state as determined by the Director of Development. Any transfers	112401
or increases in appropriation for the foregoing appropriation	112402

items 195614, HEAP Weatherization, or 195611, Home Energy Assistance Block Grant, shall be subject to approval by the Controlling Board.

Section 261.20.60. STATE SPECIAL PROJECTS 112406

The State Special Projects Fund (Fund 4F20), may be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. State moneys so deposited shall be used to match federal housing grants for the homeless and to market economic development opportunities in the state. Private-sector moneys shall be deposited for use in appropriation item 195699, Utility Provided Funds, and shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) leverage additional federal funds, (3) fund special projects to assist homeless individuals, (4) fund special projects to assist with the energy efficiency of households eligible to participate in the Percentage of Income Payment Plan, and (5) assist with training programs for agencies that administer low-income customer assistance programs.

Section 261.20.70. TAX INCENTIVE PROGRAMS OPERATING 112421

The foregoing appropriation item 195630, Tax Incentive Programs, shall be used for the operating costs of the Office of Grants and Tax Incentives.

Section 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 112425

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W10). Operating costs of administering the Minority Business Enterprise Loan Fund may be paid from the Minority Business Enterprise Loan Fund (Fund

4W10). 112432

MINORITY BUSINESS BONDING FUND 112433

Notwithstanding Chapters 122., 169., and 175. of the Revised 112434
Code, the Director of Development may, upon the recommendation of 112435
the Minority Development Financing Advisory Board, pledge up to 112436
\$10,000,000 in the fiscal year 2012-fiscal year 2013 biennium of 112437
unclaimed funds administered by the Director of Commerce and 112438
allocated to the Minority Business Bonding Program under section 112439
169.05 of the Revised Code. The transfer of any cash by the 112440
Director of Budget and Management from the Department of 112441
Commerce's Unclaimed Funds Fund (Fund 5430) to the Department of 112442
Development's Minority Business Bonding Fund (Fund 4490) shall 112443
occur, if requested by the Director of Development, only if such 112444
funds are needed for payment of losses arising from the Minority 112445
Business Bonding Program, and only after proceeds of the initial 112446
transfer of \$2,700,000 by the Controlling Board to the Minority 112447
Business Bonding Program has been used for that purpose. Moneys 112448
transferred by the Director of Budget and Management from the 112449
Department of Commerce for this purpose may be moneys in custodial 112450
funds held by the Treasurer of State. If expenditures are required 112451
for payment of losses arising from the Minority Business Bonding 112452
Program, such expenditures shall be made from appropriation item 112453
195623, Minority Business Bonding Contingency in the Minority 112454
Business Bonding Fund, and such amounts are hereby appropriated. 112455

Section 261.20.90. OHIO INCUMBENT WORKFORCE TRAINING VOUCHERS 112456

(A) On July 1, 2011, or as soon as possible thereafter, the 112457
Director of Budget and Management shall transfer up to \$20,000,000 112458
from the Economic Development Programs Fund (Fund 5JC0) used by 112459
the Board of Regents to the Ohio Incumbent Workforce Job Training 112460
Fund (Fund 5HR0) used by the Department of Development. 112461

On July 1, 2012, or as soon as possible thereafter, the 112462

Director of Budget and Management shall transfer up to \$30,000,000 112463
from the Economic Development Programs Fund (Fund 5JC0) used by 112464
the Board of Regents to the Ohio Incumbent Workforce Job Training 112465
Fund (Fund 5HR0) used by the Department of Development. 112466

(B) Of the foregoing appropriation item 195526, Ohio 112467
Workforce Job Training, up to \$20,000,000 in fiscal year 2012 and 112468
up to \$30,000,000 in fiscal year 2013 shall be used to support the 112469
Ohio Incumbent Workforce Training Voucher Program. The Director of 112470
Development and the Chief Investment Officer of JobsOhio may enter 112471
into an agreement to operate the program pursuant to the contract 112472
between the Department of Development and JobsOhio under section 112473
187.04 of the Revised Code. The agreement may include a provision 112474
for granting, loaning, or transferring funds from appropriation 112475
item 195526, Ohio Incumbent Workforce Job Training, to JobsOhio to 112476
provide training for incumbent workers. 112477

(C) Any agreement between the Director and the Chief 112478
Investment Officer under division (B) of this section shall 112479
include guidelines for the operation of the program, including, 112480
but not limited to, the following: 112481

(1) A requirement that a training voucher under the program 112482
shall not exceed \$6,000 per worker per year; 112483

(2) A provision for an employer of an eligible employee to 112484
apply for a voucher on behalf of the eligible employee; 112485

(3) A provision for an eligible employee to apply directly 112486
for a training voucher with the pre-approval of the employee's 112487
employer; and 112488

(4) A requirement that an employee participating in the 112489
program, or the employee's employer, shall pay for not less than 112490
thirty-three per cent of the training costs under the program. 112491

Section 261.30.10. ADVANCED ENERGY FUND 112492

The foregoing appropriation item 195660, Advanced Energy Programs, shall be used to provide financial assistance to customers for eligible advanced energy projects for residential, commercial, and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in sections 4928.61 to 4928.63 of the Revised Code and rules adopted by the Director of Development.

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 6170) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

Section 261.30.20. INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195664, Innovation Ohio, shall be used to provide for innovation Ohio purposes, including loan guarantees and loans under Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code.

RESEARCH AND DEVELOPMENT

The foregoing appropriation item 195665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE

Appropriation item 195698, Logistics and Distribution Infrastructure, shall be used for eligible logistics and distribution infrastructure projects as defined in section 166.01 of the Revised Code. Any unexpended and unencumbered portion of

the appropriation item at the end of fiscal year 2011 is hereby 112523
reappropriated for the same purpose in fiscal year 2012, and any 112524
unexpended and unencumbered portion of the appropriation item at 112525
the end of fiscal year 2012 is hereby reappropriated for the same 112526
purpose in fiscal year 2013. 112527

After all encumbrances have been paid, the Director of Budget 112528
and Management shall transfer the remaining cash balance in the 112529
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 112530
Facilities Establishment Fund (Fund 7037). 112531

FACILITIES ESTABLISHMENT FUND 112532

The foregoing appropriation item 195615, Facilities 112533
Establishment (Fund 7037), shall be used for the purposes of the 112534
Facilities Establishment Fund under Chapter 166. of the Revised 112535
Code. 112536

Notwithstanding Chapter 166. of the Revised Code, an amount 112537
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 112538
transferred from the Facilities Establishment Fund (Fund 7037) to 112539
the Economic Development Financing Operating Fund (Fund 4510). The 112540
transfer is subject to Controlling Board approval under division 112541
(B) of section 166.03 of the Revised Code. 112542

Notwithstanding Chapter 166. of the Revised Code, the 112543
Director of Budget and Management may transfer an amount not to 112544
exceed \$2,500,000 in cash in each fiscal year from the Facilities 112545
Establishment Fund (Fund 7037) to the Minority Business Enterprise 112546
Loan Fund (Fund 4W10). 112547

On July 1, 2011, or as soon as possible thereafter, the 112548
Director of Budget and Management shall transfer the unexpended 112549
and unencumbered cash balance in the Urban Development Loans Fund 112550
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 112551

On July 1, 2011, or as soon as possible thereafter, the 112552
Director of Budget and Management shall transfer the unexpended 112553

and unencumbered cash balance in the Rural Industrial Park Loan Fund (Fund 4260) to the Facilities Establishment Fund (Fund 7037).	112554 112555
CAPITAL ACCESS LOAN PROGRAM	112556
The foregoing appropriation item 195628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed-asset financing.	112557 112558 112559 112560 112561 112562
Section 261.30.30. CLEAN OHIO OPERATING EXPENSES	112563
The foregoing appropriation item 195663, Clean Ohio Operating, shall be used by the Department of Development in administering Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to sections 122.65 to 122.658 of the Revised Code.	112564 112565 112566 112567
Section 261.30.40. THIRD FRONTIER OPERATING	112568
The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be used for operating expenses incurred by the Department of Development in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014).	112569 112570 112571 112572 112573 112574 112575 112576 112577 112578
Section 261.30.50. THIRD FRONTIER RESEARCH AND DEVELOPMENT PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS	112579 112580
The foregoing appropriation items 195687, Third Frontier Research & Development Projects, 195692, Research & Development	112581 112582

Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, 112583
shall be used by the Department of Development to fund selected 112584
projects. Eligible costs are those costs of research and 112585
development projects to which the proceeds of the Third Frontier 112586
Research & Development Fund (Fund 7011) and the Research & 112587
Development Taxable Bond Project Fund (Fund 7014) are to be 112588
applied. 112589

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS 112590

The Director of Budget and Management may approve written 112591
requests from the Director of Development for the transfer of 112592
appropriations between appropriation items 195687, Third Frontier 112593
Research & Development Projects, and 195692, Research & 112594
Development Taxable Bond Projects, based upon awards recommended 112595
by the Third Frontier Commission. The transfers are subject to 112596
approval by the Controlling Board. 112597

On or before June 30, 2012, any unexpended and unencumbered 112598
portions of the foregoing appropriation items 195687, Third 112599
Frontier Research & Development Projects, and 195692, Research & 112600
Development Taxable Bond Projects, for fiscal year 2012 are hereby 112601
reappropriated to the Department of Development for the same 112602
purposes for fiscal year 2013. 112603

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS 112604

The Ohio Public Facilities Commission, upon request of the 112605
Department of Development, is hereby authorized to issue and sell, 112606
in accordance with Section 2p of Article VIII, Ohio Constitution, 112607
and particularly sections 151.01 and 151.10 of the Revised Code, 112608
original obligations of the State of Ohio in an aggregate amount 112609
not to exceed \$400,000,000 in addition to the original issuance of 112610
obligations authorized by prior acts of the General Assembly. The 112611
authorized obligations shall be issued and sold from time to time 112612
and in amounts necessary to ensure sufficient moneys to the credit 112613

of the Third Frontier Research and Development Fund (Fund 7011) to 112614
pay costs of research and development projects. 112615

Section 261.30.60. JOB READY SITE OPERATING 112616

The foregoing appropriation item 195688, Job Ready Site 112617
Operating, shall be used for operating expenses incurred by the 112618
Department of Development in administering Job Ready Site 112619
Development Fund (Fund 7012) projects pursuant to sections 122.085 112620
to 122.0820 of the Revised Code. Operating expenses include, but 112621
are not limited to, certain qualified expenses of the District 112622
Public Works Integrating Committees, as applicable, engineering 112623
review of submitted applications by the State Architect or a third 112624
party engineering firm, audit and accountability activities, and 112625
costs associated with formal certifications verifying that site 112626
infrastructure is in place and is functional. 112627

Section 261.30.70. OHIO COAL DEVELOPMENT OFFICE 112628

On July 1, 2011, or as soon as possible thereafter, the 112629
Director of Budget and Management shall transfer any unexpended 112630
and unencumbered portion of appropriation item 898604, Coal 112631
Research and Development Fund, used by the Ohio Air Quality 112632
Development Authority, to a new capital appropriation item in the 112633
Department of Development, to be determined by the Director. The 112634
Director also shall cancel all outstanding encumbrances against 112635
appropriation item 898604, Coal Research and Development Fund, and 112636
reestablish them against the foregoing new capital appropriation 112637
item. The amounts of the transfer and the reestablished 112638
encumbrances, plus \$2,283,264, are hereby appropriated for fiscal 112639
year 2012 in the foregoing new appropriation item and shall be 112640
used to provide funding for coal research and development 112641
purposes. 112642

Section 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 112643

COMMERCIALIZATION SUPPORT 112644

The General Assembly and the Governor recognize the role that 112645
the biomedical industry has in job creation, innovation, and 112646
economic development throughout Ohio. It is the intent of the 112647
General Assembly, the Governor, the Director of Development, and 112648
the Director of Budget and Management to work together in 112649
continuing to provide comprehensive state support for the 112650
biomedical industry. 112651

Section 261.30.90. UNCLAIMED FUNDS TRANSFER 112652

(A) Notwithstanding division (A) of section 169.05 of the 112653
Revised Code, upon the request of the Director of Budget and 112654
Management, the Director of Commerce, before June 30, 2012, shall 112655
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 112656
amount not to exceed \$25,000,000 in cash of the unclaimed funds 112657
that have been reported by the holders of unclaimed funds under 112658
section 169.05 of the Revised Code, regardless of the allocation 112659
of the unclaimed funds described under that section. 112660

Notwithstanding division (A) of section 169.05 of the Revised 112661
Code, upon the request of the Director of Budget and Management, 112662
the Director of Commerce, before June 30, 2013, shall transfer to 112663
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 112664
exceed \$15,000,000 in cash of the unclaimed funds that have been 112665
reported by the holders of unclaimed funds under section 169.05 of 112666
the Revised Code, regardless of the allocation of the unclaimed 112667
funds described under that section. 112668

(B) Notwithstanding division (A) of section 169.05 of the 112669
Revised Code, upon the request of the Director of Budget and 112670
Management, the Director of Commerce, before June 30, 2012, shall 112671
transfer to the State Special Projects Fund (Fund 4F20) an amount 112672
not to exceed \$5,000,000 in cash of the unclaimed funds that have 112673

been reported by the holders of unclaimed funds under section 112674
 169.05 of the Revised Code, regardless of the allocation of the 112675
 unclaimed funds described under that section. 112676

Section 261.40.10. WORKFORCE DEVELOPMENT 112677

The Director of Development and the Director of Job and 112678
 Family Services may enter into one or more interagency agreements 112679
 between the two departments and take other actions the directors 112680
 consider appropriate to further integrate workforce development 112681
 into a larger economic development strategy, to implement the 112682
 recommendations of the Workforce Policy Board, and to complete 112683
 activities related to the transition of the administration of 112684
 employment programs identified by the board. Subject to the 112685
 approval of the Director of Budget and Management, the Department 112686
 of Development and the Department of Job and Family Services may 112687
 expend moneys to support the recommendations of the Workforce 112688
 Policy Board in the area of integration of employment functions as 112689
 described in this paragraph and to complete implementation and 112690
 transition activities from the appropriations to those 112691
 departments. 112692

Section 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 112693

General Revenue Fund 112694

GRF	320321	Central	\$	4,422,794	\$	4,422,794	112695
		Administration					
GRF	320412	Protective Services	\$	2,174,826	\$	1,957,343	112696
GRF	320415	Lease-Rental Payments	\$	18,394,250	\$	19,907,900	112697
GRF	322407	Medicaid State Match	\$	218,034,162	\$	214,902,506	112698
GRF	322451	Family Support	\$	5,932,758	\$	5,932,758	112699
		Services					
GRF	322501	County Boards	\$	40,906,365	\$	44,449,280	112700
		Subsidies					

GRF	322503	Tax Equity	\$	14,000,000	\$	14,000,000	112701
TOTAL GRF	General Revenue Fund		\$	303,865,155	\$	305,572,581	112702
General Services Fund Group							112703
1520	323609	Developmental Center and Residential Operating Services	\$	3,414,317	\$	3,414,317	112704
TOTAL GSF	General Services Fund Group		\$	3,414,317	\$	3,414,317	112705
Federal Special Revenue Fund Group							112706
3A50	320613	DD Council	\$	3,341,572	\$	3,341,572	112707
3250	322612	Community Social Service Programs	\$	11,017,754	\$	10,604,896	112708
3DZ0	322648	Enhanced Medicaid - Federal	\$	10,000,000	\$	0	112709
3G60	322639	Medicaid Waiver - Federal	\$	866,566,007	\$	985,566,007	112710
3M70	322650	CAFS Medicaid	\$	29,349,502	\$	29,349,502	112711
3A40	323605	Developmental Center and Residential Facility Services and Support	\$	180,266,029	\$	179,384,881	112712
TOTAL FED	Federal Special Revenue Fund Group		\$	1,100,540,864	\$	1,208,246,858	112713
State Special Revenue Fund Group							112714
5GE0	320606	Operating and Services	\$	7,406,609	\$	7,407,297	112715
2210	322620	Supplement Service Trust	\$	150,000	\$	150,000	112716
4K80	322604	Medicaid Waiver - State Match	\$	12,000,000	\$	12,000,000	112717
5CT0	322632	Intensive Behavioral Needs	\$	1,000,000	\$	1,000,000	112718

5DJ0	322625	Targeted Case	\$	21,000,000	\$	24,000,000	112719
		Management Match					
5DJ0	322626	Targeted Case	\$	57,307,357	\$	66,000,000	112720
		Management Services					
5DK0	322629	Capital Replacement	\$	750,000	\$	750,000	112721
		Facilities					
5EV0	322627	Program Fees	\$	685,000	\$	685,000	112722
5H00	322619	Medicaid Repayment	\$	160,000	\$	160,000	112723
5JX0	322651	Interagency Workgroup	\$	45,000		45,000	112724
		- Autism					
5Z10	322624	County Board Waiver	\$	235,000,000	\$	290,000,000	112725
		Match					
4890	323632	Developmental Center	\$	16,497,170	\$	16,497,169	112726
		Direct Care Support					
5S20	590622	Medicaid	\$	20,875,567	\$	21,727,540	112727
		Administration &					
		Oversight					
TOTAL SSR State Special Revenue			\$	372,876,703	\$	440,422,006	112728
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	1,780,697,039	\$	1,957,655,762	112729

Section 263.10.10. LEASE-RENTAL PAYMENTS 112731

The foregoing appropriation item 320415, Lease-Rental 112732
 Payments, shall be used to meet all payments at the times they are 112733
 required to be made during the period from July 1, 2011, through 112734
 June 30, 2013, by the Department of Developmental Disabilities 112735
 under leases and agreements made under section 154.20 of the 112736
 Revised Code. These appropriations are the source of funds pledged 112737
 for bond service charges or obligations issued pursuant to Chapter 112738
 154. of the Revised Code. 112739

Section 263.10.20. MEDICAID - STATE MATCH (GRF) 112740

Except as otherwise provided in section 5123.0416 of the 112741

Revised Code, the purposes for which the foregoing appropriation 112742
item 322407, Medicaid State Match, shall be used include the 112743
following: 112744

(A) Home and community-based waiver services under Title XIX 112745
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 112746
as amended. 112747

(B) To pay the nonfederal share of the cost of one or more 112748
new intermediate care facilities for the mentally retarded 112749
certified beds, if the Director of Developmental Disabilities is 112750
required by this act to transfer cash from funds used by the 112751
Department to any fund used by the Department of Job and Family 112752
Services to pay such nonfederal share. 112753

(C) To implement the requirements of the agreement settling 112754
the consent decree in *Sermak v. Manuel*, Case No. C-2-80-220, 112755
United States District Court for the Southern District of Ohio, 112756
Eastern Division. 112757

(D) To implement the requirements of the agreement settling 112758
the consent decree in the *Martin v. Strickland*, Case No. 112759
89-CV-00362, United States District Court for the Southern 112760
District of Ohio, Eastern Division. 112761

(E) Developmental center and residential facilities services. 112762

(F) Other programs as identified by the Director of 112763
Developmental Disabilities. 112764

Section 263.10.30. FAMILY SUPPORT SERVICES SUBSIDY 112765

(A) The foregoing appropriation item 322451, Family Support 112766
Services, may be used as follows in fiscal year 2012 and fiscal 112767
year 2013: 112768

(1) The appropriation item may be used to provide a subsidy 112769
to county boards of developmental disabilities for family support 112770
services provided under section 5126.11 of the Revised Code. The 112771

subsidy shall be paid in quarterly installments and allocated to 112772
county boards according to a formula the Director of Developmental 112773
Disabilities shall develop in consultation with representatives of 112774
county boards. A county board shall use not more than seven per 112775
cent of its subsidy for administrative costs. 112776

(2) The appropriation item may be used to distribute funds to 112777
county boards for the purpose of addressing economic hardships and 112778
to promote efficiency of operations. In consultation with 112779
representatives of county boards, the Director shall determine the 112780
amount of funds to distribute for these purposes and the criteria 112781
for distributing the funds. 112782

(B) Each county board shall submit reports to the Department 112783
of Developmental Disabilities on the use of funds received under 112784
this section. The reports shall be submitted at the times and in 112785
the manner specified in rules the Director shall adopt in 112786
accordance with Chapter 119. of the Revised Code. 112787

Section 263.10.40. STATE SUBSIDY TO COUNTY DD BOARDS 112788

(A) Except as otherwise provided in the section of this act 112789
titled "Nonfederal Share of New ICF/MR Beds," the foregoing 112790
appropriation item 322501, County Boards Subsidies, shall be used 112791
for the following purposes: 112792

(1) To provide a subsidy to county boards of developmental 112793
disabilities in quarterly installments and allocated according to 112794
a formula developed by the Director of Developmental Disabilities 112795
in consultation with representatives of county boards. Except as 112796
otherwise provided in section 5126.0511 of the Revised Code, or in 112797
division (B) of this section, county boards shall use the subsidy 112798
for early childhood services and adult services provided under 112799
section 5126.05 of the Revised Code, service and support 112800
administration provided under section 5126.15 of the Revised Code, 112801
or supported living as defined in section 5126.01 of the Revised 112802

Code.	112803
(2) To provide funding, as determined necessary by the	112804
Director of Developmental Disabilities, for residential services,	112805
including room and board, and support service programs that enable	112806
individuals with developmental disabilities to live in the	112807
community.	112808
(3) To distribute funds to county boards of developmental	112809
disabilities to address economic hardships and promote efficiency	112810
of operations. The Director shall determine, in consultation with	112811
representatives of county boards, the amount of funds to	112812
distribute for these purposes and the criteria for distributing	112813
the funds.	112814
(B) In collaboration with the county's family and children	112815
first council, a county board of developmental disabilities may	112816
transfer portions of funds received under this section, to a	112817
flexible funding pool in accordance with the section titled FAMILY	112818
AND CHILDREN FIRST FLEXIBLE FUNDING POOL.	112819
Section 263.10.50. COUNTY BOARD SHARE OF WAIVER SERVICES	112820
As used in this section, "home and community-based services"	112821
has the same meaning as in section 5123.01 of the Revised Code.	112822
The Director of Developmental Disabilities shall establish a	112823
methodology to be used in fiscal year 2012 and fiscal year 2013 to	112824
estimate the quarterly amount each county board of developmental	112825
disabilities is to pay of the nonfederal share of home and	112826
community-based services that section 5126.0510 of the Revised	112827
Code requires county boards to pay. Each quarter, the Director	112828
shall submit to a county board written notice of the amount the	112829
county board is to pay for that quarter. The notice shall specify	112830
when the payment is due.	112831
Section 263.10.60. TAX EQUITY	112832

Notwithstanding section 5126.18 of the Revised Code, the 112833
foregoing appropriation item 322503, Tax Equity, may be used to 112834
distribute funds to county boards of developmental disabilities to 112835
address economic hardships and promote efficiency of operations. 112836
The Director shall determine, in consultation with representatives 112837
of county boards, the amount of funds to distribute for these 112838
purposes and the criteria for distributing the funds. 112839

Section 263.10.70. MEDICAID WAIVER - STATE MATCH 112840

The foregoing appropriation item 322604, Medicaid Waiver - 112841
State Match (Fund 4K80), shall be used as state matching funds for 112842
home and community-based waivers. 112843

Section 263.10.80. ICF/MR CONVERSION 112844

(A) As used in this section, "home and community-based 112845
services" has the same meaning as in section 5123.01 of the 112846
Revised Code. 112847

(B) For each quarter of the biennium, the Director of 112848
Developmental Disabilities shall certify to the Director of Budget 112849
and Management the estimated amount needed to fund the provision 112850
of home and community-based services made available by the slots 112851
sought under section 5111.877 of the Revised Code. On receipt of 112852
certification, the Director of Budget and Management shall 112853
transfer the estimated amount in cash from the General Revenue 112854
Fund to the Home and Community-Based Services Fund (Fund 4K80), 112855
used by the Department of Developmental Disabilities. Upon 112856
completion of the transfer, appropriation item 600525, Health 112857
Care/Medicaid, is hereby reduced by the amount transferred under 112858
this section plus the corresponding federal share. The amount 112859
transferred to Fund 4K80 is hereby appropriated to appropriation 112860
item 322604, Medicaid Waiver - State Match. 112861

(C) If receipts credited to the Medicaid Waiver Fund (Fund 112862

3G60) exceed the amounts appropriated from the fund, the Director 112863
of Developmental Disabilities may request the Director of Budget 112864
and Management to authorize expenditures from the fund in excess 112865
of the amounts appropriated. Upon the approval of the Director of 112866
Budget and Management, the additional amounts are hereby 112867
appropriated. 112868

(D) If receipts credited to the Interagency Reimbursement 112869
Fund (Fund 3G50) exceed the amounts appropriated from the fund, 112870
the Director of Job and Family Services may request the Director 112871
of Budget and Management to authorize expenditures from the fund 112872
in excess of the amounts appropriated. Upon approval of the 112873
Director of Budget and Management, the additional amounts are 112874
hereby appropriated. 112875

Section 263.10.90. TARGETED CASE MANAGEMENT SERVICES 112876

County boards of developmental disabilities shall pay the 112877
nonfederal portion of targeted case management costs to the 112878
Department of Developmental Disabilities. 112879

The Directors of Developmental Disabilities and Job and 112880
Family Services may enter into an interagency agreement under 112881
which the Department of Developmental Disabilities shall transfer 112882
cash from the Targeted Case Management Fund (Fund 5DJ0) to the 112883
Medicaid Program Support - State Fund (Fund 5C90) used by the 112884
Department of Job and Family Services in an amount equal to the 112885
nonfederal portion of the cost of targeted case management 112886
services paid by county boards, and the Department of Job and 112887
Family Services shall pay the total cost of targeted case 112888
management claims. The transfer shall be made using an intrastate 112889
transfer voucher. 112890

Section 263.20.10. WITHHOLDING OF FUNDS OWED THE DEPARTMENT 112891

If a county board of developmental disabilities does not 112892

fully pay any amount owed to the Department of Developmental 112893
Disabilities by the due date established by the Department, the 112894
Director of Developmental Disabilities may withhold the amount the 112895
county board did not pay from any amounts due to the county board. 112896
The Director may use any appropriation item or fund used by the 112897
Department to transfer cash to any other fund used by the 112898
Department in an amount equal to the amount owed the Department 112899
that the county board did not pay. Transfers under this section 112900
shall be made using an intrastate transfer voucher. 112901

Section 263.20.20. TRANSFER TO MEDICAID REPAYMENT FUND 112902

On July 1, 2011, or as soon as possible thereafter, the 112903
Director of Developmental Disabilities shall request that the 112904
Director of Budget and Management transfer the cash balance in the 112905
Purchase of Service Fund (Fund 4880) to the Medicaid Repayment 112906
Fund (Fund 5H00). Upon completion of the transfer, Fund 4880 is 112907
hereby abolished. The Director of Developmental Disabilities shall 112908
cancel any existing encumbrances against appropriation item 112909
322603, Provider Audit Refunds, and re-establish them against 112910
appropriation item 322619, Medicaid Repayment. The re-established 112911
encumbrances are hereby appropriated. 112912

Section 263.20.30. DEVELOPMENTAL CENTER BILLING FOR SERVICES 112913

Developmental centers of the Department of Developmental 112914
Disabilities may provide services to persons with mental 112915
retardation or developmental disabilities living in the community 112916
or to providers of services to these persons. The Department may 112917
develop a method for recovery of all costs associated with the 112918
provisions of these services. 112919

Section 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 112920
PHARMACY PROGRAMS 112921

The Director of Developmental Disabilities shall quarterly transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the Medicaid Program Support - State Fund (Fund 5C90) used by the Department of Job and Family Services, in an amount equal to the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services. The quarterly transfer shall be made using an intrastate transfer voucher.

Section 263.20.50. NONFEDERAL MATCH FOR ACTIVE TREATMENT SERVICES

Any county funds received by the Department of Developmental Disabilities from county boards for active treatment shall be deposited in the Developmental Disabilities Operating Fund (Fund 4890).

Section 263.20.60. NONFEDERAL SHARE OF NEW ICF/MR BEDS

(A) As used in this section, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) If the Department of Developmental Disabilities is required by section 5111.211 of the Revised Code to pay the nonfederal share of claims submitted for services that are covered by the Medicaid program and provided to an eligible Medicaid recipient by an intermediate care facility for the mentally retarded, the Director of Developmental Disabilities shall transfer cash to the Department of Job and Family Services to pay the nonfederal share of the claims. The transfer shall be made using an intrastate transfer voucher. Except as otherwise provided in section 5123.0416 of the Revised Code, the Director shall use only the following appropriation items for the transfer:

- (1) Appropriation item 322407, Medicaid State Match;

(2) Appropriation item 322501, County Boards Subsidies.	112952
(C) If the intermediate care facility for the mentally retarded is located in a county served by a county board of developmental disabilities that initiates or supports the facility's certification as an intermediate care facility for the mentally retarded by the Director of Health, the cash that the Director transfers under division (B) of this section shall be moneys that the Director has allocated to the county board serving the county in which the facility is located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the claims submitted by the facility. If the allocation is insufficient, the Director shall use as much of such moneys allocated to other counties as is needed to make up the difference.	112953 112954 112955 112956 112957 112958 112959 112960 112961 112962 112963 112964 112965
Section 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING FORMER RESIDENTS OF DEVELOPMENTAL CENTERS	112966 112967
Subject to approval by the Centers for Medicare and Medicaid Services, the Department of Job and Family Services shall increase the rate paid to a provider under the Individual Options Waiver by fifty-two cents for each fifteen minutes of routine homemaker/personal care provided to an individual for up to a year if all of the following apply:	112968 112969 112970 112971 112972 112973
(A) The individual was a resident of a developmental center immediately prior to enrollment in the waiver;	112974 112975
(B) The provider begins serving the individual on or after July 1, 2011;	112976 112977
(C) The Director of Developmental Disabilities determines that the increased rate is warranted by the individual's special circumstances, including the individual's diagnosis, service needs, or length of stay at the developmental center, and that	112978 112979 112980 112981

serving the individual through the Individual Options Waiver is 112982
 fiscally prudent for the Medicaid program. 112983

Section 265.10. OBD OHIO BOARD OF DIETETICS 112984

General Services Fund Group 112985
 4K90 860609 Operating Expenses \$ 355,789 \$ 330,592 112986
 TOTAL GSF General Services Fund 112987
 Group \$ 355,789 \$ 330,592 112988
 TOTAL ALL BUDGET FUND GROUPS \$ 355,789 \$ 330,592 112989

Section 267.10. EDU DEPARTMENT OF EDUCATION 112991

General Revenue Fund 112992
 GRF 200100 Personal Services \$ 8,579,178 \$ 8,579,178 112993
 GRF 200320 Maintenance and \$ 2,830,407 \$ 2,830,407 112994
 Equipment
 GRF 200408 Early Childhood \$ 23,268,341 \$ 23,268,341 112995
 Education
 GRF 200416 Career-Technical \$ 2,233,195 \$ 2,233,195 112996
 Education Match
 GRF 200420 Computer/Application/ \$ 4,241,296 \$ 4,241,296 112997
 Network Development
 GRF 200421 Alternative Education \$ 7,403,998 \$ 7,403,998 112998
 Programs
 GRF 200422 School Management \$ 2,842,812 \$ 3,000,000 112999
 Assistance
 GRF 200424 Policy Analysis \$ 328,558 \$ 328,558 113000
 GRF 200425 Tech Prep Consortia \$ 260,542 \$ 260,542 113001
 Support
 GRF 200426 Ohio Educational \$ 17,974,489 \$ 17,974,489 113002
 Computer Network
 GRF 200427 Academic Standards \$ 4,346,060 \$ 3,700,000 113003
 GRF 200437 Student Assessment \$ 55,002,167 \$ 55,002,167 113004

GRF 200439	Accountability/Report Cards	\$ 3,579,279	\$ 3,579,279	113005
GRF 200442	Child Care Licensing	\$ 827,140	\$ 827,140	113006
GRF 200446	Education Management Information System	\$ 6,833,070	\$ 6,833,070	113007
GRF 200447	GED Testing	\$ 879,551	\$ 879,551	113008
GRF 200448	Educator Preparation	\$ 786,737	\$ 786,737	113009
GRF 200455	Community Schools and Choice Programs	\$ 2,200,000	\$ 2,200,000	113010
GRF 200502	Pupil Transportation	\$ 438,248,936	\$ 442,113,527	113011
GRF 200505	School Lunch Match	\$ 9,100,000	\$ 9,100,000	113012
GRF 200511	Auxiliary Services	\$ 117,547,099	\$ 119,250,305	113013
GRF 200532	Nonpublic Administrative Cost Reimbursement	\$ 52,550,684	\$ 53,323,944	113014
GRF 200540	Special Education Enhancements	\$ 135,820,668	\$ 135,820,668	113015
GRF 200545	Career-Technical Education Enhancements	\$ 8,802,699	\$ 8,802,699	113016
GRF 200550	Foundation Funding	\$ 5,470,788,773	\$ 5,560,484,181	113017
GRF 200901	Property Tax Allocation - Education	\$ 1,086,500,000	\$ 1,095,000,000	113018
TOTAL GRF	General Revenue Fund	\$ 7,463,775,679	\$ 7,567,823,272	113019
	General Services Fund Group			113020
1380 200606	Computer Services-Operational Support	\$ 7,600,090	\$ 7,600,090	113021
4520 200638	Miscellaneous Educational Services	\$ 300,000	\$ 300,000	113022
4L20 200681	Teacher Certification and Licensure	\$ 8,147,756	\$ 8,147,756	113023
5960 200656	Ohio Career Information System	\$ 529,761	\$ 529,761	113024

5H30	200687	School District	\$	25,000,000	\$	25,000,000	113025
		Solvency Assistance					
TOTAL	GSF	General Services					113026
Fund Group			\$	41,577,607	\$	41,577,607	113027
Federal Special Revenue Fund Group							113028
3090	200601	Neglected and	\$	2,168,642	\$	2,168,642	113029
		Delinquent Education					
3670	200607	School Food Services	\$	6,803,472	\$	6,959,906	113030
3690	200616	Career-Technical	\$	5,000,000	\$	5,000,000	113031
		Education Federal					
		Enhancement					
3700	200624	Education of	\$	1,905,000	\$	0	113032
		Exceptional Children					
3780	200660	Learn and Serve	\$	619,211	\$	619,211	113033
3AF0	200603	Schools Medicaid	\$	639,000	\$	639,000	113034
		Administrative Claims					
3AN0	200671	School Improvement	\$	20,400,000	\$	20,400,000	113035
		Grants					
3AX0	200698	Improving Health and	\$	630,954	\$	630,954	113036
		Educational Outcomes					
		of Young People					
3BK0	200628	Longitudinal Data	\$	500,000	\$	250,000	113037
		Systems					
3C50	200661	Early Childhood	\$	14,554,749	\$	14,554,749	113038
		Education					
3CG0	200646	Teacher Incentive	\$	1,925,881	\$	0	113039
		Fund					
3D10	200664	Drug Free Schools	\$	1,500,000	\$	0	113040
3D20	200667	Math Science	\$	9,500,001	\$	9,500,001	113041
		Partnerships					
3DG0	200630	Federal Stimulus -	\$	330,512	\$	0	113042
		McKinney Vento Grants					
3DJ0	200699	IDEA Part B - Federal	\$	21,886,803	\$	0	113043

		Stimulus					
3DK0	200642	Title 1A - Federal	\$	18,633,673	\$	0	113044
		Stimulus					
3DL0	200650	IDEA Preschool -	\$	670,000	\$	0	113045
		Federal Stimulus					
3DM0	200651	Title IID Technology	\$	1,195,100	\$	0	113046
		- Federal Stimulus					
3DP0	200652	Title I School	\$	48,500,000	\$	30,000,000	113047
		Improvement - Federal					
		Stimulus					
3EC0	200653	Teacher Incentive -	\$	7,500,000	\$	7,500,000	113048
		Federal Stimulus					
3EH0	200620	Migrant Education	\$	2,645,905	\$	2,645,905	113049
3EJ0	200622	Homeless Children	\$	1,759,782	\$	1,759,782	113050
		Education					
3EN0	200655	State Data Systems -	\$	2,500,000	\$	2,500,000	113051
		Federal Stimulus					
3ES0	200657	General Supervisory	\$	500,000	\$	500,000	113052
		Enhancement Grant					
3ET0	200658	Education Jobs Fund	\$	300,000,000	\$	50,000,000	113053
3FD0	200665	Race to the Top	\$	100,000,000	\$	100,000,000	113054
3FE0	200669	Striving Readers	\$	180,000	\$	100,000	113055
3H90	200605	Head Start	\$	225,000	\$	225,000	113056
		Collaboration Project					
3L60	200617	Federal School Lunch	\$	327,516,539	\$	337,323,792	113057
3L70	200618	Federal School	\$	87,596,850	\$	90,224,756	113058
		Breakfast					
3L80	200619	Child/Adult Food	\$	100,850,833	\$	103,876,359	113059
		Programs					
3L90	200621	Career-Technical	\$	48,466,864	\$	48,466,864	113060
		Education Basic Grant					
3M00	200623	ESEA Title 1A	\$	530,010,000	\$	530,010,000	113061
3M20	200680	Individuals with	\$	443,170,050	\$	443,170,050	113062

		Disabilities					
		Education Act					
3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397	113063
3T40	200613	Public Charter	\$	14,291,353	\$	14,291,353	113064
		Schools					
3Y20	200688	21st Century	\$	43,720,462	\$	45,906,485	113065
		Community Learning					
		Centers					
3Y60	200635	Improving Teacher	\$	101,900,000	\$	101,900,000	113066
		Quality					
3Y70	200689	English Language	\$	8,373,995	\$	8,373,995	113067
		Acquisition					
3Y80	200639	Rural and Low Income	\$	1,500,000	\$	1,500,000	113068
		Technical Assistance					
3Z20	200690	State Assessments	\$	11,882,258	\$	11,882,258	113069
3Z30	200645	Consolidated Federal	\$	8,949,280	\$	8,949,280	113070
		Grant Administration					
TOTAL FED		Federal Special					113071
Revenue Fund Group			\$	2,310,389,566	\$	2,011,315,739	113072
State Special Revenue Fund Group							113073
4540	200610	Guidance and Testing	\$	1,050,000	\$	1,050,000	113074
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	113075
4R70	200695	Indirect Operational	\$	6,500,000	\$	6,600,000	113076
		Support					
4V70	200633	Interagency	\$	1,117,725	\$	1,117,725	113077
		Operational Support					
5980	200659	Auxiliary Services	\$	1,328,910	\$	1,328,910	113078
		Reimbursement					
5BB0	200696	State Action for	\$	231,300	\$	0	113079
		Education Leadership					
5BJ0	200626	Half-Mill Maintenance	\$	17,300,000	\$	18,000,000	113080
		Equalization					
5KK0	200679	Community School	\$	1,000,000	\$	1,000,000	113081

		Dropout Programs				
5U20	200685	National Education	\$	300,000	\$	300,000 113082
		Statistics				
6200	200615	Educational	\$	3,000,000	\$	3,000,000 113083
		Improvement Grants				
TOTAL SSR		State Special Revenue				113084
Fund Group			\$	55,827,935	\$	56,396,635 113085
		Lottery Profits Education Fund Group				113086
7017	200612	Foundation Funding	\$	717,500,000	\$	680,500,000 113087
TOTAL LPE		Lottery Profits				113088
Education Fund Group			\$	717,500,000	\$	680,500,000 113089
		Revenue Distribution Fund Group				113090
7047	200909	School District	\$	722,000,000	\$	475,000,000 113091
		Property Tax				
		Replacement-Business				
7053	200900	School District	\$	34,000,000	\$	30,000,000 113092
		Property Tax				
		Replacement-Utility				
TOTAL RDF		Revenue Distribution				113093
Fund Group			\$	756,000,000		505,000,000 113094
TOTAL ALL BUDGET FUND GROUPS			\$11,345,070,787		\$10,862,613,253	113095

Section 267.10.10. EARLY CHILDHOOD EDUCATION 113097

The Department of Education shall distribute the foregoing 113098
 appropriation item 200408, Early Childhood Education, to pay the 113099
 costs of early childhood education programs. 113100

(A) As used in this section: 113101

(1) "Provider" means a city, local, exempted village, or 113102
 joint vocational school district, or an educational service 113103
 center. 113104

(2) In the case of a city, local, or exempted village school 113105

district, "new eligible provider" means a district that did not 113106
receive state funding for Early Childhood Education in the 113107
previous fiscal year or demonstrates a need for early childhood 113108
programs as defined in division (D) of this section. 113109

(3) "Eligible child" means a child who is at least three 113110
years of age as of the district entry date for kindergarten, is 113111
not of the age to be eligible for kindergarten, and whose family 113112
earns not more than two hundred per cent of the federal poverty 113113
guidelines as defined in division (A)(3) of section 5101.46 of the 113114
Revised Code. Children with an Individualized Education Program 113115
and where the Early Childhood Education program is the least 113116
restrictive environment may be enrolled on their third birthday. 113117

(B) In each fiscal year, up to two per cent of the total 113118
appropriation may be used by the Department for program support 113119
and technical assistance. The Department shall distribute the 113120
remainder of the appropriation in each fiscal year to serve 113121
eligible children. 113122

(C) The Department shall provide an annual report to the 113123
Governor, the Speaker of the House of Representatives, and the 113124
President of the Senate and post the report to the Department's 113125
web site, regarding early childhood education programs operated 113126
under this section and the early learning program guidelines. 113127

(D) After setting aside the amounts to make payments due from 113128
the previous fiscal year, in fiscal year 2012, the Department 113129
shall distribute funds first to recipients of funds for early 113130
childhood education programs under Section 265.10.20 of Am. Sub. 113131
H.B. 1 of the 128th General Assembly in the previous fiscal year 113132
and the balance to new eligible providers of early childhood 113133
education programs under this section or to existing providers to 113134
serve more eligible children or for purposes of program expansion, 113135
improvement, or special projects to promote quality and 113136
innovation. 113137

After setting aside the amounts to make payments due from the 113138
previous fiscal year, in fiscal year 2013, the Department shall 113139
distribute funds first to providers of early childhood education 113140
programs under this section in the previous fiscal year and the 113141
balance to new eligible providers or to existing providers to 113142
serve more eligible children or for purposes of program expansion, 113143
improvement, or special projects to promote quality and 113144
innovation. 113145

Awards under this section shall be distributed on a per-pupil 113146
basis, and in accordance with division (H) of this section. The 113147
Department may adjust the per-pupil amount so that the per-pupil 113148
amount multiplied by the number of eligible children enrolled and 113149
receiving services on the first day of December or the business 113150
day closest to that date equals the amount allocated under this 113151
section. 113152

(E) Costs for developing and administering an early childhood 113153
education program may not exceed fifteen per cent of the total 113154
approved costs of the program. 113155

All providers shall maintain such fiscal control and 113156
accounting procedures as may be necessary to ensure the 113157
disbursement of, and accounting for, these funds. The control of 113158
funds provided in this program, and title to property obtained, 113159
shall be under the authority of the approved provider for purposes 113160
provided in the program unless, as described in division (J) of 113161
this section, the program waives its right for funding or a 113162
program's funding is eliminated or reduced due to its inability to 113163
meet financial or early learning program guidelines. The approved 113164
provider shall administer and use such property and funds for the 113165
purposes specified. 113166

(F) The Department may examine a provider's financial and 113167
program records. If the financial practices of the program are not 113168
in accordance with standard accounting principles or do not meet 113169

financial standards outlined under division (E) of this section, 113170
or if the program fails to substantially meet the early learning 113171
program guidelines or exhibits below average performance as 113172
measured against the guidelines, the early childhood education 113173
program shall propose and implement a corrective action plan that 113174
has been approved by the Department. The approved corrective 113175
action plan shall be signed by the chief executive officer and the 113176
executive of the official governing body of the provider. The 113177
corrective action plan shall include a schedule for monitoring by 113178
the Department. Such monitoring may include monthly reports, 113179
inspections, a timeline for correction of deficiencies, and 113180
technical assistance to be provided by the Department or obtained 113181
by the early childhood education program. The Department may 113182
withhold funding pending corrective action. If an early childhood 113183
education program fails to satisfactorily complete a corrective 113184
action plan, the Department may deny expansion funding to the 113185
program or withdraw all or part of the funding to the program and 113186
establish a new eligible provider through a selection process 113187
established by the Department. 113188

(G) Each early childhood education program shall do all of 113189
the following: 113190

(1) Meet teacher qualification requirements prescribed by 113191
section 3301.311 of the Revised Code; 113192

(2) Align curriculum to the early learning content standards 113193
developed by the Department; 113194

(3) Meet any child or program assessment requirements 113195
prescribed by the Department; 113196

(4) Require teachers, except teachers enrolled and working to 113197
obtain a degree pursuant to section 3301.311 of the Revised Code, 113198
to attend a minimum of twenty hours every two years of 113199
professional development as prescribed by the Department; 113200

(5) Document and report child progress as prescribed by the Department; 113201
113202

(6) Meet and report compliance with the early learning program guidelines as prescribed by the Department. 113203
113204

(H) Per-pupil funding for programs subject to this section shall be sufficient to provide eligible children with services for a standard early childhood schedule which shall be defined in this section as a minimum of twelve and one-half hours per school week as defined in section 3313.62 of the Revised Code for the minimum school year as defined in sections 3313.48, 3313.481, and 3313.482 of the Revised Code. Nothing in this section shall be construed to prohibit program providers from utilizing other funds to serve eligible children in programs that exceed the twelve and one-half hours per week or that exceed the minimum school year. For any provider for which a standard early childhood education schedule creates a hardship or for which the provider shows evidence that the provider is working in collaboration with a preschool special education program, the provider may submit a waiver to the Department requesting an alternate schedule. If the Department approves a waiver for an alternate schedule that provides services for less time than the standard early childhood education schedule, the Department may reduce the provider's annual allocation proportionately. Under no circumstances shall an annual allocation be increased because of the approval of an alternate schedule. 113205
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(I) Each provider shall develop a sliding fee scale based on family incomes and shall charge families who earn more than two hundred per cent of the federal poverty guidelines, as defined in division (A)(3) of section 5101.46 of the Revised Code, for the early childhood education program. 113226
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The Department shall conduct an annual survey of each provider to determine whether the provider charges families 113231
113232

tuition or fees, the amount families are charged relative to 113233
family income levels, and the number of families and students 113234
charged tuition and fees for the early childhood program. 113235

(J) If an early childhood education program voluntarily 113236
waives its right for funding, or has its funding eliminated for 113237
not meeting financial standards or the early learning program 113238
guidelines, the provider shall transfer control of title to 113239
property, equipment, and remaining supplies obtained through the 113240
program to providers designated by the Department and return any 113241
unexpended funds to the Department along with any reports 113242
prescribed by the Department. The funding made available from a 113243
program that waives its right for funding or has its funding 113244
eliminated or reduced may be used by the Department for new grant 113245
awards or expansion grants. The Department may award new grants or 113246
expansion grants to eligible providers who apply. The eligible 113247
providers who apply must do so in accordance with the selection 113248
process established by the Department. 113249

(K) As used in this section, "early learning program 113250
guidelines" means the guidelines established by the Department 113251
pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 113252
66 of the 126th General Assembly. 113253

(L) Eligible expenditures for the Early Childhood Education 113254
program shall be claimed each fiscal year to help meet the state's 113255
TANF maintenance of effort requirement. The Superintendent of 113256
Public Instruction and the Director of Job and Family Services 113257
shall enter into an interagency agreement to carry out the 113258
requirements under this division, which shall include developing 113259
reporting guidelines for these expenditures. 113260

Section 267.10.20. CAREER-TECHNICAL EDUCATION MATCH 113261

The foregoing appropriation item 200416, Career-Technical 113262
Education Match, shall be used by the Department of Education to 113263

provide vocational administration matching funds under 20 U.S.C. 113264
2311. 113265

COMPUTER/APPLICATION/NETWORK DEVELOPMENT 113266

The foregoing appropriation item 200420, 113267
Computer/Application/Network Development, shall be used to support 113268
the development and implementation of information technology 113269
solutions designed to improve the performance and services of the 113270
Department of Education. Funds may be used for personnel, 113271
maintenance, and equipment costs related to the development and 113272
implementation of these technical system projects. Implementation 113273
of these systems shall allow the Department to provide greater 113274
levels of assistance to school districts and to provide more 113275
timely information to the public, including school districts, 113276
administrators, and legislators. Funds may also be used to support 113277
data-driven decision-making and differentiated instruction, as 113278
well as to communicate academic content standards and curriculum 113279
models to schools through web-based applications. 113280

Section 267.10.30. ALTERNATIVE EDUCATION PROGRAMS 113281

The foregoing appropriation item 200421, Alternative 113282
Education Programs, shall be used for the renewal of successful 113283
implementation grants and for competitive matching grants to 113284
school districts for alternative educational programs for existing 113285
and new at-risk and delinquent youth. Programs shall be focused on 113286
youth in one or more of the following categories: those who have 113287
been expelled or suspended, those who have dropped out of school 113288
or who are at risk of dropping out of school, those who are 113289
habitually truant or disruptive, or those on probation or on 113290
parole from a Department of Youth Services facility. Grants shall 113291
be awarded according to the criteria established by the 113292
Alternative Education Advisory Council in 1999. Grants shall be 113293
awarded only to programs in which the grant will not serve as the 113294

program's primary source of funding. These grants shall be 113295
administered by the Department of Education. 113296

The Department of Education may waive compliance with any 113297
minimum education standard established under section 3301.07 of 113298
the Revised Code for any alternative school that receives a grant 113299
under this section on the grounds that the waiver will enable the 113300
program to more effectively educate students enrolled in the 113301
alternative school. 113302

Of the foregoing appropriation item 200421, Alternative 113303
Education Programs, a portion may be used for program 113304
administration, monitoring, technical assistance, support, 113305
research, and evaluation. 113306

Section 267.10.40. SCHOOL MANAGEMENT ASSISTANCE 113307

Of the foregoing appropriation item 200422, School Management 113308
Assistance, \$1,000,000 in fiscal year 2012 and \$1,300,000 in 113309
fiscal year 2013 shall be used by the Auditor of State in 113310
consultation with the Department of Education for expenses 113311
incurred in the Auditor of State's role relating to fiscal 113312
caution, fiscal watch, and fiscal emergency activities as defined 113313
in Chapter 3316. of the Revised Code and may also be used by the 113314
Auditor of State to conduct performance audits of other school 113315
districts with priority given to districts in fiscal distress. 113316
Districts in fiscal distress shall be determined by the Auditor of 113317
State and shall include districts that the Auditor of State, in 113318
consultation with the Department of Education, determines are 113319
employing fiscal practices or experiencing budgetary conditions 113320
that could produce a state of fiscal watch or fiscal emergency. 113321

The remainder of appropriation item 200422, School Management 113322
Assistance, shall be used by the Department of Education to 113323
provide fiscal technical assistance and inservice education for 113324
school district management personnel and to administer, monitor, 113325

and implement the fiscal caution, fiscal watch, and fiscal 113326
emergency provisions under Chapter 3316. of the Revised Code. 113327

Section 267.10.50. POLICY ANALYSIS 113328

The foregoing appropriation item 200424, Policy Analysis, 113329
shall be used by the Department of Education to support a system 113330
of administrative, statistical, and legislative education 113331
information to be used for policy analysis. Staff supported by 113332
this appropriation shall administer the development of reports, 113333
analyses, and briefings to inform education policymakers of 113334
current trends in education practice, efficient and effective use 113335
of resources, and evaluation of programs to improve education 113336
results. The database shall be kept current at all times. These 113337
research efforts shall be used to supply information and analysis 113338
of data to the General Assembly and other state policymakers, 113339
including the Office of Budget and Management, the Governor's 113340
Office of 21st Century Education, and the Legislative Service 113341
Commission. 113342

The Department of Education may use funding from this 113343
appropriation item to purchase or contract for the development of 113344
software systems or contract for policy studies that will assist 113345
in the provision and analysis of policy-related information. 113346
Funding from this appropriation item also may be used to monitor 113347
and enhance quality assurance for research-based policy analysis 113348
and program evaluation to enhance the effective use of education 113349
information to inform education policymakers. 113350

A portion of the foregoing appropriation item 200424, Policy 113351
Analysis, may be used in conjunction with appropriation item 113352
200439, Accountability/Report Cards, to support a fiscal reporting 113353
dimension that shall contain fiscal data reported for the prior 113354
fiscal year. The fiscal information contained therein shall be 113355
updated and reported annually in a form and in a manner as 113356

determined by the Department. 113357

TECH PREP CONSORTIA SUPPORT 113358

The foregoing appropriation item 200425, Tech Prep Consortia 113359
Support, shall be used by the Department of Education to support 113360
state-level activities designed to support, promote, and expand 113361
tech prep programs. Use of these funds shall include, but not be 113362
limited to, administration of grants, program evaluation, 113363
professional development, curriculum development, assessment 113364
development, program promotion, communications, and statewide 113365
coordination of tech prep consortia. 113366

Section 267.10.60. OHIO EDUCATIONAL COMPUTER NETWORK 113367

The foregoing appropriation item 200426, Ohio Educational 113368
Computer Network, shall be used by the Department of Education to 113369
maintain a system of information technology throughout Ohio and to 113370
provide technical assistance for such a system in support of the 113371
P-16 State Education Technology Plan developed under section 113372
3353.09 of the Revised Code. 113373

Of the foregoing appropriation item 200426, Ohio Educational 113374
Computer Network, up to \$10,705,569 in each fiscal year shall be 113375
used by the Department of Education to support connection of all 113376
public school buildings and participating chartered nonpublic 113377
schools to the state's education network, to each other, and to 113378
the Internet. In each fiscal year the Department of Education 113379
shall use these funds to assist information technology centers or 113380
school districts with the operational costs associated with this 113381
connectivity. The Department of Education shall develop a formula 113382
and guidelines for the distribution of these funds to information 113383
technology centers or individual school districts. As used in this 113384
section, "public school building" means a school building of any 113385
city, local, exempted village, or joint vocational school 113386
district, any community school established under Chapter 3314. of 113387

the Revised Code, any STEM school established under Chapter 3326. 113388
of the Revised Code, any educational service center building used 113389
for instructional purposes, the Ohio School for the Deaf and the 113390
Ohio School for the Blind, high schools chartered by the Ohio 113391
Department of Youth Services, or high schools operated by Ohio 113392
Department of Rehabilitation and Corrections' Ohio Central School 113393
System. 113394

Of the foregoing appropriation item 200426, Ohio Educational 113395
Computer Network, up to \$1,440,000 in each fiscal year shall be 113396
used for the Union Catalog and InfOhio Network and to support the 113397
provision of electronic resources with priority given to resources 113398
that support the teaching of state academic content standards in 113399
all public schools. Consideration shall be given by the Department 113400
of Education to coordinating the allocation of these moneys with 113401
the efforts of Libraries Connect Ohio, whose members include 113402
OhioLINK, the Ohio Public Information Network, and the State 113403
Library of Ohio. 113404

Of the foregoing appropriation item 200426, Ohio Educational 113405
Computer Network, up to \$5,220,000 in each fiscal year shall be 113406
used, through a formula and guidelines devised by the Department, 113407
to subsidize the activities of designated information technology 113408
centers, as defined by State Board of Education rules, to provide 113409
school districts and chartered nonpublic schools with 113410
computer-based student and teacher instructional and 113411
administrative information services, including approved 113412
computerized financial accounting, and to ensure the effective 113413
operation of local automated administrative and instructional 113414
systems. 113415

The remainder of appropriation item 200426, Ohio Educational 113416
Computer Network, shall be used to support the work of the College 113417
of Education and Human Ecology at the Ohio State University in 113418
reviewing and assessing the alignment of courses offered through 113419

the distance learning clearinghouse established in sections 113420
3333.81 to 3333.88 of the Revised Code with the academic content 113421
standards adopted under division (A) of section 3301.079 of the 113422
Revised Code. 113423

Section 267.10.70. ACADEMIC STANDARDS 113424

The foregoing appropriation item 200427, Academic Standards, 113425
shall be used by the Department of Education to develop, revise, 113426
and communicate to school districts academic content standards and 113427
curriculum models. 113428

Section 267.10.80. STUDENT ASSESSMENT 113429

Of the foregoing appropriation item 200437, Student 113430
Assessment, up to \$95,000 in each fiscal year may be used to 113431
support the assessments required under section 3301.0715 of the 113432
Revised Code. 113433

The remainder of appropriation item 200437, Student 113434
Assessment, shall be used to develop, field test, print, 113435
distribute, score, report results, and support other associated 113436
costs for the tests required under sections 3301.0710, 3301.0711, 113437
and 3301.0712 of the Revised Code and for similar purposes as 113438
required by section 3301.27 of the Revised Code. If funds remain 113439
in this appropriation after these purposes have been fulfilled, 113440
the Department may use the remainder of the appropriation to 113441
develop end-of-course exams. 113442

**DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT 113443
ASSESSMENT** 113444

In fiscal year 2012 and fiscal year 2013, if the 113445
Superintendent of Public Instruction determines that additional 113446
funds are needed to fully fund the requirements of sections 113447
3301.0710, 3301.0711, and 3301.27 of the Revised Code and this act 113448
for assessments of student performance, the Superintendent of 113449

Public Instruction may recommend the reallocation of unexpended 113450
and unencumbered General Revenue Fund appropriations within the 113451
Department of Education to appropriation item 200437, Student 113452
Assessment, to the Director of Budget and Management. If the 113453
Director of Budget and Management determines that such a 113454
reallocation is required, the Director of Budget and Management 113455
may transfer unexpended and unencumbered appropriations within the 113456
Department of Education as necessary to appropriation item 200437, 113457
Student Assessment. If these transferred appropriations are not 113458
sufficient to fully fund the assessment requirements in fiscal 113459
year 2012 or fiscal year 2013, the Superintendent of Public 113460
Instruction may request that the Controlling Board transfer up to 113461
\$9,000,000 cash from the Lottery Profits Education Reserve Fund 113462
(Fund 7018) to the General Revenue Fund. Upon approval of the 113463
Controlling Board, the Director of Budget and Management shall 113464
transfer the cash. These transferred funds are hereby appropriated 113465
for the same purpose as appropriation item 200437, Student 113466
Assessment. 113467

Section 267.10.90. (A) Notwithstanding anything to the 113468
contrary in section 3301.0710, 3301.0711, 3301.0715 or 3313.608 of 113469
the Revised Code, the administration of the English language arts 113470
assessments for elementary grades as a replacement for the 113471
separate reading and writing assessments prescribed by sections 113472
3301.0710 and 3301.0711 of the Revised Code, as those sections 113473
were amended by Am. Sub. H.B. 1 of the 128th General Assembly, 113474
shall not be required until a date prescribed by rule of the State 113475
Board of Education. Until that date, the Department of Education 113476
and school districts and schools shall continue to administer 113477
separate reading assessments for elementary grades, as prescribed 113478
by the versions of sections 3301.0710 and 3301.0711 of the Revised 113479
Code that were in effect prior to the effective date of Section 113480
265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly. The 113481

intent for delaying implementation of the replacement English 113482
language arts assessment is to provide adequate time for the 113483
complete development of the new assessment. 113484

(B) Notwithstanding anything to the contrary in section 113485
3301.0710 of the Revised Code, the State Board shall not prescribe 113486
the three ranges of scores for the assessments prescribed by 113487
division (A)(2) of section 3301.0710 of the Revised Code, as 113488
amended by Am. Sub. H.B. 1 of the 128th General Assembly, until 113489
the Board adopts the rule required by division (A) of this 113490
section. Until that date, the Board shall continue to prescribe 113491
the five ranges of scores required by the version of section 113492
3301.0710 of the Revised Code in effect prior to the effective 113493
date of Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General 113494
Assembly, and the following apply: 113495

(1) The range of scores designated by the State Board as a 113496
proficient level of skill remains the passing score on the Ohio 113497
Graduation Tests for purposes of sections 3313.61, 3313.611, 113498
3313.612, and 3325.08 of the Revised Code; 113499

(2) The range of scores designated as a limited level of 113500
skill remains the standard for applying the third-grade reading 113501
guarantee under division (A) of section 3313.608 of the Revised 113502
Code; 113503

(3) The range of scores designated by the State Board as a 113504
proficient level of skill remains the standard for the summer 113505
remediation requirement of division (B)(2) of section 3313.608 of 113506
the Revised Code. 113507

(C) This section is not subject to expiration after June 30, 113508
2013, under Section 809.10 of this act. 113509

Section 267.20.10. Notwithstanding anything to the contrary 113510
in sections 3301.0710 and 3301.0711 of the Revised Code, in the 113511

2011-2012 and 2012-2013 school years, the Department of Education 113512
shall not furnish, and school districts and schools shall not 113513
administer, the elementary writing and social studies achievement 113514
assessments prescribed by section 3301.0710 of the Revised Code, 113515
unless the Superintendent of Public Instruction determines the 113516
Department has sufficient funds to pay the costs of furnishing and 113517
scoring those assessments. 113518

Section 267.20.20. ACCOUNTABILITY/REPORT CARDS 113519

Of the foregoing appropriation item 200439, 113520
Accountability/Report Cards, a portion in each fiscal year may be 113521
used to train district and regional specialists and district 113522
educators in the use of the value-added progress dimension and in 113523
the use of data as it relates to improving student achievement. 113524
This training may include teacher and administrator professional 113525
development in the use of data to improve instruction and student 113526
learning, and teacher and administrator training in understanding 113527
teacher value-added reports and how they can be used as a 113528
component in measuring teacher and administrator effectiveness. A 113529
portion of this funding may be provided to a credible nonprofit 113530
organization with expertise in value-added progress dimensions. 113531

The remainder of appropriation item 200439, 113532
Accountability/Report Cards, shall be used by the Department to 113533
incorporate a statewide value-added progress dimension into 113534
performance ratings for school districts and for the development 113535
of an accountability system that includes the preparation and 113536
distribution of school report cards and funding and expenditure 113537
accountability reports under sections 3302.03 and 3302.031 of the 113538
Revised Code. 113539

CHILD CARE LICENSING 113540

The foregoing appropriation item 200442, Child Care 113541

Licensing, shall be used by the Department of Education to license 113542
and to inspect preschool and school-age child care programs under 113543
sections 3301.52 to 3301.59 of the Revised Code. 113544

Section 267.20.30. EDUCATION MANAGEMENT INFORMATION SYSTEM 113545

The foregoing appropriation item 200446, Education Management 113546
Information System, shall be used by the Department of Education 113547
to improve the Education Management Information System (EMIS). 113548

Of the foregoing appropriation item 200446, Education 113549
Management Information System, up to \$729,000 in each fiscal year 113550
shall be distributed to designated information technology centers 113551
for costs relating to processing, storing, and transferring data 113552
for the effective operation of the EMIS. These costs may include, 113553
but are not limited to, personnel, hardware, software development, 113554
communications connectivity, professional development, and support 113555
services, and to provide services to participate in the State 113556
Education Technology Plan developed under section 3353.09 of the 113557
Revised Code. 113558

The remainder of appropriation item 200446, Education 113559
Management Information System, shall be used to develop and 113560
support a common core of data definitions and standards as adopted 113561
by the Education Management Information System Advisory Board, 113562
including the ongoing development and maintenance of the data 113563
dictionary and data warehouse. In addition, such funds shall be 113564
used to support the development and implementation of data 113565
standards and the design, development, and implementation of a new 113566
data exchange system. 113567

Any provider of software meeting the standards approved by 113568
the Education Management Information System Advisory Board shall 113569
be designated as an approved vendor and may enter into contracts 113570
with local school districts, community schools, STEMS schools, 113571
information technology centers, or other educational entities for 113572

the purpose of collecting and managing data required under Ohio's 113573
education management information system (EMIS) laws. On an annual 113574
basis, the Department of Education shall convene an advisory group 113575
of school districts, community schools, and other 113576
education-related entities to review the Education Management 113577
Information System data definitions and data format standards. The 113578
advisory group shall recommend changes and enhancements based upon 113579
surveys of its members, education agencies in other states, and 113580
current industry practices, to reflect best practices, align with 113581
federal initiatives, and meet the needs of school districts. 113582

School districts, STEMS schools, and community schools not 113583
implementing a common and uniform set of data definitions and data 113584
format standards for Education Management Information System 113585
purposes shall have all EMIS funding withheld until they are in 113586
compliance. 113587

Section 267.20.40. GED TESTING 113588

The foregoing appropriation item 200447, GED Testing, shall 113589
be used to provide General Educational Development (GED) testing 113590
under rules adopted by the State Board of Education. 113591

Section 267.20.50. EDUCATOR PREPARATION 113592

Of the foregoing appropriation item 200448, Educator 113593
Preparation, up to \$150,000 in each fiscal year may be used by the 113594
Department of Education to monitor and support Ohio's State System 113595
of Support in accordance with the "No Child Left Behind Act of 113596
2011," 20 U.S.C. 6317. 113597

The remainder of appropriation item 200448, Educator 113598
Preparation, may be used by the Department to support the Educator 113599
Standards Board under section 3319.61 of the Revised Code and 113600
reforms under sections 3302.042, 3302.06 through 3302.068, 113601
3302.12, 3302.20 through 3302.23, and 3319.58 of the Revised Code. 113602

Section 267.20.60. COMMUNITY SCHOOLS AND CHOICE PROGRAMS 113603

The foregoing appropriation item 200455, Community Schools 113604
and Choice Programs, may be used by the Department of Education 113605
for additional services and responsibilities under section 3314.11 113606
of the Revised Code and for operation of the school choice 113607
programs. 113608

Of the foregoing appropriation item 200455, Community Schools 113609
and Choice Programs, a portion in each fiscal year may be used by 113610
the Department of Education for developing and conducting training 113611
sessions for community schools and sponsors and prospective 113612
sponsors of community schools as prescribed in division (A)(1) of 113613
section 3314.015 of the Revised Code, and other schools 113614
participating in school choice programs. In developing the 113615
community school training sessions, the Department shall collect 113616
and disseminate examples of best practices used by sponsors of 113617
independent charter schools in Ohio and other states. 113618

Section 267.20.70. PUPIL TRANSPORTATION 113619

Of the foregoing appropriation item 200502, Pupil 113620
Transportation, up to \$838,930 in each fiscal year may be used by 113621
the Department of Education for training prospective and 113622
experienced school bus drivers in accordance with training 113623
programs prescribed by the Department. Up to \$60,469,220 in each 113624
fiscal year may be used by the Department of Education for special 113625
education transportation reimbursements to school districts and 113626
county DD boards for transportation operating costs as provided in 113627
division (J) of section 3317.024 of the Revised Code. Up to 113628
\$650,000 in each fiscal year may be used to partially reimburse 113629
school districts for costs of providing transportation services to 113630
nontraditional schools when those schools are open on a day the 113631
traditional school district is not scheduled to open. Up to 113632

\$5,000,000 in each fiscal year may be used by the Department of Education to reimburse school districts in accordance with rules adopted by the state board of education for students transported by means other than school bus service and whose transportation is not funded under division (C) of section 3317.024 of the Revised Code.

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The remainder of appropriation item 200502, Pupil Transportation, shall be used to distribute the amounts calculated for formula aid under Section 267.30.50 of this act.

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Section 267.20.80. SCHOOL LUNCH MATCH

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The foregoing appropriation item 200505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

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Any remaining appropriation after providing matching funds for the school lunch program may be used to partially reimburse school buildings within school districts that are required to have a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department.

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Section 267.20.90. AUXILIARY SERVICES

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The foregoing appropriation item 200511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$1,789,943 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students. Notwithstanding section 3365.10 of the Revised Code, the Department shall distribute funding according to rules adopted by the Department in accordance with Chapter 119. of the Revised Code.

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Section 267.30.10. NONPUBLIC ADMINISTRATIVE COST

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REIMBURSEMENT 113662

The foregoing appropriation item 200532, Nonpublic 113663
Administrative Cost Reimbursement, shall be used by the Department 113664
of Education for the purpose of implementing section 3317.063 of 113665
the Revised Code. 113666

Section 267.30.20. SPECIAL EDUCATION ENHANCEMENTS 113667

Of the foregoing appropriation item 200540, Special Education 113668
Enhancements, up to \$2,206,875 in each fiscal year shall be used 113669
for home instruction for children with disabilities. 113670

Of the foregoing appropriation item 200540, Special Education 113671
Enhancements, up to \$45,282,959 in each fiscal year shall be used 113672
to fund special education and related services at county boards of 113673
developmental disabilities for eligible students under section 113674
3317.20 of the Revised Code and at institutions for eligible 113675
students under section 3317.201 of the Revised Code. 113676
Notwithstanding the distribution formulas under sections 3317.20 113677
and 3317.201 of the Revised Code, funding for DD boards and 113678
institutions for fiscal year 2012 and fiscal year 2013 shall be 113679
determined by providing the per pupil amount received by each DD 113680
board and institution for the prior fiscal year for each student 113681
served in the current fiscal year. 113682

Of the foregoing appropriation item 200540, Special Education 113683
Enhancements, up to \$1,333,468 in each fiscal year shall be used 113684
for parent mentoring programs. 113685

Of the foregoing appropriation item 200540, Special Education 113686
Enhancements, up to \$2,537,824 in each fiscal year may be used for 113687
school psychology interns. 113688

The remainder of appropriation item 200540, Special Education 113689
Enhancements, shall be distributed by the Department of Education 113690
to county boards of developmental disabilities, educational 113691

service centers, and school districts for preschool special 113692
education units and preschool supervisory units under section 113693
3317.052 of the Revised Code. To the greatest extent possible, the 113694
Department of Education shall allocate these units to school 113695
districts and educational service centers. 113696

The Department may reimburse county DD boards, educational 113697
service centers, and school districts for services provided by 113698
instructional assistants, related services as defined in rule 113699
3301-51-11 of the Administrative Code, physical therapy services 113700
provided by a licensed physical therapist or physical therapist 113701
assistant under the supervision of a licensed physical therapist 113702
as required under Chapter 4755. of the Revised Code and Chapter 113703
4755-27 of the Administrative Code and occupational therapy 113704
services provided by a licensed occupational therapist or 113705
occupational therapy assistant under the supervision of a licensed 113706
occupational therapist as required under Chapter 4755. of the 113707
Revised Code and Chapter 4755-7 of the Administrative Code. 113708
Nothing in this section authorizes occupational therapy assistants 113709
or physical therapist assistants to generate or manage their own 113710
caseloads. 113711

The Department of Education shall require school districts, 113712
educational service centers, and county DD boards serving 113713
preschool children with disabilities to adhere to Ohio's Early 113714
Learning Program Guidelines and document child progress using 113715
research-based indicators prescribed by the Department and report 113716
results annually. The reporting dates and method shall be 113717
determined by the Department. 113718

Section 267.30.30. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 113719

Of the foregoing appropriation item 200545, Career-Technical 113720
Education Enhancements, up to \$2,563,568 in each fiscal year shall 113721
be used to fund secondary career-technical education at 113722

institutions. 113723

Of the foregoing appropriation item 200545, Career-Technical 113724
Education Enhancements, up to \$2,838,281 in each fiscal year shall 113725
be used by the Department of Education to fund competitive grants 113726
to tech prep consortia that expand the number of students enrolled 113727
in tech prep programs. These grant funds shall be used to directly 113728
support expanded tech prep programs provided to students enrolled 113729
in school districts, including joint vocational school districts, 113730
and affiliated higher education institutions. This support may 113731
include the purchase of equipment. 113732

Of the foregoing appropriation item 200545, Career-Technical 113733
Education Enhancements, up to \$3,100,850 in each fiscal year shall 113734
be used by the Department of Education to support existing High 113735
Schools That Work (HSTW) sites, develop and support new sites, 113736
fund technical assistance, and support regional centers and middle 113737
school programs. The purpose of HSTW is to combine challenging 113738
academic courses and modern career-technical studies to raise the 113739
academic achievement of students. HSTW provides intensive 113740
technical assistance, focused staff development, targeted 113741
assessment services, and ongoing communications and networking 113742
opportunities. 113743

Of the foregoing appropriation item 200545, Career-Technical 113744
Education Enhancements, up to \$300,000 in each fiscal year shall 113745
be used by the Department of Education to enable students in 113746
agricultural programs to enroll in a fifth quarter of instruction 113747
based on the agricultural education model of delivering work-based 113748
learning through supervised agricultural experience. The 113749
Department of Education shall determine eligibility criteria and 113750
the reporting process for the Agriculture 5th Quarter Project and 113751
shall fund as many programs as possible given the set aside. 113752

Section 267.30.40. FOUNDATION FUNDING 113753

Of the foregoing appropriation item 200550, Foundation 113754
Funding, up to \$425,000 shall be expended in each fiscal year for 113755
court payments under section 2151.362 of the Revised Code. 113756

Of the foregoing appropriation item 200550, Foundation 113757
Funding, up to \$8,100,000 in each fiscal year shall be used to 113758
fund gifted education at educational service centers. For fiscal 113759
year 2012 and fiscal year 2013, each Educational Service Center 113760
that received gifted education funding for the prior fiscal year 113761
shall receive the same amount for the current fiscal year, unless 113762
the Educational Service Center notifies the Department of 113763
Education in writing that it no longer will be providing gifted 113764
services or will be providing fewer gifted services than provided 113765
in the prior fiscal year. In such case, the Department shall 113766
deduct all or a portion, as appropriate, of the funding received 113767
by the Educational Service Center for the prior fiscal year from 113768
the Center's allocation for the current fiscal year. The 113769
Department shall redistribute the deducted funding to other 113770
Educational Service Centers through the unit-based funding 113771
methodology in place under division (L) of section 3317.024 of the 113772
Revised Code as it existed prior to fiscal year 2010. 113773

Of the foregoing appropriation item 200550, Foundation 113774
Funding, up to \$10,000,000 in each fiscal year shall be used to 113775
provide additional state aid to school districts, joint vocational 113776
school districts, and community schools for special education 113777
students under division (C)(3) of section 3317.022 of the Revised 113778
Code, except that the Controlling Board may increase these amounts 113779
if presented with such a request from the Department of Education 113780
at the final meeting of the fiscal year; and up to \$2,000,000 in 113781
each fiscal year shall be reserved for Youth Services tuition 113782
payments under section 3317.024 of the Revised Code. 113783

Of the foregoing appropriation item 200550, Foundation 113784
Funding, up to \$41,760,000 in fiscal year 2012 and up to 113785

\$35,323,000 in fiscal year 2013 shall be reserved to fund the 113786
state reimbursement of educational service centers under section 113787
3317.11 of the Revised Code and the section of this act entitled 113788
"EDUCATIONAL SERVICE CENTERS FUNDING;" and up to \$3,545,752 in 113789
each fiscal year shall be distributed to educational service 113790
centers for School Improvement Initiatives. Educational service 113791
centers shall be required to support districts in the development 113792
and implementation of their continuous improvement plans as 113793
required in section 3302.04 of the Revised Code and to provide 113794
technical assistance and support in accordance with Title I of the 113795
"No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 113796
6317. 113797

Of the foregoing appropriation item 200550, Foundation 113798
Funding, up to \$1,000,000 in each fiscal year shall be used by the 113799
Department of Education for a program to pay for educational 113800
services for youth who have been assigned by a juvenile court or 113801
other authorized agency to any of the facilities described in 113802
division (A) of the section of this act entitled "PRIVATE 113803
TREATMENT FACILITY PROJECT." 113804

Of the foregoing appropriation item 200550, Foundation 113805
Funding, up to \$12,522,860 in each fiscal year shall be used to 113806
support the Cleveland school choice program. 113807

Of the portion of the funds distributed to the Cleveland 113808
Municipal School District under this section, up to \$11,901,887 in 113809
each fiscal year shall be used to operate the school choice 113810
program in the Cleveland Municipal School District under sections 113811
3313.974 to 3313.979 of the Revised Code. Notwithstanding 113812
divisions (B) and (C) of section 3313.978 and division (C) of 113813
section 3313.979 of the Revised Code, up to \$1,000,000 in each 113814
fiscal year of this amount shall be used by the Cleveland 113815
Municipal School District to provide tutorial assistance as 113816
provided in division (H) of section 3313.974 of the Revised Code. 113817

The Cleveland Municipal School District shall report the use of 113818
these funds in the district's three-year continuous improvement 113819
plan as described in section 3302.04 of the Revised Code in a 113820
manner approved by the Department of Education. 113821

Of the foregoing appropriation item 200550, Foundation 113822
Funding, an amount shall be available in each fiscal year to be 113823
paid to joint vocational school districts in accordance with the 113824
section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 113825
DISTRICTS." 113826

Of the foregoing appropriation item 200550, Foundation 113827
Funding, a portion in each fiscal year shall be paid to city, 113828
exempted village, and local school districts in accordance with 113829
the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT 113830
FUNDING." 113831

The remainder of appropriation item 200550, Foundation 113832
Funding, shall be used to distribute the amounts calculated for 113833
formula aid under Section 267.30.50 of this act. 113834

Appropriation items 200502, Pupil Transportation, 200540, 113835
Special Education Enhancements, and 200550, Foundation Funding, 113836
other than specific set-asides, are collectively used in each 113837
fiscal year to pay state formula aid obligations for school 113838
districts, community schools, STEM schools, and joint vocational 113839
school districts under this act. The first priority of these 113840
appropriation items, with the exception of specific set-asides, is 113841
to fund state formula aid obligations. It may be necessary to 113842
reallocate funds among these appropriation items or use excess 113843
funds from other general revenue fund appropriation items in the 113844
Department of Education's budget in each fiscal year, in order to 113845
meet state formula aid obligations. If it is determined that it is 113846
necessary to transfer funds among these appropriation items or to 113847
transfer funds from other General Revenue Fund appropriations in 113848
the Department of Education's budget to meet state formula aid 113849

obligations, the Department of Education shall seek approval from 113850
the Controlling Board to transfer funds as needed. 113851

Section 267.30.50. FUNDING FOR CITY, EXEMPTED VILLAGE, AND 113852
LOCAL SCHOOL DISTRICTS 113853

(A) For each of fiscal years 2012 and 2013, the Department of 113854
Education shall compute and pay operating funding for each city, 113855
exempted village, and local school district according to the 113856
following formula: 113857

[(The final amount computed for fiscal year 2011 under 113858
the line on the district's PASS form entitled "State 113859
Resources for the Foundation Funding Program" / the district's 113860
recalculated fiscal year 2011 formula ADM) X the district's 113861
current year formula ADM] - the district's adjustment amount 113862

Where: 113863

(1) "PASS form" means the form for calculating operating 113864
payments to school districts as prescribed by former section 113865
3306.012 of the Revised Code. 113866

(2) "Recalculated fiscal year 2011 formula ADM" means the 113867
district's average daily membership reported in October 2010 under 113868
division (A) of section 3317.03 of the Revised Code, as verified 113869
by the Superintendent of Public Instruction and adjusted if so 113870
ordered under division (K) of that section, and as further 113871
adjusted by the Department, as follows: 113872

(a) Count only twenty per cent of the number of joint 113873
vocational school district students counted under division (A)(3) 113874
of section 3317.03 of the Revised Code; 113875

(b) Add twenty per cent of the number of students who are 113876
entitled to attend school in the district under section 3313.64 or 113877
3313.65 of the Revised Code and are enrolled in another school 113878
district under a career-technical educational compact. 113879

(3) "Current year formula ADM" means the district's formula ADM for the current fiscal year as defined in section 3317.02 of the Revised Code.

(4) "The district's adjustment amount" means the amount computed under division (B)(5) of this section.

If the computation made under division (A) of this section results in a negative number, the district's funding under this section shall be zero.

(B) To make the computation required by division (A) of this section, the Department shall determine all of the following:

(1) Each district's charge-off valuation per pupil, which shall be the valuation used to determine the district's state share of the adequacy amount for fiscal year 2011, under former section 3306.13 of the Revised Code, divided by the district's recalculated fiscal year 2011 formula ADM;

(2) The statewide median charge-off valuation per pupil;

(3) Each district's charge-off valuation index, which shall be the district's charge-off valuation per pupil divided by the statewide median charge-off valuation per pupil;

(4) The statewide per pupil adjustment amount. The Department shall determine that amount so that the total statewide formula aid obligation for school districts does not exceed the aggregate amount appropriated for formula aid under line items 200502, 200550, and 200612.

(5) Each district's adjustment amount, which shall be the district's charge-off valuation index multiplied by the statewide per pupil adjustment amount multiplied by the district's current year formula ADM.

(C) On the form that the Department uses to compute funding for a school district in accordance with this section, the

Department also shall indicate the amount of that funding 113910
allocated to special education and related services and the amount 113911
allocated to career-technical education. The amounts allocated for 113912
special education and career-technical education shall be the 113913
amounts indicated on the PASS form for fiscal year 2011. Each 113914
school district that receives an allocation for career-technical 113915
education shall spend the funds only for purposes the Department 113916
of Education designates as approved for career-technical education 113917
expenses. Career-technical education expenses approved by the 113918
Department shall include only expenses connected to the delivery 113919
of career-technical programming to students enrolled in 113920
state-approved career-technical programs. If a school district 113921
informs the Department that it is unable to spend the full 113922
allocation on approved career-technical education expenses, the 113923
Department may reallocate the district's unexpended amount of the 113924
career-technical education allocation to other school districts. 113925
The Department shall first allocate the funds to school districts 113926
within the original school district's vocational education 113927
planning district that have growth in career-technical enrollment 113928
from the previous fiscal year. If there are no such districts, the 113929
Department shall allocate the funds to other school districts, 113930
with priority given to districts according to each district's 113931
growth in career-technical enrollment from the previous fiscal 113932
year. The Department shall require each school district to report 113933
data annually so that the Department may monitor the district's 113934
compliance with the requirements regarding the manner in which 113935
allocations for career-technical education may be spent. 113936

(D) For fiscal years 2012 and 2013, wherever a provision of 113937
law refers to payments or adjustments for a school district made 113938
in accordance with any section of Chapter 3317. of the Revised 113939
Code, that reference shall be construed to include payments or 113940
adjustments made under this section. 113941

Section 267.30.53. SUPPLEMENTAL SCHOOL DISTRICT FUNDING 113942

(A) For fiscal year 2012, the Department of Education shall 113943
compute and pay supplemental operating funding for each city, 113944
exempted village, and local school district according to the 113945
following formula: 113946

[(The final amount computed for fiscal year 2011 under the 113947
line on the district's PASS form entitled "State Resources for the 113948
Foundation Funding Program" minus the portion of that amount paid 113949
from funds received under the American Recovery and Reinvestment 113950
Act State Fiscal Stabilization Fund) multiplied by eighty per 113951
cent] minus (the amount computed for the district for fiscal year 113952
2012 under Section 267.30.50 of this act). 113953

(B) For fiscal year 2013, the Department of Education shall 113954
compute and pay supplemental operating funding for districts 113955
allocated funding under this section for fiscal year 2012 113956
according to the following formula: 113957

[(The final amount computed for the district for fiscal year 113958
2012 under Section 267.30.50 of this act) plus (the final amount 113959
computed for the district for fiscal year 2012 under this 113960
section)] minus (the amount computed for the district for fiscal 113961
year 2013 under Section 267.30.50 of this act). 113962

(C) If the computation made under division (A) or (B) of this 113963
section results in a negative number, the district's funding under 113964
that division shall be zero. 113965

Section 267.30.60. FUNDING FOR JOINT VOCATIONAL SCHOOL 113966
DISTRICTS 113967

The Department of Education shall distribute funds within 113968
appropriation item 200550, Foundation Funding, for joint 113969
vocational funding in each fiscal year to each joint vocational 113970
school district that received joint vocational funding in fiscal 113971

year 2011. The Department shall distribute to each such district 113972
joint vocational funding in an amount equal to the district's 113973
total state foundation aid as reported on the final JVS payment 113974
report produced by the Department for the previous fiscal year. 113975

The joint vocational funding for each fiscal year for each 113976
district is the amount specified in this section less any general 113977
revenue fund spending reductions ordered by the Governor under 113978
section 126.05 of the Revised Code. 113979

Section 267.30.70. PROPERTY TAX ALLOCATION - EDUCATION 113980

The Superintendent of Public Instruction shall not request, 113981
and the Controlling Board shall not approve, the transfer of 113982
appropriation from appropriation item 200901, Property Tax 113983
Allocation - Education, to any other appropriation item. 113984

The appropriation item 200901, Property Tax Allocation - 113985
Education, is appropriated to pay for the state's costs incurred 113986
because of the homestead exemption, the property tax rollback, and 113987
payments required under division (C) of section 5705.2110 of the 113988
Revised Code. In cooperation with the Department of Taxation, the 113989
Department of Education shall distribute these funds directly to 113990
the appropriate school districts of the state, notwithstanding 113991
sections 321.24 and 323.156 of the Revised Code, which provide for 113992
payment of the homestead exemption and property tax rollback by 113993
the Tax Commissioner to the appropriate county treasurer and the 113994
subsequent redistribution of these funds to the appropriate local 113995
taxing districts by the county auditor. 113996

Upon receipt of these amounts, each school district shall 113997
distribute the amount among the proper funds as if it had been 113998
paid as real or tangible personal property taxes. Payments for the 113999
costs of administration shall continue to be paid to the county 114000
treasurer and county auditor as provided for in sections 319.54, 114001
321.26, and 323.156 of the Revised Code. 114002

Any sums, in addition to the amount specifically appropriated 114003
in appropriation items 200901, Property Tax Allocation - 114004
Education, for the homestead exemption and the property tax 114005
rollback payments, and payments required under division (C) of 114006
section 5705.2110 of the Revised Code, which are determined to be 114007
necessary for these purposes, are hereby appropriated. 114008

Section 267.30.80. TEACHER CERTIFICATION AND LICENSURE 114009

The foregoing appropriation item 200681, Teacher 114010
Certification and Licensure, shall be used by the Department of 114011
Education in each year of the biennium to administer and support 114012
teacher certification and licensure activities. 114013

SCHOOL DISTRICT SOLVENCY ASSISTANCE 114014

(A) Of the foregoing appropriation item 200687, School 114015
District Solvency Assistance, \$20,000,000 in each fiscal year 114016
shall be allocated to the School District Shared Resource Account 114017
and \$5,000,000 in each fiscal year shall be allocated to the 114018
Catastrophic Expenditures Account. These funds shall be used to 114019
provide assistance and grants to school districts to enable them 114020
to remain solvent under section 3316.20 of the Revised Code. 114021
Assistance and grants shall be subject to approval by the 114022
Controlling Board. Except as provided under division (C) of this 114023
section, any required reimbursements from school districts for 114024
solvency assistance shall be made to the appropriate account in 114025
the School District Solvency Assistance Fund (Fund 5H30). 114026

(B) Notwithstanding any provision of law to the contrary, 114027
upon the request of the Superintendent of Public Instruction, the 114028
Director of Budget and Management may make transfers to the School 114029
District Solvency Assistance Fund (Fund 5H30) from any fund used 114030
by the Department of Education or the General Revenue Fund to 114031
maintain sufficient cash balances in Fund 5H30 in fiscal years 114032
2012 and 2013. Any cash transferred is hereby appropriated. The 114033

transferred cash may be used by the Department of Education to 114034
provide assistance and grants to school districts to enable them 114035
to remain solvent and to pay unforeseeable expenses of a temporary 114036
or emergency nature that the school district is unable to pay from 114037
existing resources. The Director of Budget and Management shall 114038
notify the members of the Controlling Board of any such transfers. 114039

(C) If the cash balance of the School District Solvency 114040
Assistance Fund (Fund 5H30) is insufficient to pay solvency 114041
assistance in fiscal years 2012 and 2013, at the request of the 114042
Superintendent of Public Instruction, and with the approval of the 114043
Controlling Board, the Director of Budget and Management may 114044
transfer cash from the Lottery Profits Education Reserve Fund 114045
(Fund 7018) to Fund 5H30 to provide assistance and grants to 114046
school districts to enable them to remain solvent and to pay 114047
unforeseeable expenses of a temporary nature that they are unable 114048
to pay from existing resources under section 3316.20 of the 114049
Revised Code. Such transfers are hereby appropriated to 114050
appropriation item 200670, School District Solvency Assistance - 114051
Lottery. Any required reimbursements from school districts for 114052
solvency assistance granted from appropriation item 200670, School 114053
District Solvency Assistance - Lottery, shall be made to Fund 114054
7018. 114055

Section 267.30.90. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS 114056

Upon the request of the Superintendent of Public Instruction, 114057
the Director of Budget and Management may transfer up to \$639,000 114058
cash in each fiscal year from the General Revenue Fund to the 114059
Schools Medicaid Administrative Claims Fund (Fund 3AF0). The 114060
transferred cash is to be used by the Department of Education to 114061
pay the expenses the Department incurs in administering the 114062
Medicaid School Component of the Medicaid program established 114063
under sections 5111.71 to 5111.715 of the Revised Code. On June 1 114064

of each fiscal year, or as soon as possible thereafter, the 114065
Director of Budget and Management shall transfer cash from Fund 114066
3AF0 back to the General Revenue Fund in an amount equal to the 114067
total amount transferred to Fund 3AF0 in that fiscal year. 114068

The money deposited into Fund 3AF0 under division (B) of 114069
section 5111.714 of the Revised Code is hereby appropriated for 114070
fiscal years 2012 and 2013 and shall be used in accordance with 114071
division (D) of section 5111.714 of the Revised Code. 114072

Section 267.40.10. HALF-MILL MAINTENANCE EQUALIZATION 114073

The foregoing appropriation item 200626, Half-Mill 114074
Maintenance Equalization, shall be used to make payments pursuant 114075
to section 3318.18 of the Revised Code. 114076

Section 267.40.20. AUXILIARY SERVICES REIMBURSEMENT 114077

Notwithstanding section 3317.064 of the Revised Code, if the 114078
unexpended, unencumbered cash balance is sufficient, the Treasurer 114079
of State shall transfer \$1,500,000 in fiscal year 2012 within 114080
thirty days after the effective date of this section, and 114081
\$1,500,000 in fiscal year 2013 by August 1, 2012, from the 114082
Auxiliary Services Personnel Unemployment Compensation Fund to the 114083
Auxiliary Services Reimbursement Fund (Fund 5980) used by the 114084
Department of Education. 114085

COMMUNITY SCHOOL DROPOUT PROGRAMS 114086

The foregoing appropriation item 200679, Community School 114087
Dropout Programs, shall be used to make payments pursuant to 114088
section 3314.38 of the Revised Code. On July 1, 2011, or as soon 114089
as possible thereafter, and on July 1, 2012, or as soon as 114090
possible thereafter, the Director of Budget and Management shall 114091
transfer \$1,000,000 from the Economic Development Programs Fund 114092
(Fund 5JC0) used by the Board of Regents to the Community School 114093
Dropout Programs Fund (Fund 5KK0) used by the Department of 114094

Education. 114095

Section 267.40.30. LOTTERY PROFITS EDUCATION FUND 114096

Appropriation item 200612, Foundation Funding (Fund 7017), 114097
shall be used in conjunction with appropriation item 200550, 114098
Foundation Funding (GRF), to provide state foundation payments to 114099
school districts. 114100

The Department of Education, with the approval of the 114101
Director of Budget and Management, shall determine the monthly 114102
distribution schedules of appropriation item 200550, Foundation 114103
Funding (GRF), and appropriation item 200612, Foundation Funding 114104
(Fund 7017). If adjustments to the monthly distribution schedule 114105
are necessary, the Department of Education shall make such 114106
adjustments with the approval of the Director of Budget and 114107
Management. 114108

Section 267.40.40. LOTTERY PROFITS EDUCATION RESERVE FUND 114109

(A) There is hereby created the Lottery Profits Education 114110
Reserve Fund (Fund 7018) in the State Treasury. Investment 114111
earnings of the Lottery Profits Education Reserve Fund shall be 114112
credited to the fund. 114113

(B) Notwithstanding any other provision of law to the 114114
contrary, the Director of Budget and Management may transfer cash 114115
from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) 114116
in fiscal year 2012 and fiscal year 2013. Amounts transferred 114117
under this section are hereby appropriated. 114118

(C) On July 15, 2011, or as soon as possible thereafter, the 114119
Director of the Ohio Lottery Commission shall certify to the 114120
Director of Budget and Management the amount by which lottery 114121
profit transfers received by Fund 7017 exceeded \$711,000,000 in 114122
fiscal year 2011. The Director of Budget and Management may 114123
transfer the amount so certified, plus the cash balance in Fund 114124

7017, to Fund 7018. 114125

(D) On July 15, 2012, or as soon as possible thereafter, the 114126
Director of the Ohio Lottery Commission shall certify to the 114127
Director of Budget and Management the amount by which lottery 114128
profit transfers received by Fund 7017 exceeded \$717,500,000 in 114129
fiscal year 2012. The Director of Budget and Management may 114130
transfer the amount so certified, plus the cash balance in Fund 114131
7017, to Fund 7018. 114132

Section 267.40.50. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 114133
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047) 114134

Notwithstanding any provision of law to the contrary, in 114135
fiscal year 2012 and fiscal year 2013 the Director of Budget and 114136
Management may make temporary transfers between the General 114137
Revenue Fund and the School District Property Tax Replacement - 114138
Business Fund (Fund 7047) in the Department of Education to ensure 114139
sufficient balances in Fund 7047 and to replenish the General 114140
Revenue Fund for such transfers. 114141

Section 267.40.60. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 114142
BUSINESS 114143

The foregoing appropriation item 200909, School District 114144
Property Tax Replacement - Business, shall be used by the 114145
Department of Education, in consultation with the Department of 114146
Taxation, to make payments to school districts and joint 114147
vocational school districts under section 5751.21 of the Revised 114148
Code. If it is determined by the Director of Budget and Management 114149
that additional appropriations are necessary for this purpose, 114150
such amounts are hereby appropriated. 114151

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 114152

The foregoing appropriation item 200900, School District 114153
Property Tax Replacement-Utility, shall be used by the Department 114154

of Education, in consultation with the Department of Taxation, to 114155
make payments to school districts and joint vocational school 114156
districts under section 5727.85 of the Revised Code. If it is 114157
determined by the Director of Budget and Management that 114158
additional appropriations are necessary for this purpose, such 114159
amounts are hereby appropriated. 114160

DISTRIBUTION FORMULAS 114161

The Department of Education shall report the following to the 114162
Director of Budget and Management and the Legislative Service 114163
Commission: 114164

(A) Changes in formulas for distributing state 114165
appropriations, including administratively defined formula 114166
factors; 114167

(B) Discretionary changes in formulas for distributing 114168
federal appropriations; 114169

(C) Federally mandated changes in formulas for distributing 114170
federal appropriations. 114171

Any such changes shall be reported two weeks prior to the 114172
effective date of the change. 114173

Section 267.40.70. EDUCATIONAL SERVICE CENTERS FUNDING 114174

In fiscal year 2012, each Educational Service Center shall 114175
receive funding equal to ninety per cent of the amount received in 114176
fiscal year 2011 under section 3317.11 of the Revised Code and 114177
Section 265.50.10 of Am. Sub. H.B. 1 of the 128th General 114178
Assembly. 114179

In fiscal year 2013, each Educational Service Center shall 114180
receive funding equal to eighty-five per cent of the amount 114181
received in fiscal year 2012 under this section. 114182

Notwithstanding any provision of law to the contrary, the 114183

Department of Education shall modify the payments under this 114184
section as follows: 114185

(A) If an educational service center ceases operation, the 114186
Department shall redistribute that center's funding, as calculated 114187
under this section, to the remaining centers in proportion to each 114188
center's service center ADM as defined in section 3317.11 of the 114189
Revised Code. 114190

(B) If two or more educational service centers merge 114191
operations to create a single service center, the Department shall 114192
distribute the sum of the original service centers' funding, as 114193
calculated under this section, to the new service center. 114194

Section 267.40.80. PRIVATE TREATMENT FACILITY PROJECT 114195

(A) As used in this section: 114196

(1) The following are "participating residential treatment 114197
centers": 114198

(a) Private residential treatment facilities that have 114199
entered into a contract with the Department of Youth Services to 114200
provide services to children placed at the facility by the 114201
Department and which, in fiscal year 2012 or fiscal year 2013 or 114202
both, the Department pays through appropriation item 470401, 114203
RECLAIM Ohio; 114204

(b) Abraxas, in Shelby; 114205

(c) Paint Creek, in Bainbridge; 114206

(d) F.I.R.S.T., in Mansfield. 114207

(2) "Education program" means an elementary or secondary 114208
education program or a special education program and related 114209
services. 114210

(3) "Served child" means any child receiving an education 114211
program pursuant to division (B) of this section. 114212

(4) "School district responsible for tuition" means a city, 114213
exempted village, or local school district that, if tuition 114214
payment for a child by a school district is required under law 114215
that existed in fiscal year 1998, is the school district required 114216
to pay that tuition. 114217

(5) "Residential child" means a child who resides in a 114218
participating residential treatment center and who is receiving an 114219
educational program under division (B) of this section. 114220

(B) A youth who is a resident of the state and has been 114221
assigned by a juvenile court or other authorized agency to a 114222
residential treatment facility specified in division (A) of this 114223
section shall be enrolled in an approved educational program 114224
located in or near the facility. Approval of the educational 114225
program shall be contingent upon compliance with the criteria 114226
established for such programs by the Department of Education. The 114227
educational program shall be provided by a school district or 114228
educational service center, or by the residential facility itself. 114229
Maximum flexibility shall be given to the residential treatment 114230
facility to determine the provider. In the event that a voluntary 114231
agreement cannot be reached and the residential facility does not 114232
choose to provide the educational program, the educational service 114233
center in the county in which the facility is located shall 114234
provide the educational program at the treatment center to 114235
children under twenty-two years of age residing in the treatment 114236
center. 114237

(C) Any school district responsible for tuition for a 114238
residential child shall, notwithstanding any conflicting provision 114239
of the Revised Code regarding tuition payment, pay tuition for the 114240
child for fiscal year 2012 and fiscal year 2013 to the education 114241
program provider and in the amount specified in this division. If 114242
there is no school district responsible for tuition for a 114243
residential child and if the participating residential treatment 114244

center to which the child is assigned is located in the city, 114245
exempted village, or local school district that, if the child were 114246
not a resident of that treatment center, would be the school 114247
district where the child is entitled to attend school under 114248
sections 3313.64 and 3313.65 of the Revised Code, that school 114249
district, notwithstanding any conflicting provision of the Revised 114250
Code, shall pay tuition for the child for fiscal year 2012 and 114251
fiscal year 2013 under this division unless that school district 114252
is providing the educational program to the child under division 114253
(B) of this section. 114254

A tuition payment under this division shall be made to the 114255
school district, educational service center, or residential 114256
treatment facility providing the educational program to the child. 114257

The amount of tuition paid shall be: 114258

(1) The amount of tuition determined for the district under 114259
division (A) of section 3317.08 of the Revised Code; 114260

(2) In addition, for any student receiving special education 114261
pursuant to an individualized education program as defined in 114262
section 3323.01 of the Revised Code, a payment for excess costs. 114263
This payment shall equal the actual cost to the school district, 114264
educational service center, or residential treatment facility of 114265
providing special education and related services to the student 114266
pursuant to the student's individualized education program, minus 114267
the tuition paid for the child under division (C)(1) of this 114268
section. 114269

A school district paying tuition under this division shall 114270
not include the child for whom tuition is paid in the district's 114271
average daily membership certified under division (A) of section 114272
3317.03 of the Revised Code. 114273

(D) In each of fiscal years 2012 and 2013, the Department of 114274
Education shall reimburse, from appropriations made for the 114275

purpose, a school district, educational service center, or 114276
residential treatment facility, whichever is providing the 114277
service, that has demonstrated that it is in compliance with the 114278
funding criteria for each served child for whom a school district 114279
must pay tuition under division (C) of this section. The amount of 114280
the reimbursement shall be the amount appropriated for this 114281
purpose divided by the full-time equivalent number of children for 114282
whom reimbursement is to be made. 114283

(E) Funds provided to a school district, educational service 114284
center, or residential treatment facility under this section shall 114285
be used to supplement, not supplant, funds from other public 114286
sources for which the school district, service center, or 114287
residential treatment facility is entitled or eligible. 114288

(F) The Department of Education shall track the utilization 114289
of funds provided to school districts, educational service 114290
centers, and residential treatment facilities under this section 114291
and monitor the effect of the funding on the educational programs 114292
they provide in participating residential treatment facilities. 114293
The Department shall monitor the programs for educational 114294
accountability. 114295

Section 267.40.90. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 114296
ASSESSMENT OF EDUCATION PROGRESS 114297

The General Assembly intends for the Superintendent of Public 114298
Instruction to provide for school district participation in the 114299
administration of the National Assessment of Education Progress in 114300
accordance with section 3301.27 of the Revised Code. Each school 114301
and school district selected for participation by the 114302
Superintendent of Public Instruction shall participate. 114303

Section 267.50.10. COMMUNITY SCHOOL FUNDING GUARANTEE FOR SBH 114304
STUDENTS 114305

(A) As used in this section: 114306

(1) "IEP" has the same meaning as in section 3323.01 of the Revised Code. 114307
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(2) "SBH student" means a student receiving special education and related services for severe behavior disabilities pursuant to an IEP. 114309
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(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2012 and 2013 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year. 114312
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(C) In addition to any state foundation payments made, in each of fiscal years 2012 and 2013, the Department of Education shall pay to a community school to which this section applies a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero. 114317
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(D) The amount of any subsidy paid to a community school under this section shall not be deducted from the school district in which any of the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount of any subsidy paid to a community school under this section shall be paid from funds appropriated to the Department of Education in appropriation item 200550, Foundation Funding. 114329
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Section 267.50.20. EARMARK ACCOUNTABILITY 114337

At the request of the Superintendent of Public Instruction, 114338
any entity that receives a budget earmark under the Department of 114339
Education shall submit annually to the chairpersons of the 114340
committees of the House of Representatives and the Senate 114341
primarily concerned with education and to the Department of 114342
Education a report that includes a description of the services 114343
supported by the funds, a description of the results achieved by 114344
those services, an analysis of the effectiveness of the program, 114345
and an opinion as to the program's applicability to other school 114346
districts. For an earmarked entity that received state funds from 114347
an earmark in the prior fiscal year, no funds shall be provided by 114348
the Department of Education to an earmarked entity for a fiscal 114349
year until its report for the prior fiscal year has been 114350
submitted. 114351

Section 267.50.30. PROHIBITION FROM OPERATING FROM HOME 114352

No community school established under Chapter 3314. of the 114353
Revised Code that was not open for operation as of May 1, 2005, 114354
shall operate from a home, as defined in section 3313.64 of the 114355
Revised Code. 114356

Section 267.50.40. EARLY COLLEGE START UP COMMUNITY SCHOOL 114357

(A) As used in this section: 114358

(1) "Big eight school district" has the same meaning as in 114359
section 3314.02 of the Revised Code. 114360

(2) "Early college high school" means a high school that 114361
provides students with a personalized learning plan based on an 114362
accelerated curriculum combining high school and college-level 114363
coursework. 114364

(B) Any early college high school that is operated by a big 114365

eight school district in partnership with a private university may 114366
operate as a new start-up community school under Chapter 3314. of 114367
the Revised Code beginning in the 2007-2008 school year, if all of 114368
the following conditions are met: 114369

(1) The governing authority and sponsor of the school enter 114370
into a contract in accordance with section 3314.03 of the Revised 114371
Code and, notwithstanding division (D) of section 3314.02 of the 114372
Revised Code, both parties adopt and sign the contract by July 9, 114373
2007. 114374

(2) Notwithstanding division (A) of former section 3314.016 114375
of the Revised Code, the school's governing authority enters into 114376
a contract with the private university under which the university 114377
will be the school's operator. 114378

(3) The school provides the same educational program the 114379
school provided while part of the big eight school district. 114380

Section 267.50.50. USE OF VOLUNTEERS 114381

The Department of Education may utilize the services of 114382
volunteers to accomplish any of the purposes of the Department. 114383
The Superintendent of Public Instruction shall approve for what 114384
purposes volunteers may be used and for these purposes may 114385
recruit, train, and oversee the services of volunteers. The 114386
Superintendent may reimburse volunteers for necessary and 114387
appropriate expenses in accordance with state guidelines and may 114388
designate volunteers as state employees for the purpose of motor 114389
vehicle accident liability insurance under section 9.83 of the 114390
Revised Code, for immunity under section 9.86 of the Revised Code, 114391
and for indemnification from liability incurred in the performance 114392
of their duties under section 9.87 of the Revised Code. 114393

Section 267.50.60. RESTRICTION OF LIABILITY FOR CERTAIN 114394
REIMBURSEMENTS 114395

(A) Except as expressly required under a court judgment not 114396
subject to further appeals, or a settlement agreement with a 114397
school district executed on or before June 1, 2009, in the case of 114398
a school district for which the formula ADM for fiscal year 2005, 114399
as reported for that fiscal year under division (A) of section 114400
3317.03 of the Revised Code, was reduced based on enrollment 114401
reports for community schools, made under section 3314.08 of the 114402
Revised Code, regarding students entitled to attend school in the 114403
district, which reduction of formula ADM resulted in a reduction 114404
of foundation funding or transitional aid funding for fiscal year 114405
2005, 2006, or 2007, no school district, except a district named 114406
in the court's judgment or the settlement agreement, shall have a 114407
legal claim for reimbursement of the amount of such reduction in 114408
foundation funding or transitional aid funding, and the state 114409
shall not have liability for reimbursement of the amount of such 114410
reduction in foundation funding or transitional aid funding. 114411

(B) As used in this section: 114412

(1) "Community school" means a community school established 114413
under Chapter 3314. of the Revised Code. 114414

(2) "Entitled to attend school" means entitled to attend 114415
school in a school district under section 3313.64 or 3313.65 of 114416
the Revised Code. 114417

(3) "Foundation funding" means payments calculated for the 114418
respective fiscal year under Chapter 3317. of the Revised Code. 114419

(4) "Transitional aid funding" means payments calculated for 114420
the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 114421
of the 125th General Assembly, as subsequently amended; Section 114422
206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as 114423
subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119 114424
of the 127th General Assembly. 114425

Section 267.50.70. UNAUDITABLE COMMUNITY SCHOOL	114426
(A) If the Auditor of State or a public accountant, pursuant to section 117.41 of the Revised Code, declares a community school established under Chapter 3314. of the Revised Code to be unaudit-able, the Auditor of State shall provide written notification of that declaration to the school, the school's sponsor, and the Department of Education. The Auditor of State also shall post the notification on the Auditor of State's web site.	114427 114428 114429 114430 114431 114432 114433 114434
(B) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, a sponsor of a community school that is notified by the Auditor of State under division (A) of this section that a community school it sponsors is unaudit-able shall not enter into contracts with any additional community schools under section 3314.03 of the Revised Code until the Auditor of State or a public accountant has completed a financial audit of that school.	114435 114436 114437 114438 114439 114440 114441 114442
(C) Not later than forty-five days after receiving notification by the Auditor of State under division (A) of this section that a community school is unaudit-able, the sponsor of the school shall provide a written response to the Auditor of State. The response shall include the following:	114443 114444 114445 114446 114447
(1) An overview of the process the sponsor will use to review and understand the circumstances that led to the community school becoming unaudit-able;	114448 114449 114450
(2) A plan for providing the Auditor of State with the documentation necessary to complete an audit of the community school and for ensuring that all financial documents are available in the future;	114451 114452 114453 114454
(3) The actions the sponsor will take to ensure that the plan	114455

described in division (C)(2) of this section is implemented. 114456

(D) If a community school fails to make reasonable efforts 114457
and continuing progress to bring its accounts, records, files, or 114458
reports into an auditable condition within ninety days after being 114459
declared unauditale, the Auditor of State, in addition to 114460
requesting legal action under sections 117.41 and 117.42 of the 114461
Revised Code, shall notify the Department of the school's failure. 114462
If the Auditor of State or a public accountant subsequently is 114463
able to complete a financial audit of the school, the Auditor of 114464
State shall notify the Department that the audit has been 114465
completed. 114466

(E) Notwithstanding any provision to the contrary in Chapter 114467
3314. of the Revised Code or any other provision of law, upon 114468
notification by the Auditor of State under division (D) of this 114469
section that a community school has failed to make reasonable 114470
efforts and continuing progress to bring its accounts, records, 114471
files, or reports into an auditable condition following a 114472
declaration that the school is unauditale, the Department shall 114473
immediately cease all payments to the school under Chapter 3314. 114474
of the Revised Code and any other provision of law. Upon 114475
subsequent notification from the Auditor of State under that 114476
division that the Auditor of State or a public accountant was able 114477
to complete a financial audit of the community school, the 114478
Department shall release all funds withheld from the school under 114479
this section. 114480

Section 267.50.80. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 114481
114482

In collaboration with the County Family and Children First 114483
Council, a city, local, or exempted village school district, 114484
community school, STEM school, joint vocational school district, 114485
educational service center, or county board of developmental 114486

disabilities that receives allocations from the Department of 114487
Education from appropriation item 200550, Foundation Funding, or 114488
appropriation item 200540, Special Education Enhancements, may 114489
transfer portions of those allocations to a flexible funding pool 114490
authorized by the Section of this act entitled "FAMILY AND 114491
CHILDREN FIRST FLEXIBLE FUNDING POOL." Allocations used for 114492
maintenance of effort or for federal or state funding matching 114493
requirements shall not be transferred unless the allocation may 114494
still be used to meet such requirements. 114495

Section 267.50.90. EDUCATIONAL SHARED SERVICES MODEL 114496

The Governor's Director of 21st Century Education shall 114497
develop a plan for the integration and consolidation of the 114498
publicly supported regional shared services organizations serving 114499
Ohio's public and chartered nonpublic schools, including 114500
recommendations for implementation of the plan beginning July 1, 114501
2012. 114502

In preparing the plan, the Director shall recommend 114503
educational support organizations to be considered for integration 114504
into the educational service center system. The organizations to 114505
be considered for integration shall include, but shall not be 114506
limited to, education technology centers, information technology 114507
centers, area media centers, Ohio's statewide system of support, 114508
the education regional service system, regional advisory boards, 114509
and regional staff from the Department of Education providing 114510
direct support to school districts. 114511

In preparing the recommendations, the Director shall include 114512
an examination of services offered to public and chartered 114513
nonpublic schools and recommendations for integration of services 114514
into a shared services model. Services to be considered shall 114515
include, but shall not be limited to, general instruction, special 114516
education, gifted education, academic leadership, technology, 114517

fiscal management, transportation, food services, human resources, 114518
employee benefits, pooled purchasing, professional development, 114519
and noninstructional support. 114520

Not later than October 15, 2011, the Director shall conduct a 114521
shared services survey of Ohio's school districts, community 114522
schools, STEM schools, chartered nonpublic schools, joint 114523
vocational school districts, and other educational service 114524
providers and local political subdivisions to gather baseline data 114525
on the current status of shared services and to determine where 114526
opportunities for additional shared services exist. 114527

Not later than January 1, 2012, the Director shall submit to 114528
the Governor and the General Assembly, in accordance with section 114529
101.68 of the Revised Code, legislative recommendations for 114530
implementation of the plan. 114531

Section 267.60.10. If there are unencumbered moneys remaining 114532
on July 1, 2011, in a school district's textbook and instructional 114533
materials fund, as required by former section 3315.17 of the 114534
Revised Code, the district board of education may transfer those 114535
moneys to the district's general fund and may use such moneys for 114536
any purpose authorized for general fund moneys. 114537

Section 269.10. ELC OHIO ELECTIONS COMMISSION 114538

General Revenue Fund 114539

GRF 051321	Operating Expenses	\$	333,117	\$	333,117	114540
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TOTAL GRF	General Revenue Fund	\$	333,117	\$	333,117	114541
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General Services Fund Group 114542

4P20 051601	Ohio Elections	\$	225,000	\$	225,000	114543
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Commission Fund

TOTAL GSF	General Services Fund	\$	225,000	\$	225,000	114544
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Group

TOTAL ALL BUDGET FUND GROUPS		\$	558,117	\$	558,117	114545
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Section 271.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL				114547
DIRECTORS				114548
General Services Fund Group				114549
4K90 881609 Operating Expenses	\$	561,494	\$ 551,958	114550
TOTAL GSF General Services				114551
Fund Group	\$	561,494	\$ 551,958	114552
TOTAL ALL BUDGET FUND GROUPS	\$	561,494	\$ 551,958	114553
Section 273.10. PAY EMPLOYEE BENEFITS FUNDS				114555
Accrued Leave Liability Fund Group				114556
8060 995666 Accrued Leave Fund	\$	72,053,178	\$ 71,828,986	114557
8070 995667 Disability Fund	\$	27,616,583	\$ 26,593,747	114558
TOTAL ALF Accrued Leave Liability				114559
Fund Group	\$	99,669,761	\$ 98,422,733	114560
Agency Fund Group				114561
1240 995673 Payroll Deductions	\$	855,456,678	\$ 840,248,559	114562
8080 995668 State Employee Health	\$	590,265,468	\$ 649,292,014	114563
Benefit Fund				
8090 995669 Dependent Care	\$	2,881,273	\$ 2,967,711	114564
Spending Account				
8100 995670 Life Insurance	\$	2,080,634	\$ 2,143,053	114565
Investment Fund				
8110 995671 Parental Leave	\$	3,484,737	\$ 3,355,673	114566
Benefit Fund				
8130 995672 Health Care Spending	\$	8,588,262	\$ 9,447,088	114567
Account				
8140 995674 Cost Savings Days	\$	50,000,000	\$ 0	114568
TOTAL AGY Agency Fund Group	\$	1,512,757,052	\$ 1,507,454,098	114569
				114570
TOTAL ALL BUDGET FUND GROUPS	\$	1,612,426,813	\$ 1,605,876,831	114571
ACCRUED LEAVE LIABILITY FUND				114572

The foregoing appropriation item 995666, Accrued Leave Fund, 114573
shall be used to make payments from the Accrued Leave Liability 114574
Fund (Fund 8060) pursuant to section 125.211 of the Revised Code. 114575
If it is determined by the Director of Budget and Management that 114576
additional amounts are necessary, the amounts are hereby 114577
appropriated. 114578

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 114579

The foregoing appropriation item 995667, Disability Fund, 114580
shall be used to make payments from the State Employee Disability 114581
Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the 114582
Revised Code. If it is determined by the Director of Budget and 114583
Management that additional amounts are necessary, the amounts are 114584
hereby appropriated. 114585

PAYROLL WITHHOLDING FUND 114586

The foregoing appropriation item 995673, Payroll Deductions, 114587
shall be used to make payments from the Payroll Withholding Fund 114588
(Fund 1240). If it is determined by the Director of Budget and 114589
Management that additional appropriation amounts are necessary, 114590
the amounts are hereby appropriated. 114591

STATE EMPLOYEE HEALTH BENEFIT FUND 114592

The foregoing appropriation item 995668, State Employee 114593
Health Benefit Fund, shall be used to make payments from the State 114594
Employee Health Benefit Fund (Fund 8080) pursuant to section 114595
124.87 of the Revised Code. If it is determined by the Director of 114596
Budget and Management that additional amounts are necessary, the 114597
amounts are hereby appropriated. 114598

DEPENDENT CARE SPENDING FUND 114599

The foregoing appropriation item 995669, Dependent Care 114600
Spending Account, shall be used to make payments from the 114601
Dependent Care Spending Fund (Fund 8090) to employees eligible for 114602

dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 8100) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 8110) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

HEALTH CARE SPENDING ACCOUNT FUND

The foregoing appropriation item 995672, Health Care Spending Account, shall be used to make payments from the Health Care Spending Account Fund (Fund 8130) for payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care expenses and section 124.821 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

At the request of the Director of Administrative Services,

the Director of Budget and Management may transfer up to \$600,000 114634
annually from the General Revenue Fund to the Health Care Spending 114635
Account Fund during fiscal years 2012 and 2013. This cash shall be 114636
transferred as needed to provide adequate cash flow for the Health 114637
Care Spending Account Fund during fiscal year 2012 and fiscal year 114638
2013. If funds are available at the end of fiscal years 2012 and 114639
2013, the Director of Budget and Management shall transfer cash up 114640
to the amount previously transferred in the respective year, plus 114641
interest income, from the Health Care Spending Account (Fund 8130) 114642
to the General Revenue Fund. 114643

COST SAVINGS DAYS 114644

The foregoing appropriation item, 995674, Cost Savings Days, 114645
shall be used by the Director of Budget and Management in 114646
accordance with division (E) of section 124.392 of the Revised 114647
Code to pay employees who participated in a mandatory cost savings 114648
program, or to reimburse employees who did not fully participate 114649
in a mandatory cost savings program. Notwithstanding any provision 114650
of law to the contrary, in fiscal year 2012 and fiscal year 2013, 114651
the Director may transfer agency savings achieved from the use of 114652
a mandatory cost savings program to the General Revenue Fund or 114653
any other fund as deemed necessary by the Director. The Director 114654
may make temporary transfers from the General Revenue Fund to 114655
ensure sufficient balances in the Cost Savings Fund and may 114656
reimburse the General Revenue Fund for such transfers. If the 114657
Director determines that additional amounts are necessary for 114658
these purposes, the amounts are hereby appropriated. 114659

Section 273.20. CASH TRANSFER TO PAYROLL WITHHOLDING FUND 114660

The Director of Budget and Management may transfer \$561,897 114661
in cash from the Health Care Spending Account Fund (Fund 8130) to 114662
the Payroll Withholding Fund (Fund 1240) to correct payments made 114663
from the Payroll Withholding Fund that should have been made from 114664

the Health Care Spending Account Fund.				114665
Section 275.10. ERB STATE EMPLOYMENT RELATIONS BOARD				114666
General Revenue Fund				114667
GRF 125321 Operating Expenses	\$	3,758,869	\$	3,761,457 114668
TOTAL GRF General Revenue Fund	\$	3,758,869	\$	3,761,457 114669
General Services Fund Group				114670
5720 125603 Training and	\$	87,075	\$	87,075 114671
Publications				
TOTAL GSF General Services				114672
Fund Group	\$	87,075	\$	87,075 114673
TOTAL ALL BUDGET FUND GROUPS	\$	3,845,944	\$	3,848,532 114674
Section 277.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS				114676
General Services Fund Group				114677
4K90 892609 Operating Expenses	\$	934,264	\$	921,778 114678
TOTAL GSF General Services				114679
Fund Group	\$	934,264	\$	921,778 114680
TOTAL ALL BUDGET FUND GROUPS	\$	934,264	\$	921,778 114681
Section 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY				114683
General Services Fund Group				114684
1990 715602 Laboratory Services	\$	402,295	\$	408,560 114685
2190 715604 Central Support	\$	8,594,348	\$	8,555,680 114686
Indirect				
4A10 715640 Operating Expenses	\$	2,304,267	\$	2,093,039 114687
TOTAL GSF General Services				114688
Fund Group	\$	11,300,910	\$	11,057,279 114689
Federal Special Revenue Fund Group				114690
3530 715612 Public Water Supply	\$	2,941,282	\$	2,941,282 114691
3540 715614 Hazardous Waste	\$	4,193,000	\$	4,193,000 114692

		Management - Federal					
3570	715619	Air Pollution Control	\$	6,310,203	\$	6,310,203	114693
		- Federal					
3620	715605	Underground Injection	\$	111,874	\$	111,874	114694
		Control - Federal					
3BU0	715684	Water Quality	\$	8,100,000	\$	6,785,000	114695
		Protection					
3CS0	715688	Federal NRD	\$	100,000	\$	100,000	114696
		Settlements					
3F20	715630	Revolving Loan Fund -	\$	907,543	\$	907,543	114697
		Operating					
3F30	715632	Federally Supported	\$	3,344,746	\$	3,290,405	114698
		Cleanup and Response					
3F50	715641	Nonpoint Source	\$	6,265,000	\$	6,260,000	114699
		Pollution Management					
3T30	715669	Drinking Water State	\$	2,273,323	\$	2,273,323	114700
		Revolving Fund					
3V70	715606	Agencywide Grants	\$	600,000	\$	600,000	114701
TOTAL FED		Federal Special Revenue					114702
Fund Group			\$	35,146,971	\$	33,772,630	114703
		State Special Revenue Fund Group					114704
4J00	715638	Underground Injection	\$	445,234	\$	445,571	114705
		Control					
4K20	715648	Clean Air - Non Title	\$	3,152,306	\$	2,906,267	114706
		V					
4K30	715649	Solid Waste	\$	16,742,551	\$	16,414,654	114707
4K40	715650	Surface Water	\$	7,642,625	\$	6,672,246	114708
		Protection					
4K40	715686	Environmental Lab	\$	2,096,007	\$	2,096,007	114709
		Service					
4K50	715651	Drinking Water	\$	7,410,118	\$	7,405,428	114710
		Protection					
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000	114711

4R50	715656	Scrap Tire Management	\$	1,368,610	\$	1,376,742	114712
4R90	715658	Voluntary Action Program	\$	999,503	\$	997,425	114713
4T30	715659	Clean Air - Title V Permit Program	\$	16,349,471	\$	16,241,822	114714
4U70	715660	Construction and Demolition Debris	\$	425,913	\$	433,591	114715
5000	715608	Immediate Removal Special Account	\$	633,832	\$	634,033	114716
5030	715621	Hazardous Waste Facility Management	\$	10,241,107	\$	9,789,620	114717
5050	715623	Hazardous Waste Cleanup	\$	12,511,234	\$	12,331,272	114718
5050	715674	Clean Ohio Environmental Review	\$	108,104	\$	108,104	114719
5410	715670	Site Specific Cleanup	\$	2,048,101	\$	2,048,101	114720
5420	715671	Risk Management Reporting	\$	132,636	\$	132,636	114721
5920	715627	Anti Tampering Settlement	\$	2,285	\$	2,285	114722
5BC0	715617	Clean Ohio	\$	611,455	\$	611,455	114723
5BC0	715622	Local Air Pollution Control	\$	2,297,980	\$	2,297,980	114724
5BC0	715624	Surface Water	\$	8,970,181	\$	9,114,974	114725
5BC0	715672	Air Pollution Control	\$	4,438,629	\$	4,534,758	114726
5BC0	715673	Drinking and Ground Water	\$	4,317,527	\$	4,323,521	114727
5BC0	715675	Hazardous Waste	\$	95,266	\$	95,266	114728
5BC0	715676	Assistance and Prevention	\$	640,179	\$	645,069	114729
5BC0	715677	Laboratory	\$	939,717	\$	958,586	114730
5BC0	715678	Corrective Actions	\$	31,765	\$	105,423	114731
5BC0	715687	Areawide Planning	\$	450,000	\$	450,000	114732

		Agencies				
5BC0	715692	Administration	\$	8,562,476	\$	8,212,627 114733
5BT0	715679	C&DD Groundwater	\$	203,800	\$	203,800 114734
		Monitoring				
5BY0	715681	Auto Emissions Test	\$	13,029,952	\$	13,242,762 114735
5CD0	715682	Clean Diesel School	\$	600,000	\$	600,000 114736
		Buses				
5H40	715664	Groundwater Support	\$	77,508	\$	78,212 114737
5N20	715613	Dredge and Fill	\$	29,250	\$	29,250 114738
5Y30	715685	Surface Water	\$	2,800,000	\$	2,800,000 114739
		Improvement				
6440	715631	ER Radiological Safety	\$	279,838	\$	279,966 114740
6600	715629	Infectious Waste	\$	91,573	\$	88,764 114741
		Management				
6760	715642	Water Pollution	\$	4,317,376	\$	4,321,605 114742
		Control Loan				
		Administration				
6780	715635	Air Toxic Release	\$	138,669	\$	138,669 114743
6790	715636	Emergency Planning	\$	2,623,192	\$	2,623,252 114744
6960	715643	Air Pollution Control	\$	1,480,651	\$	1,480,812 114745
		Administration				
6990	715644	Water Pollution	\$	220,000	\$	220,000 114746
		Control Administration				
6A10	715645	Environmental	\$	1,488,260	\$	1,488,718 114747
		Education				
TOTAL SSR		State Special Revenue	\$	141,144,881	\$	139,081,273 114748
		Fund Group				
		Clean Ohio Conservation Fund Group				114749
5S10	715607	Clean Ohio -	\$	284,083	\$	284,124 114750
		Operating				
TOTAL CLF		Clean Ohio Conservation	\$	284,083	\$	284,124 114751
		Fund Group				
TOTAL ALL BUDGET FUND GROUPS			\$	187,876,845	\$	184,195,306 114752

AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT				114753	
On July 1 of each fiscal year, or as soon as possible				114754	
thereafter, the Director of Budget and Management may transfer up				114755	
to \$13,029,952 in cash in fiscal year 2012, and up to \$13,242,762				114756	
in cash in fiscal year 2013 from the General Revenue Fund to the				114757	
Auto Emissions Test Fund (Fund 5BY0) for the operation and				114758	
oversight of the auto emissions testing program.				114759	
AREAWIDE PLANNING AGENCIES				114760	
The Director of Environmental Protection Agency may award				114761	
grants from appropriation item 715687, Areawide Planning Agencies,				114762	
to areawide planning agencies engaged in areawide water quality				114763	
management and planning activities in accordance with Section 208				114764	
of the "Federal Clean Water Act," 33 U.S.C. 1288.				114765	
CORRECTIVE CASH TRANSFERS				114766	
On July 1, 2011, or as soon as possible thereafter, the				114767	
Director of Budget and Management shall transfer \$376,891.85 in				114768	
cash that was mistakenly deposited in the Clean Air Non Title V				114769	
Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30).				114770	
On July 1, 2011, or as soon as possible thereafter, the				114771	
Director of Budget and Management shall transfer \$133,026.63 in				114772	
cash that was mistakenly deposited in the Scrap Tire Management				114773	
Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410).				114774	
Section 281.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION				114775	
General Revenue Fund				114776	
GRF 172321 Operating Expenses	\$	545,530	\$	545,530	114777
TOTAL GRF General Revenue Fund	\$	545,530	\$	545,530	114778
TOTAL ALL BUDGET FUND GROUPS	\$	545,530	\$	545,530	114779
Section 283.10. ETC ETECH OHIO				114781	
General Revenue Fund				114782	

GRF	935401	Statehouse News Bureau	\$	215,561	\$	215,561	114783
GRF	935402	Ohio Government Telecommunications Services	\$	702,089	\$	702,089	114784
GRF	935408	General Operations	\$	1,251,789	\$	1,254,193	114785
GRF	935409	Technology Operations	\$	2,092,432	\$	2,091,823	114786
GRF	935410	Content Development, Acquisition, and Distribution	\$	2,607,094	\$	2,607,094	114787
GRF	935411	Technology Integration and Professional Development	\$	4,251,185	\$	4,252,671	114788
GRF	935412	Information Technology	\$	829,340	\$	829,963	114789
TOTAL GRF		General Revenue Fund	\$	11,949,490	\$	11,953,394	114790
		General Services Fund Group					114791
4F30	935603	Affiliate Services	\$	50,000	\$	50,000	114792
4T20	935605	Government Television/Telecommunications Operating	\$	25,000	\$	25,000	114793
TOTAL GSF		General Services Fund Group	\$	75,000	\$	75,000	114794
		State Special Revenue Fund Group					114795
4W90	935630	Telecommunity	\$	25,000	\$	25,000	114796
4X10	935634	Distance Learning	\$	24,150	\$	24,150	114797
5D40	935640	Conference/Special Purposes	\$	2,812,039	\$	2,813,539	114798
5FK0	935608	Media Services	\$	637,601	\$	637,956	114799
5JU0	935611	Information Technology Services	\$	1,455,000	\$	1,455,000	114800

5T30 935607	Gates Foundation	\$	200,000	\$	171,112	114801
	Grants					
TOTAL SSR State Special Revenue		\$	5,153,790	\$	5,126,757	114802
Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	17,178,280	\$	17,155,151	114803

Section 283.20. STATEHOUSE NEWS BUREAU 114805

The foregoing appropriation item 935401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau. 114806
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OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES 114809

The foregoing appropriation item 935402, Ohio Government Telecommunications Services, shall be used solely to support the operations of Ohio Government Telecommunications Services which include providing multimedia support to the state government and its affiliated organizations and broadcasting the activities of the legislative, judicial, and executive branches of state government, among its other functions. 114810
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TECHNOLOGY OPERATIONS 114817

The foregoing appropriation item 935409, Technology Operations, shall be used by eTech Ohio to pay expenses of eTech Ohio's network infrastructure, which includes the television and radio transmission infrastructure and infrastructure that shall link all public K-12 classrooms to each other and to the Internet, and provide access to voice, video, other communication services, and data educational resources for students and teachers. The foregoing appropriation item 935409, Technology Operations, may also be used to cover student costs for taking advanced placement courses and courses that the Chancellor of the Board of Regents has determined to be eligible for postsecondary credit through the Ohio Learns Gateway. To the extent that funds remain available for this purpose, public school students taking advanced placement or 114818
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postsecondary courses through the OhioLearns Gateway shall be 114831
eligible to receive a fee waiver to cover the cost of 114832
participating in one course. The fee waivers shall be distributed 114833
until the funds appropriated to support the waivers have been 114834
exhausted. 114835

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION 114836

The foregoing appropriation item 935410, Content Development, 114837
Acquisition, and Distribution, shall be used for the development, 114838
acquisition, and distribution of information resources by public 114839
media and radio reading services and for educational use in the 114840
classroom and online. 114841

Of the foregoing appropriation item 935410, Content 114842
Development, Acquisition, and Distribution, up to \$658,099 in each 114843
fiscal year shall be allocated equally among the 12 Ohio 114844
educational television stations and used with the advice and 114845
approval of eTech Ohio. Funds shall be used for the production of 114846
interactive instructional programming series with priority given 114847
to resources aligned with state academic content standards in 114848
consultation with the Ohio Department of Education and for 114849
teleconferences to support eTech Ohio. The programming shall be 114850
targeted to the needs of the poorest two hundred school districts 114851
as determined by the district's adjusted valuation per pupil as 114852
defined in former section 3317.0213 of the Revised Code as that 114853
section existed prior to June 30, 2005. 114854

Of the foregoing appropriation item 935410, Content 114855
Development, Acquisition, and Distribution, up to \$1,749,283 in 114856
each fiscal year shall be distributed by eTech Ohio to Ohio's 114857
qualified public educational television stations and educational 114858
radio stations to support their operations. The funds shall be 114859
distributed pursuant to an allocation formula used by the Ohio 114860
Educational Telecommunications Network Commission unless a 114861
substitute formula is developed by eTech Ohio in consultation with 114862

Ohio's qualified public educational television stations and 114863
educational radio stations. 114864

Of the foregoing appropriation item 935410, Content 114865
Development, Acquisition, and Distribution, up to \$199,712 in each 114866
fiscal year shall be distributed by eTech Ohio to Ohio's qualified 114867
radio reading services to support their operations. The funds 114868
shall be distributed pursuant to an allocation formula used by the 114869
Ohio Educational Telecommunications Network Commission unless a 114870
substitute formula is developed by eTech Ohio in consultation with 114871
Ohio's qualified radio reading services. 114872

**Section 283.30. TECHNOLOGY INTEGRATION AND PROFESSIONAL 114873
DEVELOPMENT 114874**

The foregoing appropriation item 935411, Technology 114875
Integration and Professional Development, shall be used by eTech 114876
Ohio for the provision of staff development, hardware, software, 114877
telecommunications services, and information resources to support 114878
educational uses of technology in the classroom and at a distance 114879
and for professional development for teachers, administrators, and 114880
technology staff on the use of educational technology in 114881
qualifying public schools, including the State School for the 114882
Blind, the State School for the Deaf, and the Department of Youth 114883
Services. 114884

Of the foregoing appropriation item 935411, Technology 114885
Integration and Professional Development, up to \$1,691,701 in each 114886
fiscal year shall be used by eTech Ohio to contract with 114887
educational television to provide Ohio public schools with 114888
instructional resources and services with priority given to 114889
resources and services aligned with state academic content 114890
standards and such resources and services shall be based upon the 114891
advice and approval of eTech Ohio, based on a formula used by the 114892
Ohio SchoolNet Commission unless and until a substitute formula is 114893

developed by eTech Ohio in consultation with Ohio's educational 114894
technology agencies and noncommercial educational television 114895
stations. 114896

Section 283.40. TELECOMMUNITY 114897

The foregoing appropriation item 935630, Telecommunity, shall 114898
be distributed by eTech Ohio on a grant basis to eligible school 114899
districts to establish "distance learning" through interactive 114900
video technologies in the school district. Per agreements with 114901
eight Ohio local telephone companies, ALLTEL Ohio, CENTURY 114902
Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell 114903
Telephone Company, Orwell Telephone Company, Sprint North Central 114904
Telephone, VERIZON, and Western Reserve Telephone Company, school 114905
districts are eligible for funds if they are within one of the 114906
listed telephone company service areas. Funds to administer the 114907
program shall be expended by eTech Ohio up to the amount specified 114908
in the agreements with the listed telephone companies. 114909

Within thirty days after the effective date of this section, 114910
the Director of Budget and Management shall transfer to Fund 4W90 114911
in the State Special Revenue Fund Group any investment earnings 114912
from moneys paid by any telephone company as part of any 114913
settlement agreement between the listed companies and the Public 114914
Utilities Commission in fiscal years 1996 and beyond. 114915

DISTANCE LEARNING 114916

The foregoing appropriation item 935634, Distance Learning, 114917
shall be distributed by eTech Ohio on a grant basis to eligible 114918
school districts to establish "distance learning" in the school 114919
district. Per an agreement with Ameritech, school districts are 114920
eligible for funds if they are within an Ameritech service area. 114921
Funds to administer the program shall be expended by eTech Ohio up 114922
to the amount specified in the agreement with Ameritech. 114923

Within thirty days after the effective date of this section, 114924
the Director of Budget and Management shall transfer to Fund 4X10 114925
in the State Special Revenue Fund Group any investment earnings 114926
from moneys paid by any telephone company as part of a settlement 114927
agreement between the company and the Public Utilities Commission 114928
in fiscal year 1995. 114929

GATES FOUNDATION GRANTS 114930

The foregoing appropriation item 935607, Gates Foundation 114931
Grants, shall be used by eTech Ohio to provide professional 114932
development to school district principals, superintendents, and 114933
other administrative staff on the use of education technology. 114934

Section 285.10. ETH OHIO ETHICS COMMISSION 114935

General Revenue Fund 114936

GRF 146321	Operating Expenses	\$	1,409,751	\$	1,409,751	114937
TOTAL GRF	General Revenue Fund	\$	1,409,751	\$	1,409,751	114938

General Services Fund Group 114939

4M60 146601	Operating Expenses	\$	827,393	\$	827,393	114940
TOTAL GSF	General Services					114941

Fund Group		\$	827,393	\$	827,393	114942
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TOTAL ALL BUDGET FUND GROUPS		\$	2,237,144	\$	2,237,144	114943
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ETHICS COMMISSION CASINO-RELATED ACTIVITIES 114944

On July 1, 2011, or as soon as possible thereafter, an amount 114945
equal to the unexpended and unencumbered balance of appropriation 114946
item 146602, Casino Investigations, at the end of fiscal year 2011 114947
is hereby reappropriated to the same appropriation item for fiscal 114948
year 2012, to be used for the performance of the Ohio Ethics 114949
Commission's casino-related duties. 114950

Section 287.10. EXP OHIO EXPOSITIONS COMMISSION 114951

General Revenue Fund 114952

GRF 723403	Junior Fair Subsidy	\$	50,000	\$	50,000	114953
TOTAL GRF	General Revenue Fund	\$	50,000	\$	50,000	114954
State Special Revenue Fund Group						114955
4N20 723602	Ohio State Fair	\$	400,000	\$	400,000	114956
Harness Racing						
5060 723601	Operating Expenses	\$	12,991,000	\$	12,894,000	114957
TOTAL SSR	State Special Revenue					114958
Fund Group		\$	13,391,000	\$	13,294,000	114959
TOTAL ALL BUDGET FUND GROUPS		\$	13,441,000	\$	13,344,000	114960

STATE FAIR RESERVE 114961

The General Manager of the Expositions Commission may submit 114962
a request to the Controlling Board to use available amounts in the 114963
State Fair Reserve Fund (Fund 6400) if the following conditions 114964
apply: 114965

(A) Admissions receipts for the 2011 or 2012 Ohio State Fair 114966
are less than \$1,982,000 because of inclement weather or 114967
extraordinary circumstances; 114968

(B) The Ohio Expositions Commission declares a state of 114969
fiscal exigency; and 114970

(C) The request contains a plan describing how the 114971
Expositions Commission will eliminate the cash shortage causing 114972
the request. 114973

The amount approved by the Controlling Board is hereby 114974
appropriated. 114975

Section 289.10. GOV OFFICE OF THE GOVERNOR 114976

General Revenue Fund						114977
GRF 040321	Operating Expenses	\$	2,679,886	\$	2,682,632	114978
TOTAL GRF	General Revenue Fund	\$	2,679,886	\$	2,682,632	114979
General Services Fund Group						114980

5AK0 040607	Government Relations	\$	365,149	\$	365,149	114981
TOTAL GSF	General Services Fund	\$	365,149	\$	365,149	114982
Group						
TOTAL ALL BUDGET FUND GROUPS		\$	3,045,035	\$	3,047,781	114983

GOVERNMENT RELATIONS 114984

A portion of the foregoing appropriation item 040607, 114985
 Government Relations, may be used to support Ohio's membership in 114986
 national or regional associations. 114987

The Office of the Governor may charge any state agency of the 114988
 executive branch using an intrastate transfer voucher such amounts 114989
 necessary to defray the costs incurred for the conduct of 114990
 governmental relations associated with issues that can be 114991
 attributed to the agency. Amounts collected shall be deposited in 114992
 the Government Relations Fund (Fund 5AK0). 114993

Section 291.10. DOH DEPARTMENT OF HEALTH 114994

General Revenue Fund 114995

GRF 440412	Cancer Incidence	\$	600,000	\$	600,000	114996
	Surveillance System					
GRF 440413	Local Health	\$	2,302,788	\$	2,303,061	114997
	Department Support					
GRF 440416	Mothers and Children	\$	4,227,842	\$	4,228,015	114998
	Safety Net Services					
GRF 440418	Immunizations	\$	6,430,538	\$	6,430,829	114999
GRF 440431	Free Clinics Safety	\$	437,326	\$	437,326	115000
	Net Services					
GRF 440438	Breast and Cervical	\$	708,539	\$	708,539	115001
	Cancer Screening					
GRF 440444	AIDS Prevention and	\$	5,842,315	\$	5,842,315	115002
	Treatment					
GRF 440451	Public Health	\$	3,654,348	\$	3,655,449	115003
	Laboratory					

GRF 440452	Child and Family	\$	630,390	\$	630,444	115004
	Health Services Match					
GRF 440453	Health Care Quality	\$	8,170,694	\$	8,174,361	115005
	Assurance					
GRF 440454	Local Environmental	\$	1,135,141	\$	1,135,362	115006
	Health					
GRF 440459	Help Me Grow	\$	32,923,987	\$	32,923,987	115007
GRF 440465	Federally Qualified	\$	458,688	\$	2,686,688	115008
	Health Centers					
GRF 440467	Access to Dental Care	\$	540,484	\$	540,484	115009
GRF 440468	Chronic Disease and	\$	2,577,251	\$	2,577,251	115010
	Injury Prevention					
GRF 440472	Alcohol Testing	\$	250,000	\$	750,000	115011
GRF 440505	Medically Handicapped	\$	7,512,451	\$	7,512,451	115012
	Children					
GRF 440507	Targeted Health Care	\$	1,045,414	\$	1,045,414	115013
	Services Over 21					
TOTAL GRF General Revenue Fund		\$	79,448,196	\$	82,181,976	115014
State Highway Safety Fund Group						115015
4T40 440603	Child Highway Safety	\$	233,894	\$	233,894	115016
TOTAL HSF State Highway Safety						115017
Fund Group		\$	233,894	\$	233,894	115018
General Services Fund Group						115019
1420 440646	Agency Health	\$	8,825,788	\$	8,826,146	115020
	Services					
2110 440613	Central Support	\$	31,052,756	\$	30,720,419	115021
	Indirect Costs					
4730 440622	Lab Operating	\$	5,599,538	\$	5,600,598	115022
	Expenses					
5HB0 440470	Breast and Cervical	\$	1,000,000	\$	0	115023
	Cancer Screening					
6830 440633	Employee Assistance	\$	1,259,475	\$	1,241,147	115024

		Program				
6980	440634	Nurse Aide Training	\$	99,239	\$	99,265 115025
TOTAL GSF		General Services				115026
Fund Group			\$	47,836,796	\$	46,487,575 115027
Federal Special Revenue Fund Group						115028
3200	440601	Maternal Child Health	\$	27,068,886	\$	27,068,886 115029
		Block Grant				
3870	440602	Preventive Health	\$	7,826,659	\$	7,826,659 115030
		Block Grant				
3890	440604	Women, Infants, and	\$	308,672,689	\$	308,672,689 115031
		Children				
3910	440606	Medicaid/Medicare	\$	29,625,467	\$	29,257,457 115032
3920	440618	Federal Public Health	\$	137,976,988	\$	137,976,988 115033
		Programs				
TOTAL FED		Federal Special Revenue				115034
Fund Group			\$	511,170,689	\$	510,802,679 115035
State Special Revenue Fund Group						115036
4700	440647	Fee Supported	\$	24,503,065	\$	24,513,973 115037
		Programs				
4710	440619	Certificate of Need	\$	878,145	\$	878,433 115038
4770	440627	Medically Handicapped	\$	3,692,704	\$	3,692,703 115039
		Children Audit				
4D60	440608	Genetics Services	\$	3,310,953	\$	3,311,039 115040
4F90	440610	Sickle Cell Disease	\$	1,032,754	\$	1,032,824 115041
		Control				
4G00	440636	Heirloom Birth	\$	5,000	\$	5,000 115042
		Certificate				
4G00	440637	Birth Certificate	\$	5,000	\$	5,000 115043
		Surcharge				
4L30	440609	Miscellaneous	\$	3,333,164	\$	3,333,164 115044
		Expenses				
4P40	440628	Ohio Physician Loan	\$	476,870	\$	476,870 115045

		Repayment				
4V60	440641	Save Our Sight	\$	2,255,760	\$	2,255,789 115046
5B50	440616	Quality, Monitoring, and Inspection	\$	878,638	\$	878,997 115047
5C00	440615	Alcohol Testing and Permit	\$	551,018	\$	0 115048
5CN0	440645	Choose Life	\$	75,000	\$	75,000 115049
5D60	440620	Second Chance Trust	\$	1,151,815	\$	1,151,902 115050
5ED0	440651	Smoke Free Indoor Air	\$	190,452	\$	190,452 115051
5G40	440639	Adoption Services	\$	20,000	\$	20,000 115052
5L10	440623	Nursing Facility	\$	687,500	\$	687,528 115053
		Technical Assistance Program				
5Z70	440624	Ohio Dentist Loan	\$	140,000	\$	140,000 115054
		Repayment				
6100	440626	Radiation Emergency Response	\$	930,525	\$	930,576 115055
6660	440607	Medically Handicapped Children - County Assessments	\$	19,738,286	\$	19,739,617 115056
TOTAL SSR		State Special Revenue				115057
Fund Group			\$	63,856,649	\$	63,318,867 115058
Holding Account		Redistribution Fund Group				115059
R014	440631	Vital Statistics	\$	44,986	\$	44,986 115060
R048	440625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000 115061
TOTAL 090		Holding Account				115062
Redistribution Fund Group			\$	64,986	\$	64,986 115063
Tobacco Master Settlement Agreement		Fund Group				115064
5BX0	440656	Tobacco Use Prevention	\$	1,000,000	\$	0 115065

TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	1,000,000	\$	0	115066
TOTAL ALL BUDGET FUND GROUPS	\$	703,611,210	\$	703,089,977	115067

Section 291.20. HIV/AIDS PREVENTION/TREATMENT 115069

The foregoing appropriation item 440444, AIDS Prevention and Treatment, shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications and to administer educational prevention initiatives. 115070
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PUBLIC HEALTH LABORATORY 115074

A portion of the foregoing appropriation item 440451, Public Health Laboratory, shall be used for coordination and management of prevention program operations and the purchase of drugs for sexually transmitted diseases. 115075
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HELP ME GROW 115079

The foregoing appropriation item 440459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow Program. Appropriation item 440459, Help Me Grow, may be used in conjunction with Early Intervention funding from the Department of Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children and family-centered programs and services that acknowledge and support the social, emotional, cognitive, intellectual, and physical development of children and the vital role of families in ensuring the well-being and success of children. The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked. 115080
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Of the foregoing appropriation item 440459, Help Me Grow, if 115096
a county Family and Children First Council selects home-visiting 115097
programs, the home-visiting program shall only be eligible for 115098
funding if it serves pregnant women, or parents or other primary 115099
caregivers and the parent or other primary caregiver's child or 115100
children under three years of age, through quality programs of 115101
early childhood home visitation and if the home visitations are 115102
performed by nurses, social workers, child development specialists 115103
or other well-trained and competent staff, as demonstrated by 115104
education or training and the provision of ongoing specific 115105
training and supervision in the model of service being delivered. 115106
The home-visiting program also shall be required to have outcome 115107
and research standards that demonstrate ongoing positive outcomes 115108
for children, parents, and other primary caregivers that enhance 115109
child health and development, and conform to a clear consistent 115110
home visitation model that has been in existence for at least 115111
three years. The home visitation model shall be research-based; 115112
grounded in relevant, empirically based knowledge; linked to 115113
program-determined outcomes; associated with a national 115114
organization or institution of higher education that has 115115
comprehensive home visitation program standards that ensure high 115116
quality service delivery and continuous program improvement; and 115117
have demonstrated significant positive outcomes when evaluated 115118
using well-designed and rigorous randomized, controlled, or 115119
quasi-experimental research designs, and the evaluation results 115120
have been published in a peer-reviewed journal. 115121

The foregoing appropriation item 440459, Help Me Grow, may 115122
also be used for the Developmental Autism and Screening Program. 115123

FEDERALLY QUALIFIED HEALTH CENTERS 115124

For fiscal year 2012, any undisbursed funds previously 115125
provided under subsidy agreements between the Department of Health 115126
and the Ohio Association of Community Health Centers, or its 115127

predecessor organization, pursuant to section 183.18 of the 115128
Revised Code, shall be available to federally qualified health 115129
centers in the same manner as those funds in appropriation item 115130
440465, Federally Qualified Health Centers. 115131

TARGETED HEALTH CARE SERVICES OVER 21 115132

The foregoing appropriation item 440507, Targeted Health Care 115133
Services Over 21, shall be used to administer the Cystic Fibrosis 115134
Program and to implement the Hemophilia Insurance Premium Payment 115135
Program. 115136

The foregoing appropriation item 440507, Targeted Health Care 115137
Services Over 21, shall also be used to provide essential 115138
medications and to pay the copayments for drugs approved by the 115139
Department of Health and covered by Medicare Part D that are 115140
dispensed to Bureau for Children with Medical Handicaps (BCMH) 115141
participants for the Cystic Fibrosis Program. 115142

The Department shall expend all of these funds. 115143

GENETICS SERVICES 115144

The foregoing appropriation item 440608, Genetics Services 115145
(Fund 4D60), shall be used by the Department of Health to 115146
administer programs authorized by sections 3701.501 and 3701.502 115147
of the Revised Code. None of these funds shall be used to counsel 115148
or refer for abortion, except in the case of a medical emergency. 115149

MEDICALLY HANDICAPPED CHILDREN AUDIT 115150

The Medically Handicapped Children Audit Fund (Fund 4770) 115151
shall receive revenue from audits of hospitals and recoveries from 115152
third-party payers. Moneys may be expended for payment of audit 115153
settlements and for costs directly related to obtaining recoveries 115154
from third-party payers and for encouraging Medically Handicapped 115155
Children's Program recipients to apply for third-party benefits. 115156
Moneys also may be expended for payments for diagnostic and 115157

treatment services on behalf of medically handicapped children, as 115158
defined in division (A) of section 3701.022 of the Revised Code, 115159
and Ohio residents who are twenty-one or more years of age and who 115160
are suffering from cystic fibrosis or hemophilia. Moneys may also 115161
be expended for administrative expenses incurred in operating the 115162
Medically Handicapped Children's Program. 115163

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 115164
PERMIT FUND 115165

The Director of Budget and Management may transfer up to 115166
\$551,018 in cash from the Liquor Control Fund (Fund 7043) to the 115167
Alcohol Testing and Permit Fund (Fund 5C00) in fiscal year 2012 to 115168
meet the operating needs of the Alcohol Testing and Permit 115169
Program. 115170

The Director of Budget and Management may transfer up to 115171
\$551,018 in cash in fiscal year 2012 to the Alcohol Testing and 115172
Permit Fund (Fund 5C00) from the Liquor Control Fund (Fund 7043) 115173
created in section 4301.12 of the Revised Code determined by a 115174
transfer schedule set by the Department of Health. 115175

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 115176

The foregoing appropriation item 440607, Medically 115177
Handicapped Children - County Assessments (Fund 6660), shall be 115178
used to make payments under division (E) of section 3701.023 of 115179
the Revised Code. 115180

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM 115181

On July 1, 2011, or as soon as possible thereafter, the 115182
Director of Budget and Management may transfer, cash from the 115183
Resident Protection Fund (Fund 4E30), which is used by the Ohio 115184
Department of Job and Family Services, to the Nursing Facility 115185
Technical Assistance Program Fund (Fund 5L10), which is used by 115186
the Ohio Department of Health, to be used under section 3721.026 115187
of the Revised Code. The transfers shall be up to \$698,595 in each 115188

fiscal year of the biennium. 115189

Section 291.30. EARLY INTERVENTION WORKGROUP 115190

(A) The Department of Health shall convene a workgroup to 115191
develop recommendations for eligibility criteria for early 115192
intervention services to be provided pursuant to Part C of the 115193
"Individuals with Disability Education Act," 118 Stat. 2744 115194
(2004), 20 U.S.C. 1431 et seq. The recommendations shall be based 115195
on available funds and national data related to the identification 115196
of infants and toddlers who have developmental delays or are most 115197
at risk for developmental delays and, in either case, would 115198
benefit from early intervention services. 115199

(B) The workgroup shall be facilitated by the Department and 115200
shall be composed of all of the following members: 115201

(1) A representative from the Department of Developmental 115202
Disabilities; 115203

(2) A representative from the Department of Education; 115204

(3) A representative from the Department of Mental Health; 115205

(4) A representative from the Help Me Grow Advisory Council; 115206

(5) A parent member of the Help Me Grow Advisory Council; 115207

(6) A representative from the Ohio Family and Children First 115208
Cabinet Council; 115209

(7) A representative from the Ohio Family and Children First 115210
Association; 115211

(8) A county Help Me Grow project director; 115212

(9) A representative from the Ohio Council of Behavioral 115213
Health and Family Services Providers; 115214

(10) A representative from the Ohio Association for Infant 115215
Mental Health; 115216

(11) A representative from the Ohio Association of County Boards of Developmental Disabilities;	115217 115218
(12) A representative from the Ohio Superintendents of County Boards of Developmental Disabilities;	115219 115220
(13) A representative from the Ohio chapter of the American Academy of Pediatrics;	115221 115222
(14) A public health nurse from a board of health of a city or general health district, or an authority having the duties of a board of health;	115223 115224 115225
(15) A representative from the Department of Job and Family Services.	115226 115227
(C)(1) October 1, 2011, is the latest date by which the workgroup may submit to the Director of Health its recommendations for eligibility criteria for Part C early intervention services. If recommendations are submitted, the Director may accept the recommendations in whole or in part and implement eligibility criteria accordingly.	115228 115229 115230 115231 115232 115233
(2) If the workgroup does not submit recommendations by October 1, 2011, the Director shall implement eligibility criteria for Part C early intervention services. The eligibility criteria shall be based on available funds and, at most, may include following:	115234 115235 115236 115237 115238
(a) Children who demonstrate a developmental delay at or exceeding 2.0 standard deviations below the mean in one or more areas of development on a norm-referenced tool approved by the Department;	115239 115240 115241 115242
(b) Children who have a medical diagnosis that falls into one or more of the following categories: genetic disorders, sensory impairments, motor impairments, neurological disorders, significant neuro-developmental disorders, medically related	115243 115244 115245 115246

disorders, or acquired trauma-related disorders;	115247
(c) Children who are at risk of a delay in their social, emotional, or cognitive development;	115248 115249
(d) Children who, based on informed clinical opinion, are not eligible under the categories specified in division (C)(2)(a), (b), or (c) of this section, except that any such child may receive services pursuant to this category for not more than one hundred eighty days.	115250 115251 115252 115253 115254
(D) The workgroup shall cease to exist on October 1, 2011.	115255
Section 291.40. CERTIFICATE OF NEED FOR NEW NURSING HOME	115256
(A) As used in this section:	115257
"Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.	115258 115259
"Population" means that shown by the 2000 regular federal census.	115260 115261
(B) The Director of Health shall accept, for review under section 3702.52 of the Revised Code, a certificate of need application for the establishment, development, and construction of a new nursing home if all of the following conditions are met:	115262 115263 115264 115265
(1) The application is submitted to the Director not later than one hundred eighty days after the effective date of this section.	115266 115267 115268
(2) The new nursing home is to be located in a county that has a population of at least thirty thousand persons and not more than forty-one thousand persons.	115269 115270 115271
(3) The new nursing home is to be located on a campus that has been in operation for at least twelve years and both of the following are also located on the campus on the effective date of this section:	115272 115273 115274 115275

(a) At least one existing residential care facility with at least twenty-five residents;	115276
	115277
(b) At least one existing independent living dwelling for seniors with at least seventy-five residents.	115278
	115279
(4) The new nursing home is to have not more than thirty beds to which both of the following apply:	115280
	115281
(a) All of the beds are to be transferred from an existing nursing home in the state.	115282
	115283
(b) All of the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code.	115284
	115285
(C) In reviewing certificate of need applications accepted under this section, the Director shall neither deny an application on the grounds that the new nursing home is to have less than fifty beds nor require an applicant to obtain a waiver of the minimum fifty-bed requirement established by division (I) of rule 3701-12-23 of the Administrative Code.	115286
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Section 293.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION	115292
Agency Fund Group	115293
4610 372601 Operating Expenses \$ 30,000 \$ 30,000	115294
TOTAL AGY Agency Fund Group \$ 30,000 \$ 30,000	115295
TOTAL ALL BUDGET FUND GROUPS \$ 30,000 \$ 30,000	115296
Section 295.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS	115298
General Revenue Fund	115299
GRF 148100 Personal Services \$ 230,000 \$ 230,000	115300
GRF 148200 Maintenance \$ 50,000 \$ 50,000	115301
GRF 148402 Community Projects \$ 37,005 \$ 44,922	115302
TOTAL GRF General Revenue Fund \$ 317,005 \$ 324,922	115303
General Services Fund Group	115304

6010 148602	Gifts and	\$	4,558	\$	4,558	115305
	Miscellaneous					
TOTAL GSF	General Services					115306
Fund Group		\$	4,558	\$	4,558	115307
TOTAL ALL BUDGET FUND GROUPS		\$	321,563	\$	329,480	115308

Section 297.10. OHS OHIO HISTORICAL SOCIETY 115310

General Revenue Fund						115311
GRF 360501	Education and	\$	2,368,997	\$	2,368,997	115312
	Collections					
GRF 360502	Site and Museum	\$	3,926,288	\$	3,926,288	115313
	Operations					
GRF 360504	Ohio Preservation	\$	290,000	\$	290,000	115314
	Office					
GRF 360505	National	\$	414,798	\$	414,798	115315
	Afro-American Museum					
GRF 360506	Hayes Presidential	\$	281,043	\$	281,043	115316
	Center					
GRF 360508	State Historical	\$	390,570	\$	390,570	115317
	Grants					
GRF 360509	Outreach and	\$	90,395	\$	90,395	115318
	Partnership					
TOTAL GRF	General Revenue Fund	\$	7,762,091	\$	7,762,091	115319
TOTAL ALL BUDGET FUND GROUPS		\$	7,762,091	\$	7,762,091	115320

SUBSIDY APPROPRIATION 115321

Upon approval by the Director of Budget and Management, the 115322
foregoing appropriation items shall be released to the Ohio 115323
Historical Society in quarterly amounts that in total do not 115324
exceed the annual appropriations. The funds and fiscal records of 115325
the society for fiscal year 2012 and fiscal year 2013 shall be 115326
examined by independent certified public accountants approved by 115327
the Auditor of State, and a copy of the audited financial 115328

statements shall be filed with the Office of Budget and 115329
Management. The society shall prepare and submit to the Office of 115330
Budget and Management the following: 115331

(A) An estimated operating budget for each fiscal year of the 115332
biennium. The operating budget shall be submitted at or near the 115333
beginning of each calendar year. 115334

(B) Financial reports, indicating actual receipts and 115335
expenditures for the fiscal year to date. These reports shall be 115336
filed at least semiannually during the fiscal biennium. 115337

The foregoing appropriations shall be considered to be the 115338
contractual consideration provided by the state to support the 115339
state's offer to contract with the Ohio Historical Society under 115340
section 149.30 of the Revised Code. 115341

HAYES PRESIDENTIAL CENTER 115342

If a United States government agency, including, but not 115343
limited to, the National Park Service, chooses to take over the 115344
operations or maintenance of the Hayes Presidential Center, in 115345
whole or in part, the Ohio Historical Society shall make 115346
arrangements with the National Park Service or other United States 115347
government agency for the efficient transfer of operations or 115348
maintenance. 115349

STATE HISTORICAL GRANTS 115350

Of the foregoing appropriation item 360508, State Historical 115351
Grants, \$195,285 in each fiscal year shall be granted to the 115352
Cincinnati Museum Center, and \$195,285 in each fiscal year shall 115353
be granted to the Western Reserve Historical Society. 115354

Section 299.10. REP OHIO HOUSE OF REPRESENTATIVES 115355

General Revenue Fund 115356

GRF 025321 Operating Expenses \$ 18,517,093 \$ 18,517,093 115357

TOTAL GRF General Revenue Fund	\$	18,517,093	\$	18,517,093	115358
General Services Fund Group					115359
1030 025601 House Reimbursement	\$	1,433,664	\$	1,433,664	115360
4A40 025602 Miscellaneous Sales	\$	37,849	\$	37,849	115361
TOTAL GSF General Services					115362
Fund Group	\$	1,471,513	\$	1,471,513	115363
TOTAL ALL BUDGET FUND GROUPS	\$	19,988,606	\$	19,988,606	115364

OPERATING EXPENSES 115365

On July 1, 2011, or as soon as possible thereafter, the Clerk 115366
of the House of Representatives may certify to the Director of 115367
Budget and Management the amount of the unexpended, unencumbered 115368
balance of the foregoing appropriation item 025321, Operating 115369
Expenses, at the end of fiscal year 2011 to be reappropriated to 115370
fiscal year 2012. The amount certified is hereby reappropriated to 115371
the same appropriation item for fiscal year 2012. 115372

On July 1, 2012, or as soon as possible thereafter, the Clerk 115373
of the House of Representatives may certify to the Director of 115374
Budget and Management the amount of the unexpended, unencumbered 115375
balance of the foregoing appropriation item 025321, Operating 115376
Expenses, at the end of fiscal year 2012 to be reappropriated to 115377
fiscal year 2013. The amount certified is hereby reappropriated to 115378
the same appropriation item for fiscal year 2013. 115379

Section 303.10. HFA OHIO HOUSING FINANCE AGENCY 115380

Agency Fund Group					115381
5AZ0 997601 Housing Finance Agency	\$	12,636,646	\$	12,405,084	115382
Personal Services					
TOTAL AGY Agency Fund Group	\$	12,636,646	\$	12,405,084	115383
TOTAL ALL BUDGET FUND GROUPS	\$	12,636,646	\$	12,405,084	115384

Section 305.10. IGO OFFICE OF THE INSPECTOR GENERAL 115386

General Revenue Fund 115387

GRF 965321	Operating Expenses	\$ 1,124,663	\$ 1,125,598	115388
TOTAL GRF	General Revenue Fund	\$ 1,124,663	\$ 1,125,598	115389
General Services Fund Group				115390
5FA0 965603	Deputy Inspector General for ODOT	\$ 400,000	\$ 400,000	115391
5FT0 965604	Deputy Inspector General for BWC/OIC	\$ 425,000	\$ 425,000	115392
5GI0 965605	Deputy Inspector General for ARRA	\$ 520,837	\$ 521,535	115393
TOTAL GSF	General Services Fund Group	\$ 1,345,837	\$ 1,346,535	115394
TOTAL ALL BUDGET FUND GROUPS		\$ 2,470,500	\$ 2,472,133	115395

IGO CASINO-RELATED ACTIVITIES 115396

On July 1, 2011, or as soon as possible thereafter, an amount 115397
equal to the unexpended, unencumbered balance of appropriation 115398
item 965609, Casino Investigations, at the end of fiscal year 2011 115399
is hereby reappropriated to the same appropriation item for fiscal 115400
year 2012, to be used for the performance of the Inspector 115401
General's casino-related duties. 115402

DEPUTY INSPECTOR GENERAL FOR FUNDS RECEIVED THROUGH THE 115403
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 115404

On July 1, 2011, and on January 1, 2012, or as soon as 115405
possible thereafter, the Director of Budget and Management shall 115406
transfer \$225,000 in cash, for each period, from the General 115407
Revenue Fund to the Deputy Inspector General for Funds Received 115408
through the American Recovery and Reinvestment Act of 2009 Fund 115409
(Fund 5GI0), which is created in section 121.53 of the Revised 115410
Code. 115411

On July 1, 2012, and on January 1, 2013, or as soon as 115412
possible thereafter, the Director of Budget and Management shall 115413
transfer \$225,000 in cash, for each period, from the General 115414

Revenue Fund to the Deputy Inspector General for Funds Received 115415
 through the American Recovery and Reinvestment Act of 2009 Fund 115416
 (Fund 5GI0). 115417

Section 307.10. INS DEPARTMENT OF INSURANCE 115418

Federal Special Revenue Fund Group 115419

3EV0 820610 Health Insurance \$ 1,000,000 \$ 1,000,000 115420
 Premium Review

3EW0 820611 Health Exchange \$ 1,000,000 \$ 1,000,000 115421
 Planning

3U50 820602 OSHIIP Operating \$ 2,270,726 \$ 2,270,725 115422
 Grant

TOTAL FED Federal Special 115423

Revenue Fund Group \$ 4,270,726 \$ 4,270,725 115424

State Special Revenue Fund Group 115425

5540 820601 Operating Expenses - \$ 190,000 \$ 180,000 115426
 OSHIIP

5540 820606 Operating Expenses \$ 22,745,538 \$ 22,288,550 115427

5550 820605 Examination \$ 9,065,684 \$ 8,934,065 115428

TOTAL SSR State Special Revenue 115429

Fund Group \$ 32,001,222 \$ 31,402,615 115430

TOTAL ALL BUDGET FUND GROUPS \$ 36,271,948 \$ 35,673,340 115431

MARKET CONDUCT EXAMINATION 115432

When conducting a market conduct examination of any insurer 115433

doing business in this state, the Superintendent of Insurance may 115434

assess the costs of the examination against the insurer. The 115435

superintendent may enter into consent agreements to impose 115436

administrative assessments or fines for conduct discovered that 115437

may be violations of statutes or rules administered by the 115438

superintendent. All costs, assessments, or fines collected shall 115439

be deposited to the credit of the Department of Insurance 115440

Operating Fund (Fund 5540). 115441

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES				115442	
The Director of Budget and Management, at the request of the				115443	
Superintendent of Insurance, may transfer funds from the				115444	
Department of Insurance Operating Fund (Fund 5540), established by				115445	
section 3901.021 of the Revised Code, to the Superintendent's				115446	
Examination Fund (Fund 5550), established by section 3901.071 of				115447	
the Revised Code, only for expenses incurred in examining domestic				115448	
fraternal benefit societies as required by section 3921.28 of the				115449	
Revised Code.				115450	
TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND				115451	
Not later than the thirty-first day of July each fiscal year,				115452	
the Director of Budget and Management shall transfer \$5,000,000				115453	
from the Department of Insurance Operating Fund (Fund 5540) to the				115454	
General Revenue Fund.				115455	
Section 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES				115456	
General Revenue Fund				115457	
GRF 600321 Support Services				115458	
State	\$	34,801,760	\$	31,932,117	115459
Federal	\$	9,322,222	\$	9,207,441	115460
Support Services Total	\$	44,123,982	\$	41,139,558	115461
GRF 600410 TANF State	\$	161,298,234	\$	161,298,234	115462
GRF 600413 Child Care	\$	84,732,730	\$	84,732,730	115463
Match/Maintenance of					
Effort					
GRF 600416 Computer Projects				115464	
State	\$	67,955,340	\$	69,263,506	115465
Federal	\$	13,105,167	\$	12,937,222	115466
Computer Projects Total	\$	81,060,507	\$	82,200,728	115467
GRF 600417 Medicaid Provider	\$	1,312,992	\$	1,312,992	115468
Audits					

GRF 600420	Child Support Administration	\$	6,163,534	\$	6,065,588	115469
GRF 600421	Office of Family Stability	\$	3,768,929	\$	3,757,493	115470
GRF 600423	Office of Children and Families	\$	5,123,406	\$	4,978,756	115471
GRF 600425	Office of Ohio Health Plans					115472
	State	\$	13,149,582	\$	15,740,987	115473
	Federal	\$	12,556,921	\$	12,286,234	115474
	Office of Ohio Health Plans Total	\$	25,706,503	\$	28,027,221	115475
GRF 600502	Administration - Local	\$	16,814,103	\$	16,814,103	115476
GRF 600511	Disability Financial Assistance	\$	26,599,666	\$	27,108,734	115477
GRF 600521	Entitlement Administration - Local	\$	72,200,721	\$	72,200,721	115478
GRF 600523	Children and Families Services	\$	53,105,323	\$	53,105,323	115479
GRF 600525	Health Care/Medicaid					115480
	State	\$	4,294,495,337	\$	4,680,752,933	115481
	Federal	\$	7,501,402,180	\$	8,420,642,075	115482
	Health Care Total	\$	11,795,897,517	\$	13,101,395,008	115483
GRF 600526	Medicare Part D	\$	275,154,963	\$	300,140,824	115484
GRF 600528	Adoption Services					115485
	State	\$	26,346,632	\$	26,346,632	115486
	Federal	\$	36,996,469	\$	36,996,469	115487
	Adoption Services Total	\$	63,343,101	\$	63,343,101	115488
GRF 600533	Child, Family, and Adult Community & Protective Services	\$	13,500,000	\$	13,500,000	115489
GRF 600534	Adult Protective Services	\$	366,003	\$	366,003	115490

GRF 600535	Early Care and Education	\$ 123,596,474	\$ 123,596,474	115491
GRF 600537	Children's Hospital	\$ 2,000,000	\$ 2,000,000	115492
GRF 600540	Second Harvest Food Banks	\$ 4,000,000	\$ 4,000,000	115493
GRF 600541	Kinship Permanency Incentive Program	\$ 2,500,000	\$ 3,500,000	115494
TOTAL GRF General Revenue Fund				115495
	State	\$ 5,288,985,729	\$ 5,702,514,150	115496
	Federal	\$ 7,573,382,959	\$ 8,492,069,441	115497
	GRF Total	\$12,862,368,688	\$14,194,583,591	115498
General Services Fund Group				115499
4A80 600658	Child Support Collections	\$ 34,000,000	\$ 34,000,000	115500
5C90 600671	Medicaid Program Support	\$ 85,800,878	\$ 82,839,266	115501
5DL0 600639	Medicaid Revenue and Collections	\$ 89,256,974	\$ 84,156,974	115502
5DM0 600633	Administration & Operating	\$ 20,392,173	\$ 19,858,928	115503
5FX0 600638	Medicaid Payment Withholding	\$ 26,000,000	\$ 26,000,000	115504
5HL0 600602	State and County Shared services	\$ 3,020,000	\$ 3,020,000	115505
5P50 600692	Prescription Drug Rebate - State	\$ 220,600,000	\$ 242,600,000	115506
6130 600645	Training Activities	\$ 500,000	\$ 500,000	115507
TOTAL GSF General Services Fund Group				115508
		\$ 479,570,025	\$ 492,975,168	115509
Federal Special Revenue Fund Group				115510
3270 600606	Child Welfare	\$ 29,769,865	\$ 29,769,866	115511
3310 600686	Federal Operating	\$ 49,128,140	\$ 48,203,023	115512

3840	600610	Food Assistance and State Administration	\$ 180,381,394	\$ 180,381,394	115513
3850	600614	Refugee Services	\$ 11,582,440	\$ 12,564,952	115514
3950	600616	Special Activities/Child and Family Services	\$ 2,259,264	\$ 2,259,264	115515
3960	600620	Social Services Block Grant	\$ 64,999,999	\$ 64,999,998	115516
3970	600626	Child Support	\$ 241,812,837	\$ 241,813,528	115517
3980	600627	Adoption Maintenance/ Administration	\$ 352,183,862	\$ 352,184,253	115518
3A20	600641	Emergency Food Distribution	\$ 5,000,000	\$ 5,000,000	115519
3AW0	600675	Faith Based Initiatives	\$ 544,140	\$ 544,140	115520
3D30	600648	Children's Trust Fund Federal	\$ 2,040,524	\$ 2,040,524	115521
3ER0	600603	Health Information Technology	\$ 411,661,286	\$ 416,395,286	115522
3F00	600623	Health Care Federal	\$ 2,637,061,505	\$ 2,720,724,869	115523
3F00	600650	Hospital Care Assurance Match	\$ 372,784,046	\$ 380,645,627	115524
3FA0	600680	Ohio Health Care Grants	\$ 9,405,000	\$ 20,000,000	115525
3G50	600655	Interagency Reimbursement	\$ 1,626,305,787	\$ 1,385,391,478	115526
3H70	600617	Child Care Federal	\$ 208,290,036	\$ 204,813,731	115527
3N00	600628	IV-E Foster Care Maintenance	\$ 133,963,142	\$ 133,963,142	115528
3S50	600622	Child Support Projects	\$ 534,050	\$ 534,050	115529
3V00	600688	Workforce Investment Act	\$ 176,496,250	\$ 172,805,562	115530
3V40	600678	Federal Unemployment	\$ 188,680,096	\$ 186,723,415	115531

		Programs				
3V40	600679	Unemployment	\$	4,166,988	\$	4,068,758 115532
		Compensation Review				
		Commission - Federal				
3V60	600689	TANF Block Grant	\$	727,968,260	\$	727,968,260 115533
TOTAL FED		Federal Special Revenue				115534
Fund Group			\$	7,437,018,911	\$	7,293,795,120 115535
State Special Revenue Fund Group						115536
1980	600647	Children's Trust Fund	\$	5,873,637	\$	5,873,848 115537
4A90	600607	Unemployment	\$	21,924,998	\$	21,424,998 115538
		Compensation				
		Administration Fund				
4A90	600694	Unemployment	\$	2,873,167	\$	2,817,031 115539
		Compensation Review				
		Commission				
4E30	600605	Nursing Home	\$	2,878,320	\$	2,878,319 115540
		Assessments				
4E70	600604	Child and Family	\$	400,000	\$	400,000 115541
		Services Collections				
4F10	600609	Foundation	\$	683,359	\$	683,549 115542
		Grants/Child & Family				
		Services				
4K10	600621	ICF/MR Bed Assessments	\$	41,405,596	\$	44,372,874 115543
4Z10	600625	HealthCare Compliance	\$	25,000,000	\$	25,000,000 115544
5AJ0	600631	Money Follows the	\$	5,483,080	\$	4,733,080 115545
		Person				
5DB0	600637	Military Injury Grants	\$	2,000,000	\$	2,000,000 115546
5DP0	600634	Adoption Assistance	\$	500,000	\$	500,000 115547
		Loan				
5ES0	600630	Food Assistance	\$	500,000	\$	500,000 115548
5GF0	600656	Medicaid - Hospital	\$	436,000,000	\$	436,000,000 115549
5KC0	600682	Health Care Special	\$	10,000,000	\$	10,000,000 115550
		Activities				

5R20	600608	Medicaid-Nursing Facilities	\$	402,489,308	\$	407,100,746	115551
5S30	600629	MR/DD Medicaid Administration and Oversight	\$	9,252,738	\$	9,147,791	115552
5U30	600654	Health Care Services Administration	\$	24,902,307	\$	25,439,266	115553
5U60	600663	Children and Family Support	\$	4,719,468	\$	4,719,468	115554
6510	600649	Hospital Care Assurance Program Fund	\$	212,526,123	\$	217,008,050	115555
TOTAL SSR State Special Revenue							115556
Fund Group			\$	1,209,412,101	\$	1,220,599,020	115557
Agency Fund Group							115558
1920	600646	Support Intercept - Federal	\$	130,000,000	\$	130,000,000	115559
5830	600642	Support Intercept - State	\$	16,000,000	\$	16,000,000	115560
5B60	600601	Food Assistance Intercept	\$	2,000,000	\$	2,000,000	115561
TOTAL AGY Agency Fund Group			\$	148,000,000	\$	148,000,000	115562
Holding Account Redistribution Fund Group							115563
R012	600643	Refunds and Audit Settlements	\$	2,200,000	\$	2,200,000	115564
R013	600644	Forgery Collections	\$	10,000	\$	10,000	115565
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,210,000	\$	2,210,000	115566
TOTAL ALL BUDGET FUND GROUPS			\$	22,138,579,725	\$	23,352,162,899	115567
Section 309.20. SUPPORT SERVICES							115569
Section 309.20.10. ADMINISTRATION AND OPERATING							115570

On July 1, 2011, or as soon as possible thereafter, the 115571
Director of Budget and Management may transfer up to \$535,300 cash 115572
from the TANF Quality Control Reinvestments Fund (Fund 5Z90) to 115573
the Administration and Operating Fund (Fund 5DM0). Upon completion 115574
of the transfer, Fund 5Z90 is abolished. 115575

Of the foregoing appropriation item 600633, Administration 115576
and Operating, the Department of Job and Family Services shall use 115577
up to \$535,300 to pay for one-time contract expenses. 115578

Section 309.20.20. TRANSFER TO STATE AND COUNTY SHARED 115579
SERVICES FUND 115580

Within thirty days of the effective date of this act, or as 115581
soon as possible thereafter, the Director of Budget and Management 115582
shall transfer the unencumbered cash balance in the County 115583
Technologies Fund (Fund 5N10) to the State and County Shared 115584
Services Fund (Fund 5HL0). The transferred cash is hereby 115585
appropriated. 115586

Section 309.20.30. AGENCY FUND GROUP 115587

The Agency Fund Group and Holding Account Redistribution Fund 115588
Group shall be used to hold revenues until the appropriate fund is 115589
determined or until the revenues are directed to the appropriate 115590
governmental agency other than the Department of Job and Family 115591
Services. If receipts credited to the Support Intercept - Federal 115592
Fund (Fund 1920), the Support Intercept - State Fund (Fund 5830), 115593
the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit 115594
Settlements Fund (Fund R012), or the Forgery Collections Fund 115595
(Fund R013) exceed the amounts appropriated from the fund, the 115596
Director of Job and Family Services may request the Director of 115597
Budget and Management to authorize expenditures from the fund in 115598
excess of the amounts appropriated. Upon the approval of the 115599
Director of Budget and Management, the additional amounts are 115600

hereby appropriated. 115601

Section 309.30. MEDICAID 115602

Section 309.30.10. HEALTH CARE/MEDICAID 115603

The foregoing appropriation item 600525, Health 115604
Care/Medicaid, shall not be limited by section 131.33 of the 115605
Revised Code. 115606

Section 309.30.20. UNIFIED LONG TERM CARE 115607

The foregoing appropriation item 600525, Health 115608
Care/Medicaid, may be used to provide the preadmission screening 115609
and resident review (PASRR), which includes screening, 115610
assessments, and determinations made under sections 5111.204, 115611
5119.061, and 5123.021 of the Revised Code. 115612

The foregoing appropriation item 600525, Health 115613
Care/Medicaid, may be used to assess and provide long-term care 115614
consultations under section 173.42 of the Revised Code to clients 115615
regardless of Medicaid eligibility. 115616

The foregoing appropriation item 600525, Health 115617
Care/Medicaid, may be used to provide nonwaiver funded PASSPORT, 115618
assisted living, and PACE services to persons who the state 115619
department has determined to be eligible to participate in the 115620
nonwaiver funded PASSPORT, assisted living, and PACE programs, who 115621
applied for but have not yet been determined to be financially 115622
eligible to participate in the Medicaid waiver component of the 115623
PASSPORT Home Care Program, Assisted Living Program, or the PACE 115624
Program by a county department of job and family services, and to 115625
persons who are not eligible for Medicaid but were enrolled in the 115626
PASSPORT Program prior to July 1, 1990. 115627

The foregoing appropriation item 600525, Health 115628
Care/Medicaid, shall be used to provide the required state match 115629

for federal Medicaid funds supporting the Medicaid waiver-funded 115630
PASSPORT Home Care Program, the Choices Program, the Assisted 115631
Living Program, and the PACE Program. 115632

The foregoing appropriation item 600525, Health 115633
Care/Medicaid, shall be used to provide the federal matching share 115634
of program costs determined by the Department of Job and Family 115635
Services to be eligible for Medicaid reimbursement for the 115636
Medicaid waiver-funded PASSPORT Home Care Program, the Choices 115637
Program, the Assisted Living Program, and the PACE Program. 115638

Of the foregoing appropriation item 600525, Health 115639
Care/Medicaid, \$13,904,338 in fiscal year 2012 and \$27,894,003 in 115640
fiscal year 2013 shall be used to provide supplemental funding to 115641
the Medicaid waiver-funded PASSPORT Home Care Program. 115642

Section 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES 115643

(A) For fiscal year 2012 and fiscal year 2013, the Director 115644
of Job and Family Services shall implement purchasing strategies 115645
and rate reductions for certain Medicaid-covered services, as 115646
determined by the Director, that result in payment rates for those 115647
services being at least two per cent less than the respective 115648
payment rates for fiscal year 2011. The Director shall consider 115649
the following when implementing purchasing strategies and rate 115650
reductions under this section: 115651

(1) Modernizing hospital inpatient and outpatient 115652
reimbursement methodologies by doing the following: 115653

(a) Modifying the inpatient hospital capital reimbursement 115654
methodology; 115655

(b) Implementing relative weights for diagnosis-related 115656
groups or establishing new diagnosis-related groups; 115657

(c) Implementing other changes the Director considers 115658
appropriate. 115659

(2) Establishing selective contracting and prior authorization requirements for types of medical assistance the Director identifies.

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(B) In the case of any purchasing strategies and rate reductions that reduce administrative rate payments made to managed care organizations under contract with the Department of Job and Family Services pursuant to section 5111.17 of the Revised Code, the Department shall ensure that no managed care organization passes the administrative rate payment reductions onto providers under contract with the organization.

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(C) The Director shall adopt rules under section 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.

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(D) This section does not apply to nursing facility and intermediate care facility for the mentally retarded services provided under the Medicaid program.

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Section 309.30.33. REDUCTION OF MEDICAID MANAGED CARE ADMINISTRATIVE EXPENSES

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For fiscal year 2012 and fiscal year 2013, the Department of Job and Family Services may reduce by one per cent the rate it pays for administrative expenses to managed care organizations under contract with the Department pursuant to section 5111.17 of the Revised Code.

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If any reduction is made pursuant to this section, the managed care organization receiving the reduction shall not pass the cost of the reduction onto any hospital with which it has a contract to provide services to the Medicaid recipients enrolled in the organization.

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Section 309.30.35. CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES

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The Director of Job and Family Services shall amend rules 115690
adopted under section 5111.02 of the Revised Code as necessary to 115691
continue, for the period beginning July 1, 2011, through June 30, 115692
2013, the Medicaid reimbursement rates in effect from October 1, 115693
2009, through June 30, 2011, for Medicaid-covered hospital 115694
inpatient services and hospital outpatient services that are paid 115695
under the prospective payment system established in those rules. 115696
The rates shall continue to be in effect, notwithstanding any 115697
policies or rules the Director adopts or amends pursuant to the 115698
section of this act titled "Reduction of Medicaid Expenditures." 115699

Section 309.30.40. MANAGED CARE PERFORMANCE PAYMENT PROGRAM 115700

At the beginning of each quarter, or as soon as possible 115701
thereafter, the Director of Job and Family Services shall certify 115702
to the Director of Budget and Management the amount withheld in 115703
accordance with section 5111.179 of the Revised Code for purposes 115704
of the Managed Care Performance Payment Program. Upon receiving 115705
certification, the Director of Budget and Management shall 115706
transfer cash in the amount certified from the General Revenue 115707
Fund to the Managed Care Performance Payment Fund. The transferred 115708
cash is hereby appropriated. Appropriation item 600525, Health 115709
Care/Medicaid, is hereby reduced by the amount of the transfer. 115710

**Section 309.30.50. COORDINATION OF CARE FOR COVERED FAMILIES 115711
AND CHILDREN PENDING MEDICAID MANAGED CARE ENROLLMENT** 115712

(A) As used in this section, "Medicaid managed care" means 115713
the care management system established under section 5111.16 of 115714
the Revised Code. 115715

(B) The departments of Job and Family Services and Health 115716
shall work together on the issue of achieving efficiencies in the 115717
delivery of medical assistance provided under Medicaid to families 115718
and children. 115719

(C) As part of their work under division (B) of this section, 115720
the departments shall develop a proposal for coordinating medical 115721
assistance provided to families and children under Medicaid while 115722
they wait to be enrolled in Medicaid managed care. In developing 115723
the proposal, the departments may do the following: 115724

(1) Conduct research on the status of families and children 115725
waiting to be enrolled in Medicaid managed care, including 115726
research on the reasons for the wait and the utilization of 115727
medical assistance during the waiting period; 115728

(2) Conduct a review of ways to help families and children 115729
receive medical assistance in the most appropriate setting while 115730
they wait to be enrolled in Medicaid managed care; 115731

(3) Develop recommendations for a coordinated, cost-effective 115732
system of helping families and children waiting to be enrolled in 115733
Medicaid managed care find the medical assistance they need during 115734
the waiting period; 115735

(4) For the purpose of reducing the waiting period for 115736
enrollment in Medicaid managed care, develop recommendations for 115737
improving the enrollment processes. 115738

(D) As part of the work that is done under division (B) of 115739
this section, the Department of Job and Family Services may submit 115740
to the United States Secretary of Health and Human Services a 115741
request for a Medicaid state plan amendment to authorize payment 115742
for Medicaid-reimbursable targeted case management services that 115743
are provided in connection with the Help Me Grow Program and for 115744
services provided under the Program. Each quarter during fiscal 115745
year 2012 and fiscal year 2013 following approval of the Medicaid 115746
state plan amendment, the Department of Job and Family Services 115747
shall certify to the Director of Budget and Management the state 115748
and federal share of the amount the Department of Job and Family 115749
Services has expended that quarter for services under this 115750

section. On receipt of each quarterly certification to the 115751
Director of Budget and Management shall decrease appropriation 115752
from appropriation item 440459, Help Me Grow, an amount equal to 115753
the state share of the certified expenditures and increase 115754
appropriation item 600525, Health Care/Medicaid by an equal amount 115755
and adjust the Federal share accordingly. 115756

Section 309.30.60. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT 115757
SYSTEM FOR NURSING FACILITIES 115758

(A) As used in this section: 115759

"Franchise permit fee," "Medicaid days," "nursing facility," 115760
and "provider" have the same meanings as in section 5111.20 of the 115761
Revised Code. 115762

"Nursing facility services" means nursing facility services 115763
covered by the Medicaid program that a nursing facility provides 115764
to a resident of the nursing facility who is a Medicaid recipient 115765
eligible for Medicaid-covered nursing facility services. 115766

(B) Except as otherwise provided by this section, the 115767
provider of a nursing facility that has a valid Medicaid provider 115768
agreement on June 30, 2011, and a valid Medicaid provider 115769
agreement during fiscal year 2012 shall be paid, for nursing 115770
facility services the nursing facility provides during fiscal year 115771
2012, the rate calculated for the nursing facility under sections 115772
5111.20 to 5111.33 of the Revised Code with the following 115773
adjustments: 115774

(1) The cost per case mix-unit calculated under section 115775
5111.231 of the Revised Code, the rate for ancillary and support 115776
costs calculated under section 5111.24 of the Revised Code, the 115777
rate for tax costs calculated under section 5111.242 of the 115778
Revised Code, and the rate for capital costs calculated under 115779
section 5111.25 of the Revised Code shall each be increased by 115780

five and eight hundredths per cent; 115781

(2) The mean payment used in the calculation of the quality 115782
incentive payment made under section 5111.244 of the Revised Code 115783
shall be, weighted by Medicaid days, fourteen dollars and 115784
forty-one cents per Medicaid day. 115785

(C) If the franchise permit fee must be reduced or eliminated 115786
to comply with federal law, the Department of Job and Family 115787
Services shall reduce the amount it pays providers of nursing 115788
facility services under this section as necessary to reflect the 115789
loss to the state of the revenue and federal financial 115790
participation generated from the franchise permit fee. 115791

(D) The Department of Job and Family Services shall follow 115792
this section in determining the rate to be paid to the provider of 115793
a nursing facility that has a valid Medicaid provider agreement on 115794
June 30, 2011, and a valid Medicaid provider agreement during 115795
fiscal year 2012 notwithstanding anything to the contrary in 115796
sections 5111.20 to 5111.33 of the Revised Code. 115797

Section 309.30.70. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT 115798
SYSTEM FOR NURSING FACILITIES 115799

(A) As used in this section: 115800

"Franchise permit fee," "Medicaid days," "nursing facility," 115801
and "provider" have the same meanings as in section 5111.20 of the 115802
Revised Code. 115803

"Nursing facility services" means nursing facility services 115804
covered by the Medicaid program that a nursing facility provides 115805
to a resident of the nursing facility who is a Medicaid recipient 115806
eligible for Medicaid-covered nursing facility services. 115807

(B) Except as otherwise provided by this section, the 115808
provider of a nursing facility that has a valid Medicaid provider 115809
agreement on June 30, 2012, and a valid Medicaid provider 115810

agreement during fiscal year 2013 shall be paid, for nursing 115811
facility services the nursing facility provides during fiscal year 115812
2013, the rate calculated for the nursing facility under sections 115813
5111.20 to 5111.33 of the Revised Code with the following 115814
adjustments: 115815

(1) The cost per case mix-unit calculated under section 115816
5111.231 of the Revised Code, the rate for ancillary and support 115817
costs calculated under section 5111.24 of the Revised Code, the 115818
rate for tax costs calculated under section 5111.242 of the 115819
Revised Code, and the rate for capital costs calculated under 115820
section 5111.25 of the Revised Code shall each be increased by 115821
five and eight hundredths per cent; 115822

(2) Unless, pursuant to division (D) of section 5111.244 of 115823
the Revised Code, no quality incentive payment is to be made for 115824
fiscal year 2013, the mean payment used in the calculation of the 115825
quality incentive payment made under section 5111.244 of the 115826
Revised Code shall be, weighted by Medicaid days, fourteen dollars 115827
and sixty-three cents per Medicaid day. 115828

(C) If the franchise permit fee must be reduced or eliminated 115829
to comply with federal law, the Department of Job and Family 115830
Services shall reduce the amount it pays providers of nursing 115831
facility services under this section as necessary to reflect the 115832
loss to the state of the revenue and federal financial 115833
participation generated from the franchise permit fee. 115834

(D) The Department of Job and Family Services shall follow 115835
this section in determining the rate to be paid to the provider of 115836
a nursing facility that has a valid Medicaid provider agreement on 115837
June 30, 2012, and a valid Medicaid provider agreement during 115838
fiscal year 2013 notwithstanding anything to the contrary in 115839
sections 5111.20 to 5111.33 of the Revised Code. 115840

Section 309.30.73. NURSING FACILITY CAPACITY COUNCIL 115841

(A) As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) There is hereby created the Nursing Facility Capacity Council. The Council shall consist of the following members, each of whom shall be appointed not later than sixty days after the effective date of this section:

(1) One or more members of the Ohio Health Care Association, appointed by the executive director or chief administrative officer of the Association;

(2) One or more members of the Ohio Academy of Nursing Homes, appointed by the executive director or chief administrative officer of the Academy;

(3) One or more members of LeadingAge Ohio, appointed by the executive director or chief administrative officer of that organization;

(4) One or more employees of the Department of Job and Family Services, appointed by the Director of Job and Family Services;

(5) One or more employees of the Department of Aging, appointed by the Director of Aging;

(6) One or more employees of the Department of Health, appointed by the Director of Health;

(7) One or more employees of the Governor's Office of Health Transformation, appointed by the director of the Office.

Each member of the Council shall serve at the pleasure of the member's appointing authority. A member shall serve without compensation, except to the extent that serving on the Council is considered part of the member's regular duties of employment.

(C)(1) The Council shall examine the current and future capacity of nursing facilities in Ohio and the configuration of that capacity.

(2) If excess capacity in nursing facilities is identified 115872
pursuant to the examination conducted under division (C)(1) of 115873
this section, the Council shall determine the potential effects of 115874
the excess capacity and recommend actions the state or private 115875
industry may take to address the excess capacity. For each action 115876
recommended, the Council shall consider and explain the impact of 115877
the action on all of the following: 115878

(a) The excess capacity; 115879

(b) The nursing facilities that would be affected by the 115880
action; 115881

(c) State revenues and expenditures. 115882

(D) Not later than June 30, 2012, submit a written report of 115883
its findings and recommendations to the Governor and, in 115884
accordance with section 101.68 of the Revised Code, the General 115885
Assembly. On submission of the report, the Council shall cease to 115886
exist. 115887

Section 309.30.80. STUDY OF ICF/MR ISSUES 115888

(A) As used in this section: 115889

"Home and community-based services" has the same meaning as 115890
in section 5123.01 of the Revised Code. 115891

"ICF/MR" means an intermediate care facility for the mentally 115892
retarded as defined in section 5111.20 of the Revised Code. 115893

"ICF/MR services" means services covered by the Medicaid 115894
program that an ICF/MR provides to a Medicaid recipient eligible 115895
for the services. 115896

(B) The Departments of Job and Family Services and 115897
Developmental Disabilities shall study issues regarding the 115898
administration of, and Medicaid reimbursement for, ICF/MR 115899
services. In conducting the study, the Departments shall examine 115900

the following: 115901

(1) Revising the Individual Assessment Form Answer Sheet in a 115902
manner that provides a more accurate assessment of the acuity and 115903
care needs of individuals who need ICF/MR services, especially the 115904
acuity and care needs of such individuals who have intensive 115905
behavioral or medical needs; 115906

(2) Revising the Medicaid reimbursement formula for ICF/MR 115907
services to accomplish the following: 115908

(a) Ensure that reimbursement for capital costs is adequate 115909
for maintaining the capital assets of ICFs/MR in a manner that 115910
promotes the well being of the residents; 115911

(b) Provide capital incentives for reducing the capacity of 115912
ICFs/MR as necessary to achieve goals regarding the optimal 115913
capacity of ICFs/MR; 115914

(c) Ensure that wages paid individuals who provide direct 115915
care services to ICF/MR residents are sufficient for ICFs/MR to 115916
meet staffing and quality requirements; 115917

(d) Provide incentives for high quality services; 115918

(e) Achieve other goals developed for the purpose of 115919
improving the appropriateness and sufficiency of Medicaid 115920
reimbursements for ICF/MR services. 115921

(3) Transferring the powers and duties regarding ICF/MR 115922
services from the Department of Job and Family Services to the 115923
Department of Developmental Disabilities. 115924

(C) The Departments shall examine the issue of revising the 115925
Individual Assessment Form Answer Sheet before examining the issue 115926
of revising the Medicaid reimbursement formula for ICF/MR 115927
services. Not later than October 1, 2011, the Departments shall 115928
prepare a report of the study conducted under this section and 115929
submit the report to the Governor and, in accordance with section 115930

101.68 of the Revised Code, the General Assembly. 115931

(D) At the same time that the Departments conduct the study 115932
under this section, they shall work with the Governor's Office of 115933
Health Transformation and persons interested in the issue of 115934
ICF/MR services to develop recommendations regarding the 115935
following: 115936

(1) Goals regarding the ratio of home and community-based 115937
services and ICF/MR services provided under the Medicaid program 115938
that take into account goals regarding the optimal capacity of 115939
ICFs/MR; 115940

(2) The roles and responsibilities of both of the following: 115941

(a) ICFs/MR owned and operated by the Department of 115942
Developmental Disabilities; 115943

(b) Providers of home and community-based services. 115944

(3) Simplifying and eliminating duplicate regulations 115945
regarding ICFs/MR in a manner that lowers the cost of ICF/MR 115946
services. 115947

(E) The powers and duties regarding ICF/MR services shall not 115948
be transferred from the Department of Job and Family Services to 115949
the Department of Developmental Disabilities unless a state law is 115950
enacted that expressly authorizes the transfer. 115951

Section 309.30.90. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT 115952
SYSTEM FOR ICFs/MR 115953

(A) As used in this section: 115954

(1) "Change of operator," "entering operator," and "exiting 115955
operator" have the same meanings as in section 5111.65 of the 115956
Revised Code. 115957

(2) "Continuing ICF/MR" means an ICF/MR to which either of 115958
the following apply: 115959

(a) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2011, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2012.

(b) The ICF/MR undergoes a change of operator that takes effect during fiscal year 2012, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2011, and the entering operator has a valid Medicaid provider agreement for the ICF/MR for at least part of fiscal year 2012 after the change of operator takes effect.

(3) "Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

(4) "ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.

(5) "ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.

(6) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days.

(7) "New ICF/MR" means an ICF/MR to which section 5111.255 of the Revised Code applies for fiscal year 2012.

(8) "Per diem rate" means the per diem rate calculated pursuant to sections 5111.20 to 5111.33 of the Revised Code.

(B) If the mean total per diem rate for all ICFs/MR in this state for fiscal year 2012, weighted by May 2011 Medicaid days and

calculated as of July 1, 2011, exceeds \$279.81, the Department of 115990
Job and Family Services shall reduce, for fiscal year 2012, the 115991
total per diem rate for each continuing ICF/MR by a percentage 115992
that is equal to the percentage by which the mean total per diem 115993
rate exceeds \$279.81. 115994

(C) The provider of a new ICF/MR shall be paid, for ICF/MR 115995
services the ICF/MR provides during fiscal year 2012, the rate 115996
calculated for the ICF/MR under section 5111.255 of the Revised 115997
Code reduced by the same percentage that the rate for a continuing 115998
ICF/MR is reduced under division (B) of this section. 115999

(D) The rate of an ICF/MR set pursuant to this section shall 116000
not be subject to any adjustments authorized by sections 5111.20 116001
to 5111.33 of the Revised Code, or any rule authorized by those 116002
sections, during the remainder of fiscal year 2012. 116003

(E) If the franchise permit fee must be reduced or eliminated 116004
to comply with federal law, the Department of Job and Family 116005
Services shall reduce the amount it pays providers of ICF/MR 116006
services under this section as necessary to reflect the loss to 116007
the state of the revenue and federal financial participation 116008
generated from the franchise permit fee. 116009

(F) The Department of Job and Family Services shall follow 116010
this section in determining the rate to be paid to the provider of 116011
a continuing ICF/MR or new ICF/MR for ICF/MR services provided 116012
during fiscal year 2012 notwithstanding anything to the contrary 116013
in sections 5111.20 to 5111.33 of the Revised Code, except 116014
sections 5111.258 and 5111.291 of the Revised Code. 116015

Section 309.33.10. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT 116016
SYSTEM FOR ICFs/MR 116017

(A) As used in this section: 116018

(1) "Change of operator," "entering operator," and "exiting 116019

operator" have the same meanings as in section 5111.65 of the Revised Code. 116020
116021

(2) "Continuing ICF/MR" means an ICF/MR to which either of the following apply: 116022
116023

(a) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2012, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2013. 116024
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(b) The ICF/MR undergoes a change of operator that takes effect during fiscal year 2013, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2012, and the entering operator has a valid Medicaid provider agreement for the ICF/MR for at least part of fiscal year 2013 after the change of operator takes effect. 116027
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(3) "Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code. 116033
116034

(4) "ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code. 116035
116036
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(5) "ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services. 116038
116039
116040

(6) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days. 116041
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(7) "New ICF/MR" means an ICF/MR to which section 5111.255 of the Revised Code applies for fiscal year 2013. 116048
116049

(8) "Per diem rate" means the per diem rate calculated 116050
pursuant to sections 5111.20 to 5111.33 of the Revised Code. 116051

(B) If the mean total per diem rate for all ICFs/MR in this 116052
state for fiscal year 2013, weighted by May 2012 Medicaid days and 116053
calculated as of July 1, 2012, exceeds \$280.14, the Department of 116054
Job and Family Services shall reduce, for fiscal year 2013, the 116055
total per diem rate for each continuing ICF/MR by a percentage 116056
that is equal to the percentage by which the mean total per diem 116057
rate exceeds \$280.14. 116058

(C) The provider of a new ICF/MR shall be paid, for ICF/MR 116059
services the ICF/MR provides during fiscal year 2013, the rate 116060
calculated for the ICF/MR under section 5111.255 of the Revised 116061
Code reduced by the same percentage that the rate for a continuing 116062
ICF/MR is reduced under division (B) of this section. 116063

(D) The rate of an ICF/MR set pursuant to this section shall 116064
not be subject to any adjustments authorized by sections 5111.20 116065
to 5111.33 of the Revised Code, or any rule authorized by those 116066
sections, during the remainder of fiscal year 2013. 116067

(E) If the franchise permit fee must be reduced or eliminated 116068
to comply with federal law, the Department of Job and Family 116069
Services shall reduce the amount it pays providers of ICF/MR 116070
services under this section as necessary to reflect the loss to 116071
the state of the revenue and federal financial participation 116072
generated from the franchise permit fee. 116073

(F) The Department of Job and Family Services shall follow 116074
this section in determining the rate to be paid to the provider of 116075
a continuing ICF/MR or new ICF/MR for ICF/MR services provided 116076
during fiscal year 2013 notwithstanding anything to the contrary 116077
in sections 5111.20 to 5111.33 of the Revised Code, except 116078
sections 5111.258 and 5111.291 of the Revised Code. 116079

Section 309.33.20. WAIVER SERVICES TRANSFERRED TO DEPARTMENT 116080
OF DEVELOPMENTAL DISABILITIES 116081

The Director of Budget and Management shall establish line 116082
items for use by the Department of Developmental Disabilities for 116083
purposes regarding the Department's assumption of powers and 116084
duties under section 5111.871 of the Revised Code regarding the 116085
Medicaid waiver component known as the Transitions Developmental 116086
Disabilities Waiver. The Department of Developmental Disabilities 116087
shall certify to the Director of Budget and Management and the 116088
Director of Job and Family Services the appropriation amounts, in 116089
fiscal year 2012 and fiscal year 2013, necessary for the 116090
Department of Developmental Disabilities to fulfill its 116091
obligations regarding the new powers and duties without 116092
duplicating administration or services that remain with the 116093
Department of Job and Family Services. The Department of Job and 116094
Family Services shall certify to the Director of Budget and 116095
Management that there is an equal reduction in the Department of 116096
Job and Family Services' administration and services as is being 116097
certified by the Department of Developmental Disabilities. 116098

Once all certifications required under this section have been 116099
submitted and approved by the Director of Budget and Management, 116100
the appropriation items established under this section are hereby 116101
appropriated in the amounts approved by the Director of Budget and 116102
Management. The appropriations to the Department of Developmental 116103
Disabilities in each fiscal year shall not exceed the aggregate 116104
amount of expenditures that the Department of Job and Family 116105
Services made in fiscal year 2011 for services provided under the 116106
Transitions Developmental Disabilities Waiver and related 116107
administrative costs. Appropriation item 600525, Health 116108
Care/Medicaid, is hereby reduced by the corresponding state and 116109
federal share of the amounts appropriated under this section to 116110
the Department of Developmental Disabilities in each fiscal year. 116111

Section 309.33.30. ADMINISTRATIVE ISSUES RELATED TO	116112
TERMINATION OF MEDICAID WAIVER PROGRAMS	116113
(A) As used in this section, "ODJFS or ODA Medicaid waiver component" means the following:	116114
	116115
(1) The Medicaid waiver component of the PASSPORT program created under section 173.40 of the Revised Code;	116116
	116117
(2) The Choices program created under section 173.403 of the Revised Code;	116118
	116119
(3) The Ohio Home Care program created under section 5111.861 of the Revised Code;	116120
	116121
(4) The Ohio Transitions II Aging Carve-Out program created under section 5111.862 of the Revised Code;	116122
	116123
(5) The Medicaid waiver component of the Assisted Living program created under section 5111.89 of the Revised Code.	116124
	116125
(B) If an ODJFS or ODA Medicaid waiver component is terminated under section 173.40, 173.403, 5111.861, 5111.862, or 5111.89 of the Revised Code, all of the following apply:	116126
	116127
	116128
(1) All applicable statutes, and all applicable rules, standards, guidelines, or orders issued by the Director or Department of Job and Family Services or Director or Department of Aging before the component is terminated, shall remain in full force and effect on and after that date, but solely for purposes of concluding the component's operations, including fulfilling the Departments' legal obligations for claims arising from the component relating to eligibility determinations, covered medical assistance provided to eligible persons, and recovering erroneous overpayments.	116129
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(2) Notwithstanding the termination of the component, the right of subrogation for the cost of medical assistance given under section 5101.58 of the Revised Code to the Department of Job	116139
	116140
	116141

and Family Services and an assignment of the right to medical 116142
assistance given under section 5101.59 of the Revised Code to the 116143
Department continue to apply with respect to the component and 116144
remain in force to the full extent provided under those sections. 116145

(3) The Departments of Job and Family Services and Aging may 116146
use appropriated funds to satisfy any claims or contingent claims 116147
for medical assistance provided under the component before the 116148
component's termination. 116149

(4) Neither department has liability under the component to 116150
reimburse any provider or other person for claims for medical 116151
assistance rendered under the component after it is terminated. 116152

(C) The Directors of Job and Family Services and Aging may 116153
adopt rules in accordance with Chapter 119. of the Revised Code to 116154
implement this section. 116155

Section 309.33.40. MEDICAID QUALITY IMPROVEMENT INITIATIVES 116156
FOR CHILDREN 116157

Building on the quality improvement work of the Best Evidence 116158
for Advancing Child Health in Ohio Now (BEACON) Council, the 116159
Departments of Health, Mental Health, and Job and Family Services, 116160
in conjunction with the Governor's Office of Health 116161
Transformation, may seek assistance from, and work with, hospitals 116162
and other provider groups to identify specific targets and 116163
initiatives to reduce the cost, and improve the quality, of 116164
medical assistance provided under the Medicaid program to 116165
children. At a minimum, the targets and initiatives shall focus on 116166
reducing all of the following: 116167

(A) Avoidable hospitalizations; 116168

(B) Inappropriate emergency room utilization; 116169

(C) Use of multiple medications when not medically indicated; 116170

(D) The state's rate of premature births; 116171

(E) The state's rate of elective, preterm births.	116172
If the Departments of Health, Mental Health, and Job and Family Services identify initiatives under this section, they shall make the initiatives available on their internet web sites. The Departments shall also make a list of hospitals and other provider groups involved in the initiatives available on their internet web sites.	116173 116174 116175 116176 116177 116178
Section 309.33.50. EXPANSION AND EVALUATION OF PACE PROGRAM	116179
(A) In order to effectively administer and manage growth within the PACE Program, the Director of Aging, in consultation with the Director of Job and Family Services, may expand the PACE Program to regions of the state beyond those currently served by the PACE Program if both of the following apply:	116180 116181 116182 116183 116184
(1) Funding is available for the expansion.	116185
(2) The Directors of Aging and Job and Family Services mutually determine, taking into consideration the results of the evaluation conducted under division (B) of this section, that the PACE Program is a cost effective alternative to nursing home care.	116186 116187 116188 116189
(B) The Director of Aging shall contract with Miami University's Scripps Gerontology Center for an evaluation of the PACE program. The contract shall require the Center, in conducting the evaluation, to collaborate with the Director and PACE providers and to take into account the PACE Program's unique features.	116190 116191 116192 116193 116194 116195
(C) The Directors of Aging and Job and Family Services shall use their best efforts to achieve an arrangement with the United States Centers for Medicare and Medicaid Services (CMS) under which CMS agrees to share with the state any savings to the Medicare program resulting from an expansion of the PACE Program.	116196 116197 116198 116199 116200
(D) If the PACE Program is expanded, the Director of Aging	116201

may not decrease the number of individuals in Cuyahoga and 116202
Hamilton counties and parts of Butler, Clermont, and Warren 116203
counties who are participants in the PACE Program below the number 116204
of individuals in those counties and parts of counties who were 116205
participants in the PACE Program on July 1, 2011. 116206

Section 309.33.60. REPEAL OF THE CHILDREN'S BUY-IN PROGRAM 116207

(A) Notwithstanding sections 5101.5211 to 5101.5216 of the 116208
Revised Code and all references in the Revised Code to those 116209
sections or the Children's Buy-In Program, no person may enroll in 116210
the Program on or after the effective date of this section. 116211

Notwithstanding this act's repeal on October 1, 2011, of the 116212
statutes under which the Program is operated, persons enrolled in 116213
the Program immediately prior to that date may continue to receive 116214
services under the Program, as if those statutes were not 116215
repealed. Such persons may receive the services through December 116216
31, 2011, as long as they remain eligible for the Program. 116217

(B) Commencing on the effective date of this section, the 116218
Director of Job and Family Services shall take steps as necessary 116219
to transition persons enrolled in the Program to other health 116220
coverage options and otherwise conclude Program operations. 116221

All Program-related rules, standards, guidelines, or orders 116222
issued by the Director or Department of Job and Family Services 116223
prior to October 1, 2011, shall remain in full force and effect on 116224
and after that date, but solely for purposes of concluding the 116225
Program's operations. Such purposes include permitting eligible 116226
persons to receive services under the Program through December 31, 116227
2011, as authorized by this section, and fulfilling the 116228
Department's legal obligations for claims arising from the Program 116229
relating to eligibility determinations, covered medical services 116230
rendered to eligible persons, and recovering erroneous 116231
overpayments. 116232

(C) Notwithstanding this act's repeal of the statutes 116233
authorizing the Program, the right of subrogation for the cost of 116234
medical services and care given under section 5101.58 of the 116235
Revised Code to the Department and an assignment of the right to 116236
medical support given under section 5101.59 of the Revised Code to 116237
the Department continue to apply with respect to the Program and 116238
remain in force to the full extent provided under those sections. 116239

(D) The Department may use appropriated funds to satisfy any 116240
claims or contingent claims for services rendered to Program 116241
participants prior to October 1, 2011, and to eligible persons who 116242
receive services under the Program through December 31, 2011, as 116243
authorized by this section. The Department has no liability under 116244
the Program to reimburse any provider or other person for claims 116245
for services rendered on or after January 1, 2012. 116246

(E) The Department may adopt rules in accordance with section 116247
111.15 of the Revised Code to implement this section. 116248

Section 309.33.70. CONTINUATION OF DISPENSING FEE FOR 116249
NONCOMPOUNDED DRUGS 116250

The Medicaid dispensing fee for each noncompounded drug 116251
covered by the Medicaid program shall be \$1.80 for the period 116252
beginning July 1, 2011, and ending on the effective date of a 116253
rule, or an amendment to a rule, changing the amount of the fee 116254
that the Director of Job and Family Services adopts or amends 116255
under section 5111.02 of the Revised Code. 116256

Section 309.33.80. MONEY FOLLOWS THE PERSON ENHANCED 116257
REIMBURSEMENT FUND 116258

The Money Follows the Person Enhanced Reimbursement Fund, 116259
created by Section 751.20 of Am. Sub. H.B. 562 of the 127th 116260
General Assembly, shall continue to exist in the state treasury 116261
for fiscal year 2012 and fiscal year 2013. The federal payments 116262

made to the state under subsection (e) of section 6071 of the 116263
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 116264
shall be deposited into the fund. The Department of Job and Family 116265
Services shall continue to use money deposited into the fund for 116266
system reform activities related to the Money Follows the Person 116267
demonstration project. 116268

Section 309.33.90. MEDICARE PART D 116269

The foregoing appropriation item 600526, Medicare Part D, may 116270
be used by the Department of Job and Family Services for the 116271
implementation and operation of the Medicare Part D requirements 116272
contained in the "Medicare Prescription Drug, Improvement, and 116273
Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 116274
the request of the Department of Job and Family Services, the 116275
Director of Budget and Management may transfer the state share of 116276
appropriations between appropriation item 600525, Health 116277
Care/Medicaid, or appropriation item 600526, Medicare Part D. If 116278
the state share of appropriation item 600525, Health 116279
Care/Medicaid, is adjusted, the Director of Budget and Management 116280
shall adjust the federal share accordingly. The Department of Job 116281
and Family Services shall provide notification to the Controlling 116282
Board of any transfers at the next scheduled Controlling Board 116283
meeting. 116284

Section 309.35.10. REBALANCING LONG-TERM CARE 116285

(A) As used in this section: 116286

"Balancing Incentive Payments Program" means the program 116287
established under section 10202 of the Patient Protection and 116288
Affordable Care Act. 116289

"Long-term services and supports" has the same meaning as in 116290
section 10202(f)(1) of the Patient Protection and Affordable Care 116291
Act. 116292

"Non-institutionally-based long-term services and supports" 116293
has the same meaning as in section 10202(f)(1)(B) of the Patient 116294
Protection and Affordable Care Act. 116295

"Patient Protection and Affordable Care Act" means Public Law 116296
111-148. 116297

(B) The Departments of Job and Family Services, Aging, and 116298
Developmental Disabilities shall continue efforts to achieve a 116299
sustainable and balanced delivery system for long-term services 116300
and supports. In so doing, the Departments shall strive to realize 116301
the following goals by June 30, 2013: 116302

(1) Having at least fifty per cent of Medicaid recipients who 116303
are sixty years of age or older and need long-term services and 116304
supports utilize non-institutionally-based long-term services and 116305
supports; 116306

(2) Having at least sixty per cent of Medicaid recipients who 116307
are less than sixty years of age and have cognitive or physical 116308
disabilities for which long-term services and supports are needed 116309
utilize non-institutionally-based long-term services and supports. 116310

(C) If the Department of Job and Family Services determines 116311
that participating in the Balancing Incentive Payments Program 116312
will assist in achieving the goals specified in division (B) of 116313
this section, the Department may apply to the United States 116314
Secretary of Health and Human Services to participate in the 116315
program. Any funds the state receives as the result of the 116316
enhanced federal financial participation provided to states 116317
participating in the Balancing Incentive Payments Program shall be 116318
deposited into the Balancing Incentive Payments Program Fund, 116319
which is hereby created in the state treasury. The Department of 116320
Job and Family Services shall use the money in the fund in 116321
accordance with section 10202(c)(4) of the Patient Protection and 116322
Affordable Care Act. 116323

Section 309.35.20. BALANCING INCENTIVE PAYMENTS PROGRAM FUND	116324
The Director of Job and Family Services may seek Controlling	116325
Board approval to make expenditures from the Balancing Incentive	116326
Payments Program Fund.	116327
Section 309.35.30. DUAL ELIGIBLE INTEGRATED CARE	116328
DEMONSTRATION PROJECT	116329
The Director of Job and Family Services may seek Controlling	116330
Board approval to make expenditures from the Integrated Care	116331
Delivery Systems Fund.	116332
Section 309.35.40. OHIO ACCESS SUCCESS PROJECT AND	116333
IDENTIFICATION OF OVERPAYMENTS	116334
(A) Notwithstanding any limitations in sections 3721.51 and	116335
3721.56 of the Revised Code, in each fiscal year, cash from the	116336
Nursing Home Franchise Permit Fee Fund (Fund 5R20) may be used by	116337
the Department of Job and Family Services for the following	116338
purposes:	116339
(1) Up to \$3,000,000 in each fiscal year to fund the state	116340
share of audits or limited reviews of Medicaid providers;	116341
(2) Up to \$450,000 in each fiscal year to provide one-time	116342
transitional benefits under the Ohio Access Success Project that	116343
the Director of Job and Family Services may establish under	116344
section 5111.97 of the Revised Code.	116345
(B) On July 1, 2011, or as soon as possible thereafter, the	116346
Director of Budget and Management shall transfer the cash balance	116347
in the Home and Community-Based Services for the Aged Fund (Fund	116348
4J50) to the Nursing Home Franchise Permit Fee Fund (Fund 5R20).	116349
The transferred cash is hereby appropriated. Upon completion of	116350
the transfer, Fund 4J50 is abolished. The Director shall cancel	116351
any existing encumbrances against appropriation item 600613,	116352

Nursing Facility Bed Assessments, and appropriation item 600618, 116353
Residential State Supplement Payments, and reestablish them 116354
against appropriation item 600608, Medicaid - Nursing Facilities. 116355

Section 309.35.50. PROVIDER FRANCHISE FEE OFFSETS 116356

(A) At least quarterly, the Director of Job and Family 116357
Services shall certify to the Director of Budget and Management 116358
both of the following: 116359

(1) The amount of offsets withheld under section 3721.541 of 116360
the Revised Code from payments made from the General Revenue Fund. 116361

(2) The amount of offsets withheld under section 5112.341 of 116362
the Revised Code from payments made from the General Revenue Fund. 116363

(B) The Director of Budget and Management may transfer cash 116364
from the General Revenue Fund to all of the following: 116365

(1) The Nursing Home Franchise Permit Fee Fund (Fund 5R20), 116366
in accordance with section 3721.56 of the Revised Code; 116367

(2) The ICF/MR Bed Assessments Fund (Fund 4K10). 116368

(C) Amounts transferred pursuant to this section are hereby 116369
appropriated. 116370

Section 309.35.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF 116371
DEVELOPMENTAL DISABILITIES 116372

The Department of Job and Family Services may transfer cash 116373
in each fiscal year from the ICF/MR Bed Assessments Fund (Fund 116374
4K10) to the Home and Community-Based Services Fund (Fund 4K80), 116375
used by the Department of Developmental Disabilities. The amount 116376
to be transferred shall be agreed to by both departments. The 116377
transfer may occur on a quarterly basis or on a schedule developed 116378
and agreed to by both departments. The transfer may be made using 116379
an intrastate transfer voucher. 116380

Section 309.35.70. HOSPITAL CARE ASSURANCE MATCH 116381

The foregoing appropriation item 600650, Hospital Care 116382
Assurance Match, shall be used by the Department of Job and Family 116383
Services solely for distributing funds to hospitals under section 116384
5112.08 of the Revised Code. 116385

Section 309.35.80. HEALTH CARE SERVICES ADMINISTRATION FUND 116386

Of the amount received by the Department of Job and Family 116387
Services during fiscal year 2012 and fiscal year 2013 from the 116388
first installment of assessments paid under section 5112.06 of the 116389
Revised Code and intergovernmental transfers made under section 116390
5112.07 of the Revised Code, the Director of Job and Family 116391
Services shall deposit \$350,000 in each fiscal year into the state 116392
treasury to the credit of the Health Care Services Administration 116393
Fund (Fund 5U30). 116394

Section 309.35.90. TRANSFERS OF OFFSETS TO THE HEALTH CARE 116395
SERVICES ADMINISTRATION FUND 116396

(A) As used in this section: 116397

"Hospital offset" means an offset from a hospital's Medicaid 116398
payment authorized by section 5112.991 of the Revised Code. 116399

"Vendor offset" means a reduction of a Medicaid payment to a 116400
Medicaid provider to correct a previous, incorrect Medicaid 116401
payment. 116402

(B) At least quarterly during fiscal year 2012 and fiscal 116403
year 2013, the Director of Job and Family Services shall certify 116404
to the Director of Budget and Management the amount of hospital 116405
offsets and vendor offsets for the period covered by the 116406
certification and the particular funds that would have been used 116407
to make the extra payments to providers if not for the offsets. 116408
The certification shall specify how much extra would have been 116409

taken from each of the funds if not for the hospital offsets and 116410
vendor offsets. 116411

(C) On receipt of a certification under division (B) of this 116412
section, the Director of Budget and Management shall transfer cash 116413
from the funds identified in the certification to the Health Care 116414
Services Administration Fund (Fund 5U30). The amount transferred 116415
from a fund shall equal the amount that would have been taken from 116416
the fund if not for the hospital offsets and vendor offsets as 116417
specified in the certification. The transferred cash is hereby 116418
appropriated. 116419

Section 309.37.10. PROVIDER APPLICATION FEES 116420

If receipts credited to the Health Care Services 116421
Administration Fund (Fund 5U30) exceed the amounts appropriated 116422
from the fund, the Director of Job and Family Services may seek 116423
Controlling Board approval to increase the appropriations in 116424
appropriation item 600654, Health Care Services Administration. 116425

Section 309.37.20. INTERAGENCY REIMBURSEMENT 116426

The Director of Job and Family Services may request the 116427
Director of Budget and Management to increase appropriation item 116428
600655, Interagency Reimbursement. Upon the approval of the 116429
Director of Budget and Management, the additional amounts are 116430
hereby appropriated. 116431

Section 309.37.30. MEDICAID PROGRAM SUPPORT FUND - STATE 116432

The foregoing appropriation item 600671, Medicaid Program 116433
Support, shall be used by the Department of Job and Family 116434
Services to pay for Medicaid services and contracts. The 116435
Department may also deposit to the Medicaid Program Support Fund 116436
(Fund 5C90) revenues received from other state agencies for 116437
Medicaid services under the terms of interagency agreements 116438

between the Department and other state agencies. 116439

Section 309.37.40. TRANSFERS OF IMD/DSH CASH TO THE 116440
DEPARTMENT OF MENTAL HEALTH 116441

The Department of Job and Family Services shall transfer cash 116442
from the Medicaid Program Support Fund (Fund 5C90), to the 116443
Behavioral Health Medicaid Services Fund (Fund 4X50), used by the 116444
Department of Mental Health, in accordance with an interagency 116445
agreement that delegates authority from the Department of Job and 116446
Family Services to the Department of Mental Health to administer 116447
specified Medicaid services. The transfer shall be made using an 116448
intrastate transfer voucher. 116449

Section 309.37.50. PRESCRIPTION DRUG COVERAGE UNDER MEDICAID 116450
MANAGED CARE 116451

(A) Not later than October 1, 2011, the Department of Job and 116452
Family Services shall enter into new contracts or amend existing 116453
contracts with health insuring corporations, pursuant to section 116454
5111.17 of the Revised Code, as the Department considers necessary 116455
to require, in accordance with section 5111.172 of the Revised 116456
Code, as amended by this act, that each health insuring 116457
corporation participating in the Medicaid care management system 116458
include coverage of prescription drugs for the Medicaid recipients 116459
who are enrolled in the health insuring corporation. 116460

(B) For a period of one hundred twenty days immediately 116461
following the effective date of the inclusion of prescription drug 116462
coverage under a new or amended contract with a health insuring 116463
corporation pursuant to division (A) of this section, both of the 116464
following apply: 116465

(1) If, immediately prior to the effective date of the 116466
coverage, a Medicaid recipient enrolled in the health insuring 116467
corporation was being treated with an antidepressant or 116468

antipsychotic described in division (B)(2) of section 5111.172 of 116469
the Revised Code, as amended by this act, the health insuring 116470
corporation shall provide coverage of the drug without imposing a 116471
prior authorization requirement. 116472

(2) Notwithstanding division (B)(3) of section 5111.172 of 116473
the Revised Code, as amended by this act, the health insuring 116474
corporation shall permit the health professional who was 116475
prescribing the drug to continue prescribing the drug for the 116476
Medicaid recipient, regardless of whether the prescriber is a 116477
psychiatrist as described in that division. 116478

Section 309.40. FAMILY STABILITY 116479

Section 309.40.10. FOOD STAMPS TRANSFER 116480

On July 1, 2011, or as soon as possible thereafter, the 116481
Director of Budget and Management may transfer up to \$1,000,000 116482
cash from the Food Stamp Program Fund (Fund 3840), to the Food 116483
Assistance Fund (Fund 5ES0). 116484

Section 309.40.20. NAME OF FOOD STAMP PROGRAM 116485

The Director of Job and Family Services is not required to 116486
amend rules regarding the Food Stamp Program to change the name of 116487
the program to the Supplemental Nutrition Assistance Program. The 116488
Director may refer to the program as the Food Stamp Program or the 116489
Food Assistance Program in rules and documents of the Department 116490
of Job and Family Services. 116491

Section 309.40.30. OHIO ASSOCIATION OF SECOND HARVEST FOOD 116492
BANKS 116493

The foregoing appropriation item 600540, Second Harvest Food 116494
Banks, shall be used to provide funds to the Ohio Association of 116495
Second Harvest Food Banks to purchase and distribute food 116496

products. 116497

Notwithstanding section 5101.46 of the Revised Code and any 116498
other provision in this bill, in addition to funds designated for 116499
the Ohio Association of Second Harvest Food Banks in this section, 116500
in fiscal year 2012 and fiscal year 2013, the Director of Job and 116501
Family Services shall provide assistance from eligible funds to 116502
the Ohio Association of Second Harvest Food Banks in an amount up 116503
to or equal to the assistance provided in state fiscal year 2011 116504
from all funds used by the Department, except the General Revenue 116505
Fund. 116506

Eligible nonfederal expenditures made by member food banks of 116507
the Association shall be counted by the Department of Job and 116508
Family Services toward the TANF maintenance of effort requirements 116509
of 42 U.S.C. 609(a)(7). The Director of Job and Family Services 116510
shall enter into an agreement with the Ohio Association of Second 116511
Harvest Food Banks, in accordance with sections 5101.80 and 116512
5101.801 of the Revised Code, to carry out the requirements under 116513
this section. 116514

Section 309.40.40. CHILD SUPPORT COLLECTIONS/TANF MOE 116515

The foregoing appropriation item 600658, Child Support 116516
Collections, shall be used by the Department of Job and Family 116517
Services to meet the TANF maintenance of effort requirements of 42 116518
U.S.C. 609(a)(7). When the state is assured that it will meet the 116519
maintenance of effort requirement, the Department of Job and 116520
Family Services may use funds from appropriation item 600658, 116521
Child Support Collections, to support public assistance 116522
activities. 116523

Section 309.50. CHILD WELFARE 116524

Section 309.50.10. DIFFERENTIAL RESPONSE 116525

In accordance with an independent evaluation of the Ohio Alternative Response Pilot Program that recommended statewide implementation, the Department of Job and Family Services shall plan the statewide expansion of the Ohio Alternative Response Pilot Program on a county by county basis, through a schedule determined by the Department. The program shall be known as the "differential response" approach as defined in section 2151.011 of the Revised Code. Notwithstanding provisions of Chapter 2151. of the Revised Code that refer to "differential response," "traditional response," and "alternative response," those provisions shall become effective on the scheduled date of expansion of the differential response approach to that county. Prior to statewide implementation, the Department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this section.

Section 309.50.20. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 116541

In collaboration with the county family and children first council, a county department of job and family services or public children services agency that receives an allocation from the Department of Job and Family Services from the foregoing appropriation item 600523, Children and Families Services, or 600533, Child, Family, and Adult Community & Protective Services, may transfer a portion of either or both allocations to a flexible funding pool as authorized by the section titled FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL.

Section 309.50.30. CHILD, FAMILY, AND ADULT COMMUNITY AND PROTECTIVE SERVICES 116551
116552

(A) The foregoing appropriation item 600533, Child, Family, and Adult Community & Protective Services, shall be distributed to each county department of job and family services using the

formula the Department of Job and Family Services uses when 116556
distributing Title XX funds to county departments of job and 116557
family services under section 5101.46 of the Revised Code. County 116558
departments shall use the funds distributed to them under this 116559
section as follows, in accordance with the written plan of 116560
cooperation entered into under section 307.983 of the Revised 116561
Code: 116562

(1) To assist individuals achieve or maintain 116563
self-sufficiency, including by reducing or preventing dependency 116564
among individuals with family income not exceeding two hundred per 116565
cent of the federal poverty guidelines; 116566

(2) Subject to division (B) of this section, to respond to 116567
reports of abuse, neglect, or exploitation of children and adults, 116568
including through the differential response approach program 116569
developed under Section 309.50.10 of this act; 116570

(3) To provide outreach and referral services regarding home 116571
and community-based services to individuals at risk of placement 116572
in a group home or institution, regardless of the individuals' 116573
family income and without need for a written application; 116574

(4) To provide outreach, referral, application assistance, 116575
and other services to assist individuals receive assistance, 116576
benefits, or services under Medicaid; Title IV-A programs, as 116577
defined in section 5101.80 of the Revised Code; the Supplemental 116578
Nutrition Assistance Program; and other public assistance 116579
programs. 116580

(B) Protective services may be provided to a child or adult 116581
as part of a response, under division (A)(2) of this section, to a 116582
report of abuse, neglect, or exploitation without regard to a 116583
child or adult's family income and without need for a written 116584
application. The protective services may be provided if the case 116585
record documents circumstances of actual or potential abuse, 116586

neglect, or exploitation.	116587
Section 309.50.40. ADOPTION ASSISTANCE LOAN	116588
Of the foregoing appropriation item 600634, Adoption	116589
Assistance Loan, the Department of Job and Family Services may use	116590
up to ten per cent for administration of adoption assistance loans	116591
pursuant to section 3107.018 of the Revised Code.	116592
Section 309.60. UNEMPLOYMENT COMPENSATION	116593
Section 309.60.10. FEDERAL UNEMPLOYMENT PROGRAMS	116594
All unexpended funds remaining at the end of fiscal year 2011	116595
that were appropriated and made available to the state under	116596
section 903(d) of the Social Security Act, as amended, in the	116597
foregoing appropriation item 600678, Federal Unemployment Programs	116598
(Fund 3V40), are hereby appropriated to the Department of Job and	116599
Family Services. Upon the request of the Director of Job and	116600
Family Services, the Director of Budget and Management may	116601
increase the appropriation for fiscal year 2012 by the amount	116602
remaining unspent from the fiscal year 2011 appropriation and may	116603
increase the appropriation for fiscal year 2013 by the amount	116604
remaining unspent from the fiscal year 2012 appropriation. The	116605
appropriation shall be used under the direction of the Department	116606
of Job and Family Services to pay for administrative activities	116607
for the Unemployment Insurance Program, employment services, and	116608
other allowable expenditures under section 903(d) of the Social	116609
Security Act, as amended.	116610
The amounts obligated pursuant to this section shall not	116611
exceed at any time the amount by which the aggregate of the	116612
amounts transferred to the account of the state under section	116613
903(d) of the Social Security Act, as amended, exceeds the	116614
aggregate of the amounts obligated for administration and paid out	116615

for benefits and required by law to be charged against the amounts 116616
transferred to the account of the state. 116617

Section 311.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 116618

General Revenue Fund 116619

GRF 029321 Operating Expenses \$ 435,168 \$ 435,168 116620

TOTAL GRF General Revenue Fund \$ 435,168 \$ 435,168 116621

TOTAL ALL BUDGET FUND GROUPS \$ 435,168 \$ 435,168 116622

OPERATING GUIDANCE 116623

The Chief Administrative Officer of the House of 116624
Representatives and the Clerk of the Senate shall determine, by 116625
mutual agreement, which of them shall act as fiscal agent for the 116626
Joint Committee on Agency Rule Review. Members of the Committee 116627
shall be paid in accordance with section 101.35 of the Revised 116628
Code. 116629

OPERATING EXPENSES 116630

On July 1, 2011, or as soon as possible thereafter, the 116631
Executive Director of the Joint Committee on Agency Rule Review 116632
may certify to the Director of Budget and Management the amount of 116633
the unexpended, unencumbered balance of the foregoing 116634
appropriation item 029321, Operating Expenses, at the end of 116635
fiscal year 2011 to be reappropriated to fiscal year 2012. The 116636
amount certified is hereby reappropriated to the same 116637
appropriation item for fiscal year 2012. 116638

On July 1, 2012, or as soon as possible thereafter, the 116639
Executive Director of the Joint Committee on Agency Rule Review 116640
may certify to the Director of Budget and Management the amount of 116641
the unexpended, unencumbered balance of the foregoing 116642
appropriation item 029321, Operating Expenses, at the end of 116643
fiscal year 2012 to be reappropriated to fiscal year 2013. The 116644
amount certified is hereby reappropriated to the same 116645

appropriation item for fiscal year 2013. 116646

Section 313.10. JCO JUDICIAL CONFERENCE OF OHIO 116647

General Revenue Fund 116648

GRF 018321 Operating Expenses \$ 720,000 \$ 720,000 116649

TOTAL GRF General Revenue Fund \$ 720,000 \$ 720,000 116650

General Services Fund Group 116651

4030 018601 Ohio Jury \$ 350,000 \$ 350,000 116652

Instructions

TOTAL GSF General Services Fund \$ 350,000 \$ 350,000 116653

Group

TOTAL ALL BUDGET FUND GROUPS \$ 1,070,000 \$ 1,070,000 116654

OHIO JURY INSTRUCTIONS FUND 116655

The Ohio Jury Instructions Fund (Fund 4030) shall consist of 116656
 grants, royalties, dues, conference fees, bequests, devises, and 116657
 other gifts received for the purpose of supporting costs incurred 116658
 by the Judicial Conference of Ohio in its activities as a part of 116659
 the judicial system of the state as determined by the Judicial 116660
 Conference Executive Committee. Fund 4030 shall be used by the 116661
 Judicial Conference of Ohio to pay expenses incurred in its 116662
 activities as a part of the judicial system of the state as 116663
 determined by the Judicial Conference Executive Committee. All 116664
 moneys accruing to Fund 4030 in excess of \$350,000 in fiscal year 116665
 2012 and in excess of \$350,000 in fiscal year 2013 are hereby 116666
 appropriated for the purposes authorized. 116667

No money in Fund 4030 shall be transferred to any other fund 116668
 by the Director of Budget and Management or the Controlling Board. 116669

Section 315.10. JSC THE JUDICIARY/SUPREME COURT 116670

General Revenue Fund 116671

GRF 005321 Operating Expenses - \$ 133,497,850 \$ 132,358,640 116672

		Judiciary/Supreme Court					
GRF	005401	State Criminal	\$	206,770	\$	206,770	116673
		Sentencing Council					
GRF	005406	Law Related Education	\$	236,172	\$	236,172	116674
GRF	005409	Ohio Courts	\$	2,150,000	\$	2,150,000	116675
		Technology Initiative					
TOTAL GRF		General Revenue Fund	\$	136,090,792	\$	134,951,582	116676
		General Services Fund Group					116677
6720	005601	Continuing Judicial Education	\$	172,142	\$	169,420	116678
TOTAL GSF		General Services Fund Group	\$	172,142	\$	169,420	116679
		Federal Special Revenue Fund Group					116680
3J00	005603	Federal Grants	\$	1,653,317	\$	1,605,717	116681
TOTAL FED		Federal Special Revenue Fund Group	\$	1,653,317	\$	1,605,717	116682
		State Special Revenue Fund Group					116683
4C80	005605	Attorney Services	\$	3,718,328	\$	3,695,192	116684
5HT0	005617	Court Interpreter Certification	\$	39,000	\$	39,000	116685
5T80	005609	Grants and Awards	\$	50,000	\$	50,000	116686
6A80	005606	Supreme Court Admissions	\$	1,223,340	\$	1,205,056	116687
TOTAL SSR		State Special Revenue Fund Group	\$	5,030,668	\$	4,989,248	116688
TOTAL ALL BUDGET FUND GROUPS			\$	142,946,919	\$	141,715,967	116689
		LAW-RELATED EDUCATION					116690
		The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary					116691 116692 116693 116694

students, expanding delinquency prevention programs, increasing 116695
activities for at-risk youth, and accessing additional public and 116696
private money for new programs. 116697

OHIO COURTS TECHNOLOGY INITIATIVE 116698

The foregoing appropriation item 005409, Ohio Courts 116699
Technology Initiative, shall be used to fund an initiative by the 116700
Supreme Court to facilitate the exchange of information and 116701
warehousing of data by and between Ohio courts and other justice 116702
system partners through the creation of an Ohio Courts Network, 116703
the delivery of technology services to courts throughout the 116704
state, including the provision of hardware, software, and the 116705
development and implementation of educational and training 116706
programs for judges and court personnel, and operation of the 116707
Commission on Technology and the Courts by the Supreme Court for 116708
the promulgation of statewide rules, policies, and uniform 116709
standards, and to aid in the orderly adoption and comprehensive 116710
use of technology in Ohio courts. 116711

CONTINUING JUDICIAL EDUCATION 116712

The Continuing Judicial Education Fund (Fund 6720) shall 116713
consist of fees paid by judges and court personnel for attending 116714
continuing education courses and other gifts and grants received 116715
for the purpose of continuing judicial education. The foregoing 116716
appropriation item 005601, Continuing Judicial Education, shall be 116717
used to pay expenses for continuing education courses for judges 116718
and court personnel. If it is determined by the Administrative 116719
Director of the Supreme Court that additional appropriations are 116720
necessary, the amounts are hereby appropriated. 116721

No money in Fund 6720 shall be transferred to any other fund 116722
by the Director of Budget and Management or the Controlling Board. 116723
Interest earned on money in Fund 6720 shall be credited to the 116724
fund. 116725

FEDERAL GRANTS 116726

The Federal Grants Fund (Fund 3J00) shall consist of grants 116727
and other moneys awarded to the Supreme Court (The Judiciary) by 116728
the United States Government or other entities that receive the 116729
moneys directly from the United States Government and distribute 116730
those moneys to the Supreme Court (The Judiciary). The foregoing 116731
appropriation item 005603, Federal Grants, shall be used in a 116732
manner consistent with the purpose of the grant or award. If it is 116733
determined by the Administrative Director of the Supreme Court 116734
that additional appropriations are necessary, the amounts are 116735
hereby appropriated. 116736

No money in Fund 3J00 shall be transferred to any other fund 116737
by the Director of Budget and Management or the Controlling Board. 116738
However, interest earned on money in Fund 3J00 shall be credited 116739
or transferred to the General Revenue Fund. 116740

ATTORNEY SERVICES 116741

The Attorney Services Fund (Fund 4C80), formerly known as the 116742
Attorney Registration Fund, shall consist of money received by the 116743
Supreme Court (The Judiciary) pursuant to the Rules for the 116744
Government of the Bar of Ohio. In addition to funding other 116745
activities considered appropriate by the Supreme Court, the 116746
foregoing appropriation item 005605, Attorney Services, may be 116747
used to compensate employees and to fund appropriate activities of 116748
the following offices established by the Supreme Court: the Office 116749
of Disciplinary Counsel, the Board of Commissioners on Grievances 116750
and Discipline, the Clients' Security Fund, and the Attorney 116751
Services Division. If it is determined by the Administrative 116752
Director of the Supreme Court that additional appropriations are 116753
necessary, the amounts are hereby appropriated. 116754

No money in Fund 4C80 shall be transferred to any other fund 116755
by the Director of Budget and Management or the Controlling Board. 116756

Interest earned on money in Fund 4C80 shall be credited to the 116757
fund. 116758

COURT INTERPRETER CERTIFICATION 116759

The Court Interpreter Certification Fund (Fund 5HT0) shall 116760
consist of money received by the Supreme Court (The Judiciary) 116761
pursuant to Rules 80 through 87 of the Rules of Superintendence 116762
for the Courts of Ohio. The foregoing appropriation item 005617, 116763
Court Interpreter Certification, shall be used to provide 116764
training, to provide the written examination, and to pay language 116765
experts to rate, or grade, the oral examinations of those applying 116766
to become certified court interpreters. If it is determined by the 116767
Administrative Director that additional appropriations are 116768
necessary, the amounts are hereby appropriated. 116769

No money in Fund 5HT0 shall be transferred to any other fund 116770
by the Director of Budget and Management or the Controlling Board. 116771
Interest earned on money in Fund 5HT0 shall be credited to the 116772
fund. 116773

GRANTS AND AWARDS 116774

The Grants and Awards Fund (Fund 5T80) shall consist of 116775
grants and other money awarded to the Supreme Court (The 116776
Judiciary) by the State Justice Institute, the Division of 116777
Criminal Justice Services, or other entities. The foregoing 116778
appropriation item 005609, Grants and Awards, shall be used in a 116779
manner consistent with the purpose of the grant or award. If it is 116780
determined by the Administrative Director of the Supreme Court 116781
that additional appropriations are necessary, the amounts are 116782
hereby appropriated. 116783

No money in Fund 5T80 shall be transferred to any other fund 116784
by the Director of Budget and Management or the Controlling Board. 116785
However, interest earned on money in Fund 5T80 shall be credited 116786
or transferred to the General Revenue Fund. 116787

SUPREME COURT ADMISSIONS				116788
The foregoing appropriation item 005606, Supreme Court				116789
Admissions, shall be used to compensate Supreme Court employees				116790
who are primarily responsible for administering the attorney				116791
admissions program under the Rules for the Government of the Bar				116792
of Ohio, and to fund any other activities considered appropriate				116793
by the court. Moneys shall be deposited into the Supreme Court				116794
Admissions Fund (Fund 6A80) under the Supreme Court Rules for the				116795
Government of the Bar of Ohio. If it is determined by the				116796
Administrative Director of the Supreme Court that additional				116797
appropriations are necessary, the amounts are hereby appropriated.				116798
No money in Fund 6A80 shall be transferred to any other fund				116799
by the Director of Budget and Management or the Controlling Board.				116800
Interest earned on money in Fund 6A80 shall be credited to the				116801
fund.				116802
Section 317.10. LEC LAKE ERIE COMMISSION				116803
Federal Special Revenue Fund Group				116804
3EP0 780603 Lake Erie Federal	\$	95,750	\$ 95,750	116805
Grants				
TOTAL FED Federal Special Revenue	\$	95,750	\$ 95,750	116806
Fund Group				
State Special Revenue Fund Group				116807
4C00 780601 Lake Erie Protection	\$	400,000	\$ 400,000	116808
Fund				
5D80 780602 Lake Erie Resources	\$	261,783	\$ 250,143	116809
Fund				
TOTAL SSR State Special Revenue				116810
Fund Group	\$	661,783	\$ 650,143	116811
TOTAL ALL BUDGET FUND GROUPS	\$	757,533	\$ 745,893	116812
Section 319.10. LRS LEGAL RIGHTS SERVICE				116814

General Revenue Fund					116815
GRF 054321	Support Services	\$	97,255	\$	24,314 116816
GRF 054401	Ombudsman	\$	142,003	\$	35,750 116817
TOTAL GRF	General Revenue Fund	\$	239,258	\$	60,064 116818
General Services Fund Group					116819
5M00 054610	Settlements	\$	181,352	\$	32,839 116820
TOTAL GSF	General Services				116821
Fund Group		\$	181,352	\$	32,839 116822
Federal Special Revenue Fund Group					116823
3050 054602	Protection and Advocacy - Developmentally Disabled	\$	1,662,991	\$	415,748 116824
3AG0 054613	Protection and Advocacy - Voter Accessibility	\$	135,000	\$	33,752 116825
3B80 054603	Protection and Advocacy - Mentally Ill	\$	1,152,677	\$	288,170 116826
3CA0 054615	Work Incentives Planning and Assistance	\$	355,000	\$	88,752 116827
3N30 054606	Protection and Advocacy - Individual Rights	\$	591,112	\$	147,779 116828
3N90 054607	Assistive Technology	\$	135,000	\$	33,751 116829
3R90 054616	Developmental Disability Publications	\$	130,000	\$	32,500 116830
3T20 054609	Client Assistance Program	\$	435,000	\$	108,752 116831
3X10 054611	Protection and	\$	235,000	\$	58,752 116832

	Advocacy -				
	Beneficiaries of				
	Social Security				
3Z60 054612	Protection and	\$	151,624	\$	37,907 116833
	Advocacy - Traumatic				
	Brain Injury				
TOTAL FED	Federal Special Revenue				116834
Fund Group		\$	4,983,404	\$	1,245,863 116835
State Special Revenue	Fund Group				116836
5AE0 054614	Grants and Contracts	\$	74,600	\$	18,652 116837
TOTAL SSR	State Special Revenue	\$	74,600	\$	18,652 116838
Fund Group					
TOTAL ALL BUDGET	FUND GROUPS	\$	5,478,614	\$	1,357,418 116839

Section 319.20. CONVERSION OF LEGAL RIGHTS SERVICE TO A NONPROFIT ENTITY 116841
 116842

(A) Not later than December 31, 2011, the administrator of the Legal Rights Service, in consultation with the Legal Rights Service Commission, shall establish a nonprofit entity to provide advocacy services and a client assistance program for people with disabilities. The Legal Rights Service may subcontract with the nonprofit entity to perform any functions that the Legal Rights Service is permitted or required to perform. 116843
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(B)(1) Not later than September 30, 2012, and subject to division (B)(2) of this section, the Governor shall designate the nonprofit entity established under division (A) of this section to serve as the state's protection and advocacy system, as provided under 42 U.S.C. 15001, and as the state's client assistance program, as provided under 29 U.S.C. 732. On October 1, 2012, pursuant to section 5123.60 of the Revised Code, as enacted by this act, the nonprofit entity is the Ohio Protection and Advocacy System. 116850
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(2) The Governor shall make the designation only if the 116859
nonprofit entity complies with all federal law regarding a 116860
protection and advocacy system and client assistance program. 116861

(C) Effective October 1, 2012, the Legal Rights Service, the 116862
Legal Rights Service Commission, and the Ombudsperson Section of 116863
the Legal Rights Service are abolished. 116864

Any aspect of the function of the Legal Rights Service, Legal 116865
Rights Service Commission, and the Ombudsperson Section of the 116866
Legal Rights Service commenced, but not completed on October 1, 116867
2012 shall be completed by the nonprofit entity in the same 116868
manner, and with the same effect, as if completed by the Legal 116869
Rights Service, Legal Rights Service Commission, and the 116870
Ombudsperson Section of the Legal Rights Service as they existed 116871
immediately prior to October 1, 2012. No validation, cure, right, 116872
privilege, remedy, obligation, or liability pertaining to the 116873
Legal Rights Service, Legal Rights Service Commission, and the 116874
Ombudsperson Section of the Legal Rights Service is lost or 116875
impaired by reason of the abolishment of the Legal Rights Service, 116876
Legal Rights Service Commission, and the Ombudsperson Section of 116877
the Legal Rights Service. Each such validation, cure, right, 116878
privilege, remedy, obligation, or liability shall be administered 116879
by the nonprofit entity established under division (A) of this 116880
section. 116881

Any action or proceeding that is related to the functions or 116882
duties of the Legal Rights Service, Legal Rights Service 116883
Commission, and the Ombudsperson Section of the Legal Rights 116884
Service pending on September 30, 2012, is not affected by the 116885
abolishment of the Legal Rights Service, the Legal Rights Service 116886
Commission, and the Ombudsperson Section of the Legal Rights 116887
Service and shall be prosecuted or defended in the name of the 116888
nonprofit entity. In all such actions and proceedings the 116889
nonprofit entity, on application to the court, shall be 116890

substituted as a party. 116891

(D) The foregoing appropriation items 054321, Support 116892
 Services, and 054401, Ombudsman, may be used to support the costs 116893
 of transitioning the Ohio Legal Rights Service into a nonprofit 116894
 entity. 116895

Section 321.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE 116896

General Revenue Fund 116897

GRF 028321 Legislative Ethics \$ 550,000 \$ 550,000 116898
 Committee

TOTAL GRF General Revenue Fund \$ 550,000 \$ 550,000 116899

General Services Fund Group 116900

4G70 028601 Joint Legislative \$ 100,000 \$ 100,000 116901
 Ethics Committee

TOTAL GSF General Services Fund \$ 100,000 \$ 100,000 116902

Group

TOTAL ALL BUDGET FUND GROUPS \$ 650,000 \$ 650,000 116903

Section 323.10. LSC LEGISLATIVE SERVICE COMMISSION 116904

General Revenue Fund 116905

GRF 035321 Operating Expenses \$ 15,117,700 \$ 15,117,700 116906

GRF 035402 Legislative Fellows \$ 1,022,120 \$ 1,022,120 116907

GRF 035405 Correctional \$ 438,900 \$ 438,900 116908
 Institution

Inspection Committee

GRF 035407 Legislative Task \$ 750,000 \$ 750,000 116909

Force on

Redistricting

GRF 035409 National Associations \$ 460,560 \$ 460,560 116910

GRF 035410 Legislative \$ 3,661,250 \$ 3,661,250 116911

Information Systems

TOTAL GRF General Revenue Fund \$ 21,450,530 \$ 21,450,530 116912

General Services Fund Group					116913	
4100 035601	Sale of Publications	\$	10,000	\$	10,000	116914
4F60 035603	Legislative Budget	\$	200,000	\$	200,000	116915
	Services					
5EF0 035607	Legislative Agency	\$	30,000	\$	30,000	116916
	Telephone Usage					
TOTAL GSF General Services						116917
Fund Group		\$	240,000	\$	240,000	116918
TOTAL ALL BUDGET FUND GROUPS		\$	21,690,530	\$	21,690,530	116919
	LEGISLATIVE TASK FORCE ON REDISTRICTING					116920
	An amount equal to the unexpended, unencumbered portion of					116921
	the foregoing appropriation item 035407, Legislative Task Force on					116922
	Redistricting, at the end of fiscal year 2011 is hereby					116923
	reappropriated to the Legislative Service Commission for the same					116924
	purpose for fiscal year 2012.					116925
	Section 325.10. LIB STATE LIBRARY BOARD					116926
General Revenue Fund						116927
GRF 350321	Operating Expenses	\$	5,057,312	\$	5,057,364	116928
GRF 350401	Ohioana Rental	\$	124,437	\$	124,437	116929
	Payments					
GRF 350502	Regional Library	\$	582,469	\$	582,469	116930
	Systems					
TOTAL GRF General Revenue Fund		\$	5,764,218	\$	5,764,270	116931
General Services Fund Group						116932
1390 350602	Intra-Agency Service	\$	9,000	\$	9,000	116933
	Charges					
4590 350603	Library Service	\$	2,986,424	\$	2,986,180	116934
	Charges					
4S40 350604	Ohio Public Library	\$	5,689,401	\$	5,689,788	116935
	Information Network					

5GB0 350605	Library for the Blind	\$	1,274,194	\$	1,274,194	116936
5GG0 350606	Gates Foundation	\$	6,000	\$	0	116937
	Grants					
TOTAL GSF	General Services					116938
Fund Group		\$	9,965,019	\$	9,959,162	116939
Federal Special Revenue	Fund Group					116940
3130 350601	LSTA Federal	\$	5,879,314	\$	5,879,314	116941
TOTAL FED	Federal Special Revenue					116942
Fund Group		\$	5,879,314	\$	5,879,314	116943
TOTAL ALL BUDGET	FUND GROUPS	\$	21,608,551	\$	21,602,746	116944
	OHIOANA RENTAL PAYMENTS					116945
	The foregoing appropriation item 350401, Ohioana Rental					116946
	Payments, shall be used to pay the rental expenses of the Martha					116947
	Kinney Cooper Ohioana Library Association under section 3375.61 of					116948
	the Revised Code.					116949
	REGIONAL LIBRARY SYSTEMS					116950
	The foregoing appropriation item 350502, Regional Library					116951
	Systems, shall be used to support regional library systems					116952
	eligible for funding under sections 3375.83 and 3375.90 of the					116953
	Revised Code.					116954
	OHIO PUBLIC LIBRARY INFORMATION NETWORK					116955
	(A) The foregoing appropriation item 350604, Ohio Public					116956
	Library Information Network, shall be used for an information					116957
	telecommunications network linking public libraries in the state					116958
	and such others as may participate in the Ohio Public Library					116959
	Information Network (OPLIN).					116960
	The Ohio Public Library Information Network Board of Trustees					116961
	created under section 3375.65 of the Revised Code may make					116962
	decisions regarding use of the foregoing appropriation item					116963
	350604, Ohio Public Library Information Network.					116964

(B) Of the foregoing appropriation item 350604, Ohio Public Library Information Network, up to \$81,000 in each fiscal year shall be used to help local libraries use filters to screen out obscene and illegal internet materials.

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Director shall provide written reports upon request within ten days to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

(C) The Ohio Public Library Information Network, INFOhio, and OhioLINK shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

LIBRARY FOR THE BLIND

The foregoing appropriation item 350605, Library for the Blind, shall be used for the statewide Talking Book Program to assist the blind and disabled.

TRANSFER TO OPLIN TECHNOLOGY FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer \$3,689,401 in cash in fiscal year 2012 and \$3,689,788 in cash in fiscal year 2013 from the Public Library Fund (Fund 7065) to the

OPLIN Technology Fund (Fund 4S40).				116996
TRANSFER TO LIBRARY FOR THE BLIND FUND				116997
Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer \$1,274,194 cash in each fiscal year from the Public Library Fund (Fund 7065) to the Library for the Blind Fund (Fund 5GB0).				116998 116999 117000 117001 117002 117003
Section 327.10. LCO LIQUOR CONTROL COMMISSION				117004
Liquor Control Fund Group				117005
7043 970321 Operating Expenses	\$	753,933	\$ 754,146	117006
TOTAL LCF Liquor Control Fund Group	\$	753,933	\$ 754,146	117007
TOTAL ALL BUDGET FUND GROUPS	\$	753,933	\$ 754,146	117008
Section 329.10. LOT STATE LOTTERY COMMISSION				117010
State Lottery Fund Group				117011
2310 950604 Charitable Gaming Oversight	\$	1,946,000	\$ 1,946,000	117012
7044 950100 Personal Services	\$	30,018,152	\$ 30,004,979	117013
7044 950200 Maintenance	\$	13,558,000	\$ 13,266,150	117014
7044 950300 Equipment	\$	4,810,440	\$ 4,465,690	117015
7044 950402 Advertising Contracts	\$	26,136,000	\$ 26,136,000	117016
7044 950403 Gaming Contracts	\$	46,476,608	\$ 47,359,732	117017
7044 950500 Problem Gambling Subsidy	\$	350,000	\$ 350,000	117018
7044 950601 Direct Prize Payments	\$	131,995,700	\$ 133,263,456	117019
8710 950602 Annuity Prizes	\$	77,206,258	\$ 77,641,283	117020
TOTAL SLF State Lottery Fund Group	\$	332,497,158	\$ 334,433,290	117021 117022
TOTAL ALL BUDGET FUND GROUPS	\$	332,497,158	\$ 334,433,290	117023
OPERATING EXPENSES				117024

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize expenditures from the State Lottery Fund in excess of the amounts appropriated, up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets. Upon the approval of the Controlling Board, the additional amounts are hereby appropriated.

DIRECT PRIZE PAYMENTS

Any amounts, in addition to the amounts appropriated in appropriation item 950601, Direct Prize Payments, that the Director of the State Lottery Commission determines to be necessary to fund prizes are hereby appropriated.

ANNUITY PRIZES

Upon request of the State Lottery Commission, the Director of Budget and Management may transfer cash from the State Lottery Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 8710) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Director of Budget and Management shall transfer an amount greater than or equal to \$717,500,000 in fiscal year 2012 and \$680,500,000 in fiscal year 2013 from the State Lottery Fund to the Lottery Profits Education Fund (Fund 7017). Transfers from the State Lottery Fund to the Lottery Profits Education Fund shall represent the estimated net income from operations for the

Commission in fiscal year 2012 and fiscal year 2013. Transfers by 117056
the Director of Budget and Management to the Lottery Profits 117057
Education Fund shall be administered as the statutes direct. 117058

Section 331.10. MHC MANUFACTURED HOMES COMMISSION 117059

General Services Fund Group 117060
4K90 996609 Operating Expenses \$ 652,922 \$ 642,267 117061
TOTAL GSF General Services 117062
Fund Group \$ 652,922 \$ 642,267 117063
TOTAL ALL BUDGET FUND GROUPS \$ 652,922 \$ 642,267 117064

Section 333.10. MED STATE MEDICAL BOARD 117066

General Services Fund Group 117067
5C60 883609 Operating Expenses \$ 9,292,393 \$ 9,172,062 117068
TOTAL GSF General Services 117069
Fund Group \$ 9,292,393 \$ 9,172,062 117070
TOTAL ALL BUDGET FUND GROUPS \$ 9,292,393 \$ 9,172,062 117071

Section 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD 117073

General Services Fund Group 117074
4K90 915604 Operating Expenses \$ 493,641 \$ 493,856 117075
TOTAL GSF General Services 117076
Fund Group \$ 493,641 \$ 493,856 117077
TOTAL ALL BUDGET FUND GROUPS \$ 493,641 \$ 493,856 117078

Section 337.10. DMH DEPARTMENT OF MENTAL HEALTH 117080

General Revenue Fund 117081
GRF 332401 Forensic Services \$ 3,244,251 \$ 3,244,251 117082
GRF 333321 Central \$ 16,000,000 \$ 16,000,000 117083
Administration
GRF 333402 Resident Trainees \$ 450,000 \$ 450,000 117084
GRF 333403 Pre-Admission \$ 486,119 \$ 486,119 117085

		Screening Expenses				
GRF	333415	Lease-Rental Payments	\$	18,394,250	\$	19,907,900 117086
GRF	333416	Research Program	\$	421,724	\$	421,998 117087
		Evaluation				
GRF	334412	Hospital Services	\$	202,018,888	\$	192,051,209 117088
GRF	334506	Court Costs	\$	584,210	\$	584,210 117089
GRF	335405	Family & Children	\$	1,386,000	\$	1,386,000 117090
		First				
GRF	335419	Community Medication	\$	8,963,818	\$	8,963,818 117091
		Subsidy				
GRF	335501	Mental Health	\$	186,400,000	\$	0 117092
		Medicaid Match				
GRF	335505	Local Mental Health	\$	41,413,776	\$	50,537,955 117093
		Systems of Care				
GRF	335506	Residential State	\$	4,702,875	\$	4,702,875 117094
		Supplement				
TOTAL GRF		General Revenue Fund	\$	484,465,911	\$	298,736,335 117095
		General Services Fund Group				117096
1490	333609	Central Office	\$	1,343,190	\$	1,343,190 117097
		Operating				
1490	334609	Hospital - Operating	\$	28,190,000	\$	28,190,000 117098
		Expenses				
1500	334620	Special Education	\$	150,000	\$	150,000 117099
4P90	335604	Community Mental	\$	4,061,100	\$	250,000 117100
		Health Projects				
1510	336601	Office of Support	\$	129,770,770	\$	129,779,822 117101
		Services				
TOTAL GSF		General Services Fund	\$	163,515,060	\$	159,713,012 117102
		Group				
		Federal Special Revenue Fund Group				117103
3240	333605	Medicaid/Medicare	\$	154,500	\$	154,500 117104
3A60	333608	Community and	\$	140,000	\$	140,000 117105

		Hospital Services					
3A70	333612	Social Services Block Grant	\$	50,000	\$	50,000	117106
3A80	333613	Federal Grant - Administration	\$	4,717,000	\$	4,717,000	117107
3A90	333614	Mental Health Block Grant - Administration	\$	748,470	\$	748,470	117108
3B10	333635	Community Medicaid Expansion	\$	13,691,682	\$	13,691,682	117109
3240	334605	Medicaid/Medicare	\$	28,200,000	\$	28,200,000	117110
3A60	334608	Federal Miscellaneous	\$	200,000	\$	200,000	117111
3A80	334613	Federal Letter of Credit	\$	200,000	\$	200,000	117112
3A60	335608	Federal Miscellaneous	\$	2,170,000	\$	2,170,000	117113
3A70	335612	Social Services Block Grant	\$	8,400,000	\$	8,400,000	117114
3A80	335613	Federal Grant - Community Mental Health Board Subsidy	\$	2,500,000	\$	2,500,000	117115
3A90	335614	Mental Health Block Grant	\$	14,200,000	\$	14,200,000	117116
3B10	335635	Community Medicaid Expansion	\$	346,200,000	\$	0	117117
TOTAL FED		Federal Special Revenue	\$	421,571,652	\$	75,371,652	117118
		Fund Group					
		State Special Revenue Fund Group					117119
2320	333621	Family and Children First Administration	\$	448,286	\$	432,197	117120
4850	333632	Mental Health Operating	\$	134,233	\$	134,233	117121
4X50	333607	Behavioral Health Medicaid Services	\$	3,000,624	\$	3,000,624	117122

5V20	333611	Non-Federal	\$	100,000	\$	100,000	117123
		Miscellaneous					
4850	334632	Mental Health	\$	2,477,500	\$	2,477,500	117124
		Operating					
5AU0	335615	Behavioral Healthcare	\$	6,690,000	\$	6,690,000	117125
6320	335616	Community Capital	\$	350,000	\$	350,000	117126
		Replacement					
TOTAL SSR State Special Revenue			\$	13,200,643	\$	13,184,554	117127
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	1,082,753,266	\$	547,005,553	117128

Section 337.10.10. FORENSIC SERVICES 117130

The foregoing appropriation item 332401, Forensic Services, 117131
shall be used to provide forensic psychiatric evaluations to 117132
courts of common pleas and to conduct evaluations of patients of 117133
forensic status in facilities operated or designated by the 117134
Department of Mental Health prior to conditional release to the 117135
community. A portion of this appropriation may be allocated 117136
through community mental health boards to certified community 117137
agencies in accordance with a distribution methodology as 117138
determined by the Director of Mental Health. 117139

In addition, appropriation item 332401, Forensic Services, 117140
may be used to provide forensic monitoring and tracking of 117141
individuals on conditional release and forensic training, and to 117142
support projects that assist courts and law enforcement to 117143
identify and develop appropriate alternative services to 117144
incarceration for nonviolent mentally ill offenders, and to 117145
provide specialized re-entry services to offenders leaving prisons 117146
and jails. 117147

Section 337.20.10. RESIDENCY TRAINEESHIP PROGRAMS 117148

The foregoing appropriation item 333402, Resident Trainees, 117149

shall be used to fund training agreements entered into by the 117150
Director of Mental Health for the development of curricula and the 117151
provision of training programs to support public mental health 117152
services. 117153

Section 337.20.20. PRE-ADMISSION SCREENING EXPENSES 117154

The foregoing appropriation item 333403, Pre-Admission 117155
Screening Expenses, shall be used to ensure that uniform statewide 117156
methods for pre-admission screening are in place for persons who 117157
have severe mental illness and are referred for long-term Medicaid 117158
certified nursing facility placement. Pre-admission screening 117159
includes the following activities: pre-admission assessment, 117160
consideration of continued stay requests, discharge planning and 117161
referral, and adjudication of appeals and grievance procedures. 117162

Section 337.20.30. LEASE-RENTAL PAYMENTS 117163

The foregoing appropriation item 333415, Lease-Rental 117164
Payments, shall be used to meet all payments at the times they are 117165
required to be made during the period from July 1, 2011, through 117166
June 30, 2013, by the Department of Mental Health under leases and 117167
agreements made under section 154.20 of the Revised Code. These 117168
appropriations are the source of funds pledged for bond service 117169
charges on obligations issued pursuant to Chapter 154. of the 117170
Revised Code. 117171

Section 337.20.50. HOSPITAL SERVICES 117172

The foregoing appropriation item 334412, Hospital Services, 117173
shall be used for the operation of the Department of Mental Health 117174
State Regional Psychiatric Hospitals, including, but not limited 117175
to, all aspects involving civil and forensic commitment, 117176
treatment, and discharge as determined by the Director of Mental 117177
Health. A portion of this appropriation may be used by the 117178

Department of Mental Health to create, purchase, or contract for 117179
the custody, supervision, control, and treatment of persons 117180
committed to the Department of Mental Health in other clinically 117181
appropriate environments, consistent with public safety. 117182

Section 337.20.60. FISCAL YEARS 2012 AND 2013 ALLOCATIONS OF 117183
STATE HOSPITAL FUNDS TO ADAMHS BOARDS 117184

(A) As used in this section: 117185

"Bed day" means a day for which a person receives inpatient 117186
hospitalization services in a state regional psychiatric hospital. 117187

"State regional psychiatric hospital" means a hospital that 117188
the Department of Mental Health maintains, operates, manages, and 117189
governs under section 5119.02 of the Revised Code for the care and 117190
treatment of mentally ill persons. 117191

(B) For fiscal years 2012 and 2013 and notwithstanding 117192
section 5119.62 of the Revised Code, the Director of Mental Health 117193
shall allocate a portion of the foregoing appropriation item 117194
334412, Hospital Services, to boards of alcohol, drug addiction, 117195
and mental health services. In consultation with the boards, the 117196
Director shall establish a methodology to be used in allocating 117197
the funds to boards. The allocation methodology shall include as 117198
factors at least the per diem cost of inpatient hospitalization 117199
services at state regional psychiatric hospitals and the estimated 117200
number of bed days that each board will incur in fiscal years 2012 117201
and 2013 in carrying out their duties under division (A)(12) of 117202
section 340.03 of the Revised Code. The Director may require each 117203
board to provide the Director with an estimate of the number of 117204
bed days the board will incur in fiscal years 2012 and 2013 for 117205
such purpose. 117206

(C) All of the following apply to the funds allocated to a 117207
board under this section: 117208

(1) Subject to divisions (C)(2) and (3) of this section, the board shall use the funds to pay for expenditures the board incurs in fiscal years 2012 and 2013 under division (A)(12) of section 340.03 of the Revised Code in paying for inpatient hospitalization services provided by state regional psychiatric hospitals to persons involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code.

(2) If the amount of the funds allocated to the board and used for the purpose specified in division (C)(1) of this section exceeds the amount that the board needs to pay for its expenditures identified in division (C)(1) of this section, the Director may permit the board to use the excess funds for the board's community mental health plan developed under division (A)(1)(c) of section 340.03 of the Revised Code.

(3) If the Director approves, the board may have a portion of the funds deposited into the Department of Mental Health Risk Fund.

(D) Notwithstanding the amendment by this act to section 5119.62 of the Revised Code, the Department of Mental Health Risk Fund shall continue to exist in the state treasury for the purpose of this section until it is no longer needed. In addition to the money that is in the fund on the effective date of this section, the fund shall consist of money deposited into it pursuant to division (C)(3) of this section and all the fund's investment earnings. Money in the fund shall be used in accordance with guidelines that the Director shall develop in consultation with representatives of the boards.

Section 337.30.10. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN

In collaboration with the county family and children first council, a county board of alcohol, drug addiction, and mental health services or community mental health services board that

receives allocations from the Department of Mental Health from 117240
appropriation item 335405, Family & Children First, may transfer 117241
portions of those allocations to a flexible funding pool as 117242
authorized by the section titled FAMILY AND CHILDREN FIRST 117243
FLEXIBLE FUNDING POOL. 117244

Section 337.30.20. COMMUNITY MEDICATION SUBSIDY 117245

The foregoing appropriation item 335419, Community Medication 117246
Subsidy, shall be used to provide subsidized support for 117247
psychotropic medication needs of indigent citizens in the 117248
community to reduce unnecessary hospitalization because of lack of 117249
medication and to provide subsidized support for methadone costs. 117250
This appropriation may be allocated to community mental health 117251
boards in accordance with a distribution methodology determined by 117252
the Director of Mental Health. 117253

Section 337.30.30. MENTAL HEALTH MEDICAID MATCH 117254

(A) As used in this section, "community mental health 117255
Medicaid services" means services provided under the component, or 117256
aspect of the component, of the Medicaid program that the 117257
Department of Mental Health administers pursuant to a contract 117258
entered into with the Department of Job and Family Services under 117259
section 5111.91 of the Revised Code. 117260

(B) Subject to division (C) of this section, the foregoing 117261
appropriation item 335501, Mental Health Medicaid Match, shall be 117262
used by the Department of Mental Health to make payments for 117263
community mental health Medicaid services. 117264

(C) For state fiscal year 2012, the Department shall allocate 117265
foregoing appropriation item 335501, Mental Health Medicaid Match, 117266
to boards of alcohol, drug addiction, and mental health services 117267
in accordance with a distribution methodology the Department shall 117268
establish. Notwithstanding sections 5111.911 and 5111.912 of the 117269

Revised Code, the boards shall use the funds allocated to them 117270
under this section to pay claims for community mental health 117271
Medicaid services provided during fiscal year 2012. The boards 117272
shall use all federal financial participation that the Department 117273
of Mental Health receives for claims paid for community mental 117274
health Medicaid services provided during fiscal year 2012 as the 117275
first payment source to pay claims for community mental health 117276
Medicaid services provided during fiscal year 2012. No board is 117277
required to use any funds other than the funds allocated to them 117278
under this section and the federal financial participation 117279
received for claims for community mental health Medicaid services 117280
provided during fiscal year 2012 to pay for such claims. 117281

(D) The Department shall enter into an agreement with each 117282
board regarding the issue of paying claims that are for community 117283
mental health Medicaid services provided before July 1, 2011, and 117284
submitted for payment on or after that date. Such claims shall be 117285
paid in accordance with the agreements. A board shall receive the 117286
federal financial participation received for claims for community 117287
mental health Medicaid services that were provided before July 1, 117288
2011, and paid by the board. 117289

Section 337.30.40. LOCAL MENTAL HEALTH SYSTEMS OF CARE 117290

The foregoing appropriation item 335505, Local Mental Health 117291
Systems of Care, shall be used by community mental health boards 117292
to purchase mental health services permitted under Chapter 340. of 117293
the Revised Code. 117294

Section 337.30.50. RESIDENTIAL STATE SUPPLEMENT 117295

(A)(1) On the effective date of this section, the Residential 117296
State Supplement Program is transferred from the Department of 117297
Aging to the Department of Mental Health. The transferred program 117298
is thereupon and thereafter successor to, assumes the obligations 117299

of, and otherwise constitutes the continuation of the program as 117300
it was operated immediately prior to the effective date of this 117301
section. The transfer shall not affect persons receiving payments 117302
under the program on the effective date of this section. 117303

(2) Any business of the program commenced but not completed 117304
before the effective date of this section shall be completed by 117305
the Department of Mental Health. The business shall be completed 117306
in the same manner, and with the same effect, as if completed by 117307
the Department of Aging immediately prior to the effective date of 117308
this section. No validation, cure, right, privilege, remedy, 117309
obligation, or liability pertaining to the program is lost or 117310
impaired by reason of the program's transfer to the Department of 117311
Mental Health. Each such validation, cure, right, privilege, 117312
remedy, obligation, or liability shall be administered by the 117313
Department of Mental Health pursuant to sections 5119.69, 117314
5119.691, and 5119.692 of the Revised Code. 117315

(3) All rules, orders, and determinations pertaining to the 117316
program as it was operated immediately prior to the effective date 117317
of this section continue in effect as rules, orders, and 117318
determinations of the Department of Mental Health until modified 117319
or rescinded by the Department of Mental Health. If necessary to 117320
ensure the integrity of the numbering system of the Administrative 117321
Code, the Director of the Legislative Service Commission shall 117322
renumber the rules to reflect the transfer of the Residential 117323
State Supplement Program from the Department of Aging to the 117324
Department of Mental Health. 117325

(4) Any action or proceeding that is related to the functions 117326
or duties of the Residential State Supplement Program pending on 117327
the effective date of this section is not affected by the transfer 117328
of the program and shall be prosecuted or defended in the name of 117329
the Department of Mental Health. In all such actions and 117330
proceedings, the Department of Mental Health, on application to 117331

the court, shall be substituted as a party. 117332

(B) The foregoing appropriation item 335506, Residential 117333
State Supplement, may be used by the Department of Mental Health 117334
to provide training for adult care facilities serving residents 117335
with mental illness, to transfer cash to the Nursing Home 117336
Franchise Permit Fee Fund (Fund 5R20) used by the Department of 117337
Job and Family Services, and to make benefit payments to 117338
residential state supplement recipients. Under the Residential 117339
State Supplement Program, the amount used to determine whether a 117340
resident is eligible for payment, and for determining the amount 117341
per month the eligible resident will receive, shall be as follows: 117342

(1) \$927 for a residential care facility, as defined in 117343
section 3721.01 of the Revised Code; 117344

(2) \$927 for an adult group home, as defined in section 117345
5119.70 of the Revised Code; 117346

(3) \$824 for an adult foster home, as defined in section 117347
5119.692 of the Revised Code; 117348

(4) \$824 for an adult family home, as defined in section 117349
5119.70 of the Revised Code; 117350

(5) \$824 for a residential facility, as identified in 117351
division (C)(1)(c) of section 5119.69 of the Revised Code; and 117352

(6) \$618 for community mental health housing services, as 117353
identified in division (C)(1)(d) of section 5119.69 of the Revised 117354
Code. 117355

The Department of Mental Health shall reflect these amounts 117356
in any applicable rules the Department adopts under section 117357
5119.69 of the Revised Code. 117358

Section 337.30.60. BEHAVIORAL HEALTH MEDICAID SERVICES 117359

The Department of Mental Health shall administer specified 117360

Medicaid services as delegated by the Department of Job and Family 117361
Services in an interagency agreement. The foregoing appropriation 117362
item 333607, Behavioral Health Medicaid Services, may be used to 117363
make payments for free-standing psychiatric hospital inpatient 117364
services as defined in an interagency agreement with the 117365
Department of Job and Family Services. 117366

Section 337.30.70. FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING 117367
POOL 117368

A county family and children first council may establish and 117369
operate a flexible funding pool in order to assure access to 117370
needed services by families, children, and older adults in need of 117371
protective services. The operation of the flexible funding pools 117372
shall be subject to the following restrictions: 117373

(A) The county council shall establish and operate the 117374
flexible funding pool in accordance with formal guidance issued by 117375
the Family and Children First Cabinet Council; 117376

(B) The county council shall produce an annual report on its 117377
use of the pooled funds. The annual report shall conform to a 117378
format prescribed in the formal guidance issued by the Family and 117379
Children First Cabinet Council; 117380

(C) Unless otherwise restricted, funds transferred to the 117381
flexible funding pool may include state general revenues allocated 117382
to local entities to support the provision of services to families 117383
and children; 117384

(D) The amounts transferred to the flexible funding pool 117385
shall be limited to amounts that can be redirected without 117386
impairing the achievement of the objectives for which the initial 117387
allocation is designated; and 117388

(E) Each amount transferred to the flexible funding pool from 117389
a specific allocation shall be approved for transfer by the 117390

director of the local agency that was the original recipient of 117391
the allocation. 117392

Section 337.30.75. TRANSITION FOR CURRENTLY CERTIFIED ADULT 117393
FOSTER HOMES 117394

On the effective date of this section, the certification of 117395
adult foster homes is transferred from the Department of Aging to 117396
the Department of Mental Health. A certification that was issued 117397
by the Director of Aging to an adult foster home under former 117398
section 175.36 of the Revised Code and that is current and valid 117399
on the effective date of section 5119.692 of the Revised Code, as 117400
enacted by this act, is deemed to be a certificate issued by the 117401
Director of Mental Health under those sections. 117402

Any business regarding the certification of adult foster 117403
homes commenced but not completed before the effective date of 117404
this section shall be completed by the Department of Mental 117405
Health. The business shall be completed in the same manner, and 117406
with the same effect, as if completed by the Department of Aging 117407
immediately prior to the effective date of this section. 117408

No validation, cure, right, privilege, remedy, obligation, or 117409
liability is lost or impaired by reason of this act's transfer of 117410
responsibility to the Department of Mental Health, from the 117411
Department of Aging, for the certification of adult foster homes. 117412

Each such validation, cure, right, privilege, remedy, 117413
obligation, or liability shall be administered by the Department 117414
of Mental Health pursuant to section 5119.692 of the Revised Code. 117415

All rules, orders, and determinations pertaining to the 117416
certification of adult foster homes as it was operated immediately 117417
prior to the effective date of this section shall continue in 117418
effect as rules, orders, and determinations of the Department of 117419
Mental Health until modified or rescinded by the Department of 117420

Mental Health. If necessary to ensure the integrity of the 117421
numbering system of the Administrative Code, the Director of the 117422
Legislative Service Commission shall renumber the rules to reflect 117423
the transfer of the certification of adult foster homes from the 117424
Department of Aging to the Department of Mental Health. 117425

Any action or proceeding that is related to the functions or 117426
duties of the certification of adult foster homes pending on the 117427
effective date of this section is not affected by the transfer of 117428
the certification and shall be prosecuted or defended in the name 117429
of the Department of Mental Health. In all such actions and 117430
proceedings, the Department of Mental Health, on application to 117431
the court, shall be substituted as a party. 117432

Section 337.30.80. TRANSITION FOR CURRENTLY LICENSED ADULT 117433
CARE FACILITIES 117434

On the effective date of this section, the licensing of adult 117435
care facilities is transferred from the Department of Health to 117436
the Department of Mental Health. A license that was issued by the 117437
Director of Health to an adult care facility under former Chapter 117438
3722. of the Revised Code and that is current and valid on the 117439
effective date of sections 5119.70 to 5119.88 of the Revised Code, 117440
as enacted by this act, is deemed to be a license issued by the 117441
Director of Mental Health under those sections. 117442

Any business regarding the licensing of adult care facilities 117443
commenced but not completed before the effective date of this 117444
section shall be completed by the Department of Mental Health. The 117445
business shall be completed in the same manner, and with the same 117446
effect, as if completed by the Department of Health immediately 117447
prior to the effective date of this section. 117448

No validation, cure, right, privilege, remedy, obligation, or 117449
liability is lost or impaired by reason of this act's transfer of 117450
responsibility to the Department of Mental Health, from the 117451

Department of Health, for the licensing of adult care facilities. 117452
 Each such validation, cure, right, privilege, remedy, obligation, 117453
 or liability shall be administered by the Department of Mental 117454
 Health pursuant to sections 5119.70 to 5119.88 of the Revised 117455
 Code. 117456

All rules, orders, and determinations pertaining to the 117457
 licensing of adult care facilities as it was operated immediately 117458
 prior to the effective date of this section shall continue in 117459
 effect as rules, orders, and determinations of the Department of 117460
 Mental Health until modified or rescinded by the Department of 117461
 Mental Health. If necessary to ensure the integrity of the 117462
 numbering system of the Administrative Code, the Director of the 117463
 Legislative Service Commission shall renumber the rules to reflect 117464
 the transfer of the licensing of adult care facilities from the 117465
 Department of Health to the Department of Mental Health. 117466

Any action or proceeding that is related to the functions or 117467
 duties of the licensing of adult care facilities pending on the 117468
 effective date of this section is not affected by the transfer of 117469
 the licensing and shall be prosecuted or defended in the name of 117470
 the Department of Mental Health. In all such actions and 117471
 proceedings, the Department of Mental Health, on application to 117472
 the court, shall be substituted as a party. 117473

Section 339.10. MIH COMMISSION ON MINORITY HEALTH 117474

General Revenue Fund 117475

GRF	149321	Operating Expenses	\$	423,588	\$	408,990	117476
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GRF	149501	Minority Health	\$	1,061,600	\$	1,061,600	117477
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Grants

GRF	149502	Lupus Program	\$	110,047	\$	110,047	117478
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TOTAL GRF	General Revenue Fund		\$	1,595,235	\$	1,580,637	117479
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Federal Special Revenue Fund Group 117480

3J90 149602	Federal Grants	\$	140,000	\$	140,000	117481
TOTAL FED Federal Special Revenue						117482
Fund Group		\$	140,000	\$	140,000	117483
State Special Revenue Fund Group						117484
4C20 149601	Minority Health	\$	25,000	\$	25,000	117485
Conference						
TOTAL SSR State Special Revenue						117486
Fund Group		\$	25,000	\$	25,000	117487
TOTAL ALL BUDGET FUND GROUPS						117488
Section 341.10. CRB MOTOR VEHICLE COLLISION REPAIR						117490
REGISTRATION BOARD						117491
General Services Fund Group						117492
4K90 865601	Operating Expenses	\$	331,841	\$	324,292	117493
TOTAL GSF General Services						117494
Fund Group		\$	331,841	\$	324,292	117495
TOTAL ALL BUDGET FUND GROUPS						117496
Section 343.10. DNR DEPARTMENT OF NATURAL RESOURCES						117498
General Revenue Fund						117499
GRF 725401	Wildlife-GRF Central	\$	1,800,000	\$	1,800,000	117500
Support						
GRF 725413	Lease Rental Payments	\$	20,568,600	\$	19,734,700	117501
GRF 725456	Canal Lands	\$	135,000	\$	135,000	117502
GRF 725502	Soil and Water	\$	2,900,000	\$	2,900,000	117503
Districts						
GRF 725903	Natural Resources	\$	5,375,300	\$	25,209,100	117504
General Obligation						
Debt Service						
GRF 727321	Division of Forestry	\$	4,878,338	\$	4,880,000	117505
GRF 729321	Office of Information	\$	194,118	\$	197,117	117506
Technology						

GRF	730321	Division of Parks and Recreation	\$	30,000,000	\$	30,000,000	117507
GRF	736321	Division of Engineering	\$	3,024,459	\$	3,025,078	117508
GRF	737321	Division of Soil and Water Resources	\$	4,982,961	\$	4,983,356	117509
TOTAL GRF	General Revenue Fund		\$	73,858,776	\$	92,864,351	117510
General Services Fund Group							117511
1550	725601	Departmental Projects	\$	3,365,651	\$	2,725,484	117512
1570	725651	Central Support Indirect	\$	5,854,167	\$	5,857,800	117513
2040	725687	Information Services	\$	4,659,276	\$	4,643,835	117514
2070	725690	Real Estate Services	\$	128,040	\$	128,040	117515
2230	725665	Law Enforcement Administration	\$	2,106,776	\$	2,126,432	117516
2270	725406	Parks Projects Personnel	\$	436,500	\$	436,500	117517
4300	725671	Canal Lands	\$	907,618	\$	907,879	117518
4D50	725618	Recycled Materials	\$	50,000	\$	50,000	117519
4S90	725622	NatureWorks Personnel	\$	400,358	\$	400,358	117520
4X80	725662	Water Resources Council	\$	138,011	\$	138,005	117521
5100	725631	Maintenance - State-owned Residences	\$	303,611	\$	303,611	117522
5160	725620	Water Management	\$	2,541,565	\$	2,559,292	117523
6350	725664	Fountain Square Facilities Management	\$	3,544,623	\$	3,548,445	117524
6970	725670	Submerged Lands	\$	836,162	\$	848,546	117525
TOTAL GSF	General Services Fund Group		\$	25,272,358	\$	24,674,227	117527
Federal Special Revenue Fund Group							117528

3320	725669	Federal Mine Safety Grant	\$	258,102	\$	258,102	117529
3B30	725640	Federal Forest Pass-Thru	\$	600,000	\$	600,000	117530
3B40	725641	Federal Flood Pass-Thru	\$	600,000	\$	600,000	117531
3B50	725645	Federal Abandoned Mine Lands	\$	21,007,667	\$	21,207,667	117532
3B60	725653	Federal Land and Water Conservation Grants	\$	1,150,000	\$	1,150,000	117533
3B70	725654	Reclamation - Regulatory	\$	3,200,000	\$	3,200,000	117534
3P10	725632	Geological Survey - Federal	\$	692,401	\$	692,401	117535
3P20	725642	Oil and Gas-Federal	\$	234,509	\$	234,509	117536
3P30	725650	Coastal Management - Federal	\$	3,290,633	\$	3,290,633	117537
3P40	725660	Federal - Soil and Water Resources	\$	1,213,048	\$	1,209,957	117538
3R50	725673	Acid Mine Drainage Abatement/Treatment	\$	2,025,001	\$	2,025,001	117539
3Z50	725657	Federal Recreation and Trails	\$	1,850,000	\$	1,850,000	117540
TOTAL FED Federal Special Revenue							117541
Fund Group			\$	36,121,361	\$	36,318,270	117542
State Special Revenue Fund Group							117543
4J20	725628	Injection Well Review	\$	130,899	\$	128,466	117544
4M70	725686	Wildfire Suppression	\$	100,000	\$	100,000	117545
4U60	725668	Scenic Rivers Protection	\$	100,000	\$	100,000	117546
5090	725602	State Forest	\$	7,891,747	\$	7,058,793	117547
5110	725646	Ohio Geological	\$	704,777	\$	705,130	117548

		Mapping				
5120	725605	State Parks Operations	\$	32,284,117	\$	31,550,444 117549
5140	725606	Lake Erie Shoreline	\$	1,502,654	\$	1,505,983 117550
5180	725643	Oil and Gas Permit	\$	4,871,970	\$	4,873,645 117551
		Fees				
5180	725677	Oil and Gas Well	\$	800,000	\$	800,000 117552
		Plugging				
5210	725627	Off-Road Vehicle	\$	143,490	\$	143,490 117553
		Trails				
5220	725656	Natural Areas and	\$	546,580	\$	546,639 117554
		Preserves				
5260	725610	Strip Mining	\$	2,000,000	\$	2,000,000 117555
		Administration Fee				
5270	725637	Surface Mining	\$	1,940,977	\$	1,941,532 117556
		Administration				
5290	725639	Unreclaimed Land Fund	\$	2,004,180	\$	2,004,180 117557
5310	725648	Reclamation Forfeiture	\$	1,423,000	\$	1,423,000 117558
5320	725644	Litter Control and	\$	4,926,730	\$	4,911,575 117559
		Recycling				
5860	725633	Scrap Tire Program	\$	1,497,645	\$	1,497,645 117560
5B30	725674	Mining Regulation	\$	28,135	\$	28,135 117561
5BV0	725683	Soil and Water	\$	8,000,000	\$	8,000,000 117562
		Districts				
5CU0	725647	Mine Safety	\$	3,000,000	\$	3,000,000 117563
5EJ0	725608	Forestry Law	\$	1,000	\$	1,000 117564
		Enforcement				
5EK0	725611	Natural Areas &	\$	1,000	\$	1,000 117565
		Preserves Law				
		Enforcement				
5EL0	725612	Wildlife Law	\$	12,000	\$	12,000 117566
		Enforcement				
5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000 117567
5EN0	725614	Watercraft Law	\$	2,500	\$	2,500 117568

		Enforcement				
5HK0	725625	Ohio Nature Preserves	\$	1,000	\$	1,000 117569
6150	725661	Dam Safety	\$	925,344	\$	926,028 117570
TOTAL SSR State Special Revenue						117571
Fund Group			\$	74,873,745	\$	73,296,185 117572
Clean Ohio Conservation Fund Group						117573
7061	725405	Clean Ohio Operating	\$	300,775	\$	300,775 117574
TOTAL CLF Clean Ohio Conservation			\$	300,775	\$	300,775 117575
Fund Group						
Wildlife Fund Group						117576
5P20	725634	Wildlife Boater	\$	4,000,000	\$	4,000,000 117577
		Angler Administration				
7015	740401	Division of Wildlife	\$	52,721,044	\$	51,669,158 117578
		Conservation				
8150	725636	Cooperative	\$	120,449	\$	120,449 117579
		Management Projects				
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885 117580
8170	725655	Wildlife Conservation	\$	3,240,000	\$	3,240,000 117581
		Checkoff Fund				
8180	725629	Cooperative Fisheries	\$	1,500,000	\$	1,500,000 117582
		Research				
8190	725685	Ohio River Management	\$	128,584	\$	128,584 117583
TOTAL WLF Wildlife Fund Group			\$	62,676,962	\$	61,625,076 117584
Waterways Safety Fund Group						117585
7086	725414	Waterways Improvement	\$	4,192,601	\$	4,193,671 117586
7086	725418	Buoy Placement	\$	52,182	\$	52,182 117587
7086	725501	Waterway Safety	\$	120,000	\$	120,000 117588
		Grants				
7086	725506	Watercraft Marine	\$	576,153	\$	576,153 117589
		Patrol				
7086	725513	Watercraft	\$	366,643	\$	366,643 117590
		Educational Grants				

7086 739401	Division of	\$	18,040,593	\$	17,552,370	117591
	Watercraft					
TOTAL WSF Waterways Safety Fund						117592
Group		\$	23,348,172	\$	22,861,019	117593
Accrued Leave Liability Fund Group						117594
4M80 725675	FOP Contract	\$	20,219	\$	20,219	117595
TOTAL ALF Accrued Leave						117596
Liability Fund Group		\$	20,219	\$	20,219	117597
Holding Account Redistribution Fund Group						117598
R017 725659	Performance Cash Bond	\$	296,263	\$	296,263	117599
	Refunds					
R043 725624	Forestry	\$	2,000,000	\$	2,154,750	117600
TOTAL 090 Holding Account						117601
Redistribution Fund Group		\$	2,296,263	\$	2,451,013	117602
TOTAL ALL BUDGET FUND GROUPS		\$	298,768,631	\$	314,411,135	117603

Section 343.20. CENTRAL SUPPORT INDIRECT 117605

With the exception of the Division of Wildlife, whose direct 117606
and indirect central support charges shall be paid out of the 117607
General Revenue Fund from the foregoing appropriation item 725401, 117608
Wildlife-GRF Central Support, the Department of Natural Resources, 117609
with approval of the Director of Budget and Management, shall 117610
utilize a methodology for determining each division's payments 117611
into the Central Support Indirect Fund (Fund 1570). The 117612
methodology used shall contain the characteristics of 117613
administrative ease and uniform application in compliance with 117614
federal grant requirements. It may include direct cost charges for 117615
specific services provided. Payments to Fund 1570 shall be made 117616
using an intrastate transfer voucher. 117617

Section 343.30. WELL LOG FILING FEES 117618

The Chief of the Division of Soil and Water Resources shall 117619

deposit fees forwarded to the Division pursuant to section 1521.05 117620
of the Revised Code into the Departmental Services - Intrastate 117621
Fund (Fund 1550) for the purposes described in that section. 117622

Section 343.40. LEASE RENTAL PAYMENTS 117623

The foregoing appropriation item 725413, Lease Rental 117624
Payments, shall be used to meet all payments at the times they are 117625
required to be made during the period from July 1, 2011, through 117626
June 30, 2013, by the Department of Natural Resources pursuant to 117627
leases and agreements made under section 154.22 of the Revised 117628
Code. These appropriations are the source of funds pledged for 117629
bond service charges or obligations issued pursuant to Chapter 117630
154. of the Revised Code. 117631

CANAL LANDS 117632

The foregoing appropriation item 725456, Canal Lands, shall 117633
be used to transfer funds to the Canal Lands Fund (Fund 4300) to 117634
provide operating expenses for the State Canal Lands Program. The 117635
transfer shall be made using an intrastate transfer voucher and 117636
shall be subject to the approval of the Director of Budget and 117637
Management. 117638

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 117639

The foregoing appropriation item 725903, Natural Resources 117640
General Obligation Debt Service, shall be used to pay all debt 117641
service and related financing costs during the period July 1, 117642
2011, through June 30, 2013, on obligations issued under sections 117643
151.01 and 151.05 of the Revised Code. 117644

Section 343.40.10. LAW ENFORCEMENT ADMINISTRATION 117645

The foregoing appropriation item 725665, Law Enforcement 117646
Administration, shall be used to cover the cost of support, 117647
coordination, and oversight of the Department of Natural 117648

Resources' law enforcement functions. The Law Enforcement 117649
Administration Fund (Fund 2230) shall consist of cash transferred 117650
to it via intrastate transfer voucher from other funds as 117651
determined by the Director of Natural Resources and the Director 117652
of Budget and Management. 117653

Section 343.40.20. FOUNTAIN SQUARE 117654

The foregoing appropriation item 725664, Fountain Square 117655
Facilities Management, shall be used for payment of repairs, 117656
renovation, utilities, property management, and building 117657
maintenance expenses for the Fountain Square complex. Cash 117658
transferred by intrastate transfer vouchers from various 117659
department funds and rental income received by the Department of 117660
Natural Resources shall be deposited into the Fountain Square 117661
Facilities Management Fund (Fund 6350). 117662

Section 343.40.30. SOIL AND WATER DISTRICTS 117663

In addition to state payments to soil and water conservation 117664
districts authorized by section 1515.10 of the Revised Code, the 117665
Department of Natural Resources may use appropriation item 725683, 117666
Soil and Water Districts, to pay any soil and water conservation 117667
district an annual amount not to exceed \$40,000, upon receipt of a 117668
request and justification from the district and approval by the 117669
Ohio Soil and Water Conservation Commission. The county auditor 117670
shall credit the payments to the special fund established under 117671
section 1515.10 of the Revised Code for the local soil and water 117672
conservation district. Moneys received by each district shall be 117673
expended for the purposes of the district. 117674

OIL AND GAS WELL PLUGGING 117675

The foregoing appropriation item 725677, Oil and Gas Well 117676
Plugging, shall be used exclusively for the purposes of plugging 117677
wells and to properly restore the land surface of idle and orphan 117678

oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. This appropriation item shall not be used to transfer cash to any other fund or appropriation item.

LITTER CONTROL AND RECYCLING

Of the foregoing appropriation item 725644, Litter Control and Recycling, up to \$1,500,000 may be used in each fiscal year for the administration of the Recycling and Litter Prevention Program.

Section 343.40.40. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 725405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering Clean Ohio Trail Fund (Fund 7061) projects pursuant to section 1519.05 of the Revised Code.

Section 343.40.50. WATERCRAFT MARINE PATROL

Of the foregoing appropriation item 739401, Division of Watercraft, up to \$200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural Resources and the eligible marine patrol.

Section 343.40.60. TRANSFER FOR CAESAR CREEK MARINA

On July 1, 2011, or as soon as possible thereafter, the 117708
Director of Natural Resources may request the Director of Budget 117709
and Management to transfer up to \$4,000,000 in cash from the 117710
Watercraft Revolving Loan Fund (Fund 5AW0) to the Waterways Safety 117711
Fund (Fund 7086) to support a marina project at Caesar Creek State 117712
Park. 117713

Section 343.50. PARKS CAPITAL EXPENSES FUND 117714

The Director of Natural Resources shall submit to the 117715
Director of Budget and Management the estimated design, 117716
engineering, and planning costs of capital-related work to be done 117717
by Department of Natural Resources staff for parks projects within 117718
the Ohio Parks and Recreation Improvement Fund (Fund 7035). If the 117719
Director of Budget and Management approves the estimated costs, 117720
the Director may release appropriations from appropriation item 117721
C725E6, Project Planning, Fund 7035, for those purposes. Upon 117722
release of the appropriations, the Department of Natural Resources 117723
shall pay for these expenses from the Parks Capital Expenses Fund 117724
(Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by 117725
Fund 7035 using an intrastate transfer voucher. 117726

NATUREWORKS CAPITAL EXPENSES FUND 117727

The Department of Natural Resources shall periodically 117728
prepare and submit to the Director of Budget and Management the 117729
estimated design, planning, and engineering costs of 117730
capital-related work to be done by Department of Natural Resources 117731
staff for each capital improvement project within the Ohio Parks 117732
and Natural Resources Fund (Fund 7031). If the Director of Budget 117733
and Management approves the estimated costs, the Director may 117734
release appropriations from appropriation item C725E5, Project 117735
Planning, in Fund 7031, for those purposes. Upon release of the 117736
appropriations, the Department of Natural Resources shall pay for 117737
these expenses from the Capital Expenses Fund (Fund 4S90). 117738

Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by 117739
 using an intrastate transfer voucher. 117740

Section 345.10. NUR STATE BOARD OF NURSING 117741

General Services Fund Group 117742

4K90 884609 Operating Expenses \$ 6,943,322 \$ 6,680,896 117743

5AC0 884602 Nurse Education Grant \$ 1,373,506 \$ 1,373,506 117744
 Program

5P80 884601 Nursing Special \$ 5,000 \$ 5,000 117745

Issues

TOTAL GSF General Services 117746

Fund Group \$ 8,321,828 \$ 8,059,402 117747

TOTAL ALL BUDGET FUND GROUPS \$ 8,321,828 \$ 8,059,402 117748

Section 347.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, 117750
 AND ATHLETIC TRAINERS BOARD 117751

General Services Fund Group 117752

4K90 890609 Operating Expenses \$ 874,087 \$ 866,169 117753

TOTAL GSF General Services Fund \$ 874,087 \$ 866,169 117754

Group

TOTAL ALL BUDGET FUND GROUPS \$ 874,087 \$ 866,169 117755

Section 349.10. OLA OHIOANA LIBRARY ASSOCIATION 117757

General Revenue Fund 117758

GRF 355501 Library Subsidy \$ 120,000 \$ 120,000 117759

TOTAL GRF General Revenue Fund \$ 120,000 \$ 120,000 117760

TOTAL ALL BUDGET FUND GROUPS \$ 120,000 \$ 120,000 117761

Section 351.10. ODB OHIO OPTICAL DISPENSERS BOARD 117763

General Services Fund Group 117764

4K90 894609 Operating Expenses \$ 357,039 \$ 347,300 117765

TOTAL GSF General Services 117766

Fund Group	\$	357,039	\$	347,300	117767
TOTAL ALL BUDGET FUND GROUPS	\$	357,039	\$	347,300	117768

Section 353.10. OPT STATE BOARD OF OPTOMETRY 117770

General Services Fund Group					117771
4K90 885609 Operating Expenses	\$	356,914	\$	347,278	117772
TOTAL GSF General Services					117773
Fund Group	\$	356,914	\$	347,278	117774
TOTAL ALL BUDGET FUND GROUPS	\$	356,914	\$	347,278	117775

Section 355.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS 117777

General Services Fund Group					117779
4K90 973609 Operating Expenses	\$	126,340	\$	114,218	117780
TOTAL GSF General Services					117781
Fund Group	\$	126,340	\$	114,218	117782
TOTAL ALL BUDGET FUND GROUPS	\$	126,340	\$	114,218	117783

Section 357.10. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD 117784

Agency Fund Group					117786
6910 810632 PUSTRCB Staff	\$	1,162,179	\$	1,123,014	117787
TOTAL AGY Agency Fund Group	\$	1,162,179	\$	1,123,014	117788
TOTAL ALL BUDGET FUND GROUPS	\$	1,162,179	\$	1,123,014	117789

Section 359.10. PRX STATE BOARD OF PHARMACY 117791

General Services Fund Group					117792
4A50 887605 Drug Law Enforcement	\$	75,500	\$	75,500	117793
4K90 887609 Operating Expenses	\$	5,708,498	\$	5,801,285	117794
TOTAL GSF General Services Fund Group	\$	5,783,998	\$	5,876,785	117795
Federal Special Revenue Fund Group					117796

3CT0	887606	2008	\$	70,775	\$	0	117797
		Developing/Enhancing					
		PMP					
3DV0	887607	Enhancing Ohio's PMP	\$	169,888	\$	2,379	117798
3EY0	887603	Administration of	\$	320,637	\$	66,335	117799
		PMIX Hub					
3EZ0	887610	NASPER 10	\$	164,459		27,710	117800
TOTAL FED		Federal Special Revenue	\$	725,759	\$	96,424	117801
		Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	6,509,757	\$	5,973,209	117802
Section 361.10. PSY STATE BOARD OF PSYCHOLOGY							117804
General Services Fund Group							117805
4K90	882609	Operating Expenses	\$	525,394	\$	535,406	117806
TOTAL GSF		General Services					117807
		Fund Group	\$	525,394	\$	535,406	117808
TOTAL ALL BUDGET FUND GROUPS			\$	525,394	\$	535,406	117809
Section 363.10. PUB OHIO PUBLIC DEFENDER COMMISSION							117811
General Revenue Fund							117812
GRF	019401	State Legal Defense	\$	2,610,272	\$	3,020,855	117813
		Services					
GRF	019403	Multi-County: State	\$	338,931	\$	406,626	117814
		Share					
GRF	019404	Trumbull County -	\$	99,321	\$	119,158	117815
		State Share					
GRF	019405	Training Account	\$	50,000	\$	50,000	117816
GRF	019501	County Reimbursement	\$	2,565,398	\$	3,077,786	117817
TOTAL GRF		General Revenue Fund	\$	5,663,922	\$	6,674,425	117818
General Services Fund Group							117819
4070	019604	County Representation	\$	231,076	\$	231,754	117820
4080	019605	Client Payments	\$	1,052,919	\$	953,492	117821

5CX0 019617	Civil Case Filing Fee	\$	708,654	\$	705,713	117822
TOTAL GSF General Services						117823
Fund Group		\$	1,992,649	\$	1,890,959	117824
Federal Special Revenue Fund Group						117825
3S80 019608	Federal	\$	341,733	\$	263,431	117826
Representation						
TOTAL FED Federal Special Revenue						117827
Fund Group		\$	341,733	\$	263,431	117828
State Special Revenue Fund Group						117829
4C70 019601	Multi-County: County	\$	3,324,009	\$	3,333,014	117830
Share						
4N90 019613	Gifts and Grants	\$	35,000	\$	35,000	117831
4X70 019610	Trumbull County -	\$	974,069	\$	976,612	117832
County Share						
5740 019606	Civil Legal Aid	\$	24,000,000	\$	27,000,000	117833
5DY0 019618	Indigent Defense	\$	42,195,000	\$	43,125,000	117834
Support - County						
Share						
5DY0 019619	Indigent Defense	\$	6,521,723	\$	6,096,759	117835
Support Fund - State						
Office						
TOTAL SSR State Special Revenue						117836
Fund Group		\$	77,049,801	\$	80,566,385	117837
TOTAL ALL BUDGET FUND GROUPS						117838
INDIGENT DEFENSE OFFICE						117839
The foregoing appropriation items 019404, Trumbull County -						117840
State Share, and 019610, Trumbull County - County Share, shall be						117841
used to support an indigent defense office for Trumbull County.						117842
MULTI-COUNTY OFFICE						117843
The foregoing appropriation items 019403, Multi-County: State						117844
Share, and 019601, Multi-County: County Share, shall be used to						117845

support the Office of the Ohio Public Defender's Multi-County				117846	
Branch Office Program.				117847	
TRAINING ACCOUNT				117848	
The foregoing appropriation item 019405, Training Account,				117849	
shall be used by the Ohio Public Defender to provide legal				117850	
training programs at no cost for private appointed counsel who				117851	
represent at least one indigent defendant at no cost and for state				117852	
and county public defenders and attorneys who contract with the				117853	
Ohio Public Defender to provide indigent defense services.				117854	
FEDERAL REPRESENTATION				117855	
The foregoing appropriation item 019608, Federal				117856	
Representation, shall be used to receive reimbursements from the				117857	
federal courts when the Ohio Public Defender provides				117858	
representation in federal court cases and to support				117859	
representation in such cases.				117860	
Section 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO				117861	
General Services Fund Group				117862	
5F60 870622 Utility and Railroad	\$	30,637,234	\$	31,638,708	117863
Regulation					
5F60 870624 NARUC/NRRI Subsidy	\$	158,000	\$	158,000	117864
5F60 870625 Motor Transportation	\$	4,976,641	\$	5,971,218	117865
Regulation					
5Q50 870626 Telecommunications	\$	5,000,000	\$	5,000,000	117866
Relay Service					
TOTAL GSF General Services				117867	
Fund Group	\$	40,771,875	\$	42,767,926	117868
Federal Special Revenue Fund Group				117869	
3330 870601 Gas Pipeline Safety	\$	597,959	\$	597,959	117870
3500 870608 Motor Carrier Safety	\$	7,351,660	\$	7,351,660	117871
3CU0 870627 Electric Market	\$	91,183	\$	0	117872

		Modeling				
3EA0	870630	Energy Assurance	\$	384,000	\$	384,000 117873
		Planning				
3ED0	870631	State Regulators	\$	231,824	\$	231,824 117874
		Assistance				
3V30	870604	Commercial Vehicle	\$	100,000	\$	100,000 117875
		Information				
		Systems/Networks				
TOTAL FED	Federal	Special Revenue				117876
Fund Group			\$	8,756,626	\$	8,665,443 117877
State Special Revenue Fund Group						117878
4A30	870614	Grade Crossing	\$	1,347,357	\$	1,347,357 117879
		Protection				
		Devices-State				
4L80	870617	Pipeline Safety-State	\$	181,992	\$	181,992 117880
4S60	870618	Hazardous Material	\$	450,395	\$	450,395 117881
		Registration				
4S60	870621	Hazardous Materials	\$	373,346	\$	373,346 117882
		Base State				
		Registration				
4U80	870620	Civil Forfeitures	\$	277,347	\$	277,496 117883
5590	870605	Public Utilities	\$	3,880	\$	3,880 117884
		Territorial				
		Administration				
5600	870607	Special Assessment	\$	97,000	\$	97,000 117885
5610	870606	Power Siting Board	\$	631,508	\$	631,618 117886
5BP0	870623	Wireless 9-1-1	\$	36,440,000	\$	18,220,000 117887
		Administration				
5HD0	870629	Radioactive Waste	\$	98,800	\$	98,800 117888
		Transportation				
6380	870611	Biofuels/Municipal	\$	570	\$	0 117889
		Waste Technology				
6610	870612	Hazardous Materials	\$	898,800	\$	898,800 117890

Transportation				
TOTAL SSR State Special Revenue				117891
Fund Group	\$	40,800,995	\$ 22,580,684	117892
TOTAL ALL BUDGET FUND GROUPS	\$	90,329,496	\$ 74,014,053	117893
Section 367.10. PWC PUBLIC WORKS COMMISSION				117895
General Revenue Fund				117896
GRF 150904 Conservation General	\$	21,953,000	\$ 29,297,300	117897
Obligation Debt Service				
GRF 150907 State Capital	\$	106,770,600	\$ 215,571,100	117898
Improvements General Obligation				117899
Debt Service				
TOTAL GRF General Revenue Fund	\$	128,723,600	\$ 244,868,400	117900
State Special Revenue Fund Group				117901
5KJ0 150600 Local Government	\$	50,000,000	\$ 50,000,000	117902
Integrating and Innovation				
TOTAL SSR State Special Revenue	\$	50,000,000	\$ 50,000,000	117903
Fund Group				
Clean Ohio Conservation Fund Group				117904
7056 150403 Clean Ohio Operating	\$	300,000	\$ 288,980	117905
Expenses				
TOTAL 056 Clean Ohio Conservation	\$	300,000	\$ 288,980	117906
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	179,023,600	\$ 295,157,380	117907
CONSERVATION GENERAL OBLIGATION DEBT SERVICE				117908
The foregoing appropriation item 150904, Conservation General				117909
Obligation Debt Service, shall be used to pay all debt service and				117910
related financing costs during the period from July 1, 2011,				117911
through June 30, 2013, at the times they are required to be made				117912

for obligations issued under sections 151.01 and 151.09 of the Revised Code. 117913
117914

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 117915

The foregoing appropriation item 150907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, at the times they are required to be made for obligations issued under sections 151.01 and 151.08 of the Revised Code. 117916
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LOCAL GOVERNMENT INTEGRATING AND INNOVATION 117922

The foregoing appropriation item 150600, Local Government Integrating and Innovation, shall be used to make awards to political subdivisions pursuant to section 164.30 of the Revised Code. 117923
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117926

CLEAN OHIO OPERATING EXPENSES 117927

The foregoing appropriation item 150403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering Clean Ohio Conservation Fund (Fund 7056) projects pursuant to sections 164.20 to 164.27 of the Revised Code. 117928
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117931

REIMBURSEMENT TO THE GENERAL REVENUE FUND 117932

(A) On or before July 15, 2013, the Director of the Public Works Commission shall certify to the Director of Budget and Management the following: 117933
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117935

(1) The total amount disbursed from appropriation item 700409, Farmland Preservation, during the FY 2012-FY 2013 biennium; and 117936
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117938

(2) The amount of interest earnings that have been credited to the Clean Ohio Conservation Fund (Fund 7056) that are in excess of the amount needed for other purposes as calculated by the Director of the Public Works Commission. 117939
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117941
117942

(B) If the Director of Budget and Management determines under 117943
division (A)(2) of this section that there are excess interest 117944
earnings, the Director of Budget and Management shall, on or 117945
before July 15, 2013, transfer the excess interest earnings to the 117946
General Revenue Fund in an amount equal to the total amount 117947
disbursed under division (A)(1) of this section from the Clean 117948
Ohio Conservation Fund (Fund 7056). 117949

Section 369.10. RAC STATE RACING COMMISSION				117950
State Special Revenue Fund Group				117951
5620	875601	Thoroughbred Race Fund	\$ 1,796,328 \$ 1,696,456	117952
5630	875602	Standardbred Development Fund	\$ 1,697,418 \$ 1,697,452	117953
5640	875603	Quarter Horse Development Fund	\$ 1,000 \$ 1,000	117954
5650	875604	Racing Commission Operating	\$ 3,095,331 \$ 2,934,178	117955
5C40	875607	Simulcast Horse Racing Purse	\$ 12,000,000 \$ 12,000,000	117956
TOTAL SSR State Special Revenue				117957
Fund Group				\$ 18,590,078 \$ 18,329,087 117958
Holding Account Redistribution Fund Group				117959
R021	875605	Bond Reimbursements	\$ 100,000 \$ 100,000	117960
TOTAL 090 Holding Account				117961
Redistribution				
Fund Group				\$ 100,000 \$ 100,000 117962
TOTAL ALL BUDGET FUND GROUPS				\$ 18,690,078 \$ 18,429,087 117963

Section 371.10. BOR BOARD OF REGENTS				117965
General Revenue Fund				117966
GRF	235321	Operating Expenses	\$ 2,300,000 \$ 2,300,000	117967

GRF 235401	Lease Rental Payments	\$	83,151,600	\$	57,634,400	117968
GRF 235402	Sea Grants	\$	285,000	\$	285,000	117969
GRF 235406	Articulation and Transfer	\$	2,000,000	\$	2,000,000	117970
GRF 235408	Midwest Higher Education Compact	\$	95,000	\$	95,000	117971
GRF 235409	Information System	\$	800,000	\$	800,000	117972
GRF 235414	State Grants and Scholarship Administration	\$	1,230,000	\$	1,230,000	117973
GRF 235417	Ohio Learning Network	\$	2,532,688	\$	2,532,688	117974
GRF 235428	Appalachian New Economy Partnership	\$	737,366	\$	737,366	117975
GRF 235433	Economic Growth Challenge	\$	440,000	\$	440,000	117976
GRF 235438	Choose Ohio First Scholarship	\$	15,750,085	\$	15,750,085	117977
GRF 235443	Adult Basic and Literacy Education - State	\$	6,302,416	\$	6,302,416	117978
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,317,547	\$	15,317,547	117979
GRF 235474	Area Health Education Centers Program Support	\$	900,000	\$	900,000	117980
GRF 235501	State Share of Instruction	\$	1,735,530,031	\$	1,751,225,497	117981
GRF 235502	Student Support Services	\$	632,974	\$	632,974	117982
GRF 235504	War Orphans Scholarships	\$	4,787,833	\$	4,787,833	117983
GRF 235507	OhioLINK	\$	6,100,000	\$	6,100,000	117984

GRF 235508	Air Force Institute of Technology	\$	1,740,803	\$	1,740,803	117985
GRF 235510	Ohio Supercomputer Center	\$	3,347,418	\$	3,347,418	117986
GRF 235511	Cooperative Extension Service	\$	22,220,910	\$	22,220,910	117987
GRF 235514	Central State Supplement	\$	11,503,651	\$	10,928,468	117988
GRF 235515	Case Western Reserve University School of Medicine	\$	2,146,253	\$	2,146,253	117989
GRF 235519	Family Practice	\$	3,166,185	\$	3,166,185	117990
GRF 235520	Shawnee State Supplement	\$	2,448,523	\$	2,326,097	117991
GRF 235524	Police and Fire Protection	\$	107,814	\$	107,814	117992
GRF 235525	Geriatric Medicine	\$	522,151	\$	522,151	117993
GRF 235526	Primary Care Residencies	\$	1,500,000	\$	1,500,000	117994
GRF 235535	Ohio Agricultural Research and Development Center	\$	33,100,000	\$	33,100,000	117995
GRF 235536	The Ohio State University Clinical Teaching	\$	9,668,941	\$	9,668,941	117996
GRF 235537	University of Cincinnati Clinical Teaching	\$	7,952,573	\$	7,952,573	117997
GRF 235538	University of Toledo Clinical Teaching	\$	6,198,600	\$	6,198,600	117998
GRF 235539	Wright State University Clinical Teaching	\$	3,011,400	\$	3,011,400	117999

GRF 235540	Ohio University Clinical Teaching	\$ 2,911,212	\$ 2,911,212	118000
GRF 235541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$ 2,994,178	\$ 2,994,178	118001
GRF 235552	Capital Component	\$ 20,638,274	\$ 20,638,274	118002
GRF 235555	Library Depositories	\$ 1,440,342	\$ 1,440,342	118003
GRF 235556	Ohio Academic Resources Network	\$ 3,172,519	\$ 3,172,519	118004
GRF 235558	Long-term Care Research	\$ 195,300	\$ 195,300	118005
GRF 235563	Ohio College Opportunity Grant	\$ 86,284,265	\$ 86,284,265	118006
GRF 235572	The Ohio State University Clinic Support	\$ 766,533	\$ 766,533	118007
GRF 235599	National Guard Scholarship Program	\$ 16,912,271	\$ 16,912,271	118008
GRF 235909	Higher Education General Obligation Debt Service	\$ 108,262,500	\$ 201,555,000	118009
TOTAL GRF	General Revenue Fund	\$ 2,231,105,156	\$ 2,313,878,313	118010
	General Services Fund Group			118011
2200 235614	Program Approval and Reauthorization	\$ 1,311,567	\$ 1,457,959	118012
4560 235603	Sales and Services	\$ 199,250	\$ 199,250	118013
5JC0 235649	Co-op Internship Program	\$ 14,000,000	\$ 14,000,000	118014
TOTAL GSF	General Services Fund Group	\$ 15,510,817	\$ 15,657,209	118015 118016
	Federal Special Revenue Fund Group			118017

3120	235609	Tech Prep	\$	183,850	\$	183,850	118018
3120	235611	Gear-up Grant	\$	3,900,000	\$	3,900,000	118019
3120	235612	Carl D. Perkins Grant/Plan Administration	\$	912,961	\$	912,961	118020
3120	235617	Improving Teacher Quality Grant	\$	3,200,000	\$	3,200,000	118021
3120	235641	Adult Basic and Literacy Education - Federal	\$	14,835,671	\$	14,835,671	118022
3120	235659	Race to the Top Scholarship Program	\$	2,400,000	\$	3,780,000	118023
3120	235660	Race to the Top Educator Preparation Reform Initiative	\$	448,000	\$	1,120,000	118024
3120	235661	Americorps Grant	\$	260,000	\$	260,000	118025
3H20	235608	Human Services Project	\$	3,500,000	\$	3,500,000	118026
3N60	235638	College Access Challenge Grant	\$	4,381,431	\$	4,381,431	118027
TOTAL FED Federal Special Revenue							118028
Fund Group			\$	34,021,913	\$	36,073,913	118029
State Special Revenue Fund Group							118030
4E80	235602	Higher Educational Facility Commission Administration	\$	29,100	\$	29,100	118031
5FR0	235640	Joyce Foundation Grant	\$	919,719	\$	919,719	118032
5FR0	235647	Developmental Education Initiatives	\$	135,000	\$	135,000	118033
5FR0	235657	Win-Win Grant	\$	37,000	\$	15,000	118034
5P30	235663	Variable Savings Plan	\$	8,946,994	\$	9,072,136	118035
6450	235664	Guaranteed Savings Plan	\$	900,293	\$	907,514	118036

6490	235607	The Ohio State University Highway/Transportation Research	\$	500,000	\$	500,000	118037
6820	235606	Nursing Loan Program	\$	891,320	\$	891,320	118038
TOTAL SSR State Special Revenue							118039
Fund Group			\$	12,359,426	\$	12,469,789	118040
Third Frontier Research & Development Fund Group							118041
7011	235634	Research Incentive Third Frontier Fund	\$	8,000,000	\$	8,000,000	118042
TOTAL 011 Third Frontier Research & Development Fund Group			\$	8,000,000	\$	8,000,000	118043
TOTAL ALL BUDGET FUND GROUPS			\$	2,300,997,312	\$	2,386,079,224	118044

Section 371.10.10. LEASE RENTAL PAYMENTS 118046

The foregoing appropriation item 235401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Chancellor of the Board of Regents under leases and agreements made under section 154.21 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

Section 371.10.20. SEA GRANTS 118055

The foregoing appropriation item 235402, Sea Grants, shall be used as required matching Funds by The Ohio State University's Sea Grant program to enhance the economic value, public utilization, and responsible management of Lake Erie and Ohio's coastal resources.

Section 371.10.30. ARTICULATION AND TRANSFER 118061

The foregoing appropriation item 235406, Articulation and Transfer, shall be used by the Chancellor of the Board of Regents to maintain and expand the work of the Articulation and Transfer Council to develop a system of transfer policies to ensure that students at state institutions of higher education can transfer and have coursework apply to their majors and degrees at any other state institution of higher education without unnecessary duplication or institutional barriers under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

Section 371.10.40. MIDWEST HIGHER EDUCATION COMPACT

The foregoing appropriation item 235408, Midwest Higher Education Compact, shall be distributed by the Chancellor of the Board of Regents under section 3333.40 of the Revised Code.

Section 371.10.50. INFORMATION SYSTEM

The foregoing appropriation item 235409, Information System, shall be used by the Chancellor of the Board of Regents to support the development and implementation of information technology solutions designed to improve the performance and services of the Chancellor of the Board of Regents and the University System of Ohio. Information technology solutions shall be provided by the Ohio Academic Research Network (OARnet).

Section 371.10.60. STATE GRANTS AND SCHOLARSHIP

ADMINISTRATION

The foregoing appropriation item 235414, State Grants and Scholarship Administration, shall be used by the Chancellor of the Board of Regents to administer the following student financial aid programs: Ohio College Opportunity Grant, Ohio War Orphans' Scholarship, Nurse Education Assistance Loan Program, Ohio Safety Officers College Memorial Fund, and any other student financial

aid programs created by the General Assembly. The appropriation 118091
item also shall be used to support all state financial aid audits 118092
and student financial aid programs created by Congress, and to 118093
provide fiscal services for the Ohio National Guard Scholarship 118094
Program. 118095

Section 371.10.70. OHIO LEARNING NETWORK 118096

The foregoing appropriation item 235417, Ohio Learning 118097
Network, shall be used by the Chancellor of the Board of Regents 118098
to support the continued implementation of the Ohio Learning 118099
Network, a consortium organized under division (U) of section 118100
3333.04 of the Revised Code to expand access to dual enrollment 118101
opportunities for high school students, as well as adult and 118102
higher education opportunities through technology. The funds shall 118103
be used by the Ohio Learning Network to develop and promote 118104
learning and assessment through the use of technology, to test and 118105
provide advice on emerging learning-directed technologies, and to 118106
facilitate cost-effectiveness through shared educational 118107
technology investments. 118108

Of the foregoing appropriation item 235417, Ohio Learning 118109
Network, up to \$250,000 in each fiscal year shall be used by the 118110
Chancellor of the Board of Regents to fund staff support and 118111
operations of the Ohio Digital Learning Task Force established in 118112
Section 371.60.80 of this act. 118113

Section 371.10.80. APPALACHIAN NEW ECONOMY PARTNERSHIP 118114

The foregoing appropriation item 235428, Appalachian New 118115
Economy Partnership, shall be distributed to Ohio University to 118116
continue a multi-campus and multi-agency coordinated effort to 118117
link Appalachia to the new economy. Ohio University shall use 118118
these funds to provide leadership in the development and 118119
implementation of initiatives in the areas of entrepreneurship, 118120

management, education, and technology. 118121

Section 371.10.90. ECONOMIC GROWTH CHALLENGE 118122

The foregoing appropriation item 235433, Economic Growth 118123
Challenge, shall be used for administrative expenses of the 118124
Research Incentive Program and other economic advancement 118125
initiatives undertaken by the Chancellor of the Board of Regents. 118126

The Chancellor of the Board of Regents shall use any 118127
appropriation transfer to the foregoing appropriation item 235433, 118128
Economic Growth Challenge, to enhance the basic research 118129
capabilities of public colleges and universities and accredited 118130
Ohio institutions of higher education holding certificates of 118131
authorization issued under section 1713.02 of the Revised Code, in 118132
order to strengthen academic research for pursuing Ohio's economic 118133
development goals. 118134

Section 371.20.10. CHOOSE OHIO FIRST SCHOLARSHIP 118135

The foregoing appropriation item 235438, Choose Ohio First 118136
Scholarship, shall be used to operate the program prescribed in 118137
sections 3333.60 to 3333.70 of the Revised Code. 118138

An amount equal to the unexpended, unencumbered portion of 118139
the foregoing appropriation item 235438, Choose Ohio First 118140
Scholarship, at the end of fiscal year 2012 is hereby 118141
reappropriated to the Board of Regents for the same purpose for 118142
fiscal year 2013. 118143

Section 371.20.20. ADULT BASIC AND LITERACY EDUCATION 118144

The foregoing appropriation item 235443, Adult Basic and 118145
Literacy Education - State, shall be used to support the adult 118146
basic and literacy education instructional grant program and state 118147
leadership program. The supported programs shall satisfy the state 118148
match and maintenance of effort requirements for the 118149

state-administered grant program. 118150

Section 371.20.30. POST-SECONDARY ADULT CAREER-TECHNICAL 118151
EDUCATION 118152

The foregoing appropriation item 235444, Post-Secondary Adult 118153
Career-Technical Education, shall be used by the Chancellor of the 118154
Board of Regents in each fiscal year to provide post-secondary 118155
adult career-technical education under sections 3313.52 and 118156
3313.53 of the Revised Code. 118157

Section 371.20.40. AREA HEALTH EDUCATION CENTERS 118158

The foregoing appropriation item 235474, Area Health 118159
Education Centers Program Support, shall be used by the Chancellor 118160
of the Board of Regents to support the medical school regional 118161
area health education centers' educational programs for the 118162
continued support of medical and other health professions 118163
education and for support of the Area Health Education Center 118164
Program. 118165

Section 371.20.50. STATE SHARE OF INSTRUCTION FORMULAS 118166

The Chancellor of the Board of Regents shall establish 118167
procedures to allocate the foregoing appropriation item 235501, 118168
State Share of Instruction, based on the formulas, enrollment, 118169
course completion, degree attainment, and student achievement 118170
factors in the instructional models set out in this section. 118171

(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COMPLETIONS 118172

(1) As soon as possible during each fiscal year of the 118173
biennium ending June 30, 2013, in accordance with instructions of 118174
the Board of Regents, each state-assisted institution of higher 118175
education shall report its actual enrollment, consistent with the 118176
definitions in the Higher Education Information (HEI) system's 118177
enrollment files, to the Chancellor of the Board of Regents. 118178

(2) In defining the number of full-time equivalent students for state subsidy purposes, the Chancellor of the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code.

(3) In calculating the core subsidy entitlements for university branch and main campuses, the Chancellor of the Board of Regents shall use the following count of FTE students:

(a) The subsidy eligible enrollments by model shall equal only those FTE students who successfully complete the course as defined and reported through the Higher Education Information (HEI) system course enrollment file;

(b) For those undergraduate FTE students with successful course completions, identified in division (A)(3)(a) of this section, that had an expected family contribution less than 2190 or were determined to have been in need of remedial education shall be defined as at-risk students and shall have their eligible completions weighted by the following:

(i) Campus-specific course completion rates by model;

(ii) Campus-specific course completion indexes, where the indexes are calculated based upon the number of at-risk students enrolled during the 2009-2010 academic year; and

(iii) A statewide average at-risk course completion weight determined for each subsidy model. The statewide average at-risk course completion weight shall be determined by calculating the difference between the percentage of traditional students who complete a course and the percentage of at-risk students who complete the same course.

(4) In calculating the core subsidy entitlements for Medical

II models only, students repeating terms may be no more than five 118210
per cent of current year enrollment. 118211

(5) In calculating the core subsidy entitlements for students 118212
enrolled in state-supported law schools, subsidy eligible FTE 118213
completions shall be limited to students identified as residents 118214
of Ohio. 118215

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT 118216

For purposes of calculating state share of instruction 118217
allocations, the total instructional costs per full-time 118218
equivalent student shall be: 118219

Model	Fiscal Year 2012	Fiscal Year 2013	
ARTS AND HUMANITIES 1	\$8,000	\$8,207	118221
ARTS AND HUMANITIES 2	\$10,757	\$11,036	118222
ARTS AND HUMANITIES 3	\$13,853	\$14,212	118223
ARTS AND HUMANITIES 4	\$20,228	\$20,751	118224
ARTS AND HUMANITIES 5	\$32,605	\$33,449	118225
ARTS AND HUMANITIES 6	\$38,027	\$39,011	118226
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	\$7,124	\$7,308	118227
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	\$8,164	\$8,376	118228
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	\$10,430	\$10,700	118229
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	\$12,406	\$12,727	118230
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	\$19,267	\$19,765	118231
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	\$22,684	\$23,272	118232
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	\$29,426	\$30,188	118233
MEDICAL 1	\$51,214	\$52,539	118234
MEDICAL 2	\$46,876	\$48,089	118235
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$7,306	\$7,495	118236
MEDICINE 1			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$10,242	\$10,507	118237
MEDICINE 2			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$12,242	\$12,559	118238

MEDICINE 3			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$15,592	\$15,995	118239
MEDICINE 4			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$20,250	\$20,774	118240
MEDICINE 5			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$22,357	\$22,935	118241
MEDICINE 6			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$28,000	\$28,724	118242
MEDICINE 7			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$37,731	\$38,707	118243
MEDICINE 8			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$52,676	\$54,039	118244
MEDICINE 9			
Doctoral I and Doctoral II models shall be allocated in			118245
accordance with division (D)(2) of this section.			118246
(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL,			118247
AND GRADUATE WEIGHTS			118248
For the purpose of implementing the recommendations of the			118249
State Share of Instruction Consultation and the Higher Education			118250
Funding Study Council that priority be given to maintaining state			118251
support for science, technology, engineering, mathematics,			118252
medicine, and graduate programs, the costs in division (B) of this			118253
section shall be weighted by the amounts provided below:			118254
Model	Fiscal	Fiscal	118255
	Year 2012	Year 2013	
ARTS AND HUMANITIES 1	1.0000	1.0000	118256
ARTS AND HUMANITIES 2	1.0000	1.0000	118257
ARTS AND HUMANITIES 3	1.0000	1.0000	118258
ARTS AND HUMANITIES 4	1.0000	1.0000	118259
ARTS AND HUMANITIES 5	1.0425	1.0425	118260
ARTS AND HUMANITIES 6	1.0425	1.0425	118261
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000	118262

BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000	118263
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000	118264
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000	118265
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425	118266
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425	118267
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425	118268
MEDICAL 1	1.6456	1.6456	118269
MEDICAL 2	1.7462	1.7462	118270
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.0000	1.0000	118271
MEDICINE 1			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.0017	1.0017	118272
MEDICINE 2			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.6150	1.6150	118273
MEDICINE 3			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.6920	1.6920	118274
MEDICINE 4			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.4222	1.4222	118275
MEDICINE 5			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.8798	1.8798	118276
MEDICINE 6			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.4380	1.4380	118277
MEDICINE 7			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.5675	1.5675	118278
MEDICINE 8			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.1361	1.1361	118279
MEDICINE 9			

(D) CALCULATION OF STATE SHARE OF INSTRUCTION FORMULA 118280

ENTITLEMENTS AND ADJUSTMENTS 118281

(1) Of the foregoing appropriation item 235501, State Share 118282
of Instruction, 7.5 per cent of the fiscal year 2012 appropriation 118283
and 10 per cent of the fiscal year 2013 appropriation for 118284
state-supported community colleges, state community colleges, and 118285
technical colleges shall be allocated to colleges in proportion to 118286

their share of college student success factors as adopted by the 118287
Chancellor of the Board of Regents in formal communication to the 118288
Controlling Board on August 30, 2010. 118289

(2) Of the foregoing appropriation item 235501, State Share 118290
of Instruction, up to 12.89 per cent of the appropriation for 118291
university main campuses in each fiscal year shall be reserved for 118292
support of doctoral programs to implement the funding 118293
recommendations made by representatives of the universities. The 118294
amount so reserved shall be referred to as the doctoral set-aside. 118295

The doctoral set-aside shall be allocated to universities as 118296
follows: 118297

(a) 70 per cent of the doctoral set-aside in fiscal year 2012 118298
and 60 per cent of the doctoral set-aside in fiscal year 2013 118299
shall be allocated to universities in proportion to their share of 118300
the total number of Doctoral I equivalent FTEs as calculated on an 118301
institutional basis using the greater of the two-year or five-year 118302
FTEs for the period fiscal year 1994 through fiscal year 1998 with 118303
annualized FTEs for fiscal years 1994 through 1997 and all-term 118304
FTEs for fiscal year 1998 as adjusted to reflect the effects of 118305
doctoral review and subsequent changes in Doctoral I equivalent 118306
enrollments. For the purposes of this calculation, Doctoral I 118307
equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 118308
times the sum of Doctoral II FTEs. 118309

(b) 15 per cent of the doctoral set-aside in fiscal year 2012 118310
and 20 per cent of the doctoral set-aside in fiscal year 2013 118311
shall be allocated to universities in proportion to each campus's 118312
share of the total statewide doctoral degrees, weighted by the 118313
cost of the doctoral discipline. In calculating each campus's 118314
doctoral degrees the Chancellor of the Board of Regents shall use 118315
the three-year average doctoral degrees awarded for the three-year 118316
period ending in the prior year. 118317

(c) 7.5 per cent of the doctoral set-aside in fiscal year 118318
2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 118319
shall be allocated to universities in proportion to their share of 118320
research grant activity, using a data collection method that is 118321
reviewed and approved by the presidents of Ohio's doctoral degree 118322
granting universities. In the event that the data collection 118323
method is not available, funding for this component shall be 118324
allocated to universities in proportion to their share of research 118325
grant activity published by the National Science Foundation. Grant 118326
awards from the Department of Health and Human Services shall be 118327
weighted at 50 per cent. 118328

(d) 7.5 per cent of the doctoral set-aside in fiscal year 118329
2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 118330
shall be allocated to universities based on other quality measures 118331
that contribute to the advancement of quality doctoral programs. 118332
These other quality measures shall be identified by the Chancellor 118333
in consultation with universities. If for any reason metrics for 118334
distributing the quality component of the doctoral set-aside are 118335
not identified prior to the fiscal year allocation process, this 118336
portion of the doctoral set-aside funds shall be allocated to 118337
universities based on division (D)(2)(a) of this section. 118338

(3) Of the foregoing appropriation item 235501, State Share 118339
of Instruction, 7.01 per cent of the appropriation for university 118340
main campuses in each fiscal year shall be reserved for support of 118341
Medical II FTEs. The amount so reserved shall be referred to as 118342
the medical II set-aside. 118343

The medical II set-aside shall be allocated to universities 118344
in proportion to their share of the total number of Medical II 118345
FTEs as calculated in division (A) of this section, weighted by 118346
model cost. 118347

The Northeastern Ohio Universities Colleges of Medicine and 118348
Pharmacy (NEOUCOM) may use funds from the addition of 35 medical 118349

students resulting from its partnership with Cleveland State University to establish the NEOUCOM academic campus at Cleveland State University to enable 50 per cent or more of the medical curriculum to be based in Cleveland at Cleveland State University, local hospitals, and community- and neighborhood-based primary care clinics. Cleveland State University shall not receive state capital appropriations to pay for facilities for the academic campus.

(4) Of the foregoing appropriation item 235501, State Share of Instruction, 1.61 per cent of the appropriation for university main campuses in each fiscal year shall be reserved for support of Medical I FTEs. The amount so reserved shall be referred to as the medical I set-aside.

The medical I set-aside shall be allocated to universities in proportion to their share of the total number of Medical I FTEs as calculated in division (A) of this section.

(5) Of the foregoing appropriation item 235501, State Share of Instruction, 15 per cent of the fiscal year 2012 appropriation for university main campuses and 20 per cent of the fiscal year 2013 appropriation for university main campuses shall be reserved for support of associate, baccalaureate, master's, and professional level degree attainment.

The degree attainment funding shall be allocated to universities in proportion to each campus's share of the total statewide degrees granted, weighted by the cost of the degree programs.

In calculating the subsidy entitlements for degree attainment at university main campuses, the Chancellor of the Board of Regents shall use the following count of degrees and degree costs:

(a) For those associate degrees awarded by a state-supported university, the subsidy eligible degrees granted are defined as

only those earned by students attending a university that received 118381
funding under GRF appropriation item 235418, Access Challenge, in 118382
fiscal year 2009. 118383

(b) For professional law and legal studies degrees awarded by 118384
a state-supported university, the subsidy-eligible degrees at each 118385
institution shall equal no more than the following: 118386

University of Akron	132	118387
University of Cincinnati	90	118388
Cleveland State University	192	118389
The Ohio State University	149	118390
University of Toledo	134	118391

(c) In calculating each campus's count of degrees, the 118392
Chancellor of the Board of Regents shall use the three-year 118393
average associate, baccalaureate, master's, and professional 118394
degrees awarded for the three-year period ending in the prior 118395
year. 118396

(d) Eligible associate degrees defined in division (D)(5)(a) 118397
of this section and all bachelor's degrees earned by a student 118398
that either had an expected family contribution less than 2190, 118399
was determined to have been in need of remedial education, is 118400
Native American, African American, or Hispanic, or is at least age 118401
26 at the time of graduation, shall be defined as degrees earned 118402
by an at-risk student and shall be weighted by the following: 118403

(i) A campus-specific degree completion index, where the 118404
index is calculated based on the number of at-risk students 118405
enrolled during a two-year degree cohort beginning in fiscal year 118406
2000 or 2001 and earning a degree in eight years or less; and 118407

(ii) A statewide average at-risk completion weight determined 118408
by calculating the difference between the percentage of 118409
traditional students who earned a degree and the percentage of 118410
at-risk students who earned a degree during the same time period. 118411

(6) Each campus's state share of instruction base formula earnings shall be determined as follows:

(a) For each campus in each fiscal year, the instructional costs shall be determined by multiplying the amounts listed above in divisions (B) and (C) of this section by (i) average subsidy-eligible FTEs for the two-year period ending in the prior year for all models except Doctoral I and Doctoral II; and (ii) average subsidy-eligible FTEs for the five-year period ending in the prior year for all models except Doctoral I and Doctoral II.

(b) The Chancellor of the Board of Regents shall compute the two calculations listed in division (D)(6)(a) of this section and use the greater amount as each campus's instructional costs.

(c) The Chancellor of the Board of Regents shall compute a uniform state share of instructional costs for each sector.

(i) For the state-supported community colleges, state community colleges, and technical colleges, the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the sector level appropriation total as determined by the Chancellor in division (A)(1) of Section 371.20.60 of this act and adjusted pursuant to divisions (B) and (C) of Section 371.20.60 of this act, less the student college success allocation as described in division (D)(1) of this section, by the sum of all eligible campuses' instructional costs as calculated in division (D)(6)(b) of this section.

(ii) For the state-supported university branch campuses, the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the sector level appropriation, as determined by the Chancellor in division (A)(2) of Section 371.20.60 of this act and adjusted pursuant to division (B) of Section 371.20.60 of this act by the sum of all campuses' instructional costs as calculated in division (D)(6)(b) of this

section. 118443

(iii) For the state-supported university main campuses, the 118444
Chancellor of the Board of Regents shall compute the uniform state 118445
share of instructional costs by dividing the sector level 118446
appropriation, as determined by the Chancellor in division (A)(3) 118447
of Section 371.20.60 of this act and adjusted pursuant to division 118448
(B) of Section 371.20.60 of this act, less the doctoral set-aside, 118449
less the medical I set-aside, less the medical II set-aside, and 118450
less the degree attainment funding as calculated in divisions 118451
(D)(2) to (5) of this section, by the sum of all campuses' 118452
instructional costs as calculated in division (D)(6)(b) of this 118453
section. 118454

(d) The formula entitlement for each sector's campuses shall 118455
be determined by multiplying the uniform state share of 118456
instructional costs calculated in division (D)(6)(c) of this 118457
section by the campus's instructional cost determined in division 118458
(D)(6)(b) of this section. 118459

(7) In addition to the student success allocation, doctoral 118460
set-aside, medical I set-aside, medical II set-aside, and the 118461
degree attainment allocation determined in divisions (D)(1) to (5) 118462
of this section and the formula entitlement determined in division 118463
(D)(6) of this section, an allocation based on facility-based 118464
plant operations and maintenance (POM) subsidy shall be made. For 118465
each eligible campus, the amount of the POM allocation in each 118466
fiscal year shall be distributed based on what each campus 118467
received in the fiscal year 2009 POM allocation. 118468

Any POM allocations required by this division shall be funded 118469
by proportionately reducing formula entitlement earnings, 118470
including the POM allocations, for all campuses in that sector. 118471

(8) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING 118472

(a) In addition to and after the adjustments noted above, in 118473

fiscal year 2012, no campus shall receive a state share of 118474
instruction allocation that is less than the lesser of the 118475
following two amounts, net of funding for the medical II 118476
set-aside: 118477

(i) The prior year's state share of instruction amount 118478
reduced by 3 per cent, or 118479

(ii) The prior year's state share of instruction amount 118480
reduced by a percentage equal to the percentage change from the 118481
prior year in the campus's sector's state share of instruction 118482
funding minus three percentage points. Funds shall be made 118483
available to support this allocation by proportionately reducing 118484
formula entitlement earnings from those campuses, within each 118485
sector, that are not receiving stability funding. 118486

(b) In fiscal year 2013, in addition to and after the 118487
adjustments noted above, no campus shall receive a state share of 118488
instruction allocation that is less than the lesser of the 118489
following two amounts, net of funding for the medical II 118490
set-aside: 118491

(i) The prior year's state share of instruction amount 118492
reduced by 4 per cent, or 118493

(ii) The prior year's state share of instruction amount 118494
reduced by a percentage equal to the percentage change from the 118495
prior year in the campus's sector's state share of instruction 118496
funding minus four percentage points. Funds shall be made 118497
available to support this allocation by proportionately reducing 118498
formula entitlement earnings from those campuses, within each 118499
sector, that are not receiving stability funding. 118500

(c) For main campus universities that operate a medical 118501
school, in fiscal year 2012 no campus shall receive an allocation 118502
for the medical II set-aside that is less than the lesser of the 118503
following amounts: 118504

(i) The prior year's allocation for the medical II set-aside 118505
reduced by 2 per cent, or 118506

(ii) The prior year's allocation for the medical II set-aside 118507
reduced by a percentage equal to the percentage change from the 118508
prior year in the total medical II set-aside minus two percentage 118509
points. Funds shall be made available to support this allocation 118510
by proportionately reducing formula entitlement earnings from 118511
public medical schools, within each sector, that are not receiving 118512
stability funding. 118513

(d) In fiscal year 2013, no main campus university that 118514
operates a medical school shall receive an allocation for the 118515
medical II set-aside that is less than 97 per cent of the prior 118516
year's allocation for the medical II set-aside. Funds shall be 118517
made available to support this allocation by proportionately 118518
reducing formula entitlement earnings from public medical schools, 118519
within each sector, that are not receiving stability funding. 118520

(9) CAPITAL COMPONENT DEDUCTION 118521

After all other adjustments have been made, state share of 118522
instruction earnings shall be reduced for each campus by the 118523
amount, if any, by which debt service charged in Am. H.B. 748 of 118524
the 121st General Assembly, Am. Sub. H.B. 850 of the 122nd General 118525
Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 118526
675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th 118527
General Assembly, Am. Sub. H.B. 699 of the 126th General Assembly, 118528
Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 118529
562 of the 127th General Assembly for that campus exceeds that 118530
campus's capital component earnings. The sum of the amounts 118531
deducted shall be transferred to appropriation item 235552, 118532
Capital Component, in each fiscal year. 118533

(E) EXCEPTIONAL CIRCUMSTANCES 118534

Adjustments may be made to the state share of instruction 118535

payments and other subsidies distributed by the Chancellor of the Board of Regents to state-assisted colleges and universities for exceptional circumstances. No adjustments for exceptional circumstances may be made without the recommendation of the Chancellor and the approval of the Controlling Board.

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF INSTRUCTION

The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation item 235501, State Share of Instruction, before the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation item 235501, State Share of Instruction, after the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION

The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to the Chancellor of the Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor.

Section 371.20.60. STATE SHARE OF INSTRUCTION FOR FISCAL 118566
YEARS 2012 AND 2013 118567

(A) The foregoing appropriation item 235501, State Share of 118568
Instruction, shall be distributed according to the section of this 118569
act entitled "STATE SHARE OF INSTRUCTION FORMULAS." 118570

(1) Of the foregoing appropriation item 235501, State Share 118571
of Instruction, \$400,039,672 in fiscal year 2012 and \$403,657,477 118572
in fiscal year 2013 shall be distributed to state-supported 118573
community colleges, state community colleges, and technical 118574
colleges. 118575

(2) Of the foregoing appropriation item 235501, State Share 118576
of Instruction, \$115,139,824 in fiscal year 2012 and \$116,181,104 118577
in fiscal year 2013 shall be distributed to state-supported 118578
university branch campuses. 118579

(3) Of the foregoing appropriation item 235501, State Share 118580
of Instruction, \$1,220,350,535 in fiscal year 2012 and 118581
\$1,231,386,916 in fiscal year 2013 shall be distributed to 118582
state-supported university main campuses. 118583

(B) Of the amounts earmarked in division (A) of this section, 118584
\$60,996,059 in each fiscal year shall be distributed to eligible 118585
colleges and universities based on each campus's share of the 118586
appropriation item 235418, Access Challenge, in fiscal year 2009. 118587

(C) Of the amount earmarked in division (A)(1) of this 118588
section, \$10,323,056 in each fiscal year shall be distributed 118589
among state-supported community colleges, state community 118590
colleges, and technical colleges in an amount equal to the amount 118591
each institution received in fiscal year 2009 from the 118592
supplemental tuition subsidy earmarked under Section 375.30.25 of 118593
H.B. 119 of the 127th General Assembly. 118594

(D) The state share of instruction payments to the 118595

institutions shall be in substantially equal monthly amounts 118596
during the fiscal year, unless otherwise determined by the 118597
Director of Budget and Management pursuant to section 126.09 of 118598
the Revised Code. Payments during the last six months of the 118599
fiscal year shall be distributed after approval of the Controlling 118600
Board upon the request of the Chancellor of the Board of Regents. 118601

Section 371.20.65. TRANSFER OF INSTRUCTIONAL SUBSIDIES 118602
BETWEEN UNIVERSITIES 118603

Notwithstanding any provision of law to the contrary, in 118604
consultation with the Chancellor of the Board of Regents, a 118605
state-supported university may request to transfer state share of 118606
instruction subsidy allocations of the foregoing appropriation 118607
item 235501, State Share of Instruction, between a university main 118608
campus and any university branch campus for which the university 118609
main campus is affiliated to best accomplish institutional goals 118610
and objectives. At the request of the Chancellor of the Board of 118611
Regents, the Director of Budget and Management may transfer the 118612
requested amounts of state share of instruction appropriation 118613
allocations between affiliated university branch campuses and 118614
university main campuses. 118615

Section 371.20.70. RESTRICTION ON FEE INCREASES 118616

The boards of trustees of state-assisted institutions of 118617
higher education shall restrain increases in in-state 118618
undergraduate instructional and general fees. Each state-assisted 118619
institution shall not increase its in-state undergraduate 118620
instructional and general fees more than 3.5 per cent over what 118621
the institution charged for the preceding academic year. 118622

These limitations shall not apply to increases required to 118623
comply with institutional covenants related to their obligations 118624
or to meet unfunded legal mandates or legally binding obligations 118625

incurred or commitments made prior to the effective date of this 118626
section with respect to which the institution had identified such 118627
fee increases as the source of funds. Any increase required by 118628
such covenants and any such mandates, obligations, or commitments 118629
shall be reported by the Chancellor of the Board of Regents to the 118630
Controlling Board. These limitations may also be modified by the 118631
Chancellor of the Board of Regents, with the approval of the 118632
Controlling Board, to respond to exceptional circumstances as 118633
identified by the Chancellor of the Board of Regents. 118634

Section 371.20.80. HIGHER EDUCATION - BOARD OF TRUSTEES 118635

(A) Funds appropriated for instructional subsidies at 118636
colleges and universities may be used to provide such branch or 118637
other off-campus undergraduate courses of study and such master's 118638
degree courses of study as may be approved by the Chancellor of 118639
the Board of Regents. 118640

(B) In providing instructional and other services to 118641
students, boards of trustees of state-assisted institutions of 118642
higher education shall supplement state subsidies with income from 118643
charges to students. Except as otherwise provided in this act, 118644
each board shall establish the fees to be charged to all students, 118645
including an instructional fee for educational and associated 118646
operational support of the institution and a general fee for 118647
noninstructional services, including locally financed student 118648
services facilities used for the benefit of enrolled students. The 118649
instructional fee and the general fee shall encompass all charges 118650
for services assessed uniformly to all enrolled students. Each 118651
board may also establish special purpose fees, service charges, 118652
and fines as required; such special purpose fees and service 118653
charges shall be for services or benefits furnished individual 118654
students or specific categories of students and shall not be 118655
applied uniformly to all enrolled students. A tuition surcharge 118656

shall be paid by all students who are not residents of Ohio. 118657

The board of trustees of a state-assisted institution of 118658
higher education shall not authorize a waiver or nonpayment of 118659
instructional fees or general fees for any particular student or 118660
any class of students other than waivers specifically authorized 118661
by law or approved by the Chancellor. This prohibition is not 118662
intended to limit the authority of boards of trustees to provide 118663
for payments to students for services rendered the institution, 118664
nor to prohibit the budgeting of income for staff benefits or for 118665
student assistance in the form of payment of such instructional 118666
and general fees. 118667

Each state-assisted institution of higher education in its 118668
statement of charges to students shall separately identify the 118669
instructional fee, the general fee, the tuition charge, and the 118670
tuition surcharge. Fee charges to students for instruction shall 118671
not be considered to be a price of service but shall be considered 118672
to be an integral part of the state government financing program 118673
in support of higher educational opportunity for students. 118674

(C) The boards of trustees of state-assisted institutions of 118675
higher education shall ensure that faculty members devote a proper 118676
and judicious part of their work week to the actual instruction of 118677
students. Total class credit hours of production per academic term 118678
per full-time faculty member is expected to meet the standards set 118679
forth in the budget data submitted by the Chancellor of the Board 118680
of Regents. 118681

(D) The authority of government vested by law in the boards 118682
of trustees of state-assisted institutions of higher education 118683
shall in fact be exercised by those boards. Boards of trustees may 118684
consult extensively with appropriate student and faculty groups. 118685
Administrative decisions about the utilization of available 118686
resources, about organizational structure, about disciplinary 118687
procedure, about the operation and staffing of all auxiliary 118688

facilities, and about administrative personnel shall be the 118689
exclusive prerogative of boards of trustees. Any delegation of 118690
authority by a board of trustees in other areas of responsibility 118691
shall be accompanied by appropriate standards of guidance 118692
concerning expected objectives in the exercise of such delegated 118693
authority and shall be accompanied by periodic review of the 118694
exercise of this delegated authority to the end that the public 118695
interest, in contrast to any institutional or special interest, 118696
shall be served. 118697

Section 371.20.90. STUDENT SUPPORT SERVICES 118698

The foregoing appropriation item 235502, Student Support 118699
Services, shall be distributed by the Chancellor of the Board of 118700
Regents to Ohio's state-assisted colleges and universities that 118701
incur disproportionate costs in the provision of support services 118702
to disabled students. 118703

Section 371.30.10. WAR ORPHANS SCHOLARSHIPS 118704

The foregoing appropriation item 235504, War Orphans 118705
Scholarships, shall be used to reimburse state-assisted 118706
institutions of higher education for waivers of instructional fees 118707
and general fees provided by them, to provide grants to 118708
institutions that have received a certificate of authorization 118709
from the Chancellor of the Board of Regents under Chapter 1713. of 118710
the Revised Code, in accordance with the provisions of section 118711
5910.04 of the Revised Code, and to fund additional scholarship 118712
benefits provided by section 5910.032 of the Revised Code. 118713

An amount equal to the unexpended, unencumbered portion of 118714
the foregoing appropriation item 235504, War Orphans Scholarships, 118715
at the end of fiscal year 2012 is hereby reappropriated to the 118716
Board of Regents for the same purpose for fiscal year 2013. 118717

Section 371.30.20. OHIOLINK 118718

The foregoing appropriation item 235507, OhioLINK, shall be 118719
used by the Chancellor of the Board of Regents to support 118720
OhioLINK, a consortium organized under division (U) of section 118721
3333.04 of the Revised Code to serve as the state's electronic 118722
library information and retrieval system, which provides access 118723
statewide to an extensive set of electronic databases and 118724
resources and the library holdings of Ohio's public and 118725
participating private nonprofit colleges and universities, and the 118726
State Library of Ohio. 118727

Section 371.30.30. AIR FORCE INSTITUTE OF TECHNOLOGY 118728

The foregoing appropriation item 235508, Air Force Institute 118729
of Technology, shall be used by the director of the Air Force 118730
Institute to: (A) strengthen the research and educational linkages 118731
between the Wright Patterson Air Force Base and institutions of 118732
higher education in Ohio; and (B) support the Dayton Area Graduate 118733
Studies Institute, an engineering graduate consortium of Wright 118734
State University, the University of Dayton, and the Air Force 118735
Institute of Technology, with the participation of the University 118736
of Cincinnati and The Ohio State University. 118737

Section 371.30.40. OHIO SUPERCOMPUTER CENTER 118738

The foregoing appropriation item 235510, Ohio Supercomputer 118739
Center, shall be used by the Chancellor of the Board of Regents to 118740
support the operation of the Ohio Supercomputer Center, a 118741
consortium organized under division (U) of section 3333.04 of the 118742
Revised Code, located at The Ohio State University. The Ohio 118743
Supercomputer Center is a statewide resource available to Ohio 118744
research universities both public and private. It is also intended 118745
that the center be made accessible to private industry as 118746
appropriate. 118747

Funds shall be used, in part, to support the Ohio Supercomputer Center's Computational Science Initiative, which includes its industrial outreach program, Blue Collar Computing, and its School of Computational Science. These collaborations between the Ohio Supercomputer Center and Ohio's colleges and universities shall be aimed at making Ohio a leader in using computer modeling to promote economic development.

Section 371.30.50. COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235511, Cooperative Extension Service, shall be disbursed through the Chancellor of the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code.

Section 371.30.60. CENTRAL STATE SUPPLEMENT

The Chancellor of the Board of Regents shall, in consultation with Central State University, develop a plan whereby the foregoing appropriation item 235514, Central State Supplement, shall be used in a manner consistent with the goals of increasing enrollment, improving course completion, and increasing the number of degrees conferred. The Chancellor shall submit a summary of the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor by December 31, 2011.

The foregoing appropriation item 235514, Central State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Central State University. The first two disbursements in fiscal year 2012 shall be made on a quarterly basis. Beginning January 1, 2012, the funds shall be disbursed to Central State University in accordance with the plan developed by the Chancellor under this section.

The Chancellor shall monitor the implementation of the plan

and the use of funds. Central State University shall provide any 118778
information requested by the Chancellor related to the 118779
implementation of the plan. If the Chancellor determines that 118780
Central State University's use of supplemental funds is not in 118781
accordance with the plan or if the plan is not having the desired 118782
effect, the Chancellor may notify Central State University that 118783
the plan is suspended. Upon receiving such notice, Central State 118784
University shall avoid all unnecessary expenditures under the 118785
plan. The Chancellor shall notify the Controlling Board of the 118786
suspension of the plan and within sixty days prepare a new plan 118787
for the use of any remaining funds. 118788

Section 371.30.63. CENTRAL STATE UNIVERSITY SPEED TO SCALE 118789

Central State University shall continue to support the Speed 118790
to Scale Task Force and the goals of the Speed to Scale Plan, 118791
which include increasing student enrollment through freshman 118792
recruitment and transferred students, increasing the proportion of 118793
in-state students to 80 per cent of the total student population, 118794
and increasing the student retention rates between the first and 118795
second year of college by two per cent each year. The Task Force 118796
shall also develop methods of enhancing Third Frontier 118797
collaborations, enhancing marketing and public relations of 118798
current academic programs, and exploring the possibility of 118799
merger, acquisition, or expansion of Central State University. 118800

The goals shall be accomplished by the targeting of student 118801
retention, improved articulation agreements with two-year 118802
campuses, increased use of alternative course options, including 118803
online coursework and Ohio Learning Network resources, College 118804
Tech Prep, Post Secondary Enrollment Options, and other 118805
dual-credit programs, and strategic partnerships with research 118806
institutions to improve the quality of Central State University's 118807
offering of science, technology, engineering, mathematics, and 118808

medical instruction. 118809

The Speed to Scale Task Force shall meet not less than 118810
quarterly to discuss progress of the plan, including performance 118811
on accountability metrics and issues experienced in planned 118812
efforts, and to monitor and support the creation of partnerships 118813
with other state institutions of higher education. The Task Force 118814
shall consist of the president of Central State University or the 118815
president's designee, the president of Sinclair Community College 118816
or the president's designee, the president of Cincinnati State 118817
Technical and Community College or the president's designee, the 118818
president of Cuyahoga Community College or the president's 118819
designee, the president of The Ohio State University or the 118820
president's designee, the president of the University of 118821
Cincinnati or the president's designee, the president of Wright 118822
State University or the president's designee, one representative 118823
from the Board of Regents, one member of the House of 118824
Representatives appointed by the Speaker of the House of 118825
Representatives, one member of the Senate appointed by the 118826
President of the Senate, the Director of Budget and Management or 118827
the director's designee, and a representative of the Governor's 118828
office appointed by the Governor. 118829

On the thirtieth day of June of each fiscal year, Central 118830
State University and the Speed to Scale Task Force shall jointly 118831
submit to the Governor, the Director of Budget and Management, the 118832
Speaker of the House of Representatives, the President of the 118833
Senate, and the Board of Regents a report describing the status of 118834
their progress on the accountability metrics included in the Speed 118835
to Scale Plan. 118836

Section 371.30.70. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 118837
MEDICINE 118838

The foregoing appropriation item 235515, Case Western Reserve 118839

University School of Medicine, shall be disbursed to Case Western 118840
Reserve University through the Chancellor of the Board of Regents 118841
in accordance with agreements entered into under section 3333.10 118842
of the Revised Code, provided that the state support per full-time 118843
medical student shall not exceed that provided to full-time 118844
medical students at state universities. 118845

Section 371.30.80. FAMILY PRACTICE 118846

The Chancellor of the Ohio Board of Regents shall develop 118847
plans consistent with existing criteria and guidelines as may be 118848
required for the distribution of appropriation item 235519, Family 118849
Practice. 118850

Section 371.30.90. SHAWNEE STATE SUPPLEMENT 118851

The Chancellor of the Board of Regents shall, in consultation 118852
with Shawnee State University, develop a plan whereby the 118853
foregoing appropriation item 235520, Shawnee State Supplement, 118854
shall be used in a manner consistent with the goals of improving 118855
course completion, increasing the number of degrees conferred, and 118856
furthering the university's mission of service to the Appalachian 118857
region. The Chancellor shall submit a summary of the plan to the 118858
Speaker of the House of Representatives, the President of the 118859
Senate, and the Governor by December 31, 2011. 118860

The foregoing appropriation item 235520, Shawnee State 118861
Supplement, shall be disbursed by the Chancellor of the Board of 118862
Regents to Shawnee State University. The first two disbursements 118863
in fiscal year 2012 shall be made on a quarterly basis. Beginning 118864
January 1, 2012, the funds shall be disbursed to Shawnee State 118865
University in accordance with the plan developed by the Chancellor 118866
under this section. 118867

The Chancellor shall monitor the implementation of the plan 118868
and the use of funds. Shawnee State University shall provide any 118869

information requested by the Chancellor related to the 118870
implementation of the plan. If the Chancellor determines that 118871
Shawnee State University's use of supplemental funds is not in 118872
accordance with the plan or if the plan is not having the desired 118873
effect, the Chancellor may notify Shawnee State University that 118874
the plan is suspended. Upon receiving such notice, Shawnee State 118875
University shall avoid all unnecessary expenditures under the 118876
plan. The Chancellor shall notify the Controlling Board of the 118877
suspension of the plan and within sixty days prepare a new plan 118878
for the use of any remaining funds. 118879

Section 371.40.10. POLICE AND FIRE PROTECTION 118880

The foregoing appropriation item 235524, Police and Fire 118881
Protection, shall be used for police and fire services in the 118882
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 118883
Portsmouth, Xenia Township (Greene County), Rootstown Township, 118884
and the City of Nelsonville that may be used to assist these local 118885
governments in providing police and fire protection for the 118886
central campus of the state-affiliated university located therein. 118887

Section 371.40.20. GERIATRIC MEDICINE 118888

The Chancellor of the Board of Regents shall develop plans 118889
consistent with existing criteria and guidelines as may be 118890
required for the distribution of appropriation item 235525, 118891
Geriatric Medicine. 118892

Section 371.40.30. PRIMARY CARE RESIDENCIES 118893

The Chancellor of the Board of Regents shall develop plans 118894
consistent with existing criteria and guidelines as may be 118895
required for the distribution of appropriation item 235526, 118896
Primary Care Residencies. 118897

The foregoing appropriation item 235526, Primary Care 118898

Residencies, shall be distributed in each fiscal year of the 118899
biennium, based on whether or not the institution has submitted 118900
and gained approval for a plan. If the institution does not have 118901
an approved plan, it shall receive five per cent less funding per 118902
student than it would have received from its annual allocation. 118903
The remaining funding shall be distributed among those 118904
institutions that meet or exceed their targets. 118905

Section 371.40.40. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 118906
CENTER 118907

The foregoing appropriation item 235535, Ohio Agricultural 118908
Research and Development Center, shall be disbursed through the 118909
Chancellor of the Board of Regents to The Ohio State University in 118910
monthly payments, unless otherwise determined by the Director of 118911
Budget and Management under section 126.09 of the Revised Code. 118912
The Ohio Agricultural Research and Development Center shall not be 118913
required to remit payment to The Ohio State University during the 118914
biennium ending June 30, 2013, for cost reallocation assessments. 118915
The cost reallocation assessments include, but are not limited to, 118916
any assessment on state appropriations to the Center. 118917

The Ohio Agricultural Research and Development Center, an 118918
entity of the College of Food, Agricultural, and Environmental 118919
Sciences of The Ohio State University, shall further its mission 118920
of enhancing Ohio's economic development and job creation by 118921
continuing to internally allocate on a competitive basis 118922
appropriated funding of programs based on demonstrated 118923
performance. Academic units, faculty, and faculty-driven programs 118924
shall be evaluated and rewarded consistent with agreed-upon 118925
performance expectations as called for in the College's 118926
Expectations and Criteria for Performance Assessment. 118927

Section 371.40.50. STATE UNIVERSITY CLINICAL TEACHING 118928

The foregoing appropriation items 235536, The Ohio State University Clinical Teaching; 235537, University of Cincinnati Clinical Teaching; 235538, University of Toledo Clinical Teaching; 235539, Wright State University Clinical Teaching; 235540, Ohio University Clinical Teaching; and 235541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Chancellor of the Board of Regents.

Section 371.40.60. CAPITAL COMPONENT 118936

The foregoing appropriation item 235552, Capital Component, shall be used by the Chancellor of the Board of Regents to implement the capital funding policy for state-assisted colleges and universities established in Am. H.B. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to new qualifying capital projects is less than the campus's formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to new qualifying capital projects from the campus's formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Any campus for which the estimated campus debt service attributable to qualifying capital projects is greater than the campus's formula-determined capital component allocation shall have the difference subtracted from its State Share of Instruction allocation in each fiscal year. Appropriation equal to the sum of all such amounts except that of the Ohio Agricultural Research and Development Center shall be transferred from appropriation item 235501, State Share of Instruction, to appropriation item 235552, Capital Component. Appropriation equal to any estimated Ohio Agricultural Research and Development Center debt service

attributable to qualifying capital projects that is greater than 118960
the Center's formula-determined capital component allocation shall 118961
be transferred from appropriation item 235535, Ohio Agricultural 118962
Research and Development Center, to appropriation item 235552, 118963
Capital Component. 118964

Section 371.40.70. LIBRARY DEPOSITORIES 118965

The foregoing appropriation item, 235555, Library 118966
Depositories, shall be distributed to the state's five regional 118967
depository libraries for the cost-effective storage of and access 118968
to lesser-used materials in university library collections. The 118969
depositories shall be administrated by the Chancellor of the Board 118970
of Regents, or by OhioLINK at the discretion of the Chancellor. 118971

Section 371.40.80. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 118972

The foregoing appropriation item 235556, Ohio Academic 118973
Resources Network, shall be used by the Chancellor of the Board of 118974
Regents to support the operations of the Ohio Academic Resources 118975
Network, a consortium organized under division (U) of section 118976
3333.04 of the Revised Code, which shall include support for 118977
Ohio's colleges and universities in maintaining and enhancing 118978
network connections, using new network technologies to improve 118979
research, education, and economic development programs, and 118980
sharing information technology services. To the extent network 118981
capacity is available, OARnet shall support allocating bandwidth 118982
to eligible programs directly supporting Ohio's economic 118983
development. 118984

Section 371.40.90. LONG-TERM CARE RESEARCH 118985

The foregoing appropriation item 235558, Long-term Care 118986
Research, shall be disbursed to Miami University for long-term 118987
care research. 118988

Section 371.50.10. OHIO COLLEGE OPPORTUNITY GRANT	118989
(A) Except as provided in division (C) of this section:	118990
Of the foregoing appropriation item 235563, Ohio College Opportunity Grant, \$37,000,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to award need-based financial aid to students enrolled in eligible four-year public institutions of higher education, excluding early college high school and post-secondary enrollment option participants.	118991 118992 118993 118994 118995 118996
Of the foregoing appropriation item 235563, Ohio College Opportunity Grant, \$41,000,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to award need-based financial aid to students enrolled in eligible four-year private nonprofit institutions of higher education, excluding early college high school and post-secondary enrollment option participants.	118997 118998 118999 119000 119001 119002 119003
The remainder of the foregoing appropriation item 235563, Ohio College Opportunity Grant, shall be used by the Chancellor of the Board of Regents to award needs-based financial aid to students enrolled in eligible private for-profit career colleges and schools.	119004 119005 119006 119007 119008
An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235563, Ohio College Opportunity Grant, at the end of fiscal year 2012 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2013.	119009 119010 119011 119012
(B)(1) As used in this section:	119013
(a) "Eligible institution" means any institution described in divisions (B)(2)(a) to (c) of section 3333.122 of the Revised Code.	119014 119015 119016
(b) The three "sectors" of institutions of higher education consist of the following:	119017 119018

(i) State colleges and universities, community colleges, state community colleges, university branches, and technical colleges; 119019
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(ii) Eligible private nonprofit institutions of higher education; 119022
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(iii) Eligible private for-profit career colleges and schools. 119024
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(2) If the Chancellor determines that the amounts appropriated for support of the Ohio College Opportunity Grant program are inadequate to provide grants to all eligible students as calculated under division (D) of section 3333.122 of the Revised Code, the Chancellor may create a distribution formula for fiscal year 2012 and fiscal year 2013 based on the formula used in fiscal year 2011, or may follow methods established in division (C)(1)(a) or (b) of section 3333.122 of the Revised Code. The Chancellor shall notify the Controlling Board of the distribution method. Any formula calculated under this division shall be complete and established to coincide with the start of the 2011-2012 academic year. 119026
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(C) Prior to determining the amount of funds available to award under this section and section 3333.122 of the Revised Code, the Chancellor shall use the foregoing appropriation item 235563, Ohio College Opportunity Grant, to pay for renewals or partial renewals of scholarships students receive under the Ohio Academic Scholarship Program under sections 3333.21 and 3333.22 of the Revised Code. In paying for scholarships under this division, the Chancellor shall deduct funds from the allocations made under division (A) of this section proportionate to the amounts allocated to each sector from the total appropriation. 119038
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In each fiscal year, the Chancellor shall not distribute or obligate or commit to be distributed an amount greater than what 119048
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is appropriated under the foregoing appropriation item 235563, 119050
Ohio College Opportunity Grant. 119051

(D) The Chancellor shall establish, and post on the Ohio 119052
Board of Regents' web site, award tables based on any formulas 119053
created under division (B) of this section. The Chancellor shall 119054
notify students and institutions of any reductions in awards under 119055
this section. 119056

On or before August 31, 2011, the Chancellor of the Board of 119057
Regents shall submit award tables to the Controlling Board for the 119058
2011-2012 academic year and allocations of Ohio College 119059
Opportunity Grant awards not already specified in section 3333.122 119060
of the Revised Code. 119061

(E) Notwithstanding section 3333.122 of the Revised Code, no 119062
student shall be eligible to receive an Ohio College Opportunity 119063
Grant for more than ten semesters, fifteen quarters, or the 119064
equivalent of five academic years, less the number of semesters or 119065
quarters in which the student received an Ohio Instructional 119066
Grant. 119067

(F) On July 1 of each fiscal year, or as soon as possible 119068
thereafter, the Director of Budget and Management shall transfer 119069
\$6,000,000 in cash from the Economic Development Programs Fund 119070
(Fund 5JC0) to the General Revenue Fund (GRF) to be used by 119071
Chancellor of the Board of Regents to support the Ohio College 119072
Opportunity Grant pursuant to this section. 119073

Section 371.50.20. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 119074

The foregoing appropriation item 235572, The Ohio State 119075
University Clinic Support, shall be distributed through the 119076
Chancellor of the Board of Regents to The Ohio State University 119077
for support of dental and veterinary medicine clinics. 119078

Section 371.50.30. NATIONAL GUARD SCHOLARSHIP PROGRAM 119079

The Chancellor of the Board of Regents shall disburse funds 119080
from appropriation item 235599, National Guard Scholarship 119081
Program, at the direction of the Adjutant General. During each 119082
fiscal year, the Chancellor of the Board of Regents, within ten 119083
days of cancellation, may certify to the Director of Budget and 119084
Management the amount of canceled prior-year encumbrances in 119085
appropriation item 235599, National Guard Scholarship Program. 119086
Upon receipt of the certification, the Director of Budget and 119087
Management may transfer cash in an amount up to the amount 119088
certified from the General Revenue Fund to the National Guard 119089
Scholarship Reserve Fund (Fund 5BM0). Upon the request of the 119090
Adjutant General, the Chancellor of the Board of Regents shall 119091
seek Controlling Board approval to authorize additional 119092
expenditures for appropriation item 235623, National Guard 119093
Scholarship Reserve Fund. Upon approval of the Controlling Board, 119094
the additional amounts are hereby appropriated. The Chancellor of 119095
the Board of Regents shall disburse funds from appropriation item 119096
235623, National Guard Scholarship Reserve Fund, at the direction 119097
of the Adjutant General. 119098

Section 371.50.40. PLEDGE OF FEES 119099

Any new pledge of fees, or new agreement for adjustment of 119100
fees, made in the biennium ending June 30, 2013, to secure bonds 119101
or notes of a state-assisted institution of higher education for a 119102
project for which bonds or notes were not outstanding on the 119103
effective date of this section shall be effective only after 119104
approval by the Chancellor of the Board of Regents, unless 119105
approved in a previous biennium. 119106

Section 371.50.50. HIGHER EDUCATION GENERAL OBLIGATION DEBT 119107
SERVICE 119108

The foregoing appropriation item 235909, Higher Education 119109

General Obligation Debt Service, shall be used to pay all debt 119110
service and related financing costs at the times they are required 119111
to be made during the period from July 1, 2011, through June 30, 119112
2013, for obligations issued under sections 151.01 and 151.04 of 119113
the Revised Code. 119114

Section 371.50.60. SALES AND SERVICES 119115

The Chancellor of the Board of Regents is authorized to 119116
charge and accept payment for the provision of goods and services. 119117
Such charges shall be reasonably related to the cost of producing 119118
the goods and services. Except as otherwise provided by law, no 119119
charges may be levied for goods or services that are produced as 119120
part of the routine responsibilities or duties of the Chancellor. 119121
All revenues received by the Chancellor of the Board of Regents 119122
shall be deposited into Fund 4560, and may be used by the 119123
Chancellor of the Board of Regents to pay for the costs of 119124
producing the goods and services. 119125

Section 371.50.63. CO-OP INTERNSHIP PROGRAM 119126

Of the foregoing appropriation item 235649, Co-op Internship 119127
Program, \$75,000 in each fiscal year shall be used by the 119128
Chancellor of the Board of Regents to support the operations of 119129
Ohio University's Voinovich School. 119130

Of the foregoing appropriation item 235649, Co-op Internship 119131
Program, \$75,000 in each fiscal year, shall be used by the 119132
Chancellor of the Board of Regents to support the operations of 119133
The Ohio State University's John Glenn School of Public Affairs. 119134

Of the foregoing appropriation item 235649, Co-op Internship 119135
Program, \$75,000 in each fiscal year shall be used to support the 119136
Bliss Institute of Applied Politics at the University of Akron. 119137

Of the foregoing appropriation item 235649, Co-op Internship 119138
Program, \$75,000 in each fiscal year shall be used to support the 119139

Center for Public Management and Regional Affairs at Miami University. 119140
119141

Section 371.50.70. HIGHER EDUCATIONAL FACILITY COMMISSION ADMINISTRATION 119142
119143

The foregoing appropriation item 235602, Higher Educational Facility Commission Administration, shall be used by the Chancellor of the Board of Regents for operating expenses related to the Chancellor of the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the Chancellor, the Director of Budget and Management shall transfer up to \$29,100 cash in fiscal year 2012 and up to \$29,100 cash in fiscal year 2013 from the HEFC Operating Expenses Fund (Fund 4610) to the HEFC Administration Fund (Fund 4E80). 119144
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Section 371.50.80. NURSING LOAN PROGRAM 119154

The foregoing appropriation item 235606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$167,580 in each fiscal year may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval. 119155
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Section 371.50.90. VETERANS PREFERENCES 119161

The Chancellor of the Board of Regents shall work with the Department of Veterans Services to develop specific veterans preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans preference laws. 119162
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Section 371.60.10. STATE NEED-BASED FINANCIAL AID 119168
RECONCILIATION 119169

By the first day of August in each fiscal year, or as soon as possible thereafter, the Chancellor of the Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the state's need-based financial aid programs. The amounts certified are hereby appropriated to appropriation item 235618, State Need-based Financial Aid Reconciliation, from revenues received in the State Need-based Financial Aid Reconciliation Fund (Fund 5Y50).

Section 371.60.20. (A) As used in this section: 119179

(1) "Board of trustees" includes the managing authority of a university branch district. 119180
119181

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code. 119182
119183

(B) The board of trustees of any state institution of higher education, notwithstanding any rule of the institution to the contrary, may adopt a policy providing for mandatory furloughs of employees, including faculty, to achieve spending reductions necessitated by institutional budget deficits. 119184
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Section 371.60.40. EFFICIENCY ADVISORY COMMITTEE 119189

The Chancellor of the Board of Regents shall establish an efficiency advisory committee for the purpose of generating optimal efficiency plans for campuses, identifying shared services opportunities, and sharing best practices. The efficiency advisory committee shall also attempt to reduce the cost of textbooks and other education resource materials. The committee shall meet at the call of the Chancellor or the Chancellor's designee, but at

least quarterly. Each state institution of higher education shall 119197
designate an employee to serve as its efficiency officer 119198
responsible for the evaluation and improvement of operational 119199
efficiencies on campus. Each efficiency officer shall serve on the 119200
efficiency advisory committee. 119201

Section 371.60.50. TEXTBOOK AFFORDABILITY 119202

Each state institution of higher education shall submit to 119203
the Chancellor of the Board of Regents by December 31, 2011, a 119204
plan to reduce the cost to students of textbooks and other 119205
education resource materials. 119206

Section 371.60.60. TUITION TRUST AUTHORITY APPROPRIATION LINE 119207
ITEM TRANSFER 119208

On July 1, 2011, or as soon as possible thereafter, the 119209
Director of Budget and Management, upon request by the Chancellor 119210
of the Board of Regents, shall cancel any existing encumbrances 119211
against appropriation item 095602, Variable Savings Plans, and 119212
re-establish them against appropriation item 235663, Variable 119213
Savings Plans. The re-established encumbrance amounts are hereby 119214
appropriated. 119215

On July 1, 2011, or as soon as possible thereafter, the 119216
Director of Budget and Management, upon request by the Chancellor 119217
of the Board of Regents, shall cancel any existing encumbrances 119218
against appropriation item 095601, Guaranteed Savings Plan, and 119219
re-establish them against appropriation item 235664, Guaranteed 119220
Savings Plan. The re-established encumbrance amounts are hereby 119221
appropriated. 119222

Section 371.60.70. (A) Notwithstanding anything to the 119223
contrary in sections 3333.81 to 3333.88 of the Revised Code, the 119224
distance learning clearinghouse required to be established under 119225

those sections shall be located at the Ohio Resource Center for 119226
Mathematics, Science, and Reading administered by the College of 119227
Education and Human Ecology at The Ohio State University. The 119228
College shall provide access to its online repository of 119229
educational content to offer courses from multiple providers at 119230
competitive prices for Ohio students in grades kindergarten to 119231
twelve. 119232

(B) The College shall review the content of each course 119233
offered to assess the course's alignment with the academic 119234
standards adopted under division (A) of section 3301.079 of the 119235
Revised Code and shall publish its determination about the degree 119236
of alignment. 119237

(C) The College shall indicate, for each course offered, the 119238
academic credit that a student may reasonably expect to earn upon 119239
successful completion of the course. However, in accordance with 119240
section 3333.85 of the Revised Code, the school district or school 119241
in which the student is enrolled retains full authority to 119242
determine the credit awarded to the student. 119243

(D) As prescribed by section 3333.84 of the Revised Code, the 119244
fee charged for a course shall be set by the course provider. The 119245
College may retain a percentage of the fee to offset the cost of 119246
maintaining the course repository. 119247

(E) The College may establish policies to protect the 119248
proprietary interest in or intellectual property of the 119249
educational content and courses that are housed in the course 119250
repository. The College may require end users to agree to the 119251
terms of any such policies prior to accessing the repository. 119252

Section 371.60.80. (A) The Ohio Digital Learning Task Force 119253
is hereby established to develop a strategy for the expansion of 119254
digital learning that enables students to customize their 119255

education, produces cost savings, and meets the needs of Ohio's 119256
economy. The Task Force shall consist of the following members: 119257

(1) The Chancellor of the Ohio Board of Regents or the 119258
Chancellor's designee; 119259

(2) The Superintendent of Public Instruction or the 119260
Superintendent's designee; 119261

(3) The Director of the Governor's Office of 21st Century 119262
Education or the Director's designee; 119263

(4) Up to six members appointed by the Governor, who shall be 119264
representatives of school districts or community schools, 119265
established under Chapter 3314. of the Revised Code, that are 119266
high-performing of their type and have demonstrated the ability to 119267
incorporate technology into the classroom successfully; 119268

(5) A member appointed by the President of the Senate; 119269

(6) A member appointed by the Speaker of the House of 119270
Representatives. 119271

(B) Members of the Task Force shall be appointed not later 119272
than sixty days after the effective date of this section. 119273
Vacancies on the Task Force shall be filled in the same manner as 119274
the original appointments. Members shall serve without 119275
compensation. 119276

(C) The Governor shall designate the chairperson of the Task 119277
Force. All meetings of the Task Force shall be held at the call of 119278
the chairperson. 119279

(D) The Task Force shall do all of the following: 119280

(1) Request information from textbook publishers about the 119281
development of digital textbooks and other new digital content 119282
distribution methods for use by primary, secondary, and 119283
post-secondary schools and institutions and examine that 119284

information;	119285
(2) Examine potential cost savings and efficiency of	119286
utilizing digital textbooks and other new digital content	119287
distribution methods in primary, secondary, and post-secondary	119288
schools and institutions;	119289
(3) Examine potential academic benefits of utilizing digital	119290
textbooks and other new digital content distribution methods,	119291
including, but not limited to, the ability to individualize	119292
content to specific student learning styles, accessibility for	119293
individuals with disabilities, and the integration of formative	119294
and other online assessments;	119295
(4) Examine digital content pilot programs and initiatives	119296
currently operating at primary, secondary, and post-secondary	119297
schools and institutions in Ohio, including, but not limited to,	119298
those financed in part with federal funds;	119299
(5) Examine any state-level initiatives to provide or	119300
facilitate use of digital content in primary, secondary, and	119301
post-secondary schools and institutions in Ohio.	119302
(E) The Task Force shall make recommendations regarding all	119303
of the following:	119304
(1) The creation of high quality digital content and	119305
instruction in grades kindergarten to twelve for free access by	119306
public and nonpublic schools and students receiving home	119307
instruction;	119308
(2) High quality professional development for teachers and	119309
principals providing online instruction or blended learning	119310
programs;	119311
(3) Funding strategies that create incentives for high	119312
performance, innovation, and options in course providers and	119313
delivery;	119314

(4) Student assessment and accountability;	119315
(5) Infrastructure to support digital learning;	119316
(6) Mobile learning and mobile learning applications;	119317
(7) The clearinghouse established under section 3333.82 of the Revised Code;	119318 119319
(8) Ways to align the resources and digital learning initiatives of state agencies and offices;	119320 119321
(9) Methods for removing redundancy and inefficiency in, and for providing coordination, of all digital learning programs, including the provision of free online instruction to public and nonpublic schools on a statewide basis;	119322 119323 119324 119325
(10) Methods of addressing future changes in technology and learning.	119326 119327
(E) Not later than March 1, 2012, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Upon issuance of its report, the Task Force shall cease to exist.	119328 119329 119330 119331 119332
Section 371.60.90. Not later than six months after the effective date of this section, the Chancellor of the Ohio Board of Regents shall do both of the following:	119333 119334 119335
(A) Take steps to facilitate full implementation of any digital textbook and digital content pilot programs currently planned at any state institutions of higher education in Ohio;	119336 119337 119338
(B) Take steps to ensure that those pilot programs examine the potential cost savings and efficiencies of digital content and the potential academic benefits, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the	119339 119340 119341 119342 119343

	integration of formative and other online assessments.				119344
	Section 373.10. DRC DEPARTMENT OF REHABILITATION AND				119345
	CORRECTION				119346
	General Revenue Fund				119347
GRF 501321	Institutional	\$ 909,547,156	\$ 866,592,589		119348
	Operations				
GRF 501403	Prisoner Compensation	\$ 8,599,255	\$ 8,599,255		119349
GRF 501405	Halfway House	\$ 43,637,069	\$ 43,622,104		119350
GRF 501406	Lease Rental Payments	\$ 42,863,100	\$ 104,301,500		119351
GRF 501407	Community	\$ 25,859,382	\$ 25,839,390		119352
	Nonresidential				
	Programs				
GRF 501408	Community Misdemeanor	\$ 14,406,800	\$ 14,406,800		119353
	Programs				
GRF 501501	Community Residential	\$ 62,692,785	\$ 62,477,785		119354
	Programs - CBCF				
GRF 502321	Mental Health Services	\$ 58,525,816	\$ 51,778,513		119355
GRF 503321	Parole and Community	\$ 68,197,272	\$ 63,783,848		119356
	Operations				
GRF 504321	Administrative	\$ 21,996,504	\$ 20,085,474		119357
	Operations				
GRF 505321	Institution Medical	\$ 209,231,014	\$ 195,241,961		119358
	Services				
GRF 506321	Institution Education	\$ 20,237,576	\$ 18,086,492		119359
	Services				
GRF 507321	Institution Recovery	\$ 5,786,109	\$ 5,375,737		119360
	Services				
TOTAL GRF	General Revenue Fund	\$ 1,491,579,838	\$ 1,480,191,448		119361
	General Services Fund Group				119362
1480 501602	Services and	\$ 3,579,250	\$ 3,584,263		119363
	Agricultural				

2000	501607	Ohio Penal Industries	\$	45,172,184	\$	45,791,729	119364
4830	501605	Property Receipts	\$	182,723	\$	182,086	119365
4B00	501601	Sewer Treatment	\$	2,145,630	\$	2,157,682	119366
		Services					
4D40	501603	Prisoner Programs	\$	16,652,286	\$	16,659,901	119367
4L40	501604	Transitional Control	\$	1,168,843	\$	1,213,120	119368
4S50	501608	Education Services	\$	2,376,041	\$	2,359,775	119369
5710	501606	Training Academy	\$	125,000	\$	125,000	119370
		Receipts					
5930	501618	Laboratory Services	\$	6,665,137	\$	6,664,729	119371
5AF0	501609	State and Non-Federal	\$	1,440,000	\$	1,440,000	119372
		Awards					
5H80	501617	Offender Financial	\$	3,000,000	\$	3,000,000	119373
		Responsibility					
5L60	501611	Information	\$	600,000	\$	600,000	119374
		Technology Services					
TOTAL	GSF	General Services Fund	\$	83,107,094	\$	83,778,285	119375
Group							
Federal Special Revenue Fund Group							119376
3230	501619	Federal Grants	\$	9,013,558	\$	9,180,703	119377
TOTAL	FED	Federal Special Revenue					119378
Fund Group							\$
			\$	9,013,558	\$	9,180,703	119379
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,583,700,490	\$	1,573,150,436	119380
TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL							119381
SENTENCING REFORMS							119382
For the purposes of implementing criminal sentencing reforms,							119383
and notwithstanding any other provision of law to the contrary,							119384
the Director of Budget and Management, at the request of the							119385
Director of Rehabilitation and Correction, may transfer up to							119386
\$14,000,000 in appropriations, in each of fiscal years 2012 and							119387
2013, from appropriation item 501321, Institutional Operations, to							119388
any combination of appropriation items 501405, Halfway House;							119389

501407, Community Residential Programs; 501408, Community
 Misdemeanor Programs; and 501501, Community Residential Programs -
 CBCF.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 501406, Lease Rental
 Payments, shall be used to meet all payments at the times they are
 required to be made during the period from July 1, 2011, through
 June 30, 2013, by the Department of Rehabilitation and Correction
 to the Ohio Building Authority under the primary leases and
 agreements for those buildings made under Chapter 152. of the
 Revised Code. These appropriations are the source of funds pledged
 for bond service charges or obligations issued pursuant to Chapter
 152. of the Revised Code.

OSU MEDICAL CHARGES

Notwithstanding section 341.192 of the Revised Code, at the
 request of the Department of Rehabilitation and Correction, The
 Ohio State University Medical Center, including the James Cancer
 Hospital and Solove Research Institute and the Richard M. Ross
 Heart Hospital, shall provide necessary care to persons who are
 confined in state adult correctional facilities. The provision of
 necessary care shall be billed to the Department at a rate not to
 exceed the authorized reimbursement rate for the same service
 established by the Department of Job and Family Services under the
 Medical Assistance Program.

Section 375.10. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund

GRF	415402	Independent Living	\$	252,000	\$	252,000	119416
		Council					
GRF	415406	Assistive Technology	\$	26,618	\$	26,618	119417
GRF	415431	Office for People	\$	126,567	\$	126,567	119418

		with Brain Injury					
GRF	415506	Services for People	\$	12,777,884	\$	12,777,884	119419
		with Disabilities					
GRF	415508	Services for the Deaf	\$	28,000	\$	28,000	119420
TOTAL GRF		General Revenue Fund	\$	13,211,069	\$	13,211,069	119421
		General Services Fund Group					119422
4670	415609	Business Enterprise	\$	1,308,431	\$	1,303,090	119423
		Operating Expenses					
TOTAL GSF		General Services					119424
		Fund Group	\$	1,308,431	\$	1,303,090	119425
		Federal Special Revenue Fund Group					119426
3170	415620	Disability	\$	97,579,095	\$	97,579,095	119427
		Determination					
3790	415616	Federal - Vocational	\$	103,160,426	\$	103,150,102	119428
		Rehabilitation					
3L10	415601	Social Security	\$	3,370,000	\$	3,370,000	119429
		Personal Care					
		Assistance					
3L10	415605	Social Security	\$	772,000	\$	772,000	119430
		Community Centers for					
		the Deaf					
3L10	415608	Social Security	\$	1,521,406	\$	1,520,184	119431
		Special					
		Programs/Assistance					
3L40	415612	Federal Independent	\$	652,222	\$	652,222	119432
		Living Centers or					
		Services					
3L40	415615	Federal - Supported	\$	929,755	\$	929,755	119433
		Employment					
3L40	415617	Independent	\$	2,137,338	\$	2,137,338	119434
		Living/Vocational					
		Rehabilitation					

Programs				
TOTAL FED Federal Special				119435
Revenue Fund Group	\$	210,122,242	\$ 210,110,696	119436
State Special Revenue Fund Group				119437
4680 415618 Third Party Funding	\$	10,802,589	\$ 10,802,589	119438
4L10 415619 Services for	\$	3,700,000	\$ 3,700,000	119439
Rehabilitation				
4W50 415606 Program Management	\$	11,636,730	\$ 11,587,201	119440
Expenses				
TOTAL SSR State Special				119441
Revenue Fund Group	\$	26,139,319	\$ 26,089,790	119442
TOTAL ALL BUDGET FUND GROUPS	\$	250,781,061	\$ 250,714,645	119443
INDEPENDENT LIVING COUNCIL				119444
The foregoing appropriation item 415402, Independent Living				119445
Council, shall be used to fund the operations of the State				119446
Independent Living Council and to support state independent living				119447
centers and independent living services under Title VII of the				119448
Independent Living Services and Centers for Independent Living of				119449
the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29				119450
U.S.C. 796d.				119451
Of the foregoing appropriation item 415402, Independent				119452
Living Council, \$67,662 in each fiscal year shall be used as state				119453
matching funds for vocational rehabilitation innovation and				119454
expansion activities.				119455
ASSISTIVE TECHNOLOGY				119456
The total amount of the foregoing appropriation item 415406,				119457
Assistive Technology, shall be provided to Assistive Technology of				119458
Ohio to provide grants and assistive technology services for				119459
people with disabilities in the State of Ohio.				119460
OFFICE FOR PEOPLE WITH BRAIN INJURY				119461
The foregoing appropriation item 415431, Office for People				119462

with Brain Injury, shall be used to plan and coordinate 119463
head-injury-related services provided by state agencies and other 119464
government or private entities, to assess the needs for such 119465
services, and to set priorities in this area. 119466

Of the foregoing appropriation item 415431, Office for People 119467
with Brain Injury, \$44,067 in each fiscal year shall be used as 119468
state matching funds to provide vocational rehabilitation services 119469
to eligible consumers. 119470

VOCATIONAL REHABILITATION SERVICES 119471

The foregoing appropriation item 415506, Services for People 119472
with Disabilities, shall be used as state matching funds to 119473
provide vocational rehabilitation services to eligible consumers. 119474

At the request of the Chancellor of the Board of Regents, the 119475
Director of Budget and Management may transfer any unexpended, 119476
unencumbered appropriation in fiscal year 2012 or fiscal year 2013 119477
from appropriation item 235502, Student Support Services, to 119478
appropriation item 415506, Services for People with Disabilities. 119479
Any appropriation so transferred shall be used by the Ohio 119480
Rehabilitation Services Commission to obtain additional federal 119481
matching funds to serve disabled students. 119482

SERVICES FOR THE DEAF 119483

The foregoing appropriation item 415508, Services for the 119484
Deaf, shall be used to provide grants to community centers for the 119485
deaf. 119486

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 119487

The foregoing appropriation item 415617, Independent 119488
Living/Vocational Rehabilitation Programs, shall be used to 119489
support vocational rehabilitation programs. 119490

SOCIAL SECURITY REIMBURSEMENT FUNDS 119491

Reimbursement funds received from the Social Security 119492

Administration, United States Department of Health and Human 119493
Services, for the costs of providing services and training to 119494
return disability recipients to gainful employment shall be 119495
expended from the Social Security Reimbursement Fund (Fund 3L10), 119496
to the extent funds are available, as follows: 119497

(A) Appropriation item 415601, Social Security Personal Care 119498
Assistance, to provide personal care services in accordance with 119499
section 3304.41 of the Revised Code; 119500

(B) Appropriation item 415605, Social Security Community 119501
Centers for the Deaf, to provide grants to community centers for 119502
the deaf in Ohio for services to individuals with hearing 119503
impairments; and 119504

(C) Appropriation item 415608, Social Security Special 119505
Programs/Assistance, to provide vocational rehabilitation services 119506
to individuals with severe disabilities who are Social Security 119507
beneficiaries, to enable them to achieve competitive employment. 119508
This appropriation item shall also be used to pay a portion of 119509
indirect costs of the Personal Care Assistance Program and the 119510
Independent Living Programs as mandated by federal OMB Circular 119511
A-87. 119512

PROGRAM MANAGEMENT EXPENSES 119513

The foregoing appropriation item 415606, Program Management 119514
Expenses, shall be used to support the administrative functions of 119515
the commission related to the provision of vocational 119516
rehabilitation, disability determination services, and ancillary 119517
programs. 119518

Section 377.10. RCB RESPIRATORY CARE BOARD 119519

General Services Fund Group 119520
4K90 872609 Operating Expenses \$ 528,624 \$ 523,013 119521
TOTAL GSF General Services 119522

Fund Group		\$	528,624	\$	523,013	119523
TOTAL ALL BUDGET FUND GROUPS		\$	528,624	\$	523,013	119524
Section 379.10.	RDF REVENUE DISTRIBUTION FUNDS					119526
Volunteer Firefighters' Dependents Fund						119527
7085 800985	Volunteer Firemen's Dependents Fund	\$	300,000	\$	300,000	119528
TOTAL 085 Volunteer Firefighters' Dependents Fund		\$	300,000	\$	300,000	119529
Agency Fund Group						119531
4P80 001698	Cash Management Improvement Fund	\$	3,100,000	\$	3,100,000	119532
5JG0 110633	Gross Casino Revenue County Fund	\$	5,778,617	\$	138,882,294	119533
5JH0 110634	Gross Casino Revenue County Student Fund	\$	3,852,412	\$	92,588,196	119534
5JJ0 110636	Gross Casino Revenue Host City Fund	\$	566,531	\$	13,615,911	119535
5JK0 875610	Ohio State Racing Commission Fund	\$	339,919	\$	8,169,547	119536
5JL0 038629	Problem Casino Gambling and Addictions Fund	\$	226,612	\$	5,446,364	119537
5JN0 055654	Ohio Law Enforcement Training Fund	\$	226,612	\$	5,446,364	119538
6080 001699	Investment Earnings	\$	50,000,000	\$	150,000,000	119539
7062 110962	Resort Area Excise Tax	\$	1,000,000	\$	1,000,000	119540
7063 110963	Permissive Tax Distribution	\$	1,904,500,000	\$	1,980,700,000	119541
7067 110967	School District Income Tax	\$	317,000,000	\$	330,000,000	119542
TOTAL AGY Agency Fund Group		\$	2,286,590,703	\$	2,728,948,676	119543

Holding Account Redistribution				119544
R045 110617 International Fuel	\$	40,000,000	\$ 40,000,000	119545
Tax Distribution				
TOTAL 090 Holding Account				119546
Redistribution Fund				
Revenue Distribution Fund Group	\$	40,000,000	\$ 40,000,000	119547
7049 038900 Indigent Drivers	\$	2,200,000	\$ 2,200,000	119548
Alcohol Treatment				
7050 762900 International	\$	30,000,000	\$ 30,000,000	119549
Registration Plan				
Distribution				
7051 762901 Auto Registration	\$	539,000,000	\$ 539,000,000	119550
Distribution				
7054 110954 Local Government	\$	16,000,000	\$ 11,000,000	119551
Property Tax				
Replacement - Utility				
7060 110960 Gasoline Excise Tax	\$	393,000,000	\$ 395,000,000	119552
Fund				
7065 110965 Public Library Fund	\$	354,000,000	\$ 345,000,000	119553
7066 800966 Undivided Liquor	\$	14,100,000	\$ 14,100,000	119554
Permits				
7068 110968 State and Local	\$	193,000,000	\$ 196,000,000	119555
Government Highway				
Distribution				
7069 110969 Local Government Fund	\$	527,000,000	\$ 341,000,000	119556
7081 110981 Local Government	\$	291,000,000	\$ 181,000,000	119557
Property Tax				
Replacement-Business				
7082 110982 Horse Racing Tax	\$	100,000	\$ 100,000	119558
7083 700900 Ohio Fairs Fund	\$	1,400,000	\$ 1,400,000	119559
TOTAL RDF Revenue Distribution				119560
Fund Group	\$	2,360,800,000	\$ 2,055,800,000	119561
TOTAL ALL BUDGET FUND GROUPS	\$	4,687,690,703	\$ 4,825,048,676	119562

ADDITIONAL APPROPRIATIONS				119563
Appropriation items in this section shall be used for the				119564
purpose of administering and distributing the designated revenue				119565
distribution funds according to the Revised Code. If it is				119566
determined that additional appropriations are necessary for this				119567
purpose, such amounts are hereby appropriated.				119568
GENERAL REVENUE FUND TRANSFERS				119569
Notwithstanding any provision of law to the contrary, in				119570
fiscal year 2012 and fiscal year 2013, the Director of Budget and				119571
Management may transfer from the General Revenue Fund to the Local				119572
Government Tangible Property Tax Replacement Fund (Fund 7081) in				119573
the Revenue Distribution Fund Group, those amounts necessary to				119574
reimburse local taxing units under section 5751.22 of the Revised				119575
Code. Also, in fiscal year 2012 and fiscal year 2013, the Director				119576
of Budget and Management may make temporary transfers from the				119577
General Revenue Fund to ensure sufficient balances in the Local				119578
Government Tangible Property Tax Replacement Fund (Fund 7081) and				119579
to replenish the General Revenue Fund for such transfers.				119580
Section 381.10. SAN BOARD OF SANITARIAN REGISTRATION				119581
General Services Fund Group				119582
4K90 893609 Operating Expenses	\$	141,839	\$ 126,850	119583
TOTAL GSF General Services				119584
Fund Group	\$	141,839	\$ 126,850	119585
TOTAL ALL BUDGET FUND GROUPS	\$	141,839	\$ 126,850	119586
Section 383.10. OSB OHIO STATE SCHOOL FOR THE BLIND				119588
General Revenue Fund				119589
GRF 226100 Personal Services	\$	6,593,546	\$ 6,593,546	119590
GRF 226200 Maintenance	\$	619,528	\$ 619,528	119591
GRF 226300 Equipment	\$	65,505	\$ 65,505	119592

TOTAL GRF General Revenue Fund	\$	7,278,579	\$	7,278,579	119593
General Services Fund Group					119594
4H80 226602 Education Reform	\$	60,086	\$	60,086	119595
Grants					
TOTAL GSF General Services					119596
Fund Group	\$	60,086	\$	60,086	119597
Federal Special Revenue Fund Group					119598
3100 226626 Coordinating Unit	\$	2,527,104	\$	2,527,104	119599
3DT0 226621 Ohio Transition	\$	1,800,000	\$	1,800,000	119600
Collaborative					
3P50 226643 Medicaid Professional	\$	50,000	\$	50,000	119601
Services					
Reimbursement					
TOTAL FED Federal Special					119602
Revenue Fund Group	\$	4,377,104	\$	4,377,104	119603
State Special Revenue Fund Group					119604
4M50 226601 Work Study and	\$	698,521	\$	698,521	119605
Technology Investment					
TOTAL SSR State Special Revenue					119606
Fund Group	\$	698,521	\$	698,521	119607
TOTAL ALL BUDGET FUND GROUPS	\$	12,414,290	\$	12,414,290	119608
Section 385.10. OSD OHIO SCHOOL FOR THE DEAF					119610
General Revenue Fund					119611
GRF 221100 Personal Services	\$	7,842,339	\$	7,842,339	119612
GRF 221200 Maintenance	\$	814,532	\$	814,532	119613
GRF 221300 Equipment	\$	70,786	\$	70,786	119614
TOTAL GRF General Revenue Fund	\$	8,727,657	\$	8,727,657	119615
General Services Fund Group					119616
4M10 221602 Education Reform	\$	74,903	\$	74,903	119617
Grants					

TOTAL GSF General Services				119618
Fund Group	\$	74,903	\$ 74,903	119619
Federal Special Revenue Fund Group				119620
3110 221625 Coordinating Unit	\$	2,460,135	\$ 2,460,135	119621
3R00 221684 Medicaid Professional Services Reimbursement	\$	35,000	\$ 35,000	119622
3Y10 221686 Early Childhood Grant	\$	300,000	\$ 300,000	119623
TOTAL FED Federal Special Revenue Fund Group	\$	2,795,135	\$ 2,795,135	119624
State Special Revenue Fund Group				119626
4M00 221601 Educational Program Expenses	\$	190,000	\$ 190,000	119627
5H60 221609 Even Start Fees and Gifts	\$	126,750	\$ 126,750	119628
TOTAL SSR State Special Revenue Fund Group	\$	316,750	\$ 316,750	119630
TOTAL ALL BUDGET FUND GROUPS	\$	11,914,445	\$ 11,914,445	119631
Section 387.10. SFC SCHOOL FACILITIES COMMISSION				119633
General Revenue Fund				119634
GRF 230908 Common Schools General Obligation Debt Service	\$	150,604,900	\$ 341,919,400	119635
TOTAL GRF General Revenue Fund	\$	150,604,900	\$ 341,919,400	119636
State Special Revenue Fund Group				119637
5E30 230644 Operating Expenses	\$	8,950,000	\$ 8,550,000	119638
TOTAL SSR State Special Revenue Fund Group	\$	8,950,000	\$ 8,550,000	119640
TOTAL ALL BUDGET FUND GROUPS	\$	159,554,900	\$ 350,469,400	119641
Section 387.20. COMMON SCHOOLS GENERAL OBLIGATION DEBT				119643

SERVICE	119644
The foregoing appropriation item 230908, Common Schools	119645
General Obligation Debt Service, shall be used to pay all debt	119646
service and related financing costs at the times they are required	119647
to be made during the period from July 1, 2011, through June 30,	119648
2013, for obligations issued under sections 151.01 and 151.03 of	119649
the Revised Code.	119650
OPERATING EXPENSES	119651
The foregoing appropriation item 230644, Operating Expenses,	119652
shall be used by the Ohio School Facilities Commission to carry	119653
out its responsibilities under this section and Chapter 3318. of	119654
the Revised Code.	119655
In both fiscal years 2012 and 2013, the Executive Director of	119656
the Ohio School Facilities Commission shall certify on a quarterly	119657
basis to the Director of Budget and Management the amount of cash	119658
from interest earnings to be transferred from the School Building	119659
Assistance Fund (Fund 7032), the Public School Building Fund (Fund	119660
7021), and the Educational Facilities Trust Fund (Fund N087) to	119661
the Ohio School Facilities Commission Fund (Fund 5E30). The amount	119662
transferred from the School Building Assistance Fund (Fund 7032)	119663
may not exceed investment earnings credited to the fund, less any	119664
amount required to be paid for federal arbitrage rebate purposes.	119665
If the Executive Director of the Ohio School Facilities	119666
Commission determines that transferring cash from interest	119667
earnings is insufficient to support operations and carry out its	119668
responsibilities under this section and Chapter 3318. of the	119669
Revised Code, the Commission may, with the approval of the	119670
Controlling Board, transfer cash not generated from interest from	119671
the Public School Building Fund (Fund 7021) and the Educational	119672
Trust Fund (Fund N087) to the Ohio School Facilities Commission	119673
Fund (Fund 5E30).	119674

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 119675

At the request of the Executive Director of the Ohio School 119676
Facilities Commission, the Director of Budget and Management may 119677
cancel encumbrances for school district projects from a previous 119678
biennium if the district has not raised its local share of project 119679
costs within thirteen months of receiving Controlling Board 119680
approval under section 3318.05 or 3318.41 of the Revised Code. The 119681
Executive Director of the Ohio School Facilities Commission shall 119682
certify the amounts of the canceled encumbrances to the Director 119683
of Budget and Management on a quarterly basis. The amounts of the 119684
canceled encumbrances are hereby appropriated. 119685

Section 387.30. AMENDMENT TO PROJECT AGREEMENT FOR 119686
MAINTENANCE LEVY 119687

The Ohio School Facilities Commission shall amend the project 119688
agreement between the Commission and a school district that is 119689
participating in the Accelerated Urban School Building Assistance 119690
Program on the effective date of this section, if the Commission 119691
determines that it is necessary to do so in order to comply with 119692
division (B)(3)(c) of section 3318.38 of the Revised Code. 119693

Section 387.40. CANTON CITY SCHOOL DISTRICT PROJECT 119694

(A) The Ohio School Facilities Commission may commit up to 119695
thirty-five million dollars to the Canton City School District for 119696
construction of a facility described in this section, in lieu of a 119697
high school that would otherwise be authorized under Chapter 3318. 119698
of the Revised Code. The Commission shall not commit funds under 119699
this section unless all of the following conditions are met: 119700

(1) The District has entered into a cooperative agreement 119701
with a state-assisted technical college; 119702

(2) The District has received an irrevocable commitment of 119703
additional funding from nonpublic sources; and 119704

(3) The facility is intended to serve both secondary and postsecondary instructional purposes. 119705
119706

(B) The Commission shall enter into an agreement with the District for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the District's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following: 119707
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(1) The Commission shall not have any oversight responsibilities over the construction of the facility. 119715
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(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission. 119717
119718

(3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code. 119719
119720
119721

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section. 119722
119723
119724

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section. 119725
119726
119727

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code. 119728
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Section 387.50. Notwithstanding any other provision of law to 119734

the contrary, the Ohio School Facilities Commission may determine 119735
the amount of funding available for disbursement in a given fiscal 119736
year for any project approved under sections 3318.01 to 3318.20 of 119737
the Revised Code in order to keep aggregate state capital spending 119738
within approved limits and may take actions including, but not 119739
limited to, determining the schedule for design or bidding of 119740
approved projects, to ensure appropriate and supportable cash 119741
flow. 119742

Section 387.60. Notwithstanding division (B) of section 119743
3318.40 of the Revised Code, the Ohio School Facilities Commission 119744
may provide assistance to at least one joint vocational school 119745
district each fiscal year for the acquisition of classroom 119746
facilities in accordance with sections 3318.40 to 3318.45 of the 119747
Revised Code. 119748

Section 389.10. SOS SECRETARY OF STATE 119749

General Revenue Fund 119750

GRF 050321	Operating Expenses	\$	2,144,030	\$	2,144,030	119751
GRF 050407	Pollworkers Training	\$	234,196	\$	234,196	119752
TOTAL GRF	General Revenue Fund	\$	2,378,226	\$	2,378,226	119753

General Services Fund Group 119754

4120 050609	Notary Commission	\$	475,000	\$	475,000	119755
4130 050601	Information Systems	\$	49,000	\$	49,000	119756
4140 050602	Citizen Education	\$	25,000	\$	25,000	119757

Fund

4S80 050610	Board of Voting	\$	7,200	\$	7,200	119758
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Machine Examiners

5FG0 050620	BOE Reimbursement and	\$	100,000	\$	100,000	119759
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Education

TOTAL General Services Fund Group		\$	656,200	\$	656,200	119760
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Federal Special Revenue Fund Group 119761

3AH0 050614	Election	\$	800,000	\$	800,000	119762
	Reform/Health and					
	Human Services					
3AS0 050616	Help America Vote Act	\$	3,000,000	\$	3,000,000	119763
	(HAVA)					
TOTAL FED	Federal Special Revenue					119764
Fund Group		\$	3,800,000	\$	3,800,000	119765
	State Special Revenue Fund Group					119766
5990 050603	Business Services	\$	14,385,400	\$	14,385,400	119767
	Operating Expenses					
TOTAL SSR	State Special Revenue					119768
Fund Group		\$	14,385,400	\$	14,385,400	119769
	Holding Account Redistribution Fund Group					119770
R001 050605	Uniform Commercial	\$	30,000	\$	30,000	119771
	Code Refunds					
R002 050606	Corporate/Business	\$	85,000	\$	85,000	119772
	Filing Refunds					
TOTAL 090	Holding Account					119773
Redistribution Fund Group		\$	115,000	\$	115,000	119774
TOTAL ALL BUDGET FUND GROUPS		\$	21,334,826	\$	21,334,826	119775
	POLLWORKER TRAINING					119776
	The foregoing appropriation item 050407, Pollworkers					119777
	Training, shall be used to reimburse county boards of elections					119778
	for pollworker training pursuant to section 3501.27 of the Revised					119779
	Code. At the end of fiscal year 2012, an amount equal to the					119780
	unexpended, unencumbered portion of appropriation item 050407,					119781
	Pollworkers Training, is hereby reappropriated in fiscal year 2013					119782
	for the same purpose.					119783
	BOARD OF VOTING MACHINE EXAMINERS					119784
	The foregoing appropriation item 050610, Board of Voting					119785
	Machine Examiners, shall be used to pay for the services and					119786

expenses of the members of the Board of Voting Machine Examiners, 119787
and for other expenses that are authorized to be paid from the 119788
Board of Voting Machine Examiners Fund, which is created in 119789
section 3506.05 of the Revised Code. Moneys not used shall be 119790
returned to the person or entity submitting equipment for 119791
examination. If it is determined that additional appropriations 119792
are necessary, such amounts are hereby appropriated. 119793

HAVA FUNDS 119794

An amount equal to the unexpended, unencumbered portion of 119795
appropriation item 050616, Help America Vote Act (HAVA) Voting 119796
Machines, at the end of fiscal year 2012 is reappropriated for the 119797
same purpose in fiscal year 2013. 119798

An amount equal to the unexpended, unencumbered portion of 119799
appropriation item 050614, Election Reform/Health and Human 119800
Services, at the end of fiscal year 2012 is reappropriated for the 119801
same purpose in fiscal year 2013. 119802

The Director of Budget and Management shall credit the 119803
ongoing interest earnings from the Election Reform/Health and 119804
Human Services Fund (Fund 3AH0), the Help America Vote Act (HAVA) 119805
Voting Machines Fund (Fund 3AS0), and the Election Data Collection 119806
Grant Fund (Fund 3AC0) to the respective funds and distribute 119807
these earnings in accordance with the terms of the grant under 119808
which the money is received. 119809

HOLDING ACCOUNT REDISTRIBUTION GROUP 119810

The foregoing appropriation items 050605, Uniform Commercial 119811
Code Refunds, and 050606, Corporate/Business Filing Refunds, shall 119812
be used to hold revenues until they are directed to the 119813
appropriate accounts or until they are refunded. If it is 119814
determined that additional appropriations are necessary, such 119815
amounts are hereby appropriated. 119816

ABOLITION OF THE TECHNOLOGY IMPROVEMENTS FUND 119817

On July 1, 2011, or as soon as possible thereafter, the 119818
Director of Budget and Management shall transfer the cash balance 119819
in the Technology Improvements Fund (Fund 5N90) to the Business 119820
Services Operating Expenses Fund (Fund 5990). The Director shall 119821
cancel any existing encumbrances against appropriation item 119822
050607, Technology Improvements, and re-establish them against 119823
appropriation item 050603, Business Services Operating Expenses. 119824
The re-established encumbered amounts are hereby appropriated. 119825
Upon completion of the transfer, Fund 5N90 is abolished. 119826

Section 391.10. SEN THE OHIO SENATE 119827

General Revenue Fund 119828

GRF 020321 Operating Expenses \$ 10,911,095 \$ 10,911,095 119829

TOTAL GRF General Revenue Fund \$ 10,911,095 \$ 10,911,095 119830

General Services Fund Group 119831

1020 020602 Senate Reimbursement \$ 852,001 \$ 852,001 119832

4090 020601 Miscellaneous Sales \$ 34,497 \$ 34,497 119833

TOTAL GSF General Services 119834

Fund Group \$ 886,498 \$ 886,498 119835

TOTAL ALL BUDGET FUND GROUPS \$ 11,797,593 \$ 11,797,593 119836

OPERATING EXPENSES 119837

On July 1, 2011, or as soon as possible thereafter, the Clerk 119838
of the Senate may certify to the Director of Budget and Management 119839
the amount of the unexpended, unencumbered balance of the 119840
foregoing appropriation item 020321, Operating Expenses, at the 119841
end of fiscal year 2011 to be reappropriated to fiscal year 2012. 119842
The amount certified is hereby reappropriated to the same 119843
appropriation item for fiscal year 2012. 119844

On July 1, 2012, or as soon as possible thereafter, the Clerk 119845
of the Senate may certify to the Director of Budget and Management 119846
the amount of the unexpended, unencumbered balance of the 119847

foregoing appropriation item 020321, Operating Expenses, at the 119848
end of fiscal year 2012 to be reappropriated to fiscal year 2013. 119849
The amount certified is hereby reappropriated to the same 119850
appropriation item for fiscal year 2013. 119851

Section 393.10. CSV COMMISSION ON SERVICE AND VOLUNTEERISM 119852

General Revenue Fund 119853

GRF 866321	CSV Operations	\$	129,998	\$	126,664	119854
TOTAL GRF	General Revenue Fund	\$	129,998	\$	126,664	119855

General Services Fund 119856

5GN0 866605	Serve Ohio Support	\$	67,500	\$	67,500	119857
TOTAL GSF	General Services Fund	\$	67,500	\$	67,500	119858

Federal Special Revenue Fund Group 119859

3R70 866617	AmeriCorps Programs	\$	8,279,290	\$	8,272,110	119860
TOTAL FED	Federal Special Revenue					119861
Fund Group		\$	8,279,290	\$	8,272,110	119862

State Special Revenue Fund Group 119863

6240 866604	Volunteer Contracts	\$	49,130	\$	47,870	119864
	and Services					

TOTAL SSR State Special Revenue 119865

Fund Group		\$	49,130	\$	47,870	119866
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TOTAL ALL BUDGET FUND GROUPS		\$	8,525,918	\$	8,514,144	119867
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Section 395.10. CSF COMMISSIONERS OF THE SINKING FUND 119869

Debt Service Fund Group 119870

7070155905	Third Frontier	\$	29,323,300	\$	63,640,300	119871
	Research and					

Development Bond

Retirement Fund

7072155902	Highway Capital	\$	143,176,000	\$	150,789,300	119872
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Improvement Bond

	Retirement Fund				
7073155903	Natural Resources Bond	\$	5,375,300	\$	25,209,100 119873
	Retirement Fund				
7074155904	Conservation Projects	\$	24,556,800	\$	29,297,300 119874
	Bond Retirement Fund				
7076155906	Coal Research and	\$	7,861,100	\$	5,577,700 119875
	Development Bond				
	Retirement Fund				
7077155907	State Capital	\$	113,306,600	\$	215,571,100 119876
	Improvement Bond				
	Retirement Fund				
7078155908	Common Schools Bond	\$	150,604,900	\$	341,919,400 119877
	Retirement Fund				
7079155909	Higher Education Bond	\$	108,262,500	\$	201,555,000 119878
	Retirement Fund				
7080155901	Persian Gulf,	\$	5,497,700	\$	10,112,100 119879
	Afghanistan, and Iraq				
	Conflicts Bond				
	Retirement Fund				
7090155912	Job Ready Site	\$	9,859,200	\$	15,680,500 119880
	Development Bond				
	Retirement Fund				
TOTAL DSF Debt Service Fund Group		\$	597,823,400	\$	1,059,351,800 119881
TOTAL ALL BUDGET FUND GROUPS		\$	597,823,400	\$	1,059,351,800 119882
	ADDITIONAL APPROPRIATIONS				119883
	Appropriation items in this section are for the purpose of				119884
	paying debt service and financing costs on bonds or notes of the				119885
	state issued under the Ohio Constitution and acts of the General				119886
	Assembly. If it is determined that additional amounts are				119887
	necessary for this purpose, such amounts are hereby appropriated.				119888
	Section 397.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY				119889
	DEVELOPMENT FOUNDATION				119890

Tobacco Master Settlement Agreement Fund Group				119891
5M90 945601 Operating Expenses	\$	436,500	\$ 426,800	119892
TOTAL TMF Tobacco Master Settlement Agreement Fund Group	\$	436,500	\$ 426,800	119893
TOTAL ALL BUDGET FUND GROUPS	\$	436,500	\$ 426,800	119894

Section 399.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY 119896
119897

General Services Fund Group				119898
4K90 886609 Operating Expenses	\$	477,490	\$ 472,260	119899
TOTAL GSF General Services Fund Group	\$	477,490	\$ 472,260	119901
TOTAL ALL BUDGET FUND GROUPS	\$	477,490	\$ 472,260	119902

Section 401.10. BTA BOARD OF TAX APPEALS 119904

General Revenue Fund				119905
GRF 116321 Operating Expenses	\$	1,600,000	\$ 1,700,000	119906
TOTAL GRF General Revenue Fund	\$	1,600,000	\$ 1,700,000	119907
TOTAL ALL BUDGET FUND GROUPS	\$	1,600,000	\$ 1,700,000	119908

Section 403.10. TAX DEPARTMENT OF TAXATION 119910

General Revenue Fund				119911
GRF 110321 Operating Expenses	\$	73,500,000	\$ 73,550,000	119912
GRF 110404 Tobacco Settlement Enforcement	\$	200,000	\$ 200,000	119913
GRF 110412 Child Support Administration	\$	15,804	\$ 15,804	119914
GRF 110901 Property Tax Allocation - Taxation	\$	610,900,000	\$ 616,000,000	119915
TOTAL GRF General Revenue Fund	\$	684,615,804	\$ 689,765,804	119916
General Services Fund Group				119917
2280 110628 Tax Reform System	\$	13,638,008	\$ 13,642,176	119918

		Implementation				
4330	110602	Tape File Account	\$	197,802	\$	197,878 119919
5AP0	110632	Discovery Project	\$	2,445,799	\$	2,445,657 119920
5CZ0	110631	Vendor's License	\$	250,000	\$	250,000 119921
		Application				
5N50	110605	Municipal Income Tax	\$	339,798	\$	339,975 119922
		Administration				
5N60	110618	Kilowatt Hour Tax	\$	150,000	\$	150,000 119923
		Administration				
5V80	110623	Property Tax	\$	12,195,733	\$	12,099,303 119924
		Administration				
5W40	110625	Centralized Tax	\$	200,000	\$	200,000 119925
		Filing and Payment				
5W70	110627	Exempt Facility	\$	50,000	\$	50,000 119926
		Administration				
TOTAL	GSF	General Services				119927
Fund Group			\$	29,467,140	\$	29,374,989 119928
State Special Revenue Fund Group						119929
4350	110607	Local Tax	\$	19,028,339	\$	19,225,941 119930
		Administration				
4360	110608	Motor Vehicle Audit	\$	1,474,081	\$	1,474,353 119931
4370	110606	Litter/Natural	\$	20,000	\$	20,000 119932
		Resource Tax				
		Administration				
4380	110609	School District Income	\$	5,859,041	\$	5,860,650 119933
		Tax				
4C60	110616	International	\$	689,296	\$	689,308 119934
		Registration Plan				
4R60	110610	Tire Tax	\$	245,462	\$	246,660 119935
		Administration				
5V70	110622	Motor Fuel Tax	\$	5,384,254	\$	5,086,236 119936
		Administration				
6390	110614	Cigarette Tax	\$	1,384,217	\$	1,384,314 119937

		Enforcement				
6420	110613	Ohio Political Party	\$	500,000	\$	500,000 119938
		Distributions				
6880	110615	Local Excise Tax	\$	782,630	\$	782,843 119939
		Administration				
		TOTAL SSR State Special Revenue				119940
		Fund Group	\$	35,367,320	\$	35,270,305 119941
		Agency Fund Group				119942
4250	110635	Tax Refunds	\$	1,546,800,000	\$	1,546,800,000 119943
7095	110995	Municipal Income Tax	\$	21,000,000	\$	21,000,000 119944
		TOTAL AGY Agency Fund Group	\$	1,567,800,000	\$	1,567,800,000 119945
		Holding Account Redistribution Fund Group				119946
R010	110611	Tax Distributions	\$	50,000	\$	50,000 119947
R011	110612	Miscellaneous Income	\$	50,000	\$	50,000 119948
		Tax Receipts				
		TOTAL 090 Holding Account				119949
		Redistribution Fund Group	\$	100,000	\$	100,000 119950
		TOTAL ALL BUDGET FUND GROUPS	\$	2,317,350,264	\$	2,322,311,098 119951
		HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK				119952
		The foregoing appropriation item 110901, Property Tax				119953
		Allocation - Taxation, is hereby appropriated to pay for the				119954
		state's costs incurred due to the Homestead Exemption, the				119955
		Manufactured Home Property Tax Rollback, and the Property Tax				119956
		Rollback. The Tax Commissioner shall distribute these funds				119957
		directly to the appropriate local taxing districts, except for				119958
		school districts, notwithstanding the provisions in sections				119959
		321.24 and 323.156 of the Revised Code, which provide for payment				119960
		of the Homestead Exemption, the Manufactured Home Property Tax				119961
		Rollback, and Property Tax Rollback by the Tax Commissioner to the				119962
		appropriate county treasurer and the subsequent redistribution of				119963
		these funds to the appropriate local taxing districts by the				119964
		county auditor.				119965

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110995, Municipal Income Tax, shall be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110607, Local Tax

Administration, the Tax Commissioner may disburse funds, if 119996
 available, for the purposes of paying travel expenses incurred by 119997
 members of Ohio's delegation to the Streamlined Sales Tax Project, 119998
 as appointed under section 5740.02 of the Revised Code. Any travel 119999
 expense reimbursement paid for by the Department of Taxation shall 120000
 be done in accordance with applicable state laws and guidelines. 120001

CENTRALIZED TAX FILING AND PAYMENT FUND 120002

The Director of Budget and Management, under a plan submitted 120003
 by the Tax Commissioner, or as otherwise determined by the 120004
 Director of Budget and Management, shall set a schedule to 120005
 transfer cash from the General Revenue Fund to the credit of the 120006
 Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers 120007
 of cash shall not exceed \$400,000 in the biennium. 120008

TOBACCO SETTLEMENT ENFORCEMENT 120009

The foregoing appropriation item 110404, Tobacco Settlement 120010
 Enforcement, shall be used by the Tax Commissioner to pay costs 120011
 incurred in the enforcement of divisions (F) and (G) of section 120012
 5743.03 of the Revised Code. 120013

Section 405.10. DOT DEPARTMENT OF TRANSPORTATION 120014

General Revenue Fund 120015

GRF 775451 Public Transportation \$ 6,500,000 \$ 6,500,000 120016
 - State

GRF 776465 Ohio Rail Development \$ 2,000,000 \$ 2,000,000 120017
 Commission

GRF 777471 Airport Improvements \$ 750,000 \$ 750,000 120018
 - State

TOTAL GRF General Revenue Fund \$ 9,250,000 \$ 9,250,000 120019

TOTAL ALL BUDGET FUND GROUPS \$ 9,250,000 \$ 9,250,000 120020

Section 407.10. TOS TREASURER OF STATE 120022

General Revenue Fund					120023	
GRF 090321	Operating Expenses	\$	7,743,553	\$	7,743,553	120024
GRF 090401	Office of the Sinking Fund	\$	502,304	\$	502,304	120025
GRF 090402	Continuing Education	\$	377,702	\$	377,702	120026
GRF 090524	Police and Fire Disability Pension Fund	\$	7,900	\$	7,900	120027
GRF 090534	Police and Fire Ad Hoc Cost of Living	\$	87,000	\$	87,000	120028
GRF 090554	Police and Fire Survivor Benefits	\$	600,000	\$	600,000	120029
GRF 090575	Police and Fire Death Benefits	\$	20,000,000	\$	20,000,000	120030
TOTAL GRF General Revenue Fund		\$	29,318,459	\$	29,318,459	120031
General Services Fund Group					120032	
4E90 090603	Securities Lending Income	\$	4,829,441	\$	4,829,441	120033
5770 090605	Investment Pool Reimbursement	\$	550,000	\$	550,000	120034
5C50 090602	County Treasurer Education	\$	170,057	\$	170,057	120035
6050 090609	Treasurer of State Administrative Fund	\$	135,000	\$	135,000	120036
TOTAL GSF General Services Fund Group		\$	5,684,498	\$	5,684,498	120037 120038
Agency Fund Group					120039	
4250 090635	Tax Refunds	\$	6,000,000	\$	6,000,000	120040
TOTAL Agency Fund Group		\$	6,000,000	\$	6,000,000	120041
TOTAL ALL BUDGET FUND GROUPS		\$	41,002,957	\$	41,002,957	120042
Section 407.20.	OFFICE OF THE SINKING FUND					120044

The foregoing appropriation item 090401, Office of the Sinking Fund, shall be used for costs incurred by or on behalf of the Commissioners of the Sinking Fund and the Ohio Public Facilities Commission with respect to State of Ohio general obligation bonds or notes, and the Treasurer of State with respect to State of Ohio general obligation and special obligation bonds or notes, including, but not limited to, printing, advertising, delivery, rating fees and the procurement of ratings, professional publications, membership in professional organizations, and other services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs relating to the issuance and administration of Highway Capital Improvement bonds or notes authorized under Ohio Constitution, Article VIII, Section 2m and Chapter 151. of the Revised Code. That reimbursement shall be made from appropriation item 155902, Highway Capital Improvement Bond Retirement Fund, by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such a reimbursement are hereby appropriated from the Highway Capital Improvement Bond Retirement Fund created in section 151.06 of the Revised Code.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090575, Police and Fire Death Benefits, shall be disbursed quarterly by the Treasurer of State at the beginning of each quarter of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. The Treasurer of State shall certify such amounts quarterly to the Director of Budget and Management. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to

the Treasurer of State moneys received from this appropriation	120077
item but not disbursed.	120078
TAX REFUNDS	120079
The foregoing appropriation item 090635, Tax Refunds, shall	120080
be used to pay refunds under section 5703.052 of the Revised Code.	120081
If the Director of Budget and Management determines that	120082
additional amounts are necessary for this purpose, such amounts	120083
are hereby appropriated.	120084
Section 409.10. VTO VETERANS' ORGANIZATIONS	120085
General Revenue Fund	120086
VAP AMERICAN EX-PRISONERS OF WAR	120087
GRF 743501 State Support \$ 28,910 \$ 28,910	120088
VAN ARMY AND NAVY UNION, USA, INC.	120089
GRF 746501 State Support \$ 63,539 \$ 63,539	120090
VKW KOREAN WAR VETERANS	120091
GRF 747501 State Support \$ 57,118 \$ 57,118	120092
VJW JEWISH WAR VETERANS	120093
GRF 748501 State Support \$ 34,321 \$ 34,321	120094
VCW CATHOLIC WAR VETERANS	120095
GRF 749501 State Support \$ 66,978 \$ 66,978	120096
VPH MILITARY ORDER OF THE PURPLE HEART	120097
GRF 750501 State Support \$ 65,116 \$ 65,116	120098
VVV VIETNAM VETERANS OF AMERICA	120099
GRF 751501 State Support \$ 214,776 \$ 214,776	120100
VAL AMERICAN LEGION OF OHIO	120101
GRF 752501 State Support \$ 349,189 \$ 349,189	120102
VII AMVETS	120103
GRF 753501 State Support \$ 332,547 \$ 332,547	120104
VAV DISABLED AMERICAN VETERANS	120105
GRF 754501 State Support \$ 249,836 \$ 249,836	120106
VMC MARINE CORPS LEAGUE	120107

GRF 756501	State Support	\$	133,947	\$	133,947	120108
	V37 37TH DIVISION VETERANS' ASSOCIATION					120109
GRF 757501	State Support	\$	6,868	\$	6,868	120110
	VFW VETERANS OF FOREIGN WARS					120111
GRF 758501	State Support	\$	284,841	\$	284,841	120112
TOTAL GRF	General Revenue Fund	\$	1,887,986	\$	1,887,986	120113
TOTAL ALL BUDGET FUND GROUPS		\$	1,887,986	\$	1,887,986	120114
	RELEASE OF FUNDS					120115
	The Director of Budget and Management may release the					120116
	foregoing appropriation items 743501, 746501, 747501, 748501,					120117
	749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501,					120118
	and 758501, State Support.					120119
	Section 411.10. DVS DEPARTMENT OF VETERANS SERVICES					120120
	General Revenue Fund					120121
GRF 900321	Veterans' Homes	\$	27,369,946	\$	27,369,946	120122
GRF 900402	Hall of Fame	\$	107,075	\$	107,075	120123
GRF 900408	Department of	\$	1,901,823	\$	1,901,823	120124
	Veterans Services					
GRF 900901	Persian Gulf,	\$	5,486,600	\$	10,112,100	120125
	Afghanistan, and Iraq					
	Compensation Debt					
	Service					
TOTAL GRF	General Revenue Fund	\$	34,865,444	\$	39,490,944	120126
	General Services Fund Group					120127
4840 900603	Veterans' Homes	\$	305,806	\$	312,458	120128
	Services					
TOTAL GSF	General Services Fund	\$	305,806	\$	312,458	120129
	Group					
	Federal Special Revenue Fund Group					120130
3680 900614	Veterans Training	\$	769,500	\$	754,377	120131

3740	900606	Troops to Teachers	\$	136,786	\$	133,461	120132
3BX0	900609	Medicare Services	\$	2,500,000	\$	2,490,169	120133
3L20	900601	Veterans' Homes	\$	23,455,379	\$	23,476,269	120134
		Operations - Federal					
TOTAL FED		Federal Special Revenue					120135
Fund Group			\$	26,861,665	\$	26,854,276	120136
		State Special Revenue Fund Group					120137
4E20	900602	Veterans' Homes	\$	10,117,680	\$	10,319,078	120138
		Operating					
6040	900604	Veterans' Homes	\$	347,598	\$	398,731	120139
		Improvement					
TOTAL SSR		State Special Revenue					120140
Fund Group			\$	10,465,278	\$	10,717,809	120141
		Persian Gulf, Afghanistan, and Iraq Compensation Fund Group					120142
7041	900615	Veteran Bonus Program	\$	1,605,410	\$	1,147,703	120143
		- Administration					
7041	900641	Persian Gulf,	\$	25,425,000	\$	24,300,000	120144
		Afghanistan, and Iraq					
		Compensation					
TOTAL 041		Persian Gulf,					120145
		Afghanistan, and Iraq					120146
		Compensation Fund Group	\$	27,030,410	\$	25,447,703	120147
TOTAL ALL BUDGET FUND GROUPS			\$	99,528,603	\$	102,823,190	120148
		PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL					120149
		OBLIGATION DEBT SERVICE					120150
		The foregoing appropriation item 900901, Persian Gulf,					120151
		Afghanistan and Iraq Compensation Debt Service, shall be used to					120152
		pay all debt service and related financing costs during the period					120153
		from July 1, 2011, through June 30, 2013, on obligations issued					120154
		for Persian Gulf, Afghanistan and Iraq Conflicts Compensation					120155
		purposes under sections 151.01 and 151.12 of the Revised Code.					120156

Section 413.10. DVM STATE VETERINARY MEDICAL BOARD				120157
General Services Fund Group				120158
4K90	888609	Operating Expenses	\$ 322,375 \$ 319,857	120159
5BV0	888602	Veterinary Student	\$ 30,000 \$ 30,000	120160
Loan Program				
TOTAL GSF General Services				120161
Fund Group				\$ 352,375 \$ 349,857 120162
TOTAL ALL BUDGET FUND GROUPS				\$ 352,375 \$ 349,857 120163
 Section 415.10. DYS DEPARTMENT OF YOUTH SERVICES				120165
General Revenue Fund				120166
GRF	470401	RECLAIM Ohio	\$ 168,716,967 \$ 162,362,228	120167
GRF	470412	Lease Rental Payments	\$ 10,221,800 \$ 27,230,100	120168
GRF	470510	Youth Services	\$ 16,702,728 \$ 16,702,728	120169
GRF	472321	Parole Operations	\$ 10,830,019 \$ 10,583,118	120170
GRF	477321	Administrative	\$ 12,222,051 \$ 11,855,389	120171
Operations				
TOTAL GRF General Revenue Fund				\$ 218,693,565 \$ 228,733,563 120172
General Services Fund Group				120173
1750	470613	Education	\$ 8,160,277 \$ 8,151,056	120174
Reimbursement				
4790	470609	Employee Food Service	\$ 150,000 \$ 150,000	120175
4A20	470602	Child Support	\$ 450,000 \$ 400,000	120176
4G60	470605	General Operational	\$ 125,000 \$ 125,000	120177
Funds				
5BN0	470629	E-Rate Program	\$ 535,000 \$ 535,000	120178
TOTAL GSF General Services				120179
Fund Group				\$ 9,420,277 \$ 9,361,056 120180
Federal Special Revenue Fund Group				120181
3210	470601	Education	\$ 1,774,469 \$ 1,517,840	120182
3210	470603	Juvenile Justice	\$ 300,000 \$ 300,000	120183

		Prevention				
3210	470606	Nutrition	\$	1,747,432	\$	1,704,022 120184
3210	470610	Rehabilitation	\$	36,000	\$	36,000 120185
		Programs				
3210	470614	Title IV-E	\$	6,000,000	\$	6,000,000 120186
		Reimbursements				
3BY0	470635	Federal Juvenile	\$	56,471	\$	2,000 120187
		Programs FFY 07				
3BZ0	470636	Federal Juvenile	\$	82,000	\$	1,618 120188
		Programs FFY 08				
3CP0	470638	Federal Juvenile	\$	500,000	\$	300,730 120189
		Programs FFY 09				
3CR0	470639	Federal Juvenile	\$	800,000	\$	479,900 120190
		Programs FFY 10				
3FB0	470641	Federal Juvenile	\$	135,000	\$	600,000 120191
		Programs FFY 11				
3FC0	470642	Federal Juvenile	\$	0	\$	135,000 120192
		Programs FFY 12				
3V50	470604	Juvenile	\$	2,010,000	\$	2,000,000 120193
		Justice/Delinquency				
		Prevention				
TOTAL FED	Federal Special Revenue					120194
Fund Group		\$	13,441,372	\$	13,077,110	120195
State Special Revenue Fund Group						120196
1470	470612	Vocational Education	\$	762,126	\$	758,210 120197
TOTAL SSR	State Special Revenue					120198
Fund Group		\$	762,126	\$	758,210	120199
TOTAL ALL BUDGET FUND GROUPS		\$	242,317,340	\$	251,929,939	120200
COMMUNITY PROGRAMS						120201
Of the foregoing appropriation item 470401, RECLAIM Ohio, an						120202
amount equal to forty-five per cent of the unexpended,						120203
unencumbered balance used for the purpose of funding juvenile						120204

correctional facilities, at the end of each fiscal year, is hereby 120205
reappropriated to the next fiscal year, and shall be used for the 120206
purpose of expanding Targeted RECLAIM, the Behavioral Health 120207
Juvenile Justice Initiative, and other evidence-based community 120208
programs. 120209

OHIO BUILDING AUTHORITY LEASE PAYMENTS 120210

The foregoing appropriation item 470412, Lease Rental 120211
Payments, shall be used to meet all payments at the times they are 120212
required to be made for the period from July 1, 2011, through June 120213
30, 2013, by the Department of Youth Services to the Ohio Building 120214
Authority under the leases and agreements for facilities made 120215
under Chapter 152. of the Revised Code. This appropriation is the 120216
source of funds pledged for bond service charges on related 120217
obligations issued pursuant to Chapter 152. of the Revised Code. 120218

EDUCATION REIMBURSEMENT 120219

The foregoing appropriation item 470613, Education 120220
Reimbursement, shall be used to fund the operating expenses of 120221
providing educational services to youth supervised by the 120222
Department of Youth Services. Operating expenses include, but are 120223
not limited to, teachers' salaries, maintenance costs, and 120224
educational equipment. This appropriation item may be used for 120225
capital expenses related to the education program. 120226

EMPLOYEE FOOD SERVICE AND EQUIPMENT 120227

Notwithstanding section 125.14 of the Revised Code, the 120228
foregoing appropriation item 470609, Employee Food Service, may be 120229
used to purchase any food operational items with funds received 120230
into the fund from reimbursements for state surplus property. 120231

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES 120232

In collaboration with the county family and children first 120233
council, the juvenile court of that county that receives 120234

allocations from one or both of the foregoing appropriation items 120235
470401, RECLAIM Ohio, and 470510, Youth Services, may transfer 120236
portions of those allocations to a flexible funding pool as 120237
authorized by the section titled FAMILY AND CHILDREN FIRST 120238
FLEXIBLE FUNDING POOL, of this act. 120239

Section 501.10. All items set forth in this section are 120240
hereby appropriated for fiscal year 2012 out of any moneys in the 120241
state treasury to the credit of the Administrative Building Fund 120242
(Fund 7026) that are not otherwise appropriated. 120243

CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 120244
C87416 Statehouse Boiler Replacement \$ 900,000 120245
Total Capitol Square Review and Advisory Board \$ 900,000 120246
TOTAL Administrative Building Fund \$ 900,000 120247

Section 503.10. PERSONAL SERVICE EXPENSES 120249

Unless otherwise prohibited by law, any appropriation from 120250
which personal service expenses are paid shall bear the employer's 120251
share of public employees' retirement, workers' compensation, 120252
disabled workers' relief, and insurance programs; and the costs of 120253
centralized financial services, centralized payroll processing, 120254
and related reports and services; centralized human resources 120255
services, including affirmative action and equal employment 120256
opportunity programs; the Office of Collective Bargaining; the 120257
Employee Assistance Program; centralized information technology 120258
management services; administering the enterprise resource 120259
planning system; and administering the state employee merit system 120260
as required by section 124.07 of the Revised Code. These costs 120261
shall be determined in conformity with the appropriate sections of 120262
law and paid in accordance with procedures specified by the Office 120263
of Budget and Management. Expenditures from appropriation item 120264
070601, Public Audit Expense - Intra-State, may be exempted from 120265
the requirements of this section. 120266

Section 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 120267
AGAINST THE STATE 120268

Except as otherwise provided in this section, an 120269
appropriation in this act or any other act may be used for the 120270
purpose of satisfying judgments, settlements, or administrative 120271
awards ordered or approved by the Court of Claims or by any other 120272
court of competent jurisdiction in connection with civil actions 120273
against the state. This authorization does not apply to 120274
appropriations to be applied to or used for payment of guarantees 120275
by or on behalf of the state, or for payments under lease 120276
agreements relating to, or debt service on, bonds, notes, or other 120277
obligations of the state. Notwithstanding any other statute to the 120278
contrary, this authorization includes appropriations from funds 120279
into which proceeds of direct obligations of the state are 120280
deposited only to the extent that the judgment, settlement, or 120281
administrative award is for, or represents, capital costs for 120282
which the appropriation may otherwise be used and is consistent 120283
with the purpose for which any related obligations were issued or 120284
entered into. Nothing contained in this section is intended to 120285
subject the state to suit in any forum in which it is not 120286
otherwise subject to suit, and is not intended to waive or 120287
compromise any defense or right available to the state in any suit 120288
against it. 120289

Section 503.30. CAPITAL PROJECT SETTLEMENTS 120290

This section specifies an additional and supplemental 120291
procedure to provide for payments of judgments and settlements if 120292
the Director of Budget and Management determines, pursuant to 120293
division (C)(4) of section 2743.19 of the Revised Code, that 120294
sufficient unencumbered moneys do not exist in the fund to support 120295
a particular appropriation to pay the amount of a final judgment 120296
rendered against the state or a state agency, including the 120297

settlement of a claim approved by a court, in an action upon and 120298
arising out of a contractual obligation for the construction or 120299
improvement of a capital facility if the costs under the contract 120300
were payable in whole or in part from a state capital projects 120301
appropriation. In such a case, the Director may either proceed 120302
pursuant to division (C)(4) of section 2743.19 of the Revised Code 120303
or apply to the Controlling Board to increase an appropriation or 120304
create an appropriation out of any unencumbered moneys in the 120305
state treasury to the credit of the capital projects fund from 120306
which the initial state appropriation was made. The amount of an 120307
increase in appropriation or new appropriation approved by the 120308
Controlling Board is hereby appropriated from the applicable 120309
capital projects fund and made available for the payment of the 120310
judgment or settlement. 120311

If the Director does not make the application authorized by 120312
this section or the Controlling Board disapproves the application, 120313
and the Director does not make application under division (C)(4) 120314
of section 2743.19 of the Revised Code, the Director shall for the 120315
purpose of making that payment make a request to the General 120316
Assembly as provided for in division (C)(5) of that section. 120317

Section 503.40. RE-ISSUANCE OF VOIDED WARRANTS 120318

In order to provide funds for the reissuance of voided 120319
warrants under section 126.37 of the Revised Code, there is hereby 120320
appropriated, out of moneys in the state treasury from the fund 120321
credited as provided in section 126.37 of the Revised Code, that 120322
amount sufficient to pay such warrants when approved by the Office 120323
of Budget and Management. 120324

Section 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 120325
BALANCES OF OPERATING APPROPRIATIONS 120326

(A) An unexpended balance of an operating appropriation or 120327

reappropriation that a state agency lawfully encumbered prior to 120328
the close of a fiscal year is hereby reappropriated on the first 120329
day of July of the following fiscal year from the fund from which 120330
it was originally appropriated or reappropriated for the following 120331
period and shall remain available only for the purpose of 120332
discharging the encumbrance: 120333

(1) For an encumbrance for personal services, maintenance, 120334
equipment, or items for resale, other than an encumbrance for an 120335
item of special order manufacture not available on term contract 120336
or in the open market or for reclamation of land or oil and gas 120337
wells, for a period of not more than five months from the end of 120338
the fiscal year; 120339

(2) For an encumbrance for an item of special order 120340
manufacture not available on term contract or in the open market, 120341
for a period of not more than five months from the end of the 120342
fiscal year or, with the written approval of the Director of 120343
Budget and Management, for a period of not more than twelve months 120344
from the end of the fiscal year; 120345

(3) For an encumbrance for reclamation of land or oil and gas 120346
wells, for a period ending when the encumbered appropriation is 120347
expended or for a period of two years, whichever is less; 120348

(4) For an encumbrance for any other expense, for such period 120349
as the Director approves, provided such period does not exceed two 120350
years. 120351

(B) Any operating appropriations for which unexpended 120352
balances are reappropriated beyond a five-month period from the 120353
end of the fiscal year by division (A)(2) of this section shall be 120354
reported to the Controlling Board by the Director of Budget and 120355
Management by the thirty-first day of December of each year. The 120356
report on each such item shall include the item, the cost of the 120357
item, and the name of the vendor. The report shall be updated on a 120358

quarterly basis for encumbrances remaining open. 120359

(C) Upon the expiration of the reappropriation period set out 120360
in division (A) of this section, a reappropriation made by this 120361
section lapses, and the Director of Budget and Management shall 120362
cancel the encumbrance of the unexpended reappropriation not later 120363
than the end of the weekend following the expiration of the 120364
reappropriation period. 120365

(D) Notwithstanding division (C) of this section, with the 120366
approval of the Director of Budget and Management, an unexpended 120367
balance of an encumbrance that was reappropriated on the first day 120368
of July by this section for a period specified in division (A)(3) 120369
or (4) of this section and that remains encumbered at the close of 120370
the fiscal biennium is hereby reappropriated on the first day of 120371
July of the following fiscal biennium from the fund from which it 120372
was originally appropriated or reappropriated for the applicable 120373
period specified in division (A)(3) or (4) of this section and 120374
shall remain available only for the purpose of discharging the 120375
encumbrance. 120376

(E) The Director of Budget and Management may correct 120377
accounting errors committed by the staff of the Office of Budget 120378
and Management, such as re-establishing encumbrances or 120379
appropriations cancelled in error, during the cancellation of 120380
operating encumbrances in November and of nonoperating 120381
encumbrances in December. 120382

(F) If the Controlling Board approved a purchase, that 120383
approval remains in effect so long as the appropriation used to 120384
make that purchase remains encumbered. 120385

Section 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 120386
RE-ESTABLISHMENT OF ENCUMBRANCES 120387

Any cash transferred by the Director of Budget and Management 120388

under section 126.15 of the Revised Code is hereby appropriated. 120389
Any amounts necessary to re-establish appropriations or 120390
encumbrances under section 126.15 of the Revised Code are hereby 120391
appropriated. 120392

Section 503.70. INCOME TAX DISTRIBUTION TO COUNTIES 120393

There are hereby appropriated out of any moneys in the state 120394
treasury to the credit of the General Revenue Fund, which are not 120395
otherwise appropriated, funds sufficient to make any payment 120396
required by division (B)(2) of section 5747.03 of the Revised 120397
Code. 120398

Section 503.80. EXPENDITURES AND APPROPRIATION INCREASES 120399
APPROVED BY THE CONTROLLING BOARD 120400

Any money that the Controlling Board approves for expenditure 120401
or any increase in appropriation that the Controlling Board 120402
approves under sections 127.14, 131.35, and 131.39 of the Revised 120403
Code or any other provision of law is hereby appropriated for the 120404
period ending June 30, 2013. 120405

Section 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S 120406
RESIDENCE 120407

If the Governor's Residence Fund (Fund 4H20) receives payment 120408
for use of the residence pursuant to section 107.40 of the Revised 120409
Code, the amounts so received are hereby appropriated to 120410
appropriation item 100604, Governor's Residence Gift. 120411

Section 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 120412

Unless the agency and nuclear electric utility mutually agree 120413
to a higher amount by contract, the maximum amounts that may be 120414
assessed against nuclear electric utilities under division (B)(2) 120415
of section 4937.05 of the Revised Code and deposited into the 120416

specified funds are as follows:					120417
<u>Fund</u>	<u>User</u>		<u>FY 2012</u>	<u>FY 2013</u>	120418
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$	131,785	\$ 131,785	120419
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$	930,525	\$ 930,576	120420
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$	279,838	\$ 279,966	120421
Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	\$	1,415,945	\$ 1,415,945	120422

Section 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED 120423
120424

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, through June 30, 2013, may transfer interest earned by any state fund to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Ohio Constitution, federal tax law, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501 et seq., as amended. 120425
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120431

Section 512.30. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS 120432
120433

Notwithstanding any provision of law to the contrary, during fiscal years 2012 and 2013, the Director of Budget and Management may transfer up to \$60,000,000 in cash from non-General Revenue Funds that are not constitutionally restricted to the General Revenue Fund in order to ensure that available General Revenue Fund receipts and balances are sufficient to support General Revenue Fund appropriations in each fiscal year. 120434
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120440

Section 512.40. FISCAL YEAR 2011 GENERAL REVENUE FUND ENDING 120441
BALANCE 120442

Notwithstanding divisions (B) and (C) of section 131.44 of 120443
the Revised Code, the Director of Budget and Management shall 120444
determine the surplus General Revenue Fund revenue that existed on 120445
June 30, 2011, in excess of the amount required under division 120446
(A)(3) of section 131.44 of the Revised Code, and transfer from 120447
the General Revenue Fund, to the extent of the amount so 120448
determined, the following: 120449

(A) First, to the Disaster Services Fund (Fund 5E20), a cash 120450
amount equal to half the surplus General Revenue Fund revenue, up 120451
to \$25,000,000; 120452

(B) Then, to the Teacher Incentive Program Fund (Fund 5KG0), 120453
a cash amount equal to half the surplus General Revenue Fund 120454
revenue, up to \$25,000,000. 120455

Section 512.60. NATURAL RESOURCES PUBLICATIONS 120456

On July 1, 2011, or as soon as possible thereafter, the 120457
Director of Budget and Management, at the request of the Director 120458
of Natural Resources, shall transfer the remaining cash balance in 120459
the Natural Resources Publications and Promotional Materials Fund 120460
(Fund 5080) to the Departmental Projects Fund (Fund 1550) and the 120461
Geological Mapping Fund (Fund 5110) in such amounts as determined 120462
by the Director of Budget and Management after consultation with 120463
the Director of Natural Resources. The Director of Budget and 120464
Management shall cancel all existing encumbrances against 120465
appropriation item 725684, Natural Resources Publications, and 120466
reestablish them against appropriation item 725601, Departmental 120467
Projects, and appropriation item 725646, Ohio Geological Mapping. 120468
Upon completion of the transfer, the Natural Resources 120469
Publications and Promotional Materials Fund is hereby abolished. 120470

Beginning July 1, 2011, all moneys from the sale of books, 120471
bulletins, maps, or other publications and promotional materials 120472
shall be credited to the Departmental Projects Fund (Fund 1550) or 120473
the Geological Mapping Fund (Fund 5110) as determined by the 120474
Director of Natural Resources. 120475

Section 512.70. On July 1, 2011, or as soon as possible 120476
thereafter, the Director of Budget and Management shall transfer 120477
the cash balance in the Penalty Enforcement Fund (Fund 5K70) to 120478
the Labor Operating Fund (Fund 5560). The Director shall cancel 120479
any existing encumbrances against appropriation item 800621, 120480
Penalty Enforcement, and re-establish them against appropriation 120481
item 800615, Industrial Compliance. The re-established encumbrance 120482
amounts are hereby appropriated. Upon completion of the transfer, 120483
Fund 5K70 is abolished. 120484

Section 512.80. ABOLISHMENT OF PASSPORT FUND 120485

On July 1, 2011, or as soon as possible thereafter, the 120486
Director of Budget and Management shall transfer the cash balance 120487
in the PASSPORT Fund (Fund 4U90) to the Nursing Home Franchise 120488
Permit Fee Fund (Fund 5R20). Upon completion of the transfer, Fund 120489
4U90 is abolished. The Director shall cancel any existing 120490
encumbrances against appropriation item 490602, PASSPORT Fund, and 120491
reestablish them against appropriation item 600613, Nursing 120492
Facility Bed Assessments. The reestablished encumbrance amounts 120493
are hereby appropriated. 120494

Section 512.90. DIESEL EMISSIONS REDUCTION GRANT PROGRAM 120495

There is established in the Highway Operating Fund (Fund 120496
7002) in the Department of Transportation a Diesel Emissions 120497
Reduction Grant Program. The Director of Development shall 120498
administer the program and shall solicit, evaluate, score, and 120499
select projects submitted by public and private entities that are 120500

eligible for the federal Congestion Mitigation and Air Quality 120501
(CMAQ) Program. The Director of Transportation shall process 120502
Federal Highway Administration-approved projects as recommended by 120503
the Director of Development. 120504

In addition to the allowable expenditures set forth in 120505
section 122.861 of the Revised Code, Diesel Emissions Reduction 120506
Grant Program funds also may be used to fund projects involving 120507
the purchase or use of hybrid and alternative fuel vehicles that 120508
are allowed under guidance developed by the Federal Highway 120509
Administration for the CMAQ Program. 120510

Public entities eligible to receive funds under section 120511
122.861 of the Revised Code and CMAQ shall be reimbursed from the 120512
Department of Transportation's Diesel Emissions Reduction Grant 120513
Program. 120514

Private entities eligible to receive funds under section 120515
122.861 of the Revised Code and CMAQ shall be reimbursed through 120516
transfers of cash from the Department of Transportation's Diesel 120517
Emissions Reduction Grant Program to the Diesel Emissions 120518
Reduction Grant Fund (Fund 3BD0) used by the Department of 120519
Development. 120520

Appropriation item 195697, Diesel Emissions Reduction Grants, 120521
is established with an appropriation of \$10,000,000 in FY 2012 and 120522
\$10,000,000 in FY 2013. Total expenditures between both the 120523
Departments of Development and Transportation shall not exceed the 120524
amounts appropriated in this section. 120525

On or before June 30, 2012, any unencumbered balance of the 120526
foregoing appropriation item 195697, Diesel Emissions Reduction 120527
Grants, for fiscal year 2012 is appropriated for the same purposes 120528
in fiscal year 2013. 120529

Any cash transfers or allocations under this section 120530
represent CMAQ program moneys within the Department of 120531

Transportation for use by the Diesel Emissions Reduction Grant 120532
Program by the Department of Development. These allocations shall 120533
not reduce the amount of such moneys designated for metropolitan 120534
planning organizations. 120535

The Director of Development, in consultation with the 120536
Directors of Environmental Protection and Transportation, shall 120537
develop guidance for the distribution of funds and for the 120538
administration of the Diesel Emissions Reduction Grant Program. 120539
The guidance shall include a method of prioritization for 120540
projects, acceptable technologies, and procedures for awarding 120541
grants. 120542

Section 515.20. (A) On the effective date of the amendment of 120543
the statutes creating the Division of Oil and Gas Resources 120544
Management in the Department of Natural Resources by this act, the 120545
functions, assets, and liabilities of the Division of Mineral 120546
Resources Management in the Department of Natural Resources with 120547
respect to oil and gas are transferred to the Division of Oil and 120548
Gas Resources Management. The Division of Oil and Gas Resources 120549
Management is successor to, assumes the obligations and authority 120550
of, and otherwise continues the Division of Mineral Resources 120551
Management with respect to oil and gas. No right, privilege, or 120552
remedy, and no duty, liability, or obligation, accrued under the 120553
Division of Mineral Resources Management with respect to oil and 120554
gas is impaired or lost by reason of the transfer and shall be 120555
recognized, administered, performed, or enforced by the Division 120556
of Oil and Gas Resources Management. 120557

(B) Business commenced but not completed by the Division of 120558
Mineral Resources Management or by the Chief of the Division of 120559
Mineral Resources Management with respect to oil and gas shall be 120560
completed by the Division of Oil and Gas Resources Management or 120561
the Chief of the Division of Oil and Gas Resources Management in 120562

the same manner, and with the same effect, as if completed by the 120563
Division of Mineral Resources Management or by the Chief of the 120564
Division of Mineral Resources Management. 120565

(C) All of the Division of Mineral Resources Management's 120566
rules, orders, and determinations with respect to oil and gas 120567
continue in effect as rules, orders, and determinations of the 120568
Division of Oil and Gas Resources Management until modified or 120569
rescinded by the Division of Oil and Gas Resources Management. If 120570
necessary to ensure the integrity of the numbering of the 120571
Administrative Code, the Director of the Legislative Service 120572
Commission shall renumber the Division of Mineral Resources 120573
Management's rules with respect to oil and gas to reflect their 120574
transfer to the Division of Oil and Gas Resources Management. 120575

(D) The Director of Budget and Management shall determine the 120576
amount of unexpended balances in the appropriation accounts that 120577
pertain to the Division of Mineral Resources Management with 120578
respect to oil and gas and shall recommend to the Controlling 120579
Board their transfer to the appropriation accounts that pertain to 120580
the Division of Oil and Gas Resources Management. The Chief of the 120581
Division of Mineral Resources Management shall provide full and 120582
timely information to the Controlling Board to facilitate the 120583
transfer. 120584

(E) Whenever the Division of Mineral Resources Management or 120585
the Chief of the Division of Mineral Resources Management is 120586
referred to in a statute, contract, or other instrument with 120587
respect to oil and gas, the reference is deemed to refer to the 120588
Division of Oil and Gas Resources Management or to the Chief of 120589
the Division of Oil and Gas Resources Management, whichever is 120590
appropriate in context. 120591

(F) No pending action or proceeding being prosecuted or 120592
defended in court or before an agency with respect to oil and gas 120593
by the Division of Mineral Resources Management or the Chief of 120594

the Division of Mineral Resources Management is affected by the 120595
transfer and shall be prosecuted or defended in the name of the 120596
Division of Oil and Gas Resources Management or the Chief of the 120597
Division of Oil and Gas Resources Management, whichever is 120598
appropriate. Upon application to the court or agency, the Division 120599
of Oil and Gas Resources Management or the Chief of the Division 120600
of Oil and Gas Resources Management shall be substituted as a 120601
party. 120602

Section 515.30. (A) On the effective date of the amendment of 120603
the statutes governing the Ohio Coal Development Office by this 120604
act, the Ohio Coal Development Office and all of its functions, 120605
together with its assets and liabilities, are transferred from 120606
within the Ohio Air Quality Development Authority to within the 120607
Department of Development. The Ohio Coal Development Office in the 120608
Department of Development assumes the obligations of and otherwise 120609
constitutes the continuation of the Ohio Coal Development Office 120610
in the Ohio Air Quality Development Authority. 120611

(B) Any business commenced but not completed by the Ohio Coal 120612
Development Office in the Ohio Air Quality Development Authority 120613
or the Director of that office on the effective date of the 120614
amendment of the statutes governing that Office by this act shall 120615
be completed by the Ohio Coal Development Office in the Department 120616
of Development or the Director of that Office in the same manner, 120617
and with the same effect, as if completed by the Ohio Coal 120618
Development Office in the Ohio Air Quality Development Authority 120619
or the Director of that Office. Any validation, cure, right, 120620
privilege, remedy, obligation, or liability is not lost or 120621
impaired by reason of the transfer required by this section and 120622
shall be administered by the Ohio Coal Development Office in the 120623
Department of Development. 120624

(C) All of the rules, orders, and determinations of the Ohio 120625

Coal Development Office in the Ohio Air Quality Development 120626
Authority or of the Ohio Air Quality Development Authority in 120627
relation to that Office continue in effect as rules, orders, and 120628
determinations of the Ohio Coal Development Office in the 120629
Department of Development until modified or rescinded by that 120630
Office or by the Department of Development in relation to that 120631
Office. If necessary to ensure the integrity of the numbering of 120632
the Administrative Code, the Director of the Legislative Service 120633
Commission shall renumber rules of the Ohio Air Quality 120634
Development Authority in relation to the Ohio Coal Development 120635
Office in the Ohio Air Quality Development Authority to reflect 120636
the transfer to the Department of Development. 120637

(D) Subject to the lay-off provisions of sections 124.321 to 120638
124.328 of the Revised Code, all of the employees of the Ohio Coal 120639
Development Office in the Ohio Air Quality Development Authority 120640
are transferred to the Ohio Coal Development Office in the 120641
Department of Development and retain their positions and all the 120642
benefits accruing thereto. 120643

(E) Whenever the Ohio Coal Development Office in the Ohio Air 120644
Quality Development Office or the Authority in relation to that 120645
Office is referred to in any law, contract, or other document, the 120646
reference shall be deemed to refer to the Ohio Coal Development 120647
Office in the Department of Development or the Director of 120648
Development in relation to that Office, whichever is appropriate 120649
in context. 120650

(F) Any action or proceeding pending on the effective date of 120651
the amendment of the statutes governing the Ohio Coal Development 120652
Office by this act is not affected by the transfer of that Office 120653
and shall be prosecuted or defended in the name of the Department 120654
of Development or the Ohio Coal Development Office in that 120655
Department. In all such actions and proceedings, the Department of 120656
Development or the Ohio Coal Development Office in that 120657

Department, upon application to the court, shall be substituted as 120658
a party. 120659

Section 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 120660

Certain appropriations are in this act for the purpose of 120661
paying debt service and financing costs on general obligation 120662
bonds or notes of the state issued pursuant to the Ohio 120663
Constitution and acts of the General Assembly. If it is determined 120664
that additional appropriations are necessary for this purpose, 120665
such amounts are hereby appropriated. 120666

Section 518.20. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF 120667
STATE 120668

Certain appropriations are in this act for the purpose of 120669
making lease rental payments pursuant to leases and agreements 120670
relating to bonds or notes issued by the Ohio Building Authority 120671
or the Treasurer of State, or previously by the Ohio Public 120672
Facilities Commission, pursuant to the Ohio Constitution and acts 120673
of the General Assembly. If it is determined that additional 120674
appropriations are necessary for this purpose, such amounts are 120675
hereby appropriated. 120676

Section 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM 120677
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 120678

The Office of Budget and Management shall process payments 120679
from general obligation and lease rental payment appropriation 120680
items during the period from July 1, 2011, through June 30, 2013, 120681
relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 120682
2n, 2o, 2p, 2q, 2r, and 15 of Article VIII, Ohio Constitution, and 120683
Chapters 151. and 154. of the Revised Code. Payments shall be made 120684
upon certification by the Treasurer of State of the dates and the 120685
amounts due on those dates. 120686

Section 518.40. AUTHORIZATION FOR OHIO BUILDING AUTHORITY AND 120687
OBM TO EFFECTUATE CERTAIN LEASE RENTAL PAYMENTS 120688

The Office of Budget and Management shall process payments 120689
from lease rental payment appropriation items during the period 120690
from July 1, 2011, through June 30, 2013, pursuant to the lease 120691
agreements entered into relating to bonds or notes issued under 120692
Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of 120693
the Revised Code. Payments shall be made upon certification by the 120694
Ohio Building Authority of the dates and the amounts due on those 120695
dates. 120696

Section 521.10. STATE AND LOCAL REBATE AUTHORIZATION 120697

There is hereby appropriated, from those funds designated by 120698
or pursuant to the applicable proceedings authorizing the issuance 120699
of state obligations, amounts computed at the time to represent 120700
the portion of investment income to be rebated or amounts in lieu 120701
of or in addition to any rebate amount to be paid to the federal 120702
government in order to maintain the exclusion from gross income 120703
for federal income tax purposes of interest on those state 120704
obligations under section 148(f) of the Internal Revenue Code. 120705

Rebate payments shall be approved and vouchered by the Office 120706
of Budget and Management. 120707

Section 521.20. STATEWIDE INDIRECT COST RECOVERY 120708

Whenever the Director of Budget and Management determines 120709
that an appropriation made to a state agency from a fund of the 120710
state is insufficient to provide for the recovery of statewide 120711
indirect costs under section 126.12 of the Revised Code, the 120712
amount required for such purpose is hereby appropriated from the 120713
available receipts of such fund. 120714

Section 521.30. TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT 120715
COST ALLOCATION PLAN 120716

The total transfers made from the General Revenue Fund by the 120717
Director of Budget and Management under this section shall not 120718
exceed the amounts transferred into the General Revenue Fund under 120719
section 126.12 of the Revised Code. 120720

The director of an agency may certify to the Director of 120721
Budget and Management the amount of expenses not allowed to be 120722
included in the Statewide Indirect Cost Allocation Plan under 120723
federal regulations, from any fund included in the Statewide 120724
Indirect Cost Allocation Plan, prepared as required by section 120725
126.12 of the Revised Code. 120726

Upon determining that no alternative source of funding is 120727
available to pay for such expenses, the Director of Budget and 120728
Management may transfer from the General Revenue Fund into the 120729
fund for which the certification is made, up to the amount of the 120730
certification. The director of the agency receiving such funds 120731
shall include, as part of the next budget submission prepared 120732
under section 126.02 of the Revised Code, a request for funding 120733
for such activities from an alternative source such that further 120734
federal disallowances would not be required. 120735

The director of an agency may certify to the Director of 120736
Budget and Management the amount of expenses paid in error from a 120737
fund included in the Statewide Indirect Cost Allocation Plan. The 120738
Director of Budget and Management may transfer cash from the fund 120739
from which the expenditure should have been made into the fund 120740
from which the expenses were erroneously paid, up to the amount of 120741
the certification. 120742

Section 521.30.10. OGRIP FUNDS TRANSFER TO THE GENERAL 120743
REVENUE FUND 120744

On July 1, 2011, or as soon as possible thereafter, the 120745
Director of Budget and Management may transfer cash in the amount 120746
of \$15,072.03 from the Federal Grants OGRIP Fund (Fund 3H60) to 120747
the General Revenue Fund. This amount represents residual funds 120748
from old federal grants for the state's OGRIP program that have 120749
been closed by the federal awarding agency. 120750

Section 521.30.20. TRANSFER OF FEDERAL FUNDS 120751

On July 1, 2011, or as soon as possible thereafter, the 120752
Director of Environmental Protection shall certify to the Director 120753
of Budget and Management the cash balance in the DOE Monitoring 120754
and Oversight Fund (Fund 3N40). The Director of Budget and 120755
Management shall transfer the certified amount from Fund 3N40 to 120756
the Federally Supported Response Fund (Fund 3F30). Upon completion 120757
of the transfer, Fund 3N40 is abolished. The Director shall cancel 120758
any existing encumbrances against appropriation item 715657, DOE 120759
Monitoring and Oversight, and re-establish them against 120760
appropriation item 715632, Federally Supported Response. The 120761
re-established encumbrance amounts are hereby appropriated. 120762

On July 1, 2011, or as soon as possible thereafter, the 120763
Director of Environmental Protection shall certify to the Director 120764
of Budget and Management the cash balance in the DOD Monitoring 120765
and Oversight Fund (Fund 3K40). The Director of Budget and 120766
Management shall transfer the certified amount from Fund 3K40 to 120767
the Federally Supported Response Fund (Fund 3F30). Upon completion 120768
of the transfer, Fund 3K40 is abolished. The Director shall cancel 120769
any existing encumbrances against appropriation item 715634, DOD 120770
Monitoring and Oversight, and re-establish them against 120771
appropriation item 715632, Federally Supported Response. The 120772
re-established encumbrance amounts are hereby appropriated. 120773

Section 521.40. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 120774

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared under division (A) of section 126.12 of the Revised Code, may designate such funds as the Director considers necessary to retain their own interest earnings.

Section 521.50. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 120782

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management may cancel and re-establish all or part of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to re-establish all or part of encumbrances are hereby appropriated.

Section 521.60. FISCAL STABILIZATION AND RECOVERY 120789

To ensure the level of accountability and transparency required by federal law, the Director of Budget and Management may issue guidelines to any agency applying for federal money made available to this state for fiscal stabilization and recovery purposes, and may prescribe the process by which agencies are to comply with any reporting requirements established by the federal government.

Section 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS 120797

(A) The Office of Internal Auditing within the Office of Budget and Management shall, in connection with its duties under sections 126.45 to 126.48 of the Revised Code, monitor and measure the effectiveness of funds allocated to the state as part of the federal American Recovery and Reinvestment Act of 2009. As such, the Office of Internal Auditing shall review how funds allocated

to each state agency are spent. For purposes of this section, 120804
"state agency" has the same meaning as in division (A) of section 120805
126.45 of the Revised Code. 120806

In addition to the reports required under section 126.47 of 120807
the Revised Code, the Office of Internal Auditing shall submit a 120808
report of its findings to the President of the Senate, Minority 120809
Leader of the Senate, Speaker of the House of Representatives, 120810
Minority Leader of the House of Representatives, and the Chairs of 120811
the committees in the Senate and House of Representatives handling 120812
finance and appropriations. The report shall be submitted every 120813
six months at the following intervals: 120814

(1) For the six-month period ending December 31, 2011, not 120815
later than February 1, 2012; 120816

(2) For the six-month period ending June 30, 2012, not later 120817
than August 1, 2012; 120818

(3) For the six-month period ending December 31, 2012, not 120819
later than February 1, 2013; 120820

(4) For the six-month period ending June 30, 2013, not later 120821
than August 1, 2013. 120822

(B) When, as part of its compliance with the federal American 120823
Recovery and Reinvestment Act of 2009 requirements to monitor and 120824
measure the effectiveness of funds for which the state of Ohio is 120825
the prime recipient, and for which reporting authority has not 120826
been delegated to a sub-recipient, the Office of Budget and 120827
Management submits quarterly reports to the federal government, 120828
the Office of Budget and Management shall also submit those 120829
reports to the President of the Senate, Minority Leader of the 120830
Senate, Speaker of the House of Representatives, Minority Leader 120831
of the House of Representatives, and Chairs and ranking members of 120832
the committees in the Senate and House of Representatives handling 120833
finance and appropriations. The Office of Budget and Management 120834

shall continue to submit quarterly reports to the legislature for 120835
the duration of the period in which the state of Ohio is required 120836
to make reports to the federal government concerning Ohio's use of 120837
the federal American Recovery and Reinvestment Act of 2009 funds. 120838

Section 521.80. FEDERAL FUNDS FOR HISTORIC PRESERVATION LOAN 120839
GUARANTEE 120840

(A) As used in this section: 120841

(1) "Approved historic rehabilitation project" means a 120842
rehabilitation of a historic building that the Director of 120843
Development has approved for a rehabilitation tax credit under 120844
section 149.311 of the Revised Code. 120845

(2) "Federal funds" means federal money available to states 120846
under the American Recovery and Reinvestment Act of 2009 or any 120847
other source of federal money available to the states, that may 120848
lawfully be used for the purposes of this section. 120849

(3) "Owner" and "qualified rehabilitation expenditures" have 120850
the same meanings as in section 149.311 of the Revised Code. 120851

(B) There is hereby created in the state treasury the Ohio 120852
Historic Preservation Tax Credit Fund. The fund shall consist of 120853
money obtained by the Director of Development under division (C) 120854
of this section. Money in the fund shall be used to secure and pay 120855
guarantees of loans for approved historic rehabilitation projects 120856
as provided in this section. 120857

(C) The Director of Development may undertake to secure 120858
\$75,000,000 of federal funds for crediting to the Ohio Historic 120859
Preservation Tax Credit Fund. If the Director secures such funds, 120860
the Director, for the purpose of creating new jobs or preserving 120861
existing jobs and employment opportunities and improving the 120862
economic welfare of the people of this state, shall enter into 120863
loan guarantee contracts under section 166.06 of the Revised Code 120864

in connection with approved historic rehabilitation projects, 120865
except that the guarantees shall be secured solely by and be 120866
payable solely from the Ohio Historic Preservation Tax Credit 120867
Fund. Money deposited into the Ohio Historic Preservation Tax 120868
Credit Fund shall be prioritized by providing loan guarantees for 120869
approved historic rehabilitation projects from the first funding 120870
round of the Ohio Historic Preservation Tax Credit Program before 120871
being used to provide loan guarantees for approved historic 120872
rehabilitation projects approved in subsequent funding rounds. The 120873
amount of a loan guarantee provided under this section shall not 120874
exceed the amount of the credit to be awarded for the approved 120875
historic rehabilitation project. References to the loan guarantee 120876
fund in divisions (C) and (F) of section 166.06 of the Revised 120877
Code shall be construed as references to the Ohio Historic 120878
Preservation Tax Credit Fund for the purposes of loan guarantees 120879
authorized by this section, except that no transfer shall be made 120880
to the Ohio Historic Preservation Tax Credit Fund from the 120881
facilities establishment fund as may otherwise be required by that 120882
section. 120883

(D) Nothing in this section is a determination by the General 120884
Assembly that federal funds are currently available for the 120885
purposes of this section. Rather, this section evidences a 120886
determination by the General Assembly that public purposes will be 120887
advanced by the use of current or future federal funds for the 120888
purposes of this section. 120889

Section 610.10. That Section 205.10 of Am. Sub. H.B. 114 of 120890
the 129th General Assembly be amended to read as follows: 120891

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY 120892
State Highway Safety Fund Group 120893
4W40 762321 Operating Expense - \$ 80,003,146 \$ 82,403,240 120894

		BMV			
4W40	762410	Registrations	\$ 28,945,176	\$ 29,813,532	120895
		Supplement			
5V10	762682	License Plate	\$ 2,100,000	\$ 2,100,000	120896
		Contributions			
7036	761321	Operating Expense -	\$ 7,124,366	\$ 7,338,097	120897
		Information and			
		Education			
7036	761401	Lease Rental Payments	\$ 9,978,300	\$ 2,315,700	120898
7036	764033	Minor Capital	\$ 1,250,000	\$ 1,250,000	120899
		Projects			
7036	764321	Operating Expense -	\$ 260,744,934	\$ 258,365,903	120900
		Highway Patrol			
7036	764605	Motor Carrier	\$ 2,860,000	\$ 2,860,000	120901
		Enforcement Expenses			
8300	761603	Salvage and Exchange	\$ 19,469	\$ 20,053	120902
		- Administration			
8310	761610	Information and	\$ 422,084	\$ 434,746	120903
		Education - Federal			
8310	764610	Patrol - Federal	\$ 2,209,936	\$ 2,276,234	120904
8310	764659	Transportation	\$ 5,519,333	\$ 5,684,913	120905
		Enforcement - Federal			
8310	765610	EMS - Federal	\$ 532,007	\$ 532,007	120906
8310	769610	Food Stamp	\$ 1,546,319	\$ 1,546,319	120907
		Trafficking			
		Enforcement - Federal			
8310	769631	Homeland Security -	\$ 2,184,000	\$ 2,184,000	120908
		Federal			
8320	761612	Traffic Safety -	\$ 16,577,565	\$ 16,577,565	120909
		Federal			
8350	762616	Financial	\$ 5,457,240	\$ 5,549,068	120910
		Responsibility			
		Compliance			

8370	764602	Turnpike Policing	\$	11,553,959	\$	11,553,959	120911
8380	764606	Patrol Reimbursement	\$	50,000	\$	50,000	120912
83C0	764630	Contraband, Forfeiture, Other	\$	622,894	\$	622,894	120913
83F0	764657	Law Enforcement Automated Data System	\$	9,053,266	\$	9,053,266	120914
83G0	764633	OMVI Enforcement/Education	\$	623,230	\$	641,927	120915
83J0	764693	Highway Patrol Justice Contraband	\$	2,100,000	\$	2,100,000	120916
83M0	765624	Operating Expense - Trauma and EMS	\$	2,632,106	\$	2,711,069	120917
83N0	761611	Elementary School Seat Belt Program	\$	305,600	\$	305,600	120918
83P0	765637	EMS Grants	\$	4,106,621	\$	4,229,819	120919
83R0	762639	Local Immobilization Reimbursement	\$	450,000	\$	450,000	120920
83T0	764694	Highway Patrol Treasury Contraband	\$	21,000	\$	21,000	120921
8400	764607	State Fair Security	\$	1,256,655	\$	1,294,354	120922
8400	764617	Security and Investigations	\$	6,432,686	\$	6,432,686	120923
8400	764626	State Fairgrounds Police Force	\$	849,883	\$	849,883	120924
8400	769632	Homeland Security - Operating	\$	737,791	\$	737,791	120925
8410	764603	Salvage and Exchange - Highway Patrol	\$	1,339,399	\$	1,339,399	120926
8460	761625	Motorcycle Safety Education	\$	3,185,013	\$	3,280,563	120927
8490	762627	Automated Title Processing Board	\$	17,316,755	\$	14,335,513	120928
TOTAL	HSF	State Highway Safety Fund	\$	490,110,733	\$	481,261,100	120929

Group

General Services Fund Group				120930
4P60	768601	Justice Program	\$ 998,104 \$	1,028,047 120931
		Services		
4S30	766661	Hilltop Utility	\$ 540,800 \$	540,800 120932
		Reimbursement		
5ET0	768625	Drug Law Enforcement	\$ 3,780,000 \$	3,893,400 120933
5Y10	764695	Highway Patrol	\$ 170,000 \$	170,000 120934
		Continuing		
		Professional Training		
5Y10	767696	Investigative Unit	\$ 15,000 \$	15,000 120935
		Continuing		
		Professional Training		
TOTAL	GSF	General Services Fund	\$ 5,503,904 \$	5,647,247 120936

Group

Federal Special Revenue Fund Group				120937
3290	763645	Federal Mitigation	\$ 10,110,332 \$	10,413,642 120938
		Program		
3370	763609	Federal Disaster	\$ 27,707,636 \$	27,707,636 120939
		Relief		
3390	763647	Emergency Management	\$ 75,664,821 \$	77,934,765 120940
		Assistance and		
		Training		
3CB0	768691	Federal Justice	\$ 200,000 \$	50,000 120941
		Grants - FFY06		
3CC0	768609	Justice Assistance	\$ 583,222 \$	310,000 120942
		Grants - FFY07		
3CD0	768610	Justice Assistance	\$ 310,000 \$	150,000 120943
		Grants - FFY08		
3CE0	768611	Justice Assistance	\$ 865,000 \$	1,200,000 120944
		Grants - FFY09		
3CV0	768697	Justice Assistance	\$ 2,000 \$	0 120945

		Grants Supplement - FFY08				
3DE0	768612	Federal Stimulus - Justice Assistance Grants	\$	1,015,000	\$	1,015,000 120946
3DH0	768613	Federal Stimulus - Justice Programs	\$	150,000	\$	150,000 120947
3DU0	762628	BMV Grants	\$	1,525,000	\$	1,580,000 120948
3EU0	768614	Justice Assistance Grants - FFY10	\$	650,000	\$	920,000 120949
3L50	768604	Justice Program	\$	11,400,000	\$	11,400,000 120950
3N50	763644	U.S. Department of Energy Agreement	\$	31,672	\$	31,672 120951
TOTAL FED		Federal Special Revenue	\$	130,214,683	\$	132,862,715 120952
		Fund Group				
		State Special Revenue Fund Group				120953
4V30	763662	EMA Service and Reimbursement	\$	4,368,369	\$	4,499,420 120954
5390	762614	Motor Vehicle Dealers Board	\$	180,000	\$	185,400 120955
5B90	766632	Private Investigator and Security Guard Provider	\$	1,562,637	\$	1,562,637 120956
5BK0	768687	Criminal Justice Services - Operating	\$	400,000	\$	400,000 120957
5BK0	768689	Family Violence Shelter Programs	\$	750,000	\$	750,000 120958
5CM0	767691	Federal Investigative Seizure	\$	300,000	\$	300,000 120959
5DS0	769630	Homeland Security	\$	1,414,384	\$	1,414,384 120960
5FF0	762621	Indigent Interlock and Alcohol Monitoring	\$	2,000,000	\$	2,000,000 120961

5FL0 769634	Investigations	\$	899,300	\$	899,300	120962
6220 767615	Investigative	\$	375,000	\$	375,000	120963
	Contraband and Forfeiture					
6570 763652	Utility Radiological	\$	1,415,945	\$	1,415,945	120964
	Safety					
6810 763653	SARA Title III HAZMAT	\$	262,438	\$	262,438	120965
	Planning					
8500 767628	Investigative Unit	\$	90,000	\$	92,700	120966
	Salvage					
TOTAL SSR State Special Revenue		\$	14,018,073	\$	14,157,224	120967
Fund Group						
Liquor Control Fund Group						120968
7043 767321	Liquor Enforcement -	\$	11,897,178	\$	11,897,178	120969
	Operating		<u>10,450,000</u>		<u>10,600,000</u>	
TOTAL LCF Liquor Control Fund Group		\$	11,897,178	\$	11,897,178	120970
			<u>10,450,000</u>		<u>10,600,000</u>	
Agency Fund Group						120971
5J90 761678	Federal Salvage/GSA	\$	1,500,000	\$	1,500,000	120972
TOTAL AGY Agency Fund Group		\$	1,500,000	\$	1,500,000	120973
Holding Account Redistribution Fund Group						120974
R024 762619	Unidentified Motor	\$	1,885,000	\$	1,885,000	120975
	Vehicle Receipts					
R052 762623	Security Deposits	\$	350,000	\$	350,000	120976
TOTAL 090 Holding Account		\$	2,235,000	\$	2,235,000	120977
Redistribution Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	655,479,571	\$	649,560,464	120978
			<u>654,032,393</u>		<u>648,263,286</u>	
MOTOR VEHICLE REGISTRATION						120979
The Registrar of Motor Vehicles may deposit revenues to meet						120980
the cash needs of the State Bureau of Motor Vehicles Fund (Fund						120981
4W40) established in section 4501.25 of the Revised Code, obtained						120982

under sections 4503.02 and 4504.02 of the Revised Code, less all 120983
other available cash. Revenue deposited pursuant to this paragraph 120984
shall support, in part, appropriations for operating expenses and 120985
defray the cost of manufacturing and distributing license plates 120986
and license plate stickers and enforcing the law relative to the 120987
operation and registration of motor vehicles. Notwithstanding 120988
section 4501.03 of the Revised Code, the revenues shall be paid 120989
into Fund 4W40 before any revenues obtained pursuant to sections 120990
4503.02 and 4504.02 of the Revised Code are paid into any other 120991
fund. The deposit of revenues to meet the aforementioned cash 120992
needs shall be in approximately equal amounts on a monthly basis 120993
or as otherwise determined by the Director of Budget and 120994
Management pursuant to a plan submitted by the Registrar of Motor 120995
Vehicles. 120996

CAPITAL PROJECTS 120997

The Registrar of Motor Vehicles may transfer cash from the 120998
State Bureau of Motor Vehicles Fund (Fund 4W40) to the State 120999
Highway Safety Fund (Fund 7036) to meet its obligations for 121000
capital projects CIR-047, Department of Public Safety Office 121001
Building and CIR-049, Warehouse Facility. 121002

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS 121003

The foregoing appropriation item 761401, Lease Rental 121004
Payments, shall be used for payments to the Ohio Building 121005
Authority for the period July 1, 2011, to June 30, 2013, under the 121006
primary leases and agreements for public safety related buildings 121007
financed by obligations issued under Chapter 152. of the Revised 121008
Code. Notwithstanding section 152.24 of the Revised Code, the Ohio 121009
Building Authority may, with approval of the Director of Budget 121010
and Management, lease capital facilities to the Department of 121011
Public Safety. 121012

HILLTOP TRANSFER 121013

The Director of Public Safety shall determine, per an 121014
agreement with the Director of Transportation, the share of each 121015
debt service payment made out of appropriation item 761401, Lease 121016
Rental Payments, that relates to the Department of 121017
Transportation's portion of the Hilltop Building Project, and 121018
shall certify to the Director of Budget and Management the amounts 121019
of this share. The Director of Budget and Management shall 121020
transfer the amounts of such shares from the Highway Operating 121021
Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036). 121022

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND 121023

On July 1, 2011, or as soon as possible thereafter, the 121024
Director of Budget and Management shall transfer the unexpended 121025
and unencumbered cash balance in the Seat Belt Education Fund 121026
(Fund 8440) to the Trauma and Emergency Medical Services Fund 121027
(Fund 83M0). Upon completion of the transfer, Fund 8440 is 121028
abolished. The Director shall cancel any existing encumbrances 121029
against appropriation item 761613, Seat Belt Education Program, 121030
and reestablish them against appropriation item 765624, Operating 121031
Expense - Trauma and EMS. The reestablished encumbrance amounts 121032
are hereby appropriated. 121033

CASH TRANSFERS BETWEEN FUNDS 121034

Notwithstanding any provision of law to the contrary, the 121035
Director of Budget and Management, upon the written request of the 121036
Director of Public Safety, may approve the transfer of cash 121037
between the following six funds: the Trauma and Emergency Medical 121038
Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), 121039
the Investigations Fund (Fund 5FL0), the Emergency Management 121040
Agency Service and Reimbursement Fund (Fund 4V30), the Justice 121041
Program Services Fund (Fund 4P60), and the State Bureau of Motor 121042
Vehicles Fund (Fund 4W40). 121043

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND 121044

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, upon the written request of the Director of Public Safety, may approve the transfer of cash from the Continuing Professional Training Fund (Fund 5Y10), the State Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), and the Highway Safety Salvage and Exchange Highway Patrol Fund (Fund 8410) to the Security, Investigations, and Policing Fund (Fund 8400).

CASH TRANSFERS OF SEAT BELT FINE REVENUES

Notwithstanding any provision of law to the contrary, the Controlling Board, upon request of the Director of Public Safety, may approve the transfer of cash between the following four funds that receive fine revenues from enforcement of the mandatory seat belt law: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Elementary School Program Fund (Fund 83N0), and the Trauma and Emergency Medical Services Grants Fund (Fund 83P0).

STATE DISASTER RELIEF

The State Disaster Relief Fund (Fund 5330) may accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency disaster response costs and disaster program management costs, and may also be used for the following purposes:

(A) To accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency public assistance and mitigation program match costs to reimburse eligible local governments and private nonprofit organizations for costs related to disasters;

(B) To accept and transfer cash to reimburse the costs associated with Emergency Management Assistance Compact (EMAC) deployments;

(C) To accept disaster related reimbursement from federal,

state, and local governments. The Director of Budget and 121076
Management may transfer cash from reimbursements received by this 121077
fund to other funds of the state from which transfers were 121078
originally approved by the Controlling Board. 121079

(D) To accept transfers of cash and appropriations from 121080
Controlling Board appropriation items to fund the State Disaster 121081
Relief Program, for disasters that have been declared by the 121082
Governor, and the State Individual Assistance Program for 121083
disasters that have been declared by the Governor and the federal 121084
Small Business Administration. The Ohio Emergency Management 121085
Agency shall publish and make available application packets 121086
outlining procedures for the State Disaster Relief Program and the 121087
State Individual Assistance Program. 121088

JUSTICE ASSISTANCE GRANT FUND 121089

The federal payments made to the state for the Byrne Justice 121090
Assistance Grants Program under Title II of Division A of the 121091
American Recovery and Reinvestment Act of 2009 shall be deposited 121092
to the credit of the Justice Assistance Grant Fund (Fund 3DE0), 121093
which is hereby created in the state treasury. All investment 121094
earnings of the fund shall be credited to the fund. 121095

FEDERAL STIMULUS - JUSTICE PROGRAMS 121096

The federal payments made to the state for the Violence 121097
Against Women Formula Grant under Title II of Division A of the 121098
American Recovery and Reinvestment Act of 2009 shall be deposited 121099
to the credit of the Federal Stimulus - Justice Programs Fund 121100
(Fund 3DH0). 121101

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 121102
AGENCY SERVICE AND REIMBURSEMENT FUND 121103

On July 1 of each fiscal year, or as soon as possible 121104
thereafter, the Director of Budget and Management shall transfer 121105
\$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to 121106

the Emergency Management Agency Service and Reimbursement Fund 121107
(Fund 4V30) to be distributed to the Ohio Task Force One - Urban 121108
Search and Rescue Unit and other urban search and rescue programs 121109
around the state. 121110

FAMILY VIOLENCE PREVENTION FUND 121111

Notwithstanding any provision of law to the contrary, in each 121112
of fiscal years 2012 and 2013, the first \$750,000 received to the 121113
credit of the Family Violence Prevention Fund (Fund 5BK0) shall be 121114
appropriated to appropriation item 768689, Family Violence Shelter 121115
Programs, and the next \$400,000 received to the credit of Fund 121116
5BK0 in each of those fiscal years shall be appropriated to 121117
appropriation item 768687, Criminal Justice Services - Operating. 121118
Any moneys received to the credit of Fund 5BK0 in excess of the 121119
aforementioned appropriated amounts in each fiscal year shall, 121120
upon the approval of the Controlling Board, be used to provide 121121
grants to family violence shelters in Ohio. 121122

SARA TITLE III HAZMAT PLANNING 121123

The SARA Title III HAZMAT Planning Fund (Fund 6810) is 121124
entitled to receive grant funds from the Emergency Response 121125
Commission to implement the Emergency Management Agency's 121126
responsibilities under Chapter 3750. of the Revised Code. 121127

COLLECTIVE BARGAINING INCREASES 121128

Notwithstanding division (D) of section 127.14 and division 121129
(B) of section 131.35 of the Revised Code, except for the General 121130
Revenue Fund, the Controlling Board may, upon the request of 121131
either the Director of Budget and Management, or the Department of 121132
Public Safety with the approval of the Director of Budget and 121133
Management, increase appropriations for any fund, as necessary for 121134
the Department of Public Safety, to assist in paying the costs of 121135
increases in employee compensation that have occurred pursuant to 121136
collective bargaining agreements under Chapter 4117. of the 121137

Revised Code and, for exempt employees, under section 124.152 of the Revised Code. 121138
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CASH BALANCE FUND REVIEW 121140

Not later than the first day of April in each fiscal year of the biennium, the Director of Budget and Management shall review the cash balances for each fund, except the State Highway Safety Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 4W40), in the State Highway Safety Fund Group, and shall recommend to the Controlling Board an amount to be transferred to the credit of Fund 7036 or Fund 4W40, as appropriate. 121141
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Section 610.11. That existing Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly is hereby repealed. 121148
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Section 620.10. That Section 125.10 of Am. Sub. H.B. 1 of the 128th General Assembly be amended to read as follows: 121150
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Sec. 125.10. Sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code are hereby repealed, effective October 1, ~~2011~~ 2013. 121152
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Section 620.11. That existing Section 125.10 of Am. Sub. H.B. 1 of the 128th General Assembly is hereby repealed. 121155
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Section 620.12. The seventh paragraph of Section 812.20 of Am. Sub. H.B. 1 of the 128th General Assembly, which refers to the taking effect of a repeal of sections 5112.40 to 5112.48 of the Revised Code, is repealed. 121157
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Section 620.13. The intent of Sections 620.10 to 620.12 of this act is to further delay the repeal of sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code from October 1, 2011, until October 1, 121161
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2013.	121165
Section 630.10. That Section 5 of Sub. H.B. 125 of the 127th General Assembly, as most recently amended by Sub. H.B. 198 of the 128th General Assembly, be amended to read as follows:	121166 121167 121168
Sec. 5. (A) As used in this section and Section 6 of Sub. H.B. 125 of the 127th General Assembly:	121169 121170
(1) "Most favored nation clause" means a provision in a health care contract that does any of the following:	121171 121172
(a) Prohibits, or grants a contracting entity an option to prohibit, the participating provider from contracting with another contracting entity to provide health care services at a lower price than the payment specified in the contract;	121173 121174 121175 121176
(b) Requires, or grants a contracting entity an option to require, the participating provider to accept a lower payment in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;	121177 121178 121179 121180
(c) Requires, or grants a contracting entity an option to require, termination or renegotiation of the existing health care contract in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;	121181 121182 121183 121184 121185
(d) Requires the participating provider to disclose the participating provider's contractual reimbursement rates with other contracting entities.	121186 121187 121188
(2) "Contracting entity," "health care contract," "health care services," "participating provider," and "provider" have the same meanings as in section 3963.01 of the Revised Code, as enacted by Sub. H.B. 125 of the 127th General Assembly.	121189 121190 121191 121192

~~(B) With respect to a contracting entity and a provider other than a hospital, no No health care contract that includes shall contain a most favored nation clause shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly.~~ 121193
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~~(C) With respect to a contracting entity and a hospital, no health care contract that includes a most favored nation clause shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly, subject to extension as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly.~~ 121200
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~~(D) This section does not apply to and does not prohibit the continued use of a most favored nation clause in a health care contract that is between a contracting entity and a hospital and that is in existence on the effective date of Sub. H.B. 125 of the 127th General Assembly even if the health care contract is materially amended with respect to any provision of the health care contract other than the most favored nation clause during the two year period specified in this section or during any extended period of time as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly. This section applies to such contract if that contract is amended, or to any extension or renewal of that contract.~~ 121208
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Section 630.11. That existing Section 5 of Sub. H.B. 125 of the 127th General Assembly, as most recently amended by Sub. H.B. 198 of the 128th General Assembly, is hereby repealed. 121220
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Section 630.12. That Section 5 of Sub. H.B. 2 of the 127th
General Assembly is hereby repealed.

Section 690.10. That Section 153 of Am. Sub. H.B. 117 of the
121st General Assembly, as most recently amended by Am. Sub. H.B.
1 of the 128th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05,
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18,
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby
repealed, effective October 16, ~~2011~~ 2013.

(B) Any money remaining in the Legislative Budget Services
Fund on October 16, ~~2011~~ 2013, the date that section 5112.19 of
the Revised Code is repealed by division (A) of this section,
shall be used solely for the purposes stated in then former
section 5112.19 of the Revised Code. When all money in the
Legislative Budget Services Fund has been spent after then former
section 5112.19 of the Revised Code is repealed under division (A)
of this section, the fund shall cease to exist.

Section 690.11. That existing Section 153 of Am. Sub. H.B.
117 of the 121st General Assembly, as most recently amended by Am.
Sub. H.B. 1 of the 128th General Assembly, is hereby repealed.

Section 701.10. The Department of Administrative Services
shall post on the Department's Internet web site the form for the
contract documents that a public authority contracting for
services with a construction manager at risk or a design-build
firm must use on and after the date of the posting and until the
rules adopted under section 153.502 of the Revised Code are
implemented.

Section 701.20. Not later than July 1, 2012, the Department of Administrative Services shall submit a report to the General Assembly, in accordance with section 101.68 of the Revised Code, on the feasibility of all of the following regarding health care plans to cover persons employed by political subdivisions, public school districts, as defined in section 9.901 of the Revised Code, and state institutions of higher education, as defined in section 3345.011 of the Revised Code:

(A) Designing multiple health care plans that achieve an optimal combination of coverage, cost, choice, and stability, which plans include both state and regional preferred provider plans, set employee and employer premiums, and set employee plan copayments, deductibles, exclusions, limitations, formularies, and other responsibilities;

(B) Maintaining reserves, reinsurance, and other measures to insure the long-term stability and solvency of the health care plans;

(C) Providing appropriate health care information, wellness programs, and other preventive health care measures to health care plan beneficiaries;

(D) Coordinating contracts for services related to the health care plans;

(E) Voluntary and mandatory participation by political subdivisions, public school districts, and institutions of higher education;

(F) The potential impacts of any changes to the existing purchasing structure on existing health care pooling and consortiums;

(G) Removing barriers to competition and access to health care pooling.

No action shall be taken regarding health care coverage for 121280
employees of political subdivisions, public school districts, and 121281
state institutions of higher education without the enactment of 121282
law by the General Assembly. 121283

Section 701.30. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES 121284

As used in this section, "appointing authority" has the same 121285
meaning as in section 124.01 of the Revised Code, and "exempt 121286
employee" has the same meaning as in section 124.152 of the 121287
Revised Code. 121288

Notwithstanding section 124.181 of the Revised Code, in cases 121289
where no vacancy exists, an appointing authority may, with the 121290
written consent of an exempt employee, assign duties of a higher 121291
classification to that exempt employee for a period of time not to 121292
exceed two years, and that exempt employee shall receive 121293
compensation at a rate commensurate with the duties of the higher 121294
classification. 121295

Section 701.40. (A) There is hereby created the Ohio Housing 121296
Study Committee with the purpose of formulating a comprehensive 121297
review of the policies and results of the Ohio Housing Finance 121298
Agency, its programs and its working relationships with its 121299
for-profit and not-for-profit partners to ensure that all Agency 121300
programs are evaluated by an objective process to ensure all 121301
Ohioans receive the benefits afforded to them through the 121302
authority of the Agency. 121303

(B) The Committee shall do all of the following: 121304

(1) Perform a comprehensive review of Chapter 175. of the 121305
Revised Code to determine the relevance of the chapter and 121306
determine whether it should be formally reviewed or amended by the 121307
General Assembly, up to and including appropriate legislative 121308
oversight and accountability; 121309

(2) Review the Agency's relationships with all of its 121310
for-profit and not-for-profit partners to ensure an equitable and 121311
level playing field regarding its single- and multi-family housing 121312
programs; 121313

(3) Review the Agency's policy leadership and the economic 121314
impact of its Single Family Mortgage Revenue Bond Program; 121315

(4) Review the Agency's Qualified Allocation Plan development 121316
process and underlying policy to understand the policy basis for 121317
its annual creation and ratification by the Board of Directors; 121318

(5) Create a quantitative report measuring the economic 121319
benefits of the Agency's single- and multi-family programming over 121320
the last ten years; 121321

(6) Evaluate the possible efficiencies of combining existing 121322
Ohio Department of Development housing-related programming with 121323
those of the Agency. 121324

The Director of Commerce may include other relevant areas of 121325
study as necessary. 121326

(C) The Committee shall commence on the effective date of 121327
this act and shall provide a report expressing its findings to the 121328
Governor, the Speaker of the House of Representatives, and the 121329
President of the Senate on or before January 1, 2012. 121330

(D) The Director of Commerce shall serve as the Committee's 121331
chairperson. The Committee shall be comprised of the Director and 121332
two members of the General Assembly. One member shall be appointed 121333
by the Speaker of the House of Representatives and one member 121334
shall be appointed by the President of the Senate. 121335

(E) The Committee shall meet at the discretion of the 121336
Director of Commerce. 121337

Section 701.50. (A) Except as otherwise provided in section 121338
154.24 or 154.25 of the Revised Code, as enacted by this act, with 121339

respect to the functions of the Ohio Public Facilities Commission, 121340
the Treasurer of State shall, on the effective date of this 121341
section and as provided for in this section, supersede and replace 121342
the Ohio Building Authority (referred to in this section as the 121343
"Authority") as the issuing authority in all matters relating to 121344
the issuance of obligations for the financing of capital 121345
facilities for housing branches and agencies of state government 121346
as provided for in section 154.24 of the Revised Code or for 121347
community or technical colleges as provided for in section 154.25 121348
of the Revised Code (together referred to in this section as 121349
"facilities for capital purposes"), as enacted by this act (all 121350
referred to in this section as "superseded matters"). 121351

(B)(1) With respect to superseded matters and facilities for 121352
capital purposes, the Treasurer of State shall: 121353

(a) Succeed to and have and perform all of the duties, 121354
powers, obligations, and functions of the Authority and its 121355
members and officers provided for by law or rule relating to the 121356
issuance of bonds, notes, or other obligations for the purpose of 121357
paying costs of facilities for capital purposes; 121358

(b) Succeed to and have and perform all of the duties, 121359
powers, obligations, and functions, and have all of the rights of, 121360
the Authority and its members and officers provided for in or 121361
pursuant to resolutions, rules, agreements, trust agreements, and 121362
supplemental trust agreements (all referred to collectively in 121363
this section as "basic instruments"), and bonds, notes, and other 121364
obligations (all referred to collectively in this section as 121365
"financing obligations"), previously authorized, entered into, or 121366
issued by the Authority for facilities for capital purposes, which 121367
financing obligations shall be, or shall be deemed to be, 121368
obligations issued by and of the Treasurer of State; and 121369

(c) Be bound by all agreements and covenants of the 121370
Authority, and basic instruments, relating to financing 121371

obligations. 121372

(2) The transfer of superseded matters to the Treasurer of 121373
State pursuant to this section does not affect the validity of any 121374
agreement or covenant, basic instrument, or financing obligation, 121375
or any related document, authorized, entered into, or issued by 121376
the Authority under Chapter 152. of the Revised Code or other 121377
laws, and nothing in this section shall be applied or considered 121378
as impairing the obligations or rights under them. 121379

(3) The Treasurer of State shall not issue any additional 121380
financing obligations pursuant to any basic instrument of the 121381
Authority, including financing obligations to refund financing 121382
obligations previously issued by the Authority. 121383

(C) With respect to proceedings relating to superseded 121384
matters affected by this section: 121385

(1) This section applies to any proceedings that are 121386
commenced after the effective date of this section, and to any 121387
proceedings that are pending, in progress, or completed on that 121388
date, notwithstanding the applicable law previously in effect or 121389
any provision to the contrary in a prior basic instrument, notice, 121390
or other proceeding. 121391

(2) Any proceedings of the Authority that are pending on the 121392
effective date of this section shall be pursued and completed by 121393
and in the name of the Treasurer of State, and any financing 121394
obligations that are sold, issued, and delivered pursuant to those 121395
proceedings shall be deemed to have been authorized, sold, issued, 121396
and delivered in conformity with this section. 121397

(3) Notwithstanding divisions (C)(1) and (2) of this section, 121398
the Authority may, subsequent to the effective date of this 121399
section, meet for the purpose of better accomplishing the transfer 121400
of superseded matters. At any such meeting the Authority may take 121401
necessary or appropriate actions to effect an orderly transition 121402

relating to the issuance of financing obligations, such that all 121403
duties, powers, obligations, and functions of the Authority and 121404
its members and officers with respect to the superseded matters or 121405
under any leases and agreements between the Authority and a state 121406
agency for facilities for capital purposes shall terminate and be 121407
of no further force and effect as to the Authority. 121408

(D) The Authority and the Treasurer of State shall prepare 121409
any necessary amendments of or supplements to documents or basic 121410
instruments pertaining to the duties, powers, obligations, 121411
functions, and rights relating to superseded matters to which the 121412
Treasurer of State succeeds pursuant to this section. The 121413
authorization by the Authority in its basic instruments relating 121414
to superseded matters for its officers to act in any manner on 121415
behalf of the Authority shall, on and after the effective date of 121416
this section, be authorization for the Treasurer of State, or the 121417
Treasurer of State's staff or employees to whom the Treasurer of 121418
State may delegate the function, to act in the circumstances, 121419
without necessity for amendment of or supplement to any such 121420
documents or basic instruments. 121421

(E) No pending judicial or administrative action or 121422
proceeding in which the Authority, or its members or officers as 121423
such, are a party that pertains to superseded matters shall be 121424
affected by their transfer, but shall be prosecuted or defended in 121425
the name of the Treasurer of State and in any such action or 121426
proceeding the Treasurer of State, upon application to the court, 121427
shall be substituted as a party. 121428

(F) In connection with the duties, powers, obligations, 121429
functions, and rights relating to superseded matters and provided 121430
for in this section, on the effective date of this section: 121431

(1) Copies of all basic instruments, documents, books, 121432
papers, and records of the Authority shall be transferred to the 121433
Treasurer of State upon request, without necessity for assignment, 121434

conveyance, or other action by the Authority. 121435

(2) All appropriations previously made to or for the 121436
Authority for the purposes of the performance of the duties, 121437
powers, obligations, functions, and exercise of rights relating to 121438
superseded matters, to the extent of remaining unexpended or 121439
unencumbered balances, are hereby transferred to and made 121440
available for use and expenditure by the Treasurer of State for 121441
performing the same duties, powers, obligations, and functions and 121442
exercising the same rights for which originally appropriated, and 121443
payments for administrative expenses previously incurred in 121444
connection with them shall be made from the applicable 121445
administrative service fund on vouchers approved by the Treasurer 121446
of State. 121447

(3) All leases and agreements between the Authority and a 121448
state agency for facilities for capital purposes made under 121449
Chapter 152. of the Revised Code shall, and shall be considered 121450
to, continue to bind that state agency. Nothing in this act shall 121451
be considered as impairing the obligations of any state agency 121452
under those leases and agreements. 121453

(4) Any lease, grant, or conveyance made to the Authority 121454
pursuant to section 152.06 of the Revised Code shall be, and shall 121455
be deemed to be, made to the Ohio Public Facilities Commission 121456
pursuant to section 154.16 of the Revised Code, and the Ohio 121457
Public Facilities Commission shall succeed to and have and perform 121458
all of the duties, powers, obligations, and functions, and have 121459
all of the rights, of the Authority and its members and officers 121460
provided for in or pursuant to that lease, grant, or conveyance. 121461

(G) Whenever the Authority, or any of its members or 121462
officers, is referred to in any contract or other document 121463
relating to those outstanding financing obligations, the reference 121464
shall be considered to be, as applicable, to the Ohio Public 121465
Facilities Commission or its appropriate officers or to the 121466

Treasurer of State or the appropriate staff of the Treasurer of State. 121467
121468

Section 715.10. (A) The Ohio Soil and Water Conservation Commission that is created in section 1515.02 of the Revised Code shall establish a Conservation Program Delivery Task Force to provide recommendations to the Director of Natural Resources regarding how soil and water conservation districts established under section 1515.03 of the Revised Code may advance effective and efficient operations while continuing to provide local program leadership. The Task Force shall examine methods for improving services and removing impediments to organizational management and explore opportunities for sharing services across all levels of government. 121469
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(B) The chairperson of the Commission in consultation with the Director shall appoint no more than nine members to the Task Force. The Task Force shall include members of the boards of supervisors of soil and water conservation districts and other individuals who represent diverse geographic areas of the state and may include members from the Ohio Federation of Soil and Water Conservation Districts, the Natural Resources Conservation Service in the United States Department of Agriculture, the County Commissioners' Association of Ohio, the Ohio Municipal League, and the Ohio Township Association. The Task Force may consult with those organizations and agencies. 121480
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(C) The chairperson of the Commission or another member of the Commission who is designated by the chairperson shall serve as chairperson of the Task Force. 121491
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121493

(D) Members appointed to the Task Force shall serve without compensation and shall not be reimbursed for expenses. The Division of Soil and Water Resources shall provide technical and administrative support as needed by the Task Force. 121494
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(E) The Task Force shall hold its first meeting no later than 121498
September 1, 2011, and shall submit a final report of 121499
recommendations to the Director and the Commission no later than 121500
December 31, 2011. Upon submission of the final report, the Task 121501
Force shall cease to exist. 121502

Section 733.10. (A) The Department of Education shall conduct 121503
and publicize a second Educational Choice Scholarship application 121504
period for the 2011-2012 school year to award for that year 121505
scholarships newly authorized by sections 3310.02 and 3310.03 of 121506
the Revised Code, as amended by this act. The second application 121507
period shall commence on the effective date of this section and 121508
shall end at the close of business on the first business day that 121509
is at least sixty days after the effective date of this section. 121510
121511

(B) Not later than ten days after the effective date of this 121512
section, the Department shall do both of the following: 121513

(1) Mail, to each person who applied for a scholarship during 121514
the first application period for the 2011-2012 school year but did 121515
not receive a scholarship, a notice announcing the second 121516
application period, the opportunity to re-apply, and the 121517
application deadline; 121518

(2) Post prominently on its web site a list of school 121519
district-operated buildings that meet both of the following 121520
criteria: 121521

(a) For at least two of the three school years from 2007-2008 121522
through 2009-2010, ranked in the lowest ten per cent of school 121523
buildings according to performance index score reported under 121524
section 3302.03 of the Revised Code; 121525

(b) Were not declared to be excellent or effective under that 121526
section for the 2009-2010 school year. 121527

(C) The Department shall award scholarships for the 2011-2012 school year from applications submitted during the second application period according to the order of priority listed in division (B) of section 3310.02 of the Revised Code, as amended by this act. The Department shall base its award determinations on the applicant students' status during the 2010-2011 school year.

(D) Notwithstanding any provision of sections 3310.01 to 3310.17 of the Revised Code, any rule of the State Board of Education, or any policy of the Department to the contrary, the Department shall not deny a scholarship to a student for whom an application is submitted during the second application period solely because the student already has been admitted to a chartered nonpublic school for the 2011-2012 school year, if both of the following apply:

(1) A timely application was submitted on the student's behalf during the first application period for the 2011-2012 school year and the student was denied a scholarship solely because the number of applications exceeded the number of available scholarships.

(2) The student either:

(a) Was enrolled, through the final day of scheduled classes for the 2010-2011 school year, in the district school or community school indicated on the student's first application for the 2011-2012 school year;

(b) Is eligible to enroll in kindergarten for the 2011-2012 school year and was not enrolled in kindergarten in a nonpublic school in the 2010-2011 school year.

(E) As used in this section, "enrolled" has the same meaning as in division (E) of section 3317.03 of the Revised Code.

Section 737.30. (A) The Manufactured Homes Commission shall

adopt the rules required by section 4781.26 of the Revised Code as 121558
amended by this act not later than December 1, 2011. After 121559
adopting the rules, the Commission immediately shall notify the 121560
Director of Health. 121561

(B)(1) The rules governing manufactured home parks adopted by 121562
the Public Health Council under former section 3733.02 of the 121563
Revised Code as amended by this act shall remain in effect in a 121564
health district until the Commission adopts rules under section 121565
4781.26 of the Revised Code as amended by this act. 121566

(2) On the effective date of the rules adopted by the 121567
Commission as required by section 4781.26 of the Revised Code as 121568
amended by this act, the Public Health Council rules adopted under 121569
former section 3733.02 of the Revised Code as amended by this act 121570
cease to be effective within the jurisdiction of that board of 121571
health. 121572

(C) No board of health of a city or general health district 121573
shall invoice or collect manufactured home park licensing fees for 121574
calendar year 2012. 121575

(D) As used in this section: 121576

(1) "Manufactured home park," "board of health," and "health 121577
district" have the same meanings as in section 3733.01 of the 121578
Revised Code. 121579

(2) "Public Health Council" means the Public Health Council 121580
created by section 3701.33 of the Revised Code. 121581

Any manufactured home park license and inspection fees 121582
collected pursuant to section 3733.04 of the Revised Code by a 121583
board of health prior to the transition of the annual license and 121584
inspection program to the Manufactured Homes Commission as 121585
required under this act in the amount of two thousand dollars or 121586
less may be transferred to the health fund of the city or general 121587

health district. Any of those funds in excess of two thousand 121588
dollars shall be transferred to the Manufactured Homes Commission 121589
and deposited in the Manufactured Homes Commission Regulatory Fund 121590
created in section 4781.54 of the Revised Code as enacted by this 121591
act. 121592

Section 747.20. Notwithstanding the original term of the 121593
appointment, the term of the Manufactured Homes Commission member 121594
who was appointed by the Governor as a representative of the 121595
Department of Health pursuant to division (B)(2)(b) of section 121596
4781.02 of the Revised Code shall end on the effective date of 121597
that section as amended by this act. The initial term of the 121598
registered sanitarian appointed to the Manufactured Homes 121599
Commission pursuant to section 4781.02 of the Revised Code, as 121600
amended by this act, shall expire on the date when the 121601
representative of the Department of Health's term would have 121602
expired, but for this section. 121603

Section 753.10. (A) As used in this section, "contractor" and 121604
"facility" have the same meanings as in section 9.06 of the 121605
Revised Code, as amended by Sections 101.01 and 101.02 of this 121606
act. 121607

(B)(1) The Director of Administrative Services and the 121608
Director of Rehabilitation and Correction are hereby authorized to 121609
award one or more contracts through requests for proposals for the 121610
operation and management by a contractor of one or more of the 121611
facilities described in divisions (C) to (G) of this section, 121612
pursuant to section 9.06 of the Revised Code, and for the transfer 121613
of the state's right, title, and interest in the real property on 121614
which the facility is situated and any surrounding land as 121615
described in those divisions. 121616

(2) If the Director of Administrative Services and the 121617

Director of Rehabilitation and Correction award a contract of the 121618
type described in division (B)(1) of this section to a contractor 121619
regarding a facility described in division (C), (D), (E), (F), or 121620
(G) of this section, in addition to the requirements, statements, 121621
and authorizations that must be included in the contract pursuant 121622
to division (B) of section 9.06 of the Revised Code, the contract 121623
shall include all of the following regarding the facility that is 121624
the subject of the contract: 121625

(a) An agreement for the sale to the contractor of the 121626
state's right, title, and interest in the facility, the land 121627
situated thereon, and specified surrounding land; 121628

(b) A requirement that the contractor provide preferential 121629
hiring treatment to employees of the Department of Rehabilitation 121630
and Correction in order to retain staff displaced as a result of 121631
the transition of the operation and management of the facility and 121632
to meet the administrative, programmatic, maintenance, and 121633
security needs of the facility; 121634

(c) Notwithstanding any provision of the Revised Code, 121635
authorization for the transfer to the contractor of any supplies, 121636
equipment, furnishings, fixtures, or other assets considered 121637
necessary by the Director of Rehabilitation and Correction and the 121638
Director of Administrative Services for the continued operation 121639
and management of the facility. 121640

(3)(a) If the Director of Administrative Services and the 121641
Director of Rehabilitation and Correction award a contract of the 121642
type described in division (B)(1) of this section to a contractor 121643
regarding a facility described in division (C), (D), (E), (F), or 121644
(G) of this section, notwithstanding any provision of the Revised 121645
Code and subject to division (B)(3)(b) of this section, the state 121646
may transfer to the contractor in accordance with the contract any 121647
supplies, equipment, furnishings, fixtures, or other assets 121648
considered necessary by the Director of Rehabilitation and 121649

Correction and the Director of Administrative Services for the 121650
continued operation and management of the facility. For purposes 121651
of this paragraph and the transfer authorized under this 121652
paragraph, any such supplies, equipment, furnishings, fixtures, or 121653
other assets shall not be considered supplies, excess supplies, or 121654
surplus supplies as defined in section 125.12 of the Revised Code 121655
and may be disposed of as part of the transfer of the facility to 121656
the contractor. 121657

(b) If the Director of Administrative Services and the 121658
Director of Rehabilitation and Correction award a contract of the 121659
type described in division (B)(1) of this section to a contractor 121660
regarding the facility described in division (D) of this section, 121661
the Director of Rehabilitation and Correction may transfer to 121662
another state correctional institution to be determined by the 121663
Director of Rehabilitation and Correction the Braille printing 121664
press and related accessories located at the facility described in 121665
division (D) of this section and all programs associated with the 121666
Braille printing press. 121667

(4) Nothing in divisions (B)(1) to (3) or divisions (C) to 121668
(G) of this section restricts the department of rehabilitation and 121669
correction from contracting for only the private operation and 121670
management of any of the facilities described in divisions (C) to 121671
(G) of this section. 121672

(C)(1) As used in division (C) of this section, "grantee" 121673
means an entity that has contracted under section 9.06 of the 121674
Revised Code to privately operate the Lake Erie Correctional 121675
Facility, if the contract includes the clauses described in 121676
division (B)(2) of this section for the purchase of that Facility. 121677

(2) The Governor is authorized to execute a deed in the name 121678
of the state conveying to the grantee, its successors and assigns, 121679
all of the right, title, and interest of the state in the Lake 121680
Erie Correctional Facility, in the City of Conneaut, County of 121681

Ashtabula, State of Ohio, the land situated thereon, and any 121682
surrounding land, which totals approximately 119 acres. 121683

In preparing the deed, the Auditor of State, with the 121684
assistance of the Attorney General, shall develop a legal 121685
description of the property in conformity with the actual bounds 121686
of the real estate. 121687

(3) Consideration for conveyance of the real estate shall be 121688
set forth in the contract awarded to the grantee and shall be paid 121689
in accordance with the terms of the contract. 121690

(4)(a) The deed may contain any restriction that the Director 121691
of Administrative Services and the Director of Rehabilitation and 121692
Correction determine is reasonably necessary to protect the 121693
state's interest in neighboring state-owned land. 121694

(b) The deed also shall contain restrictions prohibiting the 121695
grantee from using, developing, or selling the real estate, or the 121696
correctional facility thereon, except in conformance with the 121697
restriction, or if the use, development, or sale will interfere 121698
with the quiet enjoyment of the neighboring state-owned land. 121699

(5) The real estate shall be sold as an entire tract and not 121700
in parcels. 121701

(6) Upon payment of the purchase price as set forth in the 121702
contract awarded to the grantee, the Auditor of State, with the 121703
assistance of the Attorney General, shall prepare a deed to the 121704
real estate. The deed shall state the consideration and 121705
restrictions and shall be executed by the Governor in the name of 121706
the state, countersigned by the Secretary of State, sealed with 121707
the Great Seal of the State, presented in the Office of the 121708
Auditor of State for recording, and delivered to the grantee. The 121709
grantee shall present the deed for recording in the Office of the 121710
Ashtabula County Recorder. 121711

(7) The grantee shall pay all costs associated with the 121712

purchase and conveyance of the real estate, including recordation 121713
costs of the deed. 121714

(8) The proceeds of the conveyance of the real estate shall 121715
be deposited into the state treasury to the credit of the Adult 121716
and Juvenile Correctional Facilities Bond Retirement Fund and 121717
shall be used to redeem or defease bonds in accordance with 121718
section 5120.092 of the Revised Code, and any remaining moneys 121719
after such redemption or defeasance shall be transferred in 121720
accordance with that section to the General Revenue Fund. 121721

(9) Division (C) of this section does not restrict the 121722
Department of Rehabilitation and Correction from contracting, not 121723
for the sale of, but only for the private operation and management 121724
of the Lake Erie Correctional Facility. 121725

(10) Division (C) of this section expires two years after its 121726
effective date. 121727

(D)(1) As used in division (D) of this section, "grantee" 121728
means an entity that has contracted under section 9.06 of the 121729
Revised Code to privately operate the Grafton Correctional 121730
Institution, if the contract includes the clauses described in 121731
division (B)(2) of this section for the purchase of that 121732
Institution. 121733

(2) The Governor is authorized to execute a deed in the name 121734
of the state conveying to the grantee, its successors and assigns, 121735
all of the right, title, and interest of the state in the Grafton 121736
Correctional Institution, in the City of Grafton, County of 121737
Lorain, State of Ohio, the land situated thereon, and any 121738
surrounding land, which totals approximately 148 acres. 121739

In preparing the deed, the Auditor of State, with the 121740
assistance of the Attorney General, shall develop a legal 121741
description of the property in conformity with the actual bounds 121742
of the real estate. 121743

(3) Consideration for conveyance of the real estate shall be 121744
set forth in the contract awarded to the grantee and shall be paid 121745
in accordance with the terms of the contract. 121746

(4)(a) The deed may contain any restriction that the Director 121747
of Administrative Services and the Director of Rehabilitation and 121748
Correction determine is reasonably necessary to protect the 121749
state's interest in neighboring state-owned land. 121750

(b) The deed also shall contain restrictions prohibiting the 121751
grantee from using, developing, or selling the real estate, or the 121752
correctional facility thereon, except in conformance with the 121753
restriction, or if the use, development, or sale will interfere 121754
with the quiet enjoyment of the neighboring state-owned land. 121755

(5) The real estate shall be sold as an entire tract and not 121756
in parcels. 121757

(6) Upon payment of the purchase price as set forth in the 121758
contract awarded to the grantee, the Auditor of State, with the 121759
assistance of the Attorney General, shall prepare a deed to the 121760
real estate. The deed shall state the consideration and 121761
restrictions and shall be executed by the Governor in the name of 121762
the state, countersigned by the Secretary of State, sealed with 121763
the Great Seal of the State, presented in the Office of the 121764
Auditor of State for recording, and delivered to the grantee. The 121765
grantee shall present the deed for recording in the Office of the 121766
Lorain County Recorder. 121767

(7) The grantee shall pay all costs associated with the 121768
purchase and conveyance of the real estate, including recordation 121769
costs of the deed. 121770

(8) The proceeds of the conveyance of the real estate shall 121771
be deposited into the state treasury to the credit of the Adult 121772
and Juvenile Correctional Facilities Bond Retirement Fund and 121773
shall be used to redeem or defease bonds in accordance with 121774

section 5120.092 of the Revised Code, and any remaining moneys 121775
after such redemption or defeasance shall be transferred in 121776
accordance with that section to the General Revenue Fund. 121777

(9) Division (D) of this section does not restrict the 121778
Department of Rehabilitation and Correction from contracting, not 121779
for the sale of, but only for the private operation and management 121780
of the Grafton Correctional Institution. 121781

(10) Division (D) of this section expires two years after its 121782
effective date. 121783

(E)(1) As used in division (E) of this section, "grantee" 121784
means an entity that has contracted under section 9.06 of the 121785
Revised Code to privately operate the North Coast Correctional 121786
Treatment Facility, if the contract includes the clauses described 121787
in division (B)(2) of this section for the purchase of that 121788
Facility. 121789

(2) The Governor is authorized to execute a deed in the name 121790
of the state conveying to the grantee, its successors and assigns, 121791
all of the right, title, and interest of the state in the North 121792
Coast Correctional Treatment Facility, in the City of Grafton, 121793
County of Lorain, State of Ohio, the land situated thereon, and 121794
any surrounding land, which totals approximately 171 acres. 121795

In preparing the deed, the Auditor of State, with the 121796
assistance of the Attorney General, shall develop a legal 121797
description of the property in conformity with the actual bounds 121798
of the real estate. 121799

(3) Consideration for conveyance of the real estate shall be 121800
set forth in the contract awarded to the grantee and shall be paid 121801
in accordance with the terms of the contract. 121802

(4)(a) The deed may contain any restriction that the Director 121803
of Administrative Services and the Director of Rehabilitation and 121804
Correction determine is reasonably necessary to protect the 121805

state's interest in neighboring state-owned land. 121806

(b) The deed also shall contain restrictions prohibiting the 121807
grantee from using, developing, or selling the real estate, or the 121808
correctional facility thereon, except in conformance with the 121809
restriction, or if the use, development, or sale will interfere 121810
with the quiet enjoyment of the neighboring state-owned land. 121811

(5) The real estate shall be sold as an entire tract and not 121812
in parcels. 121813

(6) Upon payment of the purchase price as set forth in the 121814
contract awarded to the grantee, the Auditor of State, with the 121815
assistance of the Attorney General, shall prepare a deed to the 121816
real estate. The deed shall state the consideration and 121817
restrictions and shall be executed by the Governor in the name of 121818
the state, countersigned by the Secretary of State, sealed with 121819
the Great Seal of the State, presented in the Office of the 121820
Auditor of State for recording, and delivered to the grantee. The 121821
grantee shall present the deed for recording in the Office of the 121822
Lorain County Recorder. 121823

(7) The grantee shall pay all costs associated with the 121824
purchase and conveyance of the real estate, including recordation 121825
costs of the deed. 121826

(8) The proceeds of the conveyance of the real estate shall 121827
be deposited into the state treasury to the credit of the Adult 121828
and Juvenile Correctional Facilities Bond Retirement Fund and 121829
shall be used to redeem or defease bonds in accordance with 121830
section 5120.092 of the Revised Code, and any remaining moneys 121831
after such redemption or defeasance shall be transferred in 121832
accordance with that section to the General Revenue Fund. 121833

(9) Division (E) of this section does not restrict the 121834
Department of Rehabilitation and Correction from contracting, not 121835
for the sale of, but only for the private operation and management 121836

of the North Coast Correctional Treatment Facility. 121837

(10) Division (E) of this section expires two years after its 121838
effective date. 121839

(F)(1) As used in division (F) of this section, "grantee" 121840
means an entity that has contracted under section 9.06 of the 121841
Revised Code to privately operate the North Central Correctional 121842
Institution, if the contract includes the clauses described in 121843
division (B)(2) of this section for the purchase of that 121844
Institution. 121845

(2) The Governor is authorized to execute a deed in the name 121846
of the state conveying to the grantee, its successors and assigns, 121847
all of the right, title, and interest of the state in the North 121848
Central Correctional Institution, in the City of Marion, County of 121849
Marion, State of Ohio, the land situated thereon, and any 121850
surrounding land, which totals approximately 152 acres. 121851

In preparing the deed, the Auditor of State, with the 121852
assistance of the Attorney General, shall develop a legal 121853
description of the property in conformity with the actual bounds 121854
of the real estate. 121855

(3) Consideration for conveyance of the real estate shall be 121856
set forth in the contract awarded to the grantee and shall be paid 121857
in accordance with the terms of the contract. 121858

(4)(a) The deed may contain any restriction that the Director 121859
of Administrative Services and the Director of Rehabilitation and 121860
Correction determine is reasonably necessary to protect the 121861
state's interest in neighboring state-owned land. 121862

(b) The deed also shall contain restrictions prohibiting the 121863
grantee from using, developing, or selling the real estate, or the 121864
correctional facility thereon, except in conformance with the 121865
restriction, or if the use, development, or sale will interfere 121866
with the quiet enjoyment of the neighboring state-owned land. 121867

(5) The real estate shall be sold as an entire tract and not 121868
in parcels. 121869

(6) Upon payment of the purchase price as set forth in the 121870
contract awarded to the grantee, the Auditor of State, with the 121871
assistance of the Attorney General, shall prepare a deed to the 121872
real estate. The deed shall state the consideration and 121873
restrictions and shall be executed by the Governor in the name of 121874
the state, countersigned by the Secretary of State, sealed with 121875
the Great Seal of the State, presented in the Office of the 121876
Auditor of State for recording, and delivered to the grantee. The 121877
grantee shall present the deed for recording in the Office of the 121878
Marion County Recorder. 121879

(7) The grantee shall pay all costs associated with the 121880
purchase and conveyance of the real estate, including recordation 121881
costs of the deed. 121882

(8) The proceeds of the conveyance of the real estate shall 121883
be deposited into the state treasury to the credit of the Adult 121884
and Juvenile Correctional Facilities Bond Retirement Fund and 121885
shall be used to redeem or defease bonds in accordance with 121886
section 5120.092 of the Revised Code, and any remaining moneys 121887
after such redemption or defeasance shall be transferred in 121888
accordance with that section to the General Revenue Fund. 121889

(9) Division (F) of this section does not restrict the 121890
Department of Rehabilitation and Correction from contracting, not 121891
for the sale of, but only for the private operation and management 121892
of the North Central Correctional Institution. 121893

(10) Division (F) of this section expires two years after its 121894
effective date. 121895

(G)(1)(a) As used in division (G) of this section, "grantee" 121896
means an entity that has contracted under section 9.06 of the 121897
Revised Code to privately operate a facility at the North Central 121898

Correctional Institution Camp, if the contract includes the 121899
clauses described in division (B)(2) of this section for the 121900
purchase of that facility. 121901

(b) Jurisdiction of the facility described in division 121902
(G)(1)(a) of this section, which is a vacated facility previously 121903
operated by the Department of Youth Services adjacent to the North 121904
Central Correctional Institution, is hereby transferred from the 121905
Department of Youth Services to the Department of Rehabilitation 121906
and Correction. The transfer of jurisdiction of that facility is 121907
hereby ratified and approved. 121908

(2) The Governor is authorized to execute a deed in the name 121909
of the state conveying to the grantee, its successors and assigns, 121910
all of the right, title, and interest of the state in the North 121911
Central Correctional Institution Camp, in the City of Marion, 121912
County of Marion, State of Ohio, the land situated thereon, and 121913
any surrounding land, which totals approximately 106 acres. 121914

In preparing the deed, the Auditor of State, with the 121915
assistance of the Attorney General, shall develop a legal 121916
description of the property in conformity with the actual bounds 121917
of the real estate. 121918

(3) Consideration for conveyance of the real estate shall be 121919
set forth in the contract awarded to the grantee and shall be paid 121920
in accordance with the terms of the contract. 121921

(4)(a) The deed may contain any restriction that the Director 121922
of Administrative Services and the Director of Rehabilitation and 121923
Correction determine is reasonably necessary to protect the 121924
state's interest in neighboring state-owned land. 121925

(b) The deed also shall contain restrictions prohibiting the 121926
grantee from using, developing, or selling the real estate, or the 121927
correctional facility thereon, except in conformance with the 121928
restriction, or if the use, development, or sale will interfere 121929

with the quiet enjoyment of the neighboring state-owned land. 121930

(5) The real estate shall be sold as an entire tract and not 121931
in parcels. 121932

(6) Upon payment of the purchase price as set forth in the 121933
contract awarded to the grantee, the Auditor of State, with the 121934
assistance of the Attorney General, shall prepare a deed to the 121935
real estate. The deed shall state the consideration and 121936
restrictions and shall be executed by the Governor in the name of 121937
the state, countersigned by the Secretary of State, sealed with 121938
the Great Seal of the State, presented in the Office of the 121939
Auditor of State for recording, and delivered to the grantee. The 121940
grantee shall present the deed for recording in the Office of the 121941
Marion County Recorder. 121942

(7) The grantee shall pay all costs associated with the 121943
purchase and conveyance of the real estate, including recordation 121944
costs of the deed. 121945

(8) The proceeds of the conveyance of the real estate shall 121946
be deposited into the state treasury to the credit of the Adult 121947
and Juvenile Correctional Facilities Bond Retirement Fund and 121948
shall be used to redeem or defease bonds in accordance with 121949
section 5120.092 of the Revised Code, and any remaining moneys 121950
after such redemption or defeasance shall be transferred in 121951
accordance with that section to the General Revenue Fund. 121952

(9) Division (G) of this section does not restrict the 121953
Department of Rehabilitation and Correction from contracting, not 121954
for the sale of, but only for the private operation and management 121955
of the North Central Correctional Institution Camp. 121956

(10) Division (G) of this section expires two years after its 121957
effective date. 121958

Section 753.20. (A) The Governor is authorized to execute a 121959

deed in the name of the state conveying to the Ripley Union Lewis 121960
Huntington School District, its successors and assigns, all of the 121961
state's right, title, and interest in the following described real 121962
estate: 121963

I 121964

Starting at a 5/8" iron pin found on the southerly 121965
right-of-way line of Outer Drive, the northeasterly line of Edward 121966
and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the 121967
northwesterly corner of L.J. Germann's Addition as recorded in 121968
Plat Book C-3, page 204, slide 213 in the Brown County, Ohio 121969
Recorder's Office; 121970

Thence with the southerly right-of-way line of said Outer 121971
Drive and with the northerly line of said Farnbach and Pfeffer for 121972
the next four (4) courses; 121973

South 63 degrees 34 minutes 18 seconds West a distance of 121974
24.20 feet; 121975

South 79 degrees 33 minutes 23 seconds West a distance of 121976
92.60 feet; 121977

South 75 degrees 58 minutes 20 seconds West a distance of 121978
347.02 feet; 121979

South 84 degrees 53 minutes 30 seconds West a distance of 121980
10.54 feet; 121981

Thence with a line through the land of said Farnbach and 121982
Pfeffer for the next two (2) courses: 121983

South 21 degrees 11 minutes 23 seconds West a distance of 121984
43.58 feet; 121985

South 0 degrees 25 minutes 20 seconds West a distance of 121986
586.49 feet to a point on the southerly line of said Farnbach and 121987
Pfeffer and on the northerly line of Michael Ray Schwallie; 121988

Thence with a line through the land of said Schwallie for the 121989
next two (2) courses: 121990

South 0 degrees 25 minutes 20 seconds West a distance of 121991
227.62 feet; 121992

South 35 degrees 47 minutes 10 seconds East a distance of 121993
523.46 feet to a point on the southerly line of said Schwallie and 121994
on the northerly line of the State of Ohio; 121995

Thence with a line through the land of said State of Ohio 121996
three (3) courses: 121997

South 35 degrees 47 minutes 10 seconds East a distance of 121998
29.17 feet; 121999

South 6 degrees 22 minutes 58 seconds West a distance of 122000
29.21 feet; 122001

South 51 degrees 22 minutes 58 seconds West a distance of 122002
583.46 feet and *the true point of beginning*; 122003

Thence from said *true point of beginning* and through the land 122004
of said State of Ohio for the next five (5) courses: 122005

On a curve to the left having a radius of 300.00 feet, an 122006
interior angle of 37 degrees 00 minutes 54 seconds, an arc length 122007
of 193.81 feet, a chord bearing of South 76 degrees 58 minutes 37 122008
seconds East for a chord length of 190.46 feet; 122009

South 58 degrees 28 minutes 11 seconds East a distance of 122010
284.98 feet; 122011

On a curve to the left having a radius of 300.00 feet, an 122012
interior angle of 180 degrees 00 minutes 00 seconds, an arc length 122013
of 942.48 feet, a chord bearing of South 31 degrees 31 minutes 49 122014
seconds West for a chord length of 600.00 feet; 122015

North 58 degrees 28 minutes 11 seconds West a distance of 122016
284.98 feet; 122017

On a curve to the right having a radius of 300.00 feet, an interior angle of 142 degrees 59 minutes 08 seconds, an arc length of 748.67 feet, a chord bearing of North 13 degrees 01 minutes 23 seconds East for a chord length of 568.97 feet and CONTAINING 3.925 Acres

This description was prepared by Christopher S. Renshaw, P.S., Ohio Registration No. 8319 on 16 October 2009.

II

Starting at 5/8" iron pin found on the southerly right-of-way line of Outer Drive, the northeasterly corner of Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the northwesterly corner of L.J. Germann's Addition as recorded in Plat Book C-3, page 204, slide 213 in the Brown County, Ohio Recorder's Office;

Thence with the southerly right-of-way line of Outer Drive and with the northerly line of Edward and Eva K. Farnbach, etal for the next three (3) courses:

South 63 degrees 34 minutes 18 seconds West a distance of 24.20 feet;

South 79 degrees 33 minutes 23 seconds West a distance of 92.60 feet;

South 75 degrees 58 minutes 20 seconds West a distance of 340.45 feet;

Thence through the land of said Farnbach for the next two (2) courses:

South 21 degrees 11 minutes 23 seconds West a distance of 49.42 feet;

South 0 degrees 25 minutes 20 seconds West a distance of 571.70 feet to a point on the southerly line of said Farnbach and on the northerly line of Michael Ray Schwallie;

Thence through the land of said Schwallie for the next two

(2) courses: 122048

South 0 degrees 25 minutes 20 seconds West a distance of 122049
234.76 feet; 122050

South 35 degrees 47 minutes 10 seconds East a distance of 122051
518.08 feet to a point on the southerly line of said Schwallie and 122052
on the northerly line of the State of Ohio and *the true point of* 122053
beginning; said point being on the easterly line of said real 122054
estate; 122055

Thence from said *the true point of beginning* and with a line 122056
through the land of said State of Ohio seven (7) courses: 122057

South 35 degrees 47 minutes 10 seconds East a distance of 122058
35.43 feet; 122059

South 6 degrees 22 minutes 58 seconds West a distance of 122060
41.21 feet; 122061

South 51 degrees 22 minutes 58 seconds West a distance of 122062
568.72 feet; 122063

On a curve to the left having a radius of 300.00 feet, an 122064
interior angle of 20 degrees 37 minutes 27 seconds, an arc length 122065
of 107.99 feet, a chord bearing of South 79 degrees 07 minutes 37 122066
seconds West for a chord length of 107.41 feet; 122067

North 51 degrees 22 minutes 58 seconds East a distance of 122068
643.06 feet; 122069

North 6 degrees 22 minutes 57 seconds East a distance of 1.22 122070
feet; 122071

North 35 degrees 47 minutes 10 seconds West a distance of 122072
14.58 feet to a point on the southerly line of said Schwallie and 122073
on the northerly line of said State of Ohio; 122074

Thence with the southerly line of said Schwallie and on the 122075
northerly line of said State of Ohio North 52 degrees 24 minutes 122076
43 seconds East a distance of 50.02 feet to the place of beginning 122077

and CONTAINING 0.740 Acres. 122078

This description was prepared by Christopher S. Renshaw, 122079
P.S., Ohio Registration No. 8319 on 16 October 2009. 122080

III 122081

Starting at a 5/8" iron pin found on the southerly 122082
right-of-way line of Outer Drive, the northeasterly corner of 122083
Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the 122084
northwesterly corner of L.J. Germann's Addition as recorded in 122085
Plat Book C-3, page 204, slide 213 in the Brown County, Ohio 122086
Recorder's Office; 122087

Thence with the southerly right-of-way line of said Outer 122088
Drive and with the northerly line of said Farnbach and Pfeffer for 122089
the next four (4) courses: 122090

South 63 degrees 34 minutes 18 seconds West a distance of 122091
24.20 feet; 122092

South 79 degrees 33 minutes 23 seconds West a distance of 122093
92.60 feet; 122094

South 75 degrees 58 minutes 20 seconds West a distance of 122095
347.02 feet; 122096

South 84 degrees 53 minutes 30 seconds West a distance of 122097
10.54 feet; 122098

Thence with a line through the land of said Farnbach and 122099
Pfeffer for the next two (2) courses: 122100

South 21 degrees 11 minutes 23 seconds West a distance of 122101
43.58 feet; 122102

South 0 degrees 25 minutes 20 seconds West a distance of 122103
586.49 feet to a point on the southerly line of said Farnbach 122104
Pfeffer and on the northerly line of Michael Ray Schwallie; 122105

Thence with a line through the land of said Schwallie for the 122106
next two (2) courses: 122107

South 0 degrees 25 minutes 20 seconds West a distance of 122108
227.62 feet; 122109

South 35 degrees 47 minutes 10 seconds East a distance of 122110
523.46 feet to a point on the southerly line of said Schwallie and 122111
on the northerly line of the State of Ohio and *the true point of* 122112
beginning, said beginning point being on the easterly line of said 122113
real estate; 122114

Thence from said *the true point of beginning* and with a line 122115
through the land of said State of Ohio seven (7) courses: 122116

South 35 degrees 47 minutes 10 seconds East a distance of 122117
29.17 feet; 122118

South 6 degrees 22 minutes 58 seconds West a distance of 122119
29.21 feet; 122120

South 51 degrees 22 minutes 58 seconds West a distance of 122121
583.46 feet; 122122

On a curve to the left having a radius of 300.00 feet, an 122123
interior angle of 7 degrees 49 minutes 53 seconds, an arc length 122124
of 41.01 feet, a chord bearing of South 80 degrees 35 minutes 59 122125
seconds West for a chord length of 40.97 feet; 122126

North 51 degrees 22 minutes 58 seconds East a distance of 122127
610.94 feet; 122128

North 6 degrees 22 minutes 58 seconds East a distance of 122129
13.22 feet; 122130

North 35 degrees 47 minutes 10 seconds West a distance of 122131
20.83 feet to a point on the southerly line of said Schwallie and 122132
on the northerly line of said State of Ohio; 122133

Thence with the southerly line of said Schwallie and on the 122134
northerly line of said State of Ohio North 52 degrees 24 minutes 122135
43 seconds East a distance of 20.01 feet to the place of beginning 122136
and CONTAINING 0.295 Acres. 122137

This description was prepared by Christopher S. Renshaw, 122138
P.S., Ohio Registration No. 8319 on 16 October 2009. 122139

IV 122140

Starting at a spike found in the centerline of U.S. Route No. 122141
52, 62 & 68, at the southeasterly corner of Surgical Appliance 122142
Industries, Inc.'s 2.00 Acre tract as recorded in Deed Book 164, 122143
page 778 in the Brown County, Ohio Recorder's Office; 122144

Thence with the line of said Surgical Appliance Industries, 122145
Inc. South 52 degrees 38 minutes 52 seconds West a distance of 122146
80.00 feet to a point on the on the southerly right-of-way line of 122147
said U.S. Route No. 52, 62 & 68; 122148

Thence with the southerly right-of-way line of said U.S. 122149
Route No. 52, 62 & 68 South 36 degrees 23 minutes 01 seconds East 122150
a distance of 19.72 feet to *the true point of beginning*; 122151

South 52 degrees 41 minutes 03 seconds West a distance of 122152
260.37 feet; 122153

South 49 degrees 59 minutes 41 seconds West a distance of 122154
179.65 feet; 122155

On a curve to the left having a radius of 200.00 feet, an 122156
interior angle of 43 degrees 45 minutes 50 seconds, an arc length 122157
of 152.76 feet, a chord bearing of South 28 degrees 06 minutes 46 122158
seconds West for a chord length of 149.08 feet; 122159

South 6 degrees 13 minutes 51 seconds West a distance of 122160
204.40 feet; 122161

On a curve to the left having a radius of 100.00 feet, an 122162
interior angle of 44 degrees 44 minutes 55 seconds, an arc length 122163
of 78.10 feet, a chord bearing of South 16 degrees 08 minutes 36 122164
seconds East for a chord length of 76.13 feet; 122165

South 38 degrees 31 minutes 04 seconds East a distance of 122166
266.21 feet; 122167

On a curve to the left having a radius of 50.00 feet, an	122168
interior angle of 53 degrees 35 minutes 34 seconds, an arc length	122169
of 46.77 feet, a chord bearing of South 65 degrees 18 minutes 51	122170
seconds East for a chord length of 45.08 feet;	122171
North 87 degrees 53 minutes 23 seconds East a distance of	122172
6.15 feet;	122173
On a curve to the right having a radius of 12.50 feet, an	122174
interior angle of 143 degrees 13 minutes 01 seconds, an arc length	122175
of 31.25 feet, a chord bearing of South 20 degrees 30 minutes 07	122176
seconds East for a chord length of 23.72;	122177
South 51 degrees 40 minutes 10 seconds West a distance of	122178
345.58 feet;	122179
On a curve to the left having a radius of 125.00 feet, an	122180
interior angle of 43 degrees 33 minutes 25 seconds, an arc length	122181
of 95.03 feet, a chord bearing of South 29 degrees 53 minutes 28	122182
seconds West for a chord length of 92.75 feet;	122183
South 8 degrees 06 minutes 45 seconds West a distance of	122184
65.53 feet;	122185
On a curve to the right have a radius of 63.00 feet, an	122186
interior angle of 91 degrees 48 minutes 38 seconds, an arc length	122187
of 100.95 feet, a chord bearing of South 54 degrees 01 minutes 04	122188
seconds West for a chord length of 90.49 feet;	122189
North 80 degrees 04 minutes 37 seconds West a distance of	122190
579.25 feet;	122191
On a curve to the right having a radius of 150.00 feet, an	122192
interior angle of 26 degrees 20 minutes 16 seconds, an arc length	122193
of 68.95 feet, a chord bearing of North 66 degrees 54 minutes 29	122194
seconds West for a chord length of 68.35 feet;	122195
North 53 degrees 44 minutes 21 seconds West a distance of	122196
229.52 feet;	122197

North 46 degrees 10 minutes 36 seconds West a distance of	122198
25.00 feet;	122199
North 52 degrees 49 minutes 16 seconds West a distance of	122200
55.12 feet;	122201
On a curve to the left having a radius of 205.00 feet, an	122202
interior angle of 75 degrees 47 minutes 45 seconds, an arc length	122203
of 271.19 feet, a chord bearing of South 89 degrees 16 minutes 52	122204
seconds West for a chord length of 251.85 feet;	122205
South 51 degrees 22 minutes 58 seconds West a distance of	122206
139.29 feet;	122207
On a curve to the left having a radius of 55.00 feet, an	122208
interior angle of 105 degrees 02 minutes 01 seconds, an arc length	122209
of 100.83 feet, a chord bearing of South 01 degrees 08 minutes 03	122210
seconds East for a chord length of 87.29 feet;	122211
South 53 degrees 39 minutes 03 seconds East a distance of	122212
447.62 feet;	122213
North 53 degrees 39 minutes 03 seconds West a distance of	122214
447.62 feet;	122215
On a curve to the right having a radius of 55.00 feet, an	122216
interior angle of 105 degrees 02 minutes 01 seconds, an arc length	122217
of 100.83 feet, a chord bearing of North 01 degrees 08 minutes 03	122218
seconds West for a chord length of 87.29 feet;	122219
North 51 degrees 22 minutes 58 seconds East a distance of	122220
139.29 feet;	122221
On a curve to the right having a radius of 205.00 feet, an	122222
interior angle of 75 degrees 47 minutes 45 seconds, an arc length	122223
of 271.19 feet, a chord bearing of North 89 degrees 16 minutes 52	122224
seconds East for a chord length of 251.85 feet;	122225
South 52 degrees 49 minutes 16 seconds East a distance of	122226
55.12 feet;	122227

South 46 degrees 10 minutes 36 seconds East a distance of	122228
25.00 feet;	122229
South 53 degrees 44 minutes 21 seconds East a distance of	122230
229.52 feet;	122231
On a curve to the left having a radius of 150.00 feet, an	122232
interior angle of 26 degrees 20 minutes 16 seconds, an arc length	122233
of 68.95 feet, a chord bearing of South 66 degrees 54 minutes 29	122234
seconds East for a chord length of 68.35 feet;	122235
South 80 degrees 04 minutes 37 seconds East a distance of	122236
579.25 feet;	122237
On a curve to the left having a radius of 63.00 feet, an	122238
interior angle of 91 degrees 48 minutes 38 seconds, an arc length	122239
of 100.95 feet, a chord bearing of North 54 degrees 01 minutes 04	122240
seconds East for a chord length of 90.49 feet;	122241
North 8 degrees 06 minutes 45 seconds East a distance of	122242
65.53 feet;	122243
On a curve to the right having a radius of 125.00 feet, an	122244
interior angle of 43 degrees 33 minutes 25 seconds, an arc length	122245
of 95.03 feet, a chord bearing of North 29 degrees 53 minutes 28	122246
seconds East for a chord length of 92.75 feet;	122247
North 51 degrees 40 minutes 10 seconds East a distance of	122248
345.58 feet;	122249
North 51 degrees 06 minutes 24 seconds East a distance of	122250
242.53 feet;	122251
On a curve to the left having a radius of 75.00 feet, an	122252
interior angle of 89 degrees 40 minutes 16 seconds, an arc length	122253
of 117.38 feet, a chord bearing of North 06 degrees 16 minutes 16	122254
seconds East for a chord length of 105.76 feet;	122255
North 38 degrees 33 minutes 52 seconds West a distance of	122256
100.75 feet;	122257

North 53 degrees 36 minutes 14 seconds East a distance of 122258
396.32 feet. 122259

This description was prepared by Christopher S. Renshaw, 122260
P.S., Ohio Registration No. 8319 on 16 October 2009. 122261

(B) Consideration for conveyance of the real estate is the 122262
mutual benefit accruing to the state and the Ripley Union Lewis 122263
Huntington School District from the use of the real estate so that 122264
a water well may be constructed and operated. 122265

(C) The Ripley Union Lewis Huntington School District shall 122266
use the real estate to construct and operate a water well. If the 122267
Ripley Union Lewis Huntington School District ceases to use the 122268
real estate to construct and operate a water well, all right, 122269
title, and interest in the real estate immediately reverts to the 122270
state without the need for any further action by the state. 122271

(D) The Ripley Union Lewis Huntington School District shall 122272
pay the costs of the conveyance. 122273

(E) Within thirty days after the effective date of this 122274
section, the Auditor of State, with the assistance of the Attorney 122275
General, shall prepare a deed to the real estate. The deed shall 122276
state the consideration and the condition. The deed shall be 122277
executed by the Governor in the name of the state, countersigned 122278
by the Secretary of State, sealed with the Great Seal of the 122279
State, presented in the office of the Auditor of State for 122280
recording, and delivered to the Ripley Union Lewis Huntington 122281
School District. The Ripley Union Lewis Huntington School District 122282
shall present the deed for recording in the office of the Brown 122283
County Recorder. 122284

(F) This section expires one year after its effective date. 122285

Section 753.23. (A) The Governor is authorized to execute a 122286
deed in the name of the state (Kent State University) conveying to 122287

the Board of Township Trustees of Jackson Township in Stark County 122288
and its successors and assigns all of the state's right, title, 122289
and interest in the following described real estate: 122290

Known as and being a part of the Southeast and Southwest 122291
Quarters of Section 13, Township 11 (Jackson) R-9, County of 122292
Stark, State of Ohio. Also being a part of tracts of land conveyed 122293
to the state of Ohio as recorded in Deed Volume 3109, Page 573 of 122294
the records of Stark County and being more fully bounded and 122295
described as follows: 122296

Commencing at a hex head iron bar in a monument box (JAC 122297
080), being the southeast corner of said Southwest Quarter of 122298
Section 13 and also being an angle point on the centerline of 122299
Dressler Road (C.R. 224) (Variable Width) as recorded in file 106 122300
of the Stark County Engineers Office; 122301

Thence, along the centerline of Dressler Road, N 1803'31" E a 122302
distance of 223.09 feet to the True Place of beginning for the 122303
parcel herein described; 122304

1. Thence N 56°56'23" W a distance of 241.46 feet to a 5/8" 122305
rebar set, said line passes over a 5/8" rebar set at 41.41 feet; 122306

2. Thence N 01°44'30" W a distance of 230.40 feet to a 5/8" 122307
rebar set; 122308

3. Thence N 67°27'21" E a distance of 150.00 feet to a 5/8" 122309
rebar set; 122310

4. Thence S 63°25'06" E a distance of 199.60 feet to a point 122311
in the centerline of Dressler Road, said line passes over a 5/8" 122312
rebar set at 159.15 feet; 122313

5. Thence, along the centerline of Dressler Road, S 18°03'31" 122314
W a distance of 347.32 feet to the true place of beginning and 122315
containing 2.025 acres of land, more or less of which 0.970 acres 122316
are located in the Southeast Quarter of Section 13 and 1.055 acres 122317

are located in the Southwest Quarter of Section 13. 122318

The above described area is contained within the Stark County Auditor's Permanent Parcel Numbers 1680061 and 1680066. 122319
122320

The basis of bearings in this description is based on the Ohio North Zone, State Plane Coordinates NAD 83 (86). 122321
122322

The statement of "5/8" rebar Set" refers to a 5/8" x 30" Dia. Rebar set with a plastic i.d. cap stamped "SCE". 122323
122324

This description was prepared and reviewed by Daniel J. Houck, Professional Surveyor No. 7851 in March of 2010, of the Stark County Engineer's Office. This description is based on a survey made by the Stark County Engineer's Office in March of 2010, under the direction and supervision of Keith A. Bennett, Professional Surveyor No. 7615. (Attachment A) 122325
122326
122327
122328
122329
122330

(B) Consideration for conveyance of the real estate is the mutual benefit accruing to the state from Jackson Township's use of the real estate for a fire station. 122331
122332
122333

(C) If the use of the real estate as a fire station is discontinued, the real estate reverts to Kent State University, and Jackson Township shall raze the building currently on the real estate and remove from the real estate any contaminants relating to the building's use as a fire station. 122334
122335
122336
122337
122338

(D) The Board of Township Trustees of Jackson Township in Stark County shall pay the costs of the conveyance. 122339
122340

(E) The Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and the reverter. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the Board of Township Trustees of 122341
122342
122343
122344
122345
122346
122347

Jackson Township in Stark County. The Board of Township Trustees 122348
of Jackson Township in Stark County shall present the deed for 122349
recording in the Office of the Stark County Recorder. 122350

(F) This section expires one year after its effective date. 122351

Section 753.30. (A)(1) The Director of Administrative 122352
Services and the Director of Youth Services are hereby authorized 122353
to award a contract through a request for proposals for the 122354
operation and management as an adult or juvenile correctional 122355
facility of any facility under the management and control of the 122356
Department of Youth Services following the closure of that 122357
facility and for the transfer of the state's right, title, and 122358
interest in the real property on which the facility is situated 122359
and in any surrounding land. The section applies only to 122360
facilities that are closed before January 1, 2012. 122361

(2) A contract awarded under this section shall include the 122362
requirements, statements, and authorizations that must be included 122363
in a contract pursuant to section 9.06 or 9.07 of the Revised 122364
Code, whichever is applicable. If neither section 9.06 nor 9.07 of 122365
the Revised Code applies to the purposes for which the facility 122366
will be used, the contract shall include requirements, statements, 122367
and authorizations similar to those listed in section 9.06 or 9.07 122368
of the Revised Code but adapted to those purposes. The contract 122369
shall also include all of the following: 122370

(a) An agreement for the sale to the contractor of the 122371
state's right, title, and interest in the facility, the land 122372
situated thereon, and specified surrounding land; 122373

(b) A requirement that the contractor provide preferential 122374
hiring treatment to employees or former employees of the 122375
Department of Youth Services in order to retain or rehire staff 122376
displaced as a result of the closure of the facility and the 122377
transition of the operation and management of the facility and to 122378

meet the administrative, programmatic, maintenance, and security 122379
needs of the facility; 122380

(c) Notwithstanding any provision of the Revised Code, 122381
authorization for the transfer to the contractor of any supplies, 122382
equipment, furnishings, fixtures, or other assets considered 122383
necessary by the Director of Youth Services and the Director of 122384
Administrative Services for the operation and management of the 122385
facility; 122386

(d) Plans for the operation and management of the facility or 122387
the disposition of the facility's employees and prisoners upon 122388
termination of the contract or the bankruptcy or financial 122389
insolvency of the contractor. 122390

(3) If the Director of Administrative Services and the 122391
Director of Youth Services award a contract under this section, 122392
notwithstanding any provision of the Revised Code, the state may 122393
transfer to the contractor in accordance with the contract any 122394
supplies, equipment, furnishings, fixtures, or other assets 122395
considered necessary by the Director of Youth Services and the 122396
Director of Administrative Services for the operation and 122397
management of the facility. For purposes of this paragraph and the 122398
transfer authorized under this paragraph, any such supplies, 122399
equipment, furnishings, fixtures, or other assets shall not be 122400
considered supplies, excess supplies, or surplus supplies as 122401
defined in section 125.12 of the Revised Code and may be disposed 122402
of as part of the transfer of the facility to the contractor. 122403

(B)(1) In preparing the deed, the Auditor of State, with the 122404
assistance of the Attorney General, shall develop a legal 122405
description of the property in conformity with the actual bounds 122406
of the real estate. The grantee named in the deed shall be the 122407
contractor to whom the contract is awarded under this section. 122408

(2) Consideration for conveyance of the real estate shall be 122409

set forth in the contract awarded to the contractor and shall be 122410
paid in accordance with the terms of the contract. 122411

(3)(a) The deed may contain any restriction that the Director 122412
of Administrative Services and the Director of Youth Services 122413
determine is reasonably necessary to protect the state's interest 122414
in neighboring state-owned land. 122415

(b) The deed also shall contain restrictions prohibiting the 122416
grantee from: 122417

(i) Using, developing, or selling the real estate, or the 122418
correctional facility thereon, except in conformance with the 122419
restriction, or if the use, development, or sale will interfere 122420
with the quiet enjoyment of the neighboring state-owned land; 122421

(ii) Using the real estate for any use other than as a 122422
correctional institution. 122423

(4) The real estate shall be sold as an entire tract and not 122424
in parcels. 122425

(5) Upon payment of the purchase price as set forth in the 122426
contract, the Auditor of State, with the assistance of the 122427
Attorney General, shall prepare a deed to the real estate. The 122428
deed shall state the consideration and restrictions and shall be 122429
executed by the Governor in the name of the state, countersigned 122430
by the Secretary of State, sealed with the Great Seal of the 122431
State, presented in the Office of the Auditor of State for 122432
recording, and delivered to the grantee. The grantee shall present 122433
the deed for recording in the office of the recorder of the county 122434
in which the facility is located. 122435

(6) The grantee shall pay all costs associated with the 122436
purchase and conveyance of the real estate, including the costs of 122437
recording the deed. 122438

(7) The proceeds of the conveyance of the real estate shall 122439

be deposited into the State Treasury to the credit of the Adult 122440
and Juvenile Correctional Facilities Bond Retirement Fund and 122441
shall be used to retire bonds in accordance with section 5120.092 122442
of the Revised Code, and any remaining moneys shall be transferred 122443
in accordance with that section to the General Revenue Fund. 122444

(C) This section expires two years after its effective date. 122445

Section 755.10. The Director of Transportation may enter into 122446
agreements as provided in this section with the United States or 122447
any department or agency of the United States, including, but not 122448
limited to, the United States Army Corps of Engineers, the United 122449
States Forest Service, the United States Environmental Protection 122450
Agency, and the United States Fish and Wildlife Service. An 122451
agreement entered into pursuant to this section shall be solely 122452
for the purpose of dedicating staff to the expeditious and timely 122453
review of environmentally related documents submitted by the 122454
Director of Transportation, as necessary for the approval of 122455
federal permits. The agreements may include provisions for advance 122456
payment by the Director of Transportation for labor and all other 122457
identifiable costs of the United States or any department or 122458
agency of the United States providing the services, as may be 122459
estimated by the United States, or the department or agency of the 122460
United States. The Director shall submit a request to the 122461
Controlling Board indicating the amount of the agreement, the 122462
services to be performed by the United States or the department or 122463
agency of the United States, and the circumstances giving rise to 122464
the agreement. 122465

Section 755.20. No funds may be spent, transferred, or 122466
encumbered pursuant to this or any other appropriations act for 122467
the removal and replacement of the Edward N. Waldvogel Memorial 122468
Viaduct, also known as the Sixth Street Viaduct, or for the 122469
elevation of River Road in the City of Cincinnati, or for the 122470

construction of a retaining wall along River Road in the City of 122471
Cincinnati in the vicinity of the property located at 1911 - 2151 122472
River Road, until the Director of Transportation determines that a 122473
legally binding agreement is in effect between the City of 122474
Cincinnati and Queensgate Terminals, LLC, with at least the 122475
following terms: 122476

(A) Queensgate Terminals, LLC, will pay the City of 122477
Cincinnati \$1,800,000 for the approximately 18.635 acres of the 122478
Hamilton County Auditor's parcel number 149-0010-0097-00, which 122479
extends between the Ohio River and the southern edge of the 122480
railroad lines that have been relocated as part of the Waldvogel 122481
Viaduct Project. 122482

(B) The City of Cincinnati will cooperate with Queensgate 122483
Terminals, LLC, in the development of a rail barge terminal on the 122484
property described in division (A) of this section. The city will 122485
work with Queensgate Terminals, LLC, to provide the Norfolk 122486
Southern and RailAmerica railroad companies access to the property 122487
described in division (A) of this section. 122488

(C) The \$1,700,000 placed on deposit with the Hamilton County 122489
Court of Common Pleas in calendar year 2010 with respect to the 122490
pending litigation between the City of Cincinnati and Queensgate 122491
Terminals, LLC, will be paid to Queensgate Terminals, LLC, and all 122492
litigation between the parties will be dismissed. 122493

(D) Queensgate Terminals, LLC, shall have the right to 122494
construct a new rail lead and to convey equipment, materials, and 122495
goods on and across the grade level bridge that crosses Mill Creek 122496
beneath the elevated United States Route 50 in the City of 122497
Cincinnati. 122498

Section 757.10. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 122499

(A) On or before the tenth day of each month of the period 122500

beginning August 1, 2011, and ending June 30, 2013, the Tax 122501
Commissioner shall determine and certify to the Director of Budget 122502
and Management the amount to be credited during that month to the 122503
Local Government Fund and Public Library Fund pursuant to 122504
divisions (B) to (D) of this section. 122505

(B) Notwithstanding any provision of section 131.51 of the 122506
Revised Code to the contrary, for each month in the period 122507
beginning August 1, 2011, and ending June 30, 2013: 122508

(1) The amount credited first to the Local Government Fund 122509
shall be as provided in division (C) of this section; 122510

(2) The amount credited next to the Public Library Fund shall 122511
be according to the schedule in division (D) of this section. 122512

(C) Pursuant to division (B)(1) of this section, amounts 122513
shall be credited from revenue arising from the personal income 122514
tax levied under Chapter 5747. of the Revised Code to the Local 122515
Government Fund, as follows: 122516

(1)(a) In August 2011, seventy-five per cent of the amount 122517
credited in August 2010; in August 2012, fifty per cent of the 122518
amount credited in August 2010; 122519

(b) In September 2011, seventy-five per cent of the amount 122520
credited in September 2010; in September 2012, fifty per cent of 122521
the amount credited in September 2010; 122522

(c) In October 2011, seventy-five per cent of the amount 122523
credited in October 2010; in October 2012, fifty per cent of the 122524
amount credited in October 2010; 122525

(d) In November 2011, seventy-five per cent of the amount 122526
credited in November 2010; in November 2012, fifty per cent of the 122527
amount credited in November 2010; 122528

(e) In December 2011, seventy-five per cent of the amount 122529
credited in December 2010; in December 2012, fifty per cent of the 122530

amount credited in December 2010;	122531
(f) In January 2012, seventy-five per cent of the amount	122532
credited in January 2011; in January 2013, fifty per cent of the	122533
amount credited in January 2011;	122534
(g) In February 2012, seventy-five per cent of the amount	122535
credited in February 2011; in February 2013, fifty per cent of the	122536
amount credited in February 2011;	122537
(h) In March 2012, seventy-five per cent of the amount	122538
credited in March 2011; in March 2013, fifty per cent of the	122539
amount credited in March 2011;	122540
(i) In April 2012, seventy-five per cent of the amount	122541
credited in April 2011; in April 2013, fifty per cent of the	122542
amount credited in April 2011;	122543
(j) In May 2012, seventy-five per cent of the amount credited	122544
in May 2011; in May 2013, fifty per cent of the amount credited in	122545
May 2011;	122546
(k) In June 2012, seventy-five per cent of the amount	122547
credited in June 2011; in June 2013, fifty per cent of the amount	122548
credited in June 2011;	122549
(l) In July 2012, fifty per cent of the amount credited in	122550
July 2010.	122551
(2) For each month in the period beginning August 1, 2011,	122552
and ending June 30, 2013, an amount sufficient to make the	122553
distributions required for that month under divisions (E)(2)(a),	122554
(b), and (c) of this section.	122555
(D) Pursuant to division (B)(2) of this section, amounts	122556
shall be credited from revenue arising from the kilowatt-hour tax	122557
and sales tax levied under section 5727.81 or 5739.02 of the	122558
Revised Code, respectively, to the Public Library Fund as follows:	122559
(1) In August 2011 and in August 2012, ninety-five per cent	122560

of the amount credited in August 2010;	122561
(2) In September 2011 and in September 2012, ninety-five per cent of the amount credited in September 2010;	122562 122563
(3) In October 2011 and in October 2012, ninety-five per cent of the amount credited in October 2010;	122564 122565
(4) In November 2011 and in November 2012, ninety-five per cent of the amount credited in November 2010;	122566 122567
(5) In December 2011 and in December 2012, ninety-five per cent of the amount credited in December 2010;	122568 122569
(6) In January 2012 and in January 2013, ninety-five per cent of the amount credited in January 2011;	122570 122571
(7) In February 2012 and in February 2013, ninety-five per cent of the amount credited in February 2011;	122572 122573
(8) In March 2012 and in March 2013, ninety-five per cent of the amount credited in March 2011;	122574 122575
(9) In April 2012 and in April 2013, ninety-five per cent of the amount credited in April 2011;	122576 122577
(10) In May 2012 and in May 2013, ninety-five per cent of the amount credited in May 2011;	122578 122579
(11) In June 2012 and in June 2013, ninety-five per cent of the amount credited in June 2011;	122580 122581
(12) In July 2012, ninety-five per cent of the amount credited in July 2010.	122582 122583
(E) Notwithstanding any other provision of the Revised Code to the contrary, the total amount credited to the Local Government Fund in each month for the period beginning August 1, 2011, and ending June 30, 2013, shall be distributed by the tenth day of that month in the following manner:	122584 122585 122586 122587 122588
(1) The total amount credited to the Local Government Fund in	122589

each month pursuant to division (C)(1) of this section shall be 122590
distributed as follows: 122591

(a) Each county undivided local government fund shall receive 122592
a distribution from the Local Government Fund based on its 122593
proportionate share of the total amount received from the fund in 122594
that respective month in fiscal year 2011. As used in this 122595
section, "total amount received" does not include payments 122596
received in fiscal year 2011 under division (C) of section 5725.24 122597
of the Revised Code. 122598

(b) Each municipal corporation that received a direct 122599
distribution in fiscal year 2011 from the Local Government Fund 122600
under division (C) of section 5747.50 of the Revised Code shall 122601
receive a distribution based on its proportionate share of the 122602
total amount of direct distributions made to municipal 122603
corporations from the fund in that respective month in fiscal year 122604
2011. 122605

(2) The total amount credited to the Local Government Fund in 122606
each month pursuant to division (C)(2) of this section shall be 122607
distributed as follows: 122608

(a) If a county undivided local government fund's total 122609
distribution in fiscal year 2011 was equal to or less than five 122610
hundred thousand dollars, the fund shall receive a distribution 122611
equal to the difference between the amount distributed to the fund 122612
in that respective month in fiscal year 2011 and the amount 122613
allocated to the fund for the month under division (E)(1)(a) of 122614
this section. 122615

(b) For each month in the period beginning August 1, 2011, 122616
and ending June 30, 2012, if a county undivided local government 122617
fund's total distribution in fiscal year 2011 exceeded five 122618
hundred thousand dollars and if the sum of the amount allocated to 122619
the fund in July 2011 and the amounts to be allocated to the fund 122620

between August 1, 2011, and June 30, 2012, under division 122621
(E)(1)(a) of this section is less than five hundred thousand 122622
dollars, the fund shall receive a distribution equal to 122623
one-eleventh of the difference between five hundred thousand 122624
dollars and that sum. 122625

(c) For each month in the period beginning July 1, 2012, and 122626
ending June 30, 2013, if a county undivided local government 122627
fund's total distribution in fiscal year 2011 exceeded five 122628
hundred thousand dollars and if the total amount to be allocated 122629
to the fund in fiscal year 2013 under division (E)(1)(a) of this 122630
section is less than five hundred thousand dollars, the fund shall 122631
receive a distribution equal to one-twelfth of the difference 122632
between five hundred thousand dollars and the total amount to be 122633
allocated to the fund in fiscal year 2013 under division (E)(1)(a) 122634
of this section. 122635

(F) Notwithstanding any other provision of the Revised Code 122636
to the contrary, by the tenth day of each month of the period 122637
beginning July 1, 2011, and ending December 31, 2011, each county 122638
undivided public library fund shall receive a distribution from 122639
the Public Library Fund equal to the product derived by 122640
multiplying the following amounts: 122641

(1) The total amount credited to the Public Library Fund in 122642
that month; 122643

(2) A percentage calculated by multiplying one hundred by the 122644
quotient obtained by dividing the sum of the county's 122645
distributions from the Public Library Fund during calendar year 122646
2010 by the sum of distributions made to all counties from the 122647
Public Library Fund during calendar year 2010. 122648

(G) Notwithstanding any other provision of the Revised Code 122649
to the contrary, by the tenth day of each month of the period 122650
beginning January 1, 2012, and ending June 30, 2013, each county 122651

undivided public library fund shall receive a distribution from 122652
the Public Library Fund equal to the product derived by 122653
multiplying the following amounts: 122654

(1) The total amount credited to the Public Library Fund in 122655
that month; 122656

(2) A percentage calculated by multiplying one hundred by the 122657
quotient obtained by dividing the sum of the county's 122658
distributions from the Public Library Fund during calendar year 122659
2011 by the sum of distributions made to all counties from the 122660
Public Library Fund during calendar year 2011. 122661

(H) For the 2012 and 2013 distribution years, the Tax 122662
Commissioner is not required to issue the certifications otherwise 122663
required by sections 5747.47, 5747.501, and 5747.51 of the Revised 122664
Code, but shall provide to each county auditor by July 20, 2011, 122665
and July 20, 2012, an estimate of the amounts to be received by 122666
the county in the ensuing year from the Public Library Fund and 122667
the Local Government Fund pursuant to this section and any other 122668
section of the Revised Code. The Tax Commissioner may report to 122669
each county auditor additional revised estimates of the 2011, 122670
2012, or 2013 distributions at any time during fiscal years 2012 122671
and 2013. 122672

Section 757.20. A school district, joint vocational school 122673
district, or local taxing unit may appeal a levy classification or 122674
any amount used in the calculation of total resources as defined 122675
under division (A) of section 5727.84 or division (A) of section 122676
5751.20 of the Revised Code. Such an appeal shall be filed in 122677
writing, including via electronic mail, with the Tax Commissioner. 122678
Upon receiving such an appeal, the Tax Commissioner shall make a 122679
determination of the merits of the appeal and, if the appeal is 122680
upheld, make necessary changes within the classifications or 122681
calculations. The determination of the Tax Commissioner is final 122682

and not subject to appeal. After June 30, 2013, no changes shall 122683
be made in the classifications or calculations. 122684

Section 757.30. The Tax Commissioner shall conduct a review 122685
of the operations of the Board of Tax Appeals, and, not later than 122686
November 15, 2011, shall submit a written report to the Governor, 122687
Speaker of the House of Representatives, and President of the 122688
Senate providing an assessment of the Board's operations and 122689
recommendations for improvement. The Tax Commissioner's review 122690
shall include consultation with persons who have participated in 122691
or have had matters before the Board and are familiar with the 122692
Board's operations and procedures. The report shall include 122693
recommendations for improving the appeals process, internal 122694
operations, and other operational matters the Commissioner deems 122695
advisable. The Commissioner may designate an employee of the 122696
Department of Taxation to conduct the review. 122697

Section 757.40. (A) As used in this section: 122698

(1) "Qualifying delinquent taxes" means any tax levied under 122699
Chapters 5733., 5739., 5741., 5747., and 5748. of the Revised 122700
Code, including the taxes levied under sections 5733.41 and 122701
5747.41 of the Revised Code and taxes required to be withheld 122702
under Chapters 5747. and 5748. of the Revised Code, which were due 122703
and payable from any person as of May 1, 2011, were unreported or 122704
underreported, and remain unpaid. 122705

(2) "Qualifying delinquent personal property taxes" means a 122706
tax for which a return was required to be filed under section 122707
5711.02 of the Revised Code for a tax year before 2011. 122708

(3) "Qualifying delinquent taxes" and "qualifying delinquent 122709
personal property taxes" do not include any tax for which a notice 122710
of assessment or audit has been issued, for which a bill has been 122711
issued, which relates to a tax period that ends after the 122712

effective date of this section, or for which an audit has been 122713
conducted or is currently being conducted. 122714

(B) The Tax Commissioner shall establish and administer a tax 122715
amnesty program with respect to qualifying delinquent taxes and 122716
qualifying delinquent personal property taxes. The program shall 122717
commence on January 1, 2012, and shall conclude on February 15, 122718
2012. The Tax Commissioner shall issue forms and instructions and 122719
take other actions necessary to implement the program. The Tax 122720
Commissioner shall publicize the program so as to maximize public 122721
awareness and participation in the program. 122722

(C)(1) During the program, if a person pays the full amount 122723
of qualifying delinquent taxes owed by that person and one-half of 122724
any interest that has accrued as a result of the person failing to 122725
pay those taxes in a timely fashion, the Tax Commissioner shall 122726
waive or abate all applicable penalties and one-half of any 122727
interest that accrued on the qualifying delinquent taxes. 122728

(2) During the program, if a person who owes qualifying 122729
delinquent personal property taxes files a return with the Tax 122730
Commissioner, in the form and manner prescribed by the Tax 122731
Commissioner, listing all taxable property that was required to be 122732
listed on the return required to be filed under section 5711.02 of 122733
the Revised Code, the Tax Commissioner shall issue a preliminary 122734
assessment certificate to the appropriate county auditor. Upon 122735
receiving a preliminary assessment certificate issued by the Tax 122736
Commissioner pursuant to this division, the county auditor shall 122737
compute the amount of qualifying delinquent personal property 122738
taxes owed by the person and shall add to that amount one-half of 122739
the interest prescribed under sections 5711.32 and 5719.041 of the 122740
Revised Code. The county treasurer shall collect the amount of tax 122741
and interest computed by the county auditor under this division by 122742
preparing and mailing a tax bill to the person as prescribed in 122743
section 5711.32 of the Revised Code. If the person pays the full 122744

amount of tax and interest thereon on or before the date shown on 122745
the tax bill, all applicable penalties and one-half of any 122746
interest that accrued on the qualifying delinquent personal 122747
property taxes shall be waived. 122748

(3) Notwithstanding any contrary provision of the Revised 122749
Code, the Tax Commissioner shall not furnish to the county auditor 122750
any information pertaining to the exemption from taxation under 122751
division (C)(3) of section 5709.01 of the Revised Code insofar as 122752
that information pertains to any person who pays qualifying 122753
delinquent personal property taxes under division (C)(2) of this 122754
section. 122755

(D) The Tax Commissioner may require a person participating 122756
in the program to file returns or reports, including amended 122757
returns and reports, in connection with the person's payment of 122758
qualifying delinquent taxes or qualifying delinquent personal 122759
property taxes. 122760

(E) A person who participates in the program and pays in full 122761
any outstanding qualifying delinquent tax or qualifying delinquent 122762
personal property tax and the interest payable on such tax in 122763
accordance with this section shall not be subject to any criminal 122764
prosecution or any civil action with respect to that tax, and no 122765
assessment shall thereafter be issued against that person with 122766
respect to that tax. 122767

(F) Taxes and interest collected under the program shall be 122768
credited to the General Revenue Fund, except that: 122769

(1) Qualifying delinquent taxes levied under section 122770
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 122771
distributed to the appropriate counties and transit authorities in 122772
accordance with section 5739.21 of the Revised Code during the 122773
next distribution required under that section; 122774

(2) Qualifying delinquent taxes levied under section 122775

5741.021, 5741.022, or 5741.023 of the Revised Code shall be 122776
distributed to the appropriate counties and transit authorities in 122777
accordance with section 5741.03 of the Revised Code during the 122778
next distribution required under that section; and 122779

(3) Qualifying delinquent taxes levied under Chapter 5748. of 122780
the Revised Code shall be credited to the school district income 122781
tax fund and then paid to the appropriate school district with the 122782
next payment required under division (D) of section 5747.03 of the 122783
Revised Code. 122784

Section 757.41. Section 757.40 of this act is hereby 122785
repealed, effective February 16, 2012. The repeal of Section 122786
757.40 of this act does not affect, after the effective date of 122787
the repeal, the rights, remedies, or actions authorized under that 122788
section. 122789

Section 757.50. All inheritance tax files that still remain 122790
open under temporary order, or otherwise, for which the "ultimate 122791
succession" pursuant to former sections 5731.28 and 5731.29 of the 122792
Revised Code as those sections existed before their repeal by S.B. 122793
326 of the 107th General Assembly (effective July 1, 1968), 122794
relating to the inheritance tax, has not been finalized and have 122795
not been submitted to the Department of Taxation as explained 122796
below, shall be considered to be closed as of January 1, 2013. 122797

Notwithstanding the former sections of the Revised Code 122798
constituting the Ohio Inheritance Tax as those sections existed 122799
before their repeal by that act, all claims and inquiries must be 122800
received by the Department of Taxation, or postmarked on or 122801
before, December 31, 2012. 122802

Section 801.20. As used in the uncodified law of this act, 122803
"American Recovery and Reinvestment Act of 2009" means the 122804
"American Recovery and Reinvestment Act of 2009," Pub. L. No. 122805

111-5, 123 Stat. 115. 122806

Section 801.30. REVENUE GENERATED BY TRANSFER OF LIQUOR 122807
ENTERPRISE TO JOBSOHIO 122808

The revenue estimates for fiscal year 2012 assume receipt of 122809
\$500,000,000 in cash from JobsOhio pursuant to section 4313.02 of 122810
the Revised Code, as enacted by this act, and the transfer of the 122811
enterprise acquisition project authorized therein. 122812

Section 803.30. Upon the effective date of new sections 122813
2151.56, 2151.57, 2151.58, and 2151.59 of the Revised Code as 122814
enacted by this act, the versions of those sections enacted in 122815
Section 101.01 of this act will replace the versions of those 122816
sections, and the versions of sections 2151.60 and 2151.61 of the 122817
Revised Code, in effect on the day immediately preceding that 122818
effective date. 122819

Section 803.40. Sections 121.40, 121.401 to 121.404, 1501.40, 122820
3301.70, 3333.043, and 4503.93 of the Revised Code continue to 122821
operate the same as they did before their amendment by this act, 122822
except for the name of the Ohio Community Service Council being 122823
changed to the Ohio Commission on Service and Volunteerism. 122824

Section 803.50. The amendments to Chapter 349. of the Revised 122825
Code enacted by this act apply to any proceedings commenced after 122826
the amendments' effective date, and, so far as their provisions 122827
support the actions taken, also apply to proceedings that on their 122828
effective date are pending, in progress, or completed, 122829
notwithstanding the applicable law previously in effect or any 122830
provision to the contrary in a prior resolution, ordinance, order, 122831
advertisement, notice, or other proceeding. Any proceedings 122832
pending or in progress on the effective date of those amendments 122833

shall be deemed to have been taken in conformity with the 122834
amendment. 122835

The authority provided in the amendments to Chapter 349. of 122836
the Revised Code of this act provide additional and supplemental 122837
provisions for the subject matter that may also be the subject of 122838
other laws, and is supplemental to and not in derogation of any 122839
similar authority provided by, derived from, or implied by, the 122840
Ohio Constitution, or any other law, including laws amended by 122841
this act, or any charter, order, resolution, or ordinance, and no 122842
inference shall be drawn to negate the authority thereunder by 122843
reason of express provisions contained in the amendments to 122844
Chapter 349. of the Revised Code enacted by this act. 122845

Section 803.60. Section 3903.301 of the Revised Code shall 122846
apply only to formal delinquency proceedings that commence under 122847
sections 3903.01 to 3903.59 of the Revised Code on or after the 122848
effective date of this act. 122849

Section 806.10. The items of law contained in this act, and 122850
their applications, are severable. If any item of law contained in 122851
this act, or if any application of any item of law contained in 122852
this act, is held invalid, the invalidity does not affect other 122853
items of law contained in this act and their applications that can 122854
be given effect without the invalid item of law or application. 122855

Section 809.10. An item of law, other than an amending, 122856
enacting, or repealing clause, that composes the whole or part of 122857
an uncodified section contained in this act has no effect after 122858
June 30, 2013, unless its context clearly indicates otherwise. 122859

Section 812.10. Except as otherwise provided in this act, the 122860
amendment, enactment, or repeal by this act of a section is 122861

subject to the referendum under Ohio Constitution, Article II, 122862
section 1c and therefore takes effect on the ninety-first day 122863
after this act is filed with the Secretary of State or, if a later 122864
effective date is specified below, on that date. 122865

The amendment or repeal of sections 9.231, 9.24, 127.16, 122866
1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 122867
1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 2744.05, 3111.04, 122868
3113.06, 3119.54, 3901.3814, 3923.281, 3963.01, 4731.65, 4731.71, 122869
5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, 5101.5216, 122870
5101.571, 5101.58, 5111.0112, and 5111.941 of the Revised Code 122871
takes effect October 1, 2011. 122872

The amendment of sections 5707.031, 5725.151, 5725.24, and 122873
5751.011 of the Revised Code takes effect January 1, 2012. 122874

The amendment, enactment, or repeal of sections 3721.16, 122875
5111.709, 5119.221, 5122.02, 5122.27, 5122.271, 5122.29, 5122.32, 122876
5123.092, 5123.35, 5123.60 (5123.601), 5123.601, 5123.602, 122877
5123.603, 5123.604, 5123.605, 5123.61, 5123.63, 5123.64, 5123.69, 122878
5123.701, 5123.86, 5123.99, and 5126.33 of the Revised Code takes 122879
effect October 1, 2012. 122880

Section 812.20. The amendment, enactment, or repeal by this 122881
act of the sections listed below is exempt from the referendum 122882
under Ohio Constitution, Article II, section 1d and section 1.471 122883
of the Revised Code and therefore takes effect immediately when 122884
this act becomes law or, if a later effective date is specified 122885
below, on that date. 122886

Sections 9.06, 111.12, 111.16, 111.18, 111.181, 111.28, 122887
111.29, 117.13, 121.37, 124.09, 124.23, 124.231, 124.25, 124.26, 122888
124.27, 124.31, 125.15, 125.18, 125.213, 125.28, 125.89, 126.04, 122889
126.12, 126.24, 131.44, 131.51, 149.091, 149.11, 149.311, 319.301, 122890
901.09, 924.52, 927.69, 1309.528, 1327.46, 1327.50, 1327.501, 122891

1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 122892
1329.42, 1332.24, 1501.031, 1515.14, 1551.311, 1551.32, 1551.33, 122893
1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 122894
1555.17, 1701.07, 1702.59, 1703.031, 1703.07, 1776.83, 1785.06, 122895
3301.07, 3301.16, 3301.162, 3302.031, 3302.07, 3302.23, 3302.24, 122896
3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 122897
3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 122898
3306.10, 3306.11, 3306.12, 3306.13, 3306.19, 3306.191, 3306.192, 122899
3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3307.31, 3307.64, 122900
3309.41, 3309.48, 3309.51, 3310.02, 3310.03, 3310.05, 3310.08, 122901
3310.41, 3311.05, 3311.059, 3311.0510, 3311.06, 3311.19, 3311.21, 122902
3311.29, 3311.52, 3311.76, 3313.29, 3313.411, 3313.55, 3313.614, 122903
3313.64, 3313.6410, 3313.843, 3313.88, 3313.978, 3313.981, 122904
3314.06, 3314.08, 3314.085, 3314.087, 3314.088, 3314.091, 3314.10, 122905
3314.13, 3314.35, 3314.38, 3314.402, 3315.01, 3316.041, 3316.06, 122906
3316.20, 3316.21, 3317.01, 3317.011, 3317.013, 3317.014, 3317.016, 122907
3317.017, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 122908
3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0212, 3317.0216, 122909
3317.03, 3317.031, 3317.04, 3317.05, 3317.051, 3317.053, 3317.06, 122910
3317.061, 3317.07, 3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 122911
3317.12, 3317.16, 3317.17, 3317.18, 3317.19, 3317.20, 3317.201, 122912
3318.051, 3319.088, 3319.10, 3319.14, 3319.161, 3319.18, 3319.19, 122913
3319.39, 3319.57, 3323.091, 3323.14, 3323.142, 3323.25, 3323.31, 122914
3324.05, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.16, 122915
3345.14, 3345.81, 3349.242, 3353.15, 3365.01, 3365.08, 3506.05, 122916
3701.0211, 3704.06, 3704.14, 3734.901, 3745.015, 3745.016, 122917
3793.04, 3793.21, 4115.101, 4117.01, 4117.03, 4117.06, 4141.08, 122918
4141.11, 4301.43, 4511.191, 4725.34, 4733.15, 4733.151, 5111.0122, 122919
5111.0213, 5111.0215, 5111.83, 5111.945, 5112.99, 5112.991, 122920
5120.092, 5123.0419, 5126.0511, 5126.11, 5126.18, 5126.23, 122921
5126.24, 5703.05, 5705.211, 5715.26, 5727.84, 5727.85, 5727.86, 122922
5747.46, 5747.51, 5751.20, 5751.21, 5751.22, 5751.23, and 6109.21. 122923

The amendment, enactment, or repeal of sections 3306.12 122924

(3317.0212), 3326.11, 3721.50, 3721.51, 3721.56, 3721.561 122925
(3721.56), 3721.58, 3722.01 (5119.70), 3722.011 (5119.701), 122926
3722.02 (5119.71), 3722.021 (5119.711), 3722.022 (5119.712), 122927
3722.03 (5119.72), 3722.04 (5119.73), 3722.041 (5119.731), 3722.05 122928
(5119.74), 3722.06 (5119.75), 3722.07 (5119.76), 3722.08 122929
(5119.77), 3722.09 (5119.78), 3722.10 (5119.79), 3722.11 122930
(5119.80), 3722.12 (5119.81), 3722.13 (5119.82), 3722.14 122931
(5119.83), 3722.15 (5119.84), 3722.151 (5119.85), 3722.16 122932
(5119.86), 3722.17 (5119.87), 3722.18 (5119.88), 3722.99, 3769.08, 122933
3769.20, 3769.26, 5111.222, 5111.231, 5111.24, 5111.243, 5111.244, 122934
5111.25, 5111.254, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 122935
and 5119.99 of the Revised Code takes effect July 1, 2011. 122936

The amendment of sections 5112.40, 5112.41, and 5112.46 of 122937
the Revised Code takes effect October 1, 2011. 122938

Sections of this act prefixed with section numbers in the 122939
200's, 300's, 400's, 500's, and 600's, except for Sections 122940
309.30.40, 337.30.80, 501.10, 515.20, 690.10, and 690.11 of this 122941
act. 122942

Sections 733.10, 753.10, 757.10, 757.20, and 757.30 of this 122943
act. 122944

Sections 801.20, 812.10, 812.20, and 812.30 of this act. 122945

Section 812.30. The sections that are listed in the left-hand 122946
column of the following table combine amendments by this act that 122947
are and that are not exempt from the referendum under Ohio 122948
Constitution, Article II, sections 1c and 1d and section 1.471 of 122949
the Revised Code. 122950

The middle column identifies the amendments to the listed 122951
sections that are subject to the referendum under Ohio 122952
Constitution, Article II, section 1c and therefore take effect on 122953
the ninety-first day after this act is filed with the Secretary of 122954

	State or, if a later effective date is specified, on that date.		122955
	The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.		122956 122957 122958 122959 122960 122961
	Section of law	Amendments subject to referendum	Amendments exempt from referendum
1551.33	The amendment in division (C) striking through "1551.13,"		All amendments except as described in the middle column 122963
3302.05	The amendment inserting "or from the requirements of sections 3317.141, 3319.08, 3319.11, or 3319.17"		All amendments except as described in the middle column 122964
3313.614	All amendments except as described in the right-hand column		The amendment to division (C)(1) 122965
3317.06	The amendments to divisions (A)(2), (K), and (L)		All amendments except as described in the middle column 122966
3318.032	The amendment inserting "subject to a new project scope and estimated costs under section 3318.054 of the Revised Code,"		1. The amendment striking "one-year" and inserting "thirteen-month" 2. The amendment striking "year" and inserting "period" 122967
3318.05	The amendment inserting ", subject to section 3318.054 of the Revised Code"		The amendment striking "one year" and inserting "thirteen 122968

		months"	
3318.41	The amendments to divisions (D)(2) and (H)	The amendment to division (D)(1)(b)	122969
3319.17	Amendments to divisions (C) and (D)	Amendment to division (A)	122970
3326.11	All amendments except as described in the right-hand column	The amendment adding " <u>3313.88,</u> " takes effect July 1, 2011	122971
3722.01 (5119.70)	The amendments to division (A)(13)	All amendments except the amendments to division (A)(13)	122972
3722.04 (5119.73)	The amendments to division (C)	All amendments except the amendments to division (C)	122973
3722.16 (5119.86)	The amendment to division (B)(1)(d)	All amendments except the amendment to division (B)(1)(d)	122974
3734.57	All amendments except amendments to division (A)	Amendments to division (A)	122975
3745.11	The amendment inserting division (S)(3) and amendments in division (S)(1) relating thereto	All amendments except as described in the middle column	122976
4115.10	The amendment in division (A) striking "(1) or (2)"	All amendments except as described in the middle column	122977
4117.01	All amendments except as described in the right-hand column	The amendment to division (B) striking "governing authority of a community school established under Chapter 3314. of the Revised Code;" and	122978

adding "or the governing authority of a community school established under Chapter 3314. of the Revised Code"

5111.873	1. The amendment to division (A) that inserts "subject to division (D) of this section"	All amendments except as described in the middle column	122979
	2. All of division (D)		
5126.05	The amendment to division (D)	The amendment to division (A)(4)	122980

Section 812.40. The amendments to sections 5101.26, 5122.01, and 5122.31 of the Revised Code are subject to the referendum under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. However:

In section 5101.26 of the Revised Code, the amendment striking "and 5101.5211 to 5101.5216" takes effect on October 1, 2011;

In section 5122.01 of the Revised Code, the amendment to division (O) of the section takes effect on October 1, 2012; and

In section 5122.31 of the Revised Code, the amendment to division (A)(2) of the section takes effect on October 1, 2012.

In section 5123.19 of the Revised Code, the amendment to division (L) of the section takes effect October 1, 2012.

Section 815.20. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections,

presented in this act as composites of the sections as amended by 122999
the acts indicated, are the resulting versions of the sections in 123000
effect prior to the effective date of the sections as presented in 123001
this act: 123002

Section 9.06 of the Revised Code as amended by Am. Sub. H.B. 123003
130 of the 127th General Assembly and Am. Sub. H.B. 1 of the 128th 123004
General Assembly. 123005

Section 121.37 of the Revised Code as amended by Am. Sub. 123006
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123007

Section 124.23 of the Revised Code as amended by Am. Sub. 123008
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123009

Section 124.27 of the Revised Code as amended by Am. Sub. 123010
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123011

Section 124.34 of the Revised Code as amended by Am. Sub. 123012
H.B. 1 and Am. Sub. H.B. 16 of the 128th General Assembly. 123013

Section 127.16 of the Revised Code as amended by Am. Sub. 123014
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123015

Sections 1923.01 and 1923.02 of the Revised Code as amended 123016
by both Sub. H.B. 56 and Am. Sub. S.B. 10 of the 127th General 123017
Assembly. 123018

Section 2903.33 of the Revised Code as amended by Am. Sub. 123019
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123020

Section 3301.07 of the Revised Code as amended by Am. Sub. 123021
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123022

Section 3313.65 of the Revised Code as amended by Am. Sub. 123023
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123024

Section 3317.02 of the Revised Code as amended by Am. Sub. 123025
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 123026

Section 3317.024 of the Revised Code as amended by Am. Sub. 123027

H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123028
Section 3317.03 of the Revised Code as amended by Am. Sub.	123029
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123030
Section 3317.20 of the Revised Code as amended by Am. Sub.	123031
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123032
Section 3323.091 of the Revised Code as amended by Am. Sub.	123033
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123034
Section 3323.142 of the Revised Code as amended by Am. Sub.	123035
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123036
Section 3721.01 of the Revised Code as amended by Am. Sub.	123037
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123038
Section 3722.01 of the Revised Code as amended by Am. Sub.	123039
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123040
Section 4115.04 of the Revised Code as amended by Sub. H.B.	123041
443 and Am. Sub. H.B. 699 of the 126th General Assembly.	123042
Section 4517.01 of the Revised Code as amended by Am. H.B. 9	123043
and Am. Sub. H.B. 114 of the 129th General Assembly.	123044
Section 5111.211 of the Revised Code as amended by Am. Sub.	123045
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123046
Section 5112.30 of the Revised Code as amended by Am. Sub.	123047
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123048
Section 5112.37 of the Revised Code as amended by Am. Sub.	123049
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123050
Section 5119.16 of the Revised Code as amended by Am. Sub.	123051
H.B. 1 and S.B. 79 of the 128th General Assembly.	123052
Section 5123.0413 as amended by Am. Sub. H.B. 1 and Sub. S.B.	123053
79 of the 128th General Assembly.	123054
Section 5123.0417 of the Revised Code as amended by Am. Sub.	123055
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123056

Section 5123.19 of the Revised Code as amended by Am. Sub.	123057
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123058
Section 5126.05 of the Revised Code as amended by Am. Sub.	123059
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123060
Section 5126.054 of the Revised Code as amended by Am. Sub.	123061
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123062
Section 5126.0512 as amended by Am. Sub. H.B. 1 and Sub. S.B.	123063
79 of the 128th General Assembly.	123064
Section 5126.24 of the Revised Code as amended by Am. Sub.	123065
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	123066
Section 5723.05 of the Revised Code as amended by Am. Sub.	123067
H.B. 387 and Am. Sub. H.B. 576 of the 118th General Assembly.	123068
Section 5739.02 of the Revised Code as amended by Am. Sub.	123069
S.B. 181 and Am. Sub. S.B. 232 of the 128th General Assembly.	123070
Section 815.30. The amendment by this act to section 111.15	123071
of the Revised Code does not accelerate the taking effect of the	123072
amendment to that section by S.B. 2 of the 129th General Assembly,	123073
which takes effect January 1, 2012.	123074